

KATE SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER THIBODEAU (2)
TAE Y. CHONG (3)
JUSTIN COSTA (4)

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR. (A/L)

REMOTE AUGUST 31, 2020 SPECIAL CITY COUNCIL AGENDA

The Portland City Council will hold a City Council Meeting remotely using Zoom. The Honorable Kate Snyder, Mayor, will preside.

ZOOM MEETING INFORMATION:

The Portland City Council will hold a remote meeting on Monday, August 31, 2020 at 5:30 PM. This meeting will take place remotely using Zoom.

Virtual meetings are allowed using emergency legislation approved by LD 2167; 1 M.R.S. §403-A, that authorizes cities and towns to conduct meetings online.

Allow your computer to install the free Zoom app to get the best meeting experience. If you are not able to attend live, a recording will be uploaded to portlandmaine.gov/livestream the next day.

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

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253 215 8782 or +1 346 248 7799

Webinar ID: 856 9234 3375

Passcode: 582566

PLEDGE OF ALLEGIANCE:

ROLL CALL:

ANNOUNCEMENTS:

APPROVAL OF MINUTES OF PREVIOUS MEETING:

**Approval of the Draft July 27, 2020 Special City Council Meeting
Approval of the Draft August 3, 2020 Regular City Council Meeting
Approval of the Draft August 10, 2020 Special City Council Meeting.**

LICENSES:

Order 49-20/21 Granting Municipal Officers' Approval of Allagash Brewing Company dba Allagash Brewing Company. Application for a Combined Entertainment License at 50 Industrial Way - Sponsored by Jon P. Jennings, City Manager

Allagash Brewing Company dba Allagash Brewing Company. Application for a Combined Entertainment License at 50 Industrial Way.

Application was filed on 6/23/2020. Applicant currently holds a Brewery license with Entertainment without Dance. Chapter 4 Sec 4-53 (2) requires a public hearing for all initial applications for a Combined Entertainment License.

Five affirmative votes are required for passage after public comment.

Order 50-20/21 Granting Municipal Officers' Approval of Navis LLC dba Navis Café. Application for a Class III & IV with Outdoor Dining on Private Property at 1 Hancock Street - Sponsored by Jon P. Jennings, City Manager

Navis LLC dba Navis Café. Application for a Class III & IV with Outdoor Dining on Private Property at 1 Hancock Street.

Application was filed on 7/8/2020. New City and State applications.

Five affirmative votes are required for passage after public comment.

Order 51-20/21 Granting Municipal Officers' Approval of Asian Food Truck LLC dba Kuno. Application for a Class I FSE with Outdoor Dining on Private Property at 166 Cumberland Avenue - Sponsored by Jon P. Jennings, City Manager

Asian Food Truck LLC dba Kuno. Application for a Class I FSE with Outdoor Dining on Private Property at 166 Cumberland Avenue.

Application was filed on 7/10/2020. New City and State applications.

Five affirmative votes are required for passage after public comment.

Order 52-20/21 Granting Municipal Officers' Approval of Bar Harbor Lobster Co dba Bar Harbor Lobster Company. Application for a Class I FSE with Outdoor Dining on Private Property at 113 W Commercial Street - Sponsored by Jon P. Jennings, City Manager

Bar Harbor Lobster Co dba Bar Harbor Lobster Company. Application for a Class I FSE with Outdoor Dining on Private Property at 113 W Commercial Street.

Application was filed on 7/13/2020. New City and State applications.

Five affirmative votes are required for passage after public comment.

Order 53-20/21 Granting Municipal Officers' Approval of Matt's Coffee LLC dba Speckled Ax. Application for a Class III & IV with Outdoor Dining on Private Property at 18 Thames Street - Sponsored by Jon P. Jennings, City Manager

Matt's Coffee LLC dba Speckled Ax. Application for a Class III & IV with Outdoor Dining on Private Property at 18 Thames Street.

Application was filed on 7/13/2020. New City and State applications.

Five affirmative votes are required for passage after public comment.

Order 54-20/21 Granting Municipal Officers' Approval of JoLa Functions LLC dba Jones Landing. Application for a Combined Entertainment License at 6 Welch Street - Sponsored by Jon P. Jennings, City Manager

JoLa Functions LLC dba Jones Landing. Application for a Combined Entertainment License at 6 Welch Street.

Application was filed on 4/3/2020. Applicant currently holds a Class A Lounge license with Entertainment with Dance. Chapter 4 Sec 4-53 (2) requires a public hearing for all initial applications for a Combined Entertainment License.

Five affirmative votes are required for passage after public comment.

Order 55-20/21 Granting Municipal Officers' Approval of The Whiskey Barrel LLC dba The Yard. Application for a Combined Entertainment License at 82 Hanover Street - Sponsored by Jon P. Jennings, City Manager

The Whiskey Barrel LLC dba The Yard. Application for a Combined Entertainment License at 82 Hanover Street.

Application was filed on 6/16/2020. Applicant currently holds a Class XI FSE with Entertainment with Dance and Outdoor Dining on Private Property. Chapter 4 Sec 4-53 (2) requires a public hearing for all initial applications for a Combined Entertainment License.

Five affirmative votes are required for passage after public comment.

Order 56-20/21 Granting Municipal Officers' Approval of Illmadic LLC dba Portland Zoo. Application for a Combined Entertainment License at 41 Fox Street - Sponsored by Jon P. Jennings, City Manager

Illmadic LLC dba Portland Zoo. Application for a Combined Entertainment License at 41 Fox Street.

Application was filed on 3/11/2020. Applicant currently holds a Class A Lounge license with Indoor Entertainment and Outdoor Dining on Private Property. Chapter 4 Sec 4-53 (2) requires a public hearing for all initial applications for a Combined Entertainment License.

Five affirmative votes are required for passage after public comment.

Order 57-20/21 Granting Municipal Officers Approval of Tangible Alchemy dba Urban Farm Fermentory. Application for a Combined Entertainment License at 200 Anderson Street - Sponsored by Jon P. Jennings, City Manager

Tangible Alchemy dba Urban Farm Fermentory. Application for a Combined Entertainment License at 200 Anderson Street.

Application was filed on 7/10/2020. Applicant currently holds a Brewery/Winery/Distillery on Premise Consumption with Entertainment with Dance and Outdoor Dining on Private Property. Chapter 4 Sec 4-53 (2) requires a public hearing for all initial applications for a Combined Entertainment License.

Five affirmative votes are required for passage after public comment.

Order 58-20/21 Granting Municipal Officers' Approval of Forefront Brick South LLC dba Forefront Brick South Catering Co. Application for a Combined Entertainment License 8 Thompson's Point Road - Sponsored by Jon P. Jennings, City Manager

Forefront Brick South LLC dba Forefront Brick South Catering Co. Application for a Combined Entertainment License 8 Thompson's Point Road.

Application was filed on 7/27/2020. Applicant currently holds a Qualified Caterer license with Entertainment with Dance and Outdoor Dining on Private Property. Chapter 4 Sec 4-53 (2) requires a public hearing for all initial applications for a Combined Entertainment License.

Five affirmative votes are required for passage after public comment.

Order 59-20/21 Granting Municipal Officers' Approval of Forefront Brick South LLC dba Forefront Events. Application for an Outdoor Entertainment License 10 Thompson's Point Road - Sponsored by Jon P. Jennings, City Manager

Forefront Brick South LLC dba Forefront Events. Application for an Outdoor Entertainment License 10 Thompson's Point Road.

Application was filed on 7/27/2020. Chapter 4 Sec 4-53 (2) requires a public hearing for all initial applications for an Outdoor Entertainment License.

Five affirmative votes are required for passage after public comment.

Order 60-20/21 Granting Municipal Officers' Approval of Forefront Brick South LLC dba Halo at the Point. Application for a Combined Entertainment License 4 Thompson's Point Road - Sponsored by Jon P. Jennings, City Manager

Forefront Brick South LLC dba Halo at the Point. Application for a Combined Entertainment License 4 Thompson's Point Road.

Application was filed on 7/27/2020. Chapter 4 Sec 4-53 (2) requires a public hearing for all initial applications for a Combined Entertainment License.

Five affirmative votes are required for passage after public comment.

Order 61-20/21 Granting Municipal Officers' Approval of Press Hotel LLC dba The Press Hotel. Application for a Class IA Inn with Indoor Entertainment at 119 Exchange Street - Sponsored by Jon P. Jennings, City Manager

Press Hotel LLC dba The Press Hotel. Application for a Class IA Inn with Indoor Entertainment at 119 Exchange Street.

Application was filed on 8/23/2020. New City and State application. This is a change in ownership of an existing business.

Five affirmative votes are required for passage after public comment.

Order 62-20/21 Granting Municipal Officers' Approval of Banded Brewing Company dba Banded Brewing Company. Application for a Brewery with Outdoor Dining on Private Property at 82 Hanover Street - Sponsored by Jon P. Jennings, City Manager

Banded Brewing Company dba Banded Brewing Company. Application for a Brewery with Outdoor Dining on Private Property at 82 Hanover Street.

Application was filed on 8/13/2020. New City applications.

Five affirmative votes are required for passage after public comment.

Order 63-20/21 Granting Municipal Officers' Approval of Island Operations LLC dba Inn on Peaks Island. Application for a Combined Entertainment License at 33 Island Avenue - Sponsored by Jon P. Jennings, City Manager

Island Operations LLC dba Inn on Peaks Island. Application for a Combined Entertainment License at 33 Island Avenue.

Application was filed on 7/14/2020. Applicant currently holds a Class I FSE license with Entertainment with Dance. Chapter 4 Sec 4-53 (2) requires a public hearing for all initial applications for a Combined Entertainment License.

Five affirmative votes are required for passage after public comment.

Order 64-20/21 Granting Municipal Officers' Approval of Newscapes Brewing Inc. dba Newscapes Brewing Inc. Application for a Tavern Class IV with Outside Dining on Private Property at 163 Washington Avenue - Sponsored by Jon P. Jennings, City Manager

Newscapes Brewing Inc. dba Newscapes Brewing Inc. Application for a Tavern Class IV with Outside Dining on Private Property at 163 Washington Avenue.

Application was filed on 7/9/2020. New City and State application.

Jeffrey Curran has submitted this application for a Tavern (Class IV) liquor license for his property at 163 Washington Avenue. That application is before you with a recommendation not to approve by the Zoning Administrator, on the grounds that a tavern is not permitted in the B-1 Zone where the property in question is.

The memo from Attorney Anne Torregrossa in the back up material outlines the Council's powers with respect to granting or denying a liquor license and provides the relevant ordinance and statutory provisions. Also attached is an older memo by Gary Wood, former Corporation Counsel, outlining the process for hearing disputed liquor license applications.

Five affirmative votes are required for passage after public comment.

6:00 P.M. PUBLIC COMMENT PERIOD ON NON-AGENDA ITEMS:

COMMUNICATIONS:

Com 3-20/21 Re: Charter Commission Election - Sponsored by Katherine L. Jones, City Clerk

This Communication from City Clerk Katherine L. Jones gives a brief overview of the costs for the Charter Commission Election and the timeline for Nomination Papers.

As a communication this item requires no public comment or formal Council action.

Com 4-20/21 Re: Update to City Council Regarding Net Energy Billing Agreements with Solar Developers - Sponsored by Jon P. Jennings

On February 19, 2020 the City Council authorized the City Manager to execute agreements with solar developers participating in a consortium of large electricity users to purchase net energy bill credits from renewable energy projects to be developed following changes to Maine's solar energy legislation. This communication updates the City Council on the outcome

As a Communication this item requires no public comment or formal Council action.

RESOLUTIONS:

UNFINISHED BUSINESS:

Order 11-20/21 of Discontinuance of a Portion of Emery Street - Sponsored by the Economic Development Committee, Councilor Justin Costa, Chair

The Economic Development Committee met on May 27, 2020 and voted 3-0 (with Councilor Thibodeau recusing himself due to a conflict) to forward this to the City Council for approval.

The process for discontinuing this portion of Emery Street is dictated by state statute. On July 13, 2020, the Council voted in support of discontinuance, and the Order of Discontinuance was posted in the Clerk's Office and a Notice of Order of Discontinuance was sent to abutter.

A public hearing was held on August 3, 2020 meeting, and a final vote on Order of Discontinuance is now requested.

This discontinuance is contemplated in the land exchange agreement with J.B. Brown & Sons approved by the Council on June 15, 2020. If approved, ownership of the portion of Emery Street that will be discontinued will revert to the abutter, J.B. Brown & Sons, and be incorporated into its development and construction of the Veteran's Administration (VA) facility with parking garage. Time is of the essence with respect to the construction of that project.

No public comment will be taken given that the public hearing required under state statute was held on this item on August 3, 2020. Five affirmative votes are required for passage.

Order 21-20/21 Designating the 577 Washington Avenue Affordable Housing District and Tax Increment Financing District and Adopting the Municipal Development Program for the District - Sponsored by the Housing Committee, Councilor Jill C. Duson, Chair, and the Economic Development Committee, Councilor Justin Costa, Chair.

During a meeting held on May 27, 2020, the Economic Development Committee voted (4-0) to forward this item to the City Council with a recommendation for passage.

Portland Housing Development Corporation (PHCD) is proposing to rehabilitate 100 units of public housing serving seniors and persons with disabilities at 577 Washington Avenue (Washington Gardens) to a project-based voucher funding platform. PHDC is requesting financial assistance from the City in the form of an Affordable Housing Tax Increment Financing District (AHTIF) and Credit Enhancement Agreement (CEA) to assist with the cost of construction of the project.

The development district will include 100 units of low income housing within 15 two-story residential buildings. There are currently sixty (60) studio, thirty-six (36) one-bedroom, and four (4) two-bedroom units. Sixty percent (60%) or sixty (60) of the units will be available to households earning 50% of the area median income. Forty percent (40%) or forty (40) of the units will be available to households earning 60% of the area median income. The units will have affordability restrictions through the Affordable Housing TIF Program.

PHDC has requested three forms of financial assistance including \$400,000 from the Affordable Housing Development Program, \$184,150 received through the CDBG Program and AHTIF.

If approved, the AHTIF would be provided through a CEA at 75% of the increased taxable value, currently estimated at a 30-year annual average of \$190,500 with an estimated total of \$5,714,987 in captured revenue returned to the developer to off-set project operating costs. The remaining increased taxable value, currently estimated at a 30-year annual average of \$63,500 with an estimated total of \$1,904,996, will be general fund revenue.

The proposed project will be taxable, with an estimated annual assessment of \$7.9 million and estimated annual tax of \$184,149 at the current FY20 millage rate.

This project has received 9% Low Income Housing Tax Credit and tax-exempt debt from MaineHousing.

This item must be read on two separate days. On July 13, 2020, this item was postponed to August 31, 2020 to allow for the review of recent changes to the project proforma. Staff is requesting that this item be postponed to September 9, 2020. Five affirmative votes are required for passage after public comment.

Order 22-20/21 Approving and Authorizing the City Manager to Enter Into the Credit Enhancement Agreement with Washington Gardens LP RE: 577 Washington Avenue. - Sponsored by the Housing Committee, Councilor Jill C. Duson, Chair and the Economic Development Committee, Councilor Justin Costa, Chair

During a meeting held on May 27, 2020, the Economic Development Committee (4-0) voted to forward this item to the City Council with a recommendation for passage.

This is a companion order to Order 21-20/21 above.

This item must be read on two separate days. On July 13, 2020, this item was postponed to August 31, 2020 to allow for the review of recent changes to the project proforma. Staff is requesting that this item be postponed to September 9, 2020. Five affirmative votes are required for passage after public comment.

Order 25-20/21 Appropriating \$400,000 in HOME Investment Partnership Program Funds to Washington Gardens, LP RE: 577 Washington Avenue - Sponsored by the Housing Committee, Councilor Jill C. Duson, Chair.

The Housing Committee met on June 10, 2020 and voted unanimously (3 - 0) to forward this item to the City Council with a recommendation for passage.

Portland Housing Development Corporation (PHDC) is proposing to rehabilitate 100 units of public housing serving seniors and persons with disabilities at 577 Washington Avenue (Washington Gardens).

PHDC has requested three forms of financial assistance including \$400,000 from the Affordable Housing Development Program, \$184,150 from the CDBG Program (approved by the City Council in May, 2020) and an Affordable Housing Tax Increment Financing request being considered separately under Orders 21 - 20/21.

Total HOME request of \$400,000/unit = \$4,000

Total HOME request of \$400,000/affordable unit = \$4,000

There are currently 60 studios, 36 one-bedroom, and 4 two-bedroom units. 60% or 60 of the units will be available to households earning 50% of the area median income (AMI). 40% or 40 of the units will be available to households earning 60% AMI.

This project has received 9% Low Income Housing Tax Credit and tax-exempt debt from Maine Housing.

This item must be read on two separate days. On July 13, 2020, this item was postponed to August 31, 2020 to allow for the review of recent changes to the project proforma. Staff is requesting that this item be postponed to September 9, 2020. Five affirmative votes are required for passage after public comment.

Order 37-20/21 Setting an Election Date on Citizen Initiative Amendment to the Portland City Code Chapter 33 Re: An Act to Increase Minimum Wage in Portland - Sponsored by Katherine L. Jones, City Clerk

This item sets an election date for a Citizen Initiative that increases the Portland minimum wage. It also allows the use of a summary on the ballot, pursuant to Chapter 9 of the Portland City Code Sec. 9-41. Staff is recommending that the summary language be used for the ballot.

This item must be read on two separate days. It was given a first reading on August 3, 2020. Five affirmative votes are required for passage after public comment.

Order 38-20/21 Setting Election Date on a Citizen Initiative Amendment to the Portland City Code Chapter 17 Re: An Act to Ban Facial Surveillance by Public Officials in Portland - Sponsored by Katherine L. Jones, City Clerk

This item sets an election date for a Citizen Initiative called An Act to Ban Facial Surveillance in Portland. It also allows the use of a summary on the ballot, pursuant to Chapter 9 of the Portland City Code Sec. 9-41. Staff is recommending that the summary language be used for the ballot.

This item must be read on two separate days. It was given a first reading on August 3, 2020. Five affirmative votes are required for passage after public comment.

Order 39-20/21 Setting Election Date on a Citizen Initiative Amendment to the Portland City Code Chapter 2 Re: An Act to Implement a Green New Deal for Portland - Sponsored by Katherine L. Jones, City Clerk

This item sets an election date for a Citizen Initiative called An Act to Implement a Green New Deal in Portland. It also allows the use of a summary on the ballot, pursuant to Chapter 9 of the Portland City Code Sec. 9-41. Staff is recommending that the summary language be used for the ballot.

This item must be read on two separate days. It received its first reading on August 3, 2020. Five affirmative votes are required for passage after public comment.

Order 40-20/21 Setting Election Date on a Citizen Initiative Amendment to the Portland City Code Chapter 6 Re: An Act to Protect Tenants - Sponsored by Katherine L. Jones, City Clerk

This item sets an election date for a Citizen Initiative called An Act to Protect Tenants. It also allows the use of a summary on the ballot, pursuant to Chapter 9 of the Portland City Code Sec. 9-41. Staff is recommending that the summary language be used for the ballot.

This item must be read on two separate days. It received its first reading on August 3, 2020. Five affirmative votes are required for passage after public comment.

Order 41-20/21 Setting Election Date on a Citizen Initiative Amendment to the Portland City Code Chapter 6 Re: An Act to Restrict Short Term Rentals in Portland - Sponsored by Katherine L. Jones, City Clerk

This item sets an election date for a Citizen Initiative called An Act to Restrict Short Term Rentals in Portland. It also allows the use of a summary on the ballot, pursuant to Chapter 9 of the Portland City Code Sec. 9-41. Staff is recommending that the summary language be used for the ballot.

This item must be read on two separate days. It received its first reading on August 3, 2020. Five affirmative votes are required for passage after public comment.

Order 42-20/21 Setting Election Date on Citizen Initiative Amendment to the Portland City Code Chapter 35 Re: No Cannabis Cap Campaign - Sponsored by Katherine L. Jones, City Clerk

This item sets an election date for a Citizen Initiative called No Cannabis Cap Campaign. It also allows the use of a summary on the ballot, pursuant to Chapter 9 of the Portland City Code Sec. 9-41. Staff is recommending that the summary language be used for the ballot.

This item must be read on two separate days. It received its first reading on August 3, 2020. Five affirmative votes are required for passage after public comment.

Order 43-20/21 Accepting and Appropriating up to \$50,000 in Donations for the Andrews Square Realignment Project - Sponsored by Jon P. Jennings, City Manager

This item accepts and appropriates donations of up to \$50,000 for Andrews Square realignment project. The Department of Public Works (DPW) has received Capital Improvement Plan (CIP) funding for an intersection realignment project at Andrews Square (intersection of Clark Street, Pine Street, West Street). Various residents of the Andrews Square neighborhood and members of the West End Neighborhood Association are donating private funds to incorporate various landscaping/hardscaping features into the project. This funding would supplement city CIP funding, as well as a \$20,000 Caring Community Grant from Maine Medical Center, for these landscaping and hardscaping improvements (plantings, landscape lighting, benches, hardscape material for crosswalks). The private funding group has been working in concert with staff in the Department of Public Works.

This item must be read on two separate days. It received its first reading on August 3, 2020. Five affirmative votes are required for passage after public comment.

Order 44-20/21 Amendment to Portland City Code Chapter 14 Re: Zoning Addition to the B-7 Mixed Development District Zone - Sponsored by the Portland Planning Board, Brandon Mazer, Chair

At a public hearing on June 9, 2020, the Planning Board unanimously found (7-0) that a proposed zoning text amendment to Division 17 Section 14-295 of the City's Land Use Code (adding veterinary hospitals and clinics without outdoor kennels as permitted uses within the B-7 zone) is consistent with the Comprehensive Plan for the City of Portland. The Planning Board recommended this action to the City Council.

Earle W. Noyes & Son, Inc., seeks a zoning text amendment to allow a prospective tenant to site their veterinary practice at 191 Marginal Way, which is zoned B-7 mixed development district. The proposed text amendment would add veterinary hospitals and clinics (provided there is no outdoor kennel) as permitted uses to the B-7 zone.

This item must be read on two separate days. It received its first reading on August 3, 2020. Staff is requesting that this item be postponed to September 9, 2020. Five affirmative votes are required for passage after public comment.

Order 45-20/21 Amendment to Chapter 5 Re: Restricting Off-Leash Dogs in Baxter Woods - Sponsored by the Sustainability and Transportation Committee, Councilor Spencer Thibodeau, Chair

The Sustainability and Transportation Committee voted 3-0 in support of the recommendation on February 26, 2020.

The Parks, Recreation, and Facilities Department is recommending that the City Council amend Chapter 5 of the City's Code of Ordinances in order to place new restrictions on the presence of off-leash dogs in Baxter Woods. Currently, Chapter 5 of the City's Code permits dogs to be off-leash in Baxter Woods so long as they are under voice control. The proposal seeks to impose limited restrictions on the presence of off-leash dogs in Baxter Woods in order to better fulfill the City's charge to maintain Baxter Woods as a bird sanctuary and to address public safety concerns.

This item must be read on two separate days. It received its first reading on August 3, 2020. Staff is requesting that this item be postponed to October 5, 2020. Five affirmative votes are required for passage after public comment.

Order 46-20/21 Amendment to Portland City Code Chapter 12 Re: Repeal of Single-use Carry-out Bag Ordinance - Sponsored by the Traffic and Sustainability Committee, Councilor Spencer Thibodeau, Chair

The Sustainability and Transportation Committee met on February 26, 2020 and voted 2-1 to recommend this item for passage by the City Council.

In July, 2019, Governor Janet Mills signed a new state law banning the distribution of plastic shopping bags in Maine. The new law has a provision that preempts local ordinances regulating plastic bags and gives the State of Maine the sole authority to do so. Corporation Counsel recommends the City Council repeal Portland's bag ordinance because the State's action nullifies it.

This item must be read on two separate days. It received its first reading on August 3, 2020. Staff is requesting that this item be postponed to October 19, 2020. Five affirmative votes are required for passage after public comment.

CITIZEN INITIATIVE ALTERNATE SUMMARIES

Councilor Ray's proposed alternate summaries for the Citizen Initiative Referendum Questions.

ZOOM INFORMATION:

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346 248 7799 or +1 669 900 6833**

Webinar ID: 884 9106 7464

Passcode: 243460

PLEDGE OF ALLEGIANCE

ROLL CALL

Mayor Snyder called the meeting to order at 5:30 P.M. (Councilor Cook absent)

ANNOUNCEMENTS

Councilor Ali asked for a moment of silence for Representative John Lewis, long time Georgia Lawmaker.

RESOLUTIONS:

Resolution 2-2020 Creating an Ad Hoc Committee to Recommend Appointees to the 2020 Charter Commission - Sponsored by Kate Snyder, Mayor

Motion was made by Mayor Snyder and seconded by Councilor Costa to amend Resolve 2 by striking " 3 members and adding 4 members" to the Ad Hoc Committee. Passage 8-0.

Motion was made by Councilor Mavodones and seconded by Councilor Ray for passage as amended. Passage 8-0.

Motion was made by Mayor Snyder and seconded by Councilor Duson to take up an unagenda item. Passage 8-0.

COMMUNICATION

Communication Re: 2020 Charter Commission Ad Hoc Committee

Communication : This communication names the four members of the Charter Commission Ad Hoc Committee:

Mayor Kate Snyder

Councilor Nicholas Mavodones, Jr.

Councilor Pious Ali

Councilor Tae Chong

Motion was made by Councilor Ray and seconded by Councilor Mavodones to adjourn. Passage 8-0 at 8:12 P.M.

A TRUE RECORD

Katherine L. Jones, City Clerk

COUNCIL WORKSHOP

Following the adjournment of the Special City Council meeting, the Council will host a workshop to discuss issues related to those experiencing homelessness, Deering Oaks Park, and City Hall Plaza.

ZOOM INFORMATION:

The Portland City Council will hold a remote meeting on Monday, August 10, 2020 at 5:30 PM. This meeting will take place remotely using Zoom.

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Webinar ID: 878 2498 5188

Passcode: 977041

PLEDGE OF ALLEGIANCE:

ROLL CALL:

Mayor Snyder called the meeting to order at 5:30 P.M. (All Councilors Present).

ANNOUNCEMENTS:

ORDERS:

Order 47-20/21 Appointing Three Members to the 2020 Charter Commission - Sponsored by the 2020 Charter Commission Ad Hoc Committee, Mayor Kate Snyder, Chair

Motion was made by Councilor Ali and seconded by Councilor Chong for passage. Passage 9-0.

Order 48-20/21 Approving the Election of Nine Members to the 2020 Charter Commission - Sponsored by Mayor Kate Snyder

Motion was made by Councilor Costa and seconded by Councilor Ray for passage. Passage 9-0.

6:00 P.M. PUBLIC COMMENT PERIOD ON NON-AGENDA ITEMS:

Motion was made by Councilor Ray and seconded by Councilor Costa to adjourn. Passage 9-0 at 6:37 P.M.

A TRUE RECORD

Katherine L. Jones, City Clerk

ZOOM MEETING INFORMATION:

The Portland City Council will hold a remote meeting on Monday, August 3, 2020 at 4:30 PM. This meeting will take place remotely using Zoom.

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Or Telephone:

Dial(for higher quality, dial a number based on your current location):

US: +1 301 715 8592 or +1 312 626 6799 or +1 929 205 6099 or +1 253 215 8782 or +1 346 248 7799 or +1 669 900 6833

Webinar ID: 843 9412 0128

Passcode: 340626

PLEDGE OF ALLEGIANCE:

ROLL CALL:

EXECUTIVE SESSION:

The Executive Session will begin at 4:30 p.m. The City Council meeting will begin immediately after the end of the Executive Session.

Executive Session to discuss the City's legal rights and duties regarding pending litigation in FEDEQ DV004, LLC and FEDEQ DV005, LLC v. City of Portland et al., with legal counsel pursuant to 1 M.R.S. section 405(6)(E).

Motion was made by Councilor Ray and seconded by Councilor Costa to go into Executive Session to discuss and consider the City's Legal rights and duties pursuant to 1 M.R.S. section 405 (6) (E). 9-0.

Motion was made by Councilor Ray and seconded by Councilor Costa to come out of Executive Session. Passage 9-0 at 5:27 P.M.

ANNOUNCEMENTS:

Councilor Ray apologized for decorum displayed during a past public comment. There will be a speaker series revising structural racism, 6:00 to 7:30 all week. Tickets at Event Brite.

Councilor Ali affirmed amazing list of speakers.

Mayor Snyder stated that the Ad Hoc Committee meetings took place last Thursday, and for the week of August 3, they will be Tuesday at 7:00 AM and Wed, Thursday, Friday from 11:00 AM to 1:00 PM.

APPROVAL OF MINUTES OF PREVIOUS MEETING:

Approval of the July 13, 2020 4:00 p.m. and July 13, 2020 5:30 p.m. draft City Council Meeting minutes.

Motion was made by Councilor Ray and seconded by Councilor Costa for passage. Passage 9-0.

CONSENT ITEMS:

Order 27-20/21 Approving Transfer of Funds Under 15 M.R.S. §§5824(3) and 5826(6) Re: Abdifatah Shariff Ali - Sponsored by Jon P. Jennings, City Manager

Order 28-20/21 Approving Transfer of Funds Under 15 M.R.S. §§5824(3) and 5826(6) Re: Rebecca Hassett - Sponsored by Jon P. Jennings, City Manager

Order 29-20/21 Approving Transfer of Funds Under 15 M.R.S. §§5824(3) and 5826(6) Re: Janet Bradbury - Sponsored by Jon P. Jennings, City Manager

Motion was made by Councilor Ray and seconded by Councilor Costa for passage of the consent items. Passage 9-0.

LICENSES:

COMMUNICATIONS:

Com 2-20/21 COVID-19 Universal Testing for all Portland Housing Authority residents - Sponsored by Jon P. Jennings, City Manager

As a communication this item requires no public comment or council action

Com 3-20/21 Review of 2011 OccupyMaine Lincoln Park Protest - Sponsored by Danielle West-Chuhta, Corporation Counsel

As a communication this item requires no public comment or council action.

Com 4-20/21 Update on the City of Portland Municipal Fiscal Year 2020-2021 Budget - Sponsored by Jon P. Jennings, City Manager

As a Communication this item requires no public comment or council action.

RESOLUTIONS:

Resolve 3-20/21 Recommending the Marketing of City-Owned Surface Level Parking Lots at 157 Brackett Street and 176 Clark Street for Housing Development - Sponsored by Housing Committee, Councilor Jill C. Duson, Chair

Motion was made by Councilor Thibodeau and seconded by Councilor Ray to postpone Resolve 3 to the October 5, 2020 City Council meeting. Passage 9-0.

UNFINISHED BUSINESS:

Order 72-19/20 Amendment to the Portland City Code Chapter 17 Re: Facial Recognition Technology Prohibition - Sponsored by Councilor Pious Ali

Motion was made by Councilor Ali and seconded by Councilor Costa to amend Order 72

Article XI Facial Recognition Technology section 17-130. Definitions” approving Councilor Ali's Amendment” which is located in the back up materials". Passage 9-0.

Motion was made by Councilor Costa and seconded by Councilor Thibodeau to amend Order 72 Sec. 17-131, Facial Recognition Technology Prohibition, "adding section (e) prohibit any contracts, agreements, permits or other actions at the Portland Jetport or at the port, when done as part of a broader system of screenings managed by Customs Protections, Boarder Protections, Federal Aviation Administration and Transportation Security Administration. Motion was withdrawn by Councilor Thibodeau and by Councilor Costa.

Motion was made by Councilor Mavodones and seconded by Councilor Duson to amend Order 72 Sec. 17-131. Facial Recognition by” approving the amendment prepared by Staff,” "Staff Amendment is located in the back up materials". Passage 7-2 (Ali, Cook).

Motion was made by Councilor Thibodeau and seconded by Councilor Duson for passage as amended. Passage 9-0.

Order 193-19/20 Amendment to the Portland City Code Chapter 14 Re: Zoning for B-3 Downtown Business Zone - Sponsored by the Portland Planning Board, Brandon Mazer, Chair

Motion was made by Councilor Mavodones and seconded by Councilor Thibodeau to refer Order 193 back to the Planning Board. Passage 9-0.

Order 206-19/20 Amendment to Portland City Code Chapter 6 Buildings and Building Regulations Re: Rental Application Fees - Sponsored by the Housing Committee, Councilor Jill Duson, Chair

Motion was made by Councilor Duson and seconded by Councilor Ali to amend Order 206 by adding "Councilor Duson's Amendment Four Re: Rental Application Fee Limitation" located in the back up materials. Passage 5-3 (Costa, Ray, Chong) (Cook out).

Motion was made by Councilor Councilor Ray and seconded by Councilor Costa to amend Order 206 by using "amendment four which is located in the back up materials" and adding to this amendment "section 6-228. Enforcement and remedies (a) any violation of sections 6-223, 6-223.1 6-224 and 6-225 of this Article may be considered a civil infraction and may be enforced pursuant to the Portland City Code Chapter 1, subsection 1-15. (b) Any violation of subsection 6-222 of this Article shall be enforced as required by the Maine Human Rights Act, 5 M.R.S. subsection 4551, et seq. Passage 8-0 (Cook out).

Motion was made by Councilor Thibodeau and seconded by Councilor Chong to Amend Amendment Four by adding the "emergency clause "to Amendment Four. Passage 8-0 (Cook out).

Motion was made by Councilor Duson and seconded by Councilor Thibodeau for passage as amended. Passage 8-0 (Cook out).

Order 11-20/21 of Discontinuance of a Portion of Emery Street - Sponsored by the Economic Development Committee, Councilor Justin Costa, Chair

This order was for public comment only.

Order 13-20/21 Amending the Downtown Transit Oriented Development and Omnibus Tax Increment Financing District to Make 83 Middle Street/160 Newbury Street an Affordable Housing Tax Increment Financing District - Sponsored by the Economic Development Committee, Justin Costa, Chair

Motion was made by Councilor Costa and seconded by Councilor Chong for passage. Passage 9-0.

Order 14-20/21 Amending the Bayside Tax Increment Financing District to Make 337 Cumberland Avenue an Affordable Housing Tax Increment Financing District - Sponsored by the Economic Development Committee, Justin Costa, Chair

Motion was made by Councilor Costa and seconded by Councilor Mavodones for passage. Passage 9-0.

Order 15-20/21 Designating the 83 Middle Street Affordable Housing District and Tax Increment Financing District and Adopting the Municipal Development Program for the District - Sponsored by the Housing Committee, Councilor Jill C. Duson, Chair, and the Economic Development Committee, Councilor Justin Costa, Chair.

Motion was made by Councilor Mavodones and seconded by Councilor Ray to amend Order 15 by striking out "25 %" and adding 50%". Passage 9-0.

Motion was made by Councilor Costa and seconded by Councilor Ray for passage as amended. Passage 9-0.

Order 16-20/21 Approving and Authorizing the City Manager to Enter Into the Credit Enhancement Agreement with Middle Street Housing Partners, L.P. - Sponsored by the Housing Committee, Councilor Jill C. Duson, Chair and the Economic Development Committee, Councilor Justin Costa, Chair

Motion was made by Councilor Costa and seconded by Councilor Duson for passage. Passage 9-0.

Order 17-20/21 Designating the 200 Valley Street Affordable Housing District and Tax Increment Financing District and Adopting the Municipal Development

Program for the District - Sponsored by the Housing Committee, Councilor Jill C. Duson, Chair, and the Economic Development Committee, Councilor Justin Costa, Chair.

Motion was made by Councilor Costa and seconded by Councilor Mavodones for passage. Passage 8-0 (Cook out).

Order 18-20/21 Approving and Authorizing the City Manager to Enter Into the Credit Enhancement Agreement with Avesta Valley Street LP - Sponsored by the Housing Committee, Councilor Jill C. Duson, Chair and the Economic Development Committee, Councilor Justin Costa, Chair

Motion was made by Councilor Costa and seconded by Councilor Ray for passage. Passage 8-0 (Cook out).

Order 19-20/21 Designating the 337 Cumberland Avenue Affordable Housing District and Tax Increment Financing District and Adopting the Municipal Development Program for the District - Sponsored by the Housing Committee, Councilor Jill C. Duson, Chair, and the Economic Development Committee, Councilor Justin Costa, Chair.

Motion was made by Councilor Costa and seconded by Councilor Mavodones for passage. Passage 8-0. (Cook out).

Order 20-20/21 Approving and Authorizing the City Manager to Enter Into the Credit Enhancement Agreement with 337 Cumberland Avenue, LP. - Sponsored by the Housing Committee, Councilor Jill C. Duson, Chair and the Economic Development Committee, Councilor Justin Costa, Chair

Motion was made by councilor Costa and seconded by Councilor Mavodones for passage. Passage 8-0 (Cook out).

Order 21-20/21 Designating the 577 Washington Avenue Affordable Housing District and Tax Increment Financing District and Adopting the Municipal Development Program for the District - Sponsored by the Housing Committee, Councilor Jill C. Duson, Chair, and the Economic Development Committee, Councilor Justin Costa, Chair.

Motion was made by Councilor Duson and seconded by Councilor Ray to postpone Order 21 to August 31, 2020. Passage 8-0 (Cook out).

Order 22-20/21 Approving and Authorizing the City Manager to Enter Into the Credit Enhancement Agreement with Washington Gardens LP. - Sponsored by the Housing Committee, Councilor Jill C. Duson, Chair and the Economic Development Committee, Councilor Justin Costa, Chair

Motion was made by Councilor Duson and seconded by Councilor Ray to postpone Order

22 to August 31, 2020. Passage 8-0 (Cook out)

Order 23-20/21 Appropriating \$97,545 in Home Investment Partnership Program Funds and up to \$497,455 in Housing Trust Funds to Avesta Valley Street LP RE: 200 Valley Street - Sponsored by the Housing Committee, Councilor Jill C. Duson, Chair

Motion was made by Councilor Costa and seconded by Councilor Ray for passage. Passage 8-0 (Cook out).

Order 24-20/21 Appropriating Up To \$500,000 in Housing Trust Funds to 337 Cumberland Avenue, LP RE: 337 Cumberland Avenue - Sponsored by the Housing Committee, Councilor Jill C. Duson, Chair.

Motion was made by councilor Costa and seconded by Councilor Mavodones for passage. Passage 8-0 (Cook out).

Order 25-20/21 Appropriating \$400,000 in HOME Investment Partnership Program Funds to Washington Gardens, LP RE: 577 Washington Avenue - Sponsored by the Housing Committee, Councilor Jill C. Duson, Chair.

Motion was made by Councilor Duson and seconded by Councilor Ray to postpone Order 25 to the August 31, 2020 City Council meeting. Passage 8-0 (Cook out).

Order 26-20/21 Amendment to the Portland City Code Chapter 29 Vegetation Re: Heritage Tree Protection Ordinance and Tree Trust - Sponsored by the Sustainability and Transportation Committee, Councilor Spencer Thibodeau, Chair

Motion was made by Councilor Thibodeau and seconded by Councilor Ray for passage. Passage 9-0.

ORDERS:

Order 30-20/21 Setting Public Hearing on a Citizen Initiative Amendment to the Portland City Code Chapter 33 Re: An Act to Increase the Minimum Wage in Portland - Sponsored by Katherine Jones, City Clerk

Motion was made by Councilor Costa and seconded by Councilor Ray for passage. Passage 9-0.

Order 31-20/21 Setting Public Hearing on a Citizen Initiative Amendment to Chapter 17 of the Portland City Code Re: An Act to Ban Facial Surveillance by Public Officials in Portland - Sponsored by Katherine L. Jones, City Clerk

Motion was made by Councilor Costa and seconded by Councilor Chong for passage. Passage 9-0.

Order 32-20/21 Setting Public Hearing on a Citizen Initiative Amendment to the Portland City Code Chapter 2 Re: An Act to Implement a Green New Deal for Portland - Sponsored by Katherine L. Jones, City Clerk

Motion was made by Councilor Chong and seconded by Councilor Ray for passage. Passage 9-0.

Order 33-20/21 Setting a Public Hearing on a Citizen Initiative Amendment to the Portland City Code Chapter 6 Re: An Act to Protect Tenants - Sponsored by Katherine L. Jones, City Clerk

Motion was made by Councilor Chong and seconded by Councilor Duson for passage. Passage 9-0.

Order 34-20/21 Setting a Public Hearing on Citizen Initiative Amendment to the Portland City Code Chapter 6 Re: An Act to Restrict Short Term Rentals in Portland - Sponsored by Katherine L. Jones, City Clerk

Motion was made by Councilor Duson and seconded by Councilor Costa for passage. Passage 9-0.

Order 35-20/21 Setting Public Hearing on Citizen Initiative Amendment to the Portland City Code Chapter 35 Re: No Cannabis Cap Campaign - Sponsored by Katherine L. Jones, City Clerk

Motion was made by Councilor Chong and seconded by Councilor Costa for passage. Passage 9-0.

Order 36-20/21 Approving the Ninth Amendment to the 52 Hanover Street Purchase and Sale Agreement - Sponsored by the Economic Development Committee, Councilor Justin Costa, Chair

Motion was made by Councilor Costa and seconded by Councilor Mavodones for passage. Passage 9-0.

Order 37-20/21 Setting an Election Date on Citizen Initiative Amendment to the Portland City Code Chapter 33 Re: An Act to Increase Minimum Wage in Portland - Sponsored by Katherine L. Jones, City Clerk

This is a first read.

Order 38-20/21 Setting Election Date on a Citizen Initiative Amendment to the Portland City Code Chapter 17 Re: An Act to Ban Facial Surveillance by Public Officials in Portland - Sponsored by Katherine L. Jones, City Clerk

This is a first read.

Order 39-20/21 Setting Election Date on a Citizen Initiative Amendment to the Portland City Code Chapter 2 Re: An Act to Implement a Green New Deal for Portland - Sponsored by Katherine L. Jones, City Clerk

This is a first reading.

Order 40-20/21 Setting Election Date on a Citizen Initiative Amendment to the Portland City Code Chapter 6 Re: An Act to Protect Tenants - Sponsored by Katherine L. Jones, City Clerk

This is a first reading.

Order 41-20/21 Setting Election Date on a Citizen Initiative Amendment to the Portland City Code Chapter 6 Re: An Act to Restrict Short Term Rentals in Portland - Sponsored by Katherine L. Jones, City Clerk

This is a first reading.

Order 42-20/21 Setting Election Date on Citizen Initiative Amendment to the Portland City Code Chapter 35 Re: No Cannabis Cap Campaign - Sponsored by Katherine L. Jones, City Clerk

This is a first reading

Order 43-20/21 Accepting and Appropriating up to \$50,000 in Donations for the Andrews Square Realignment Project - Sponsored by Jon P. Jennings, City Manager

This is a first reading.

AMENDMENTS:

Order 44-20/21 Amendment to Portland City Code Chapter 14 Re: Zoning Addition to the B-7 Mixed Development District Zone - Sponsored by the Portland Planning Board, Brandon Mazer, Chair

This is a first reading.

Order 45-20/21 Amendment to Chapter 5 Re: Restricting Off-Leash Dogs in Baxter Woods - Sponsored by the Sustainability and Transportation Committee, Councilor Spencer Thibodeau, Chair

This is a first reading.

Order 46-20/21 Amendment to Portland City Code Chapter 12 Re: Repeal of Single-

**use Carry-out Bag Ordinance - Sponsored by the Traffic and Sustainability
Committee, Councilor Spencer Thibodeau, Chair**

This is a first readi

6:00 P.M. PUBLIC COMMENT PERIOD ON NON-AGENDA ITEMS:

Motion was made by Councilor Costa and seconded by Councilor Chong to adjourn. Passage 9-0, at 1:10 AM.

A TRUE RECORD

Carolyn Dorr, Deputy City Clerk

MEMORANDUM
City Council Agenda Item

FROM:

DATE: July 14, 2020

SUBJECT: **Order 49-20/21 Granting Municipal Officers' Approval of Allagash Brewing Company dba Allagash Brewing Company. Application for a Combined Entertainment License at 50 Industrial Way - Sponsored by Jon P. Jennings, City Manager**

SPONSOR:

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

Can action be taken at a later date: No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

II. AGENDA DESCRIPTION

Allagash Brewing Company dba Allagash Brewing Company. Application for a Combined Entertainment License at 50 Industrial Way.

Application was filed on 6/23/2020. Applicant currently holds a Brewery license with Entertainment without Dance. Chapter 4 Sec 4-53 (2) requires a public hearing for all initial applications for a Combined Entertainment License.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Allagash
2. 20200813090315875

Prepared by:

Date: 7/14/2020

KATE SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
TAE Y. CHONG (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

Allagash Brewing Company dba Allagash Brewing Company. Application for a Combined Entertainment License at 50 Industrial Way.



CITY OF PORTLAND
Permitting and Inspections Department
Renewal Application for an Entertainment License

Must Include:

- ☐ 8 1/2" x 11" diagram showing layout of the premises to include dimensions, locations of dancing, seating, toilet rooms and means of egress.
- ☐ Sound Mitigation Plan (**not required if renewal application for indoor only entertainment)
 - o Prepared and Certified by a Professional Sound Engineer
 - o Details of methods used to minimize the impact on entertainment on the surrounding uses
 - o Speaker Locations and directions
 - o Sound System details and controls
 - o Stage and site layout and direction
 - o Noise cancelling or mitigating measures proposed
 - o Anticipated Sound readings
 - Indoors Entertainment-8 feet from any outer wall
 - Outdoor/Combined Entertainment-Property line and closest residence
 - o On-Site monitor when attendees are expected to exceed 250

Business Information			
Business Name (d/b/a):	Allagash Brewing Company	Phone:	207-878-5385
Location Address:	50 Industrial Way, Portland, ME 04103	Zip:	
Owner Name:	George Robert Tod, Jr.	Phone:	207-878-5385
Owner Email:	Compliance@allagash.com		
Contact Person responsible for Entertainment:	Tim Chalmers	Phone:	207-878-5385
Contact Person Email:	tchalmers@allagash.com		
Manager of Establishment:	Tim Chalmers, GR Manager	Phone:	207-878-5385
Manager Email:	tchalmers@allagash.com		

About Your Establishment

Describe in detail the type and nature of the business and proposed entertainment:

Allagash is a Brewery located on Industrial Way that will be open for on-site consumption. The Entertainment consists of hosting local musicians to play music on the patio or on a rare occasion, inside the tasting room.

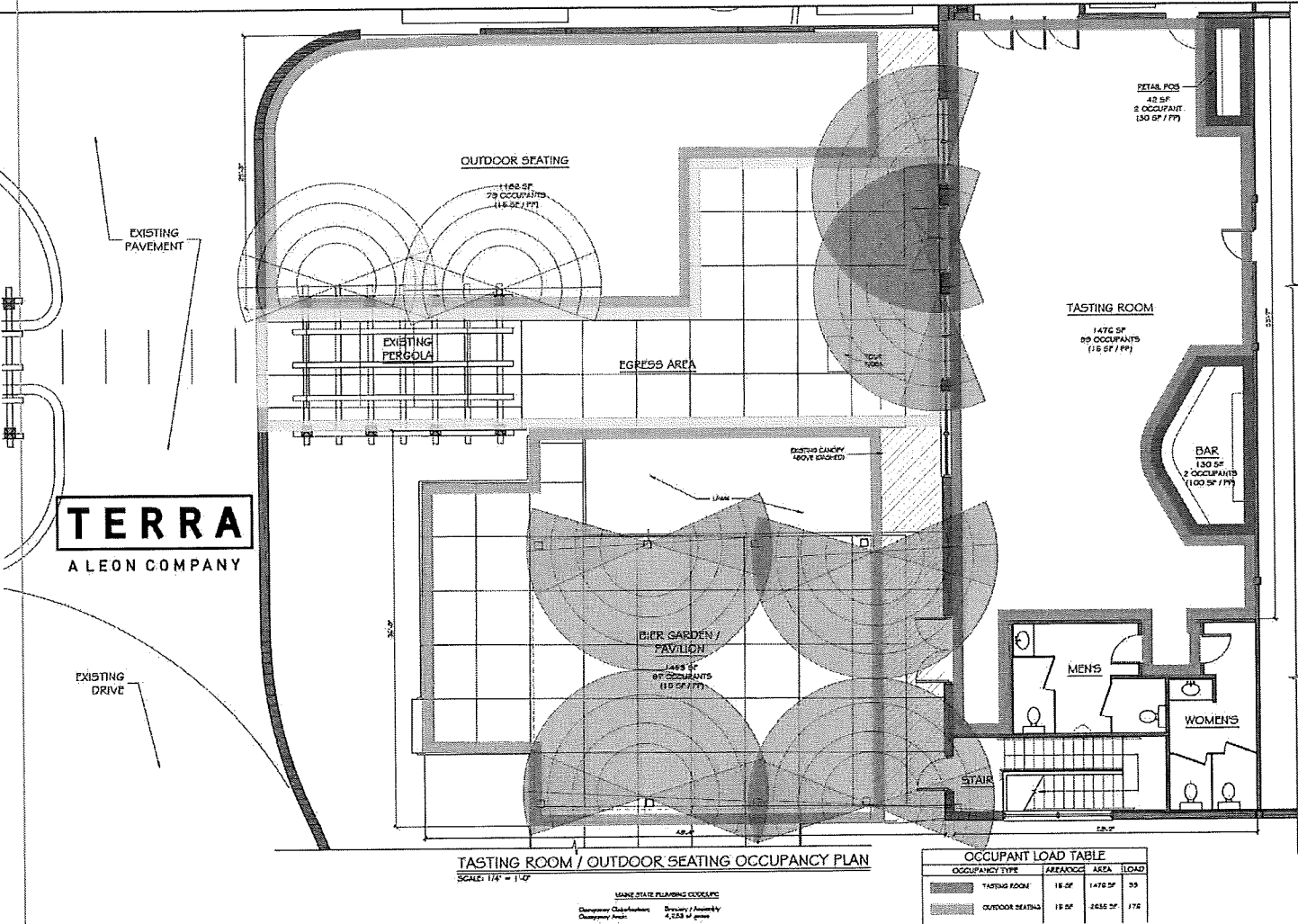
Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above license and further agrees that any misstatement of material fact may result in refusal of license or revocation, if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

Signature Leah Jones Title Beer to Market Specialist Date 6/16/2020

For more information, refer to the City Code of Ordinance: Chapter 4 Amusements, at www.portlandmaine.gov

389 Congress Street, Room 307 • Portland, Maine 04101 • 207-874-8557

bl@portlandmaine.gov • www.portlandmaine.gov



Allagash Brewing Company
Supplemental Information for Sound Mitigation Plan – 2020

The locations of the speakers were selected because if the speakers are at ground level and aiming up the audio will travel up and away from the listening area. This will help limit overall sound travel.

Prepared and Certified by a Professional Sound Engineer:

- James Banfield- Sound Engineer and Loudspeaker Designer

Details of methods used to minimize the impact on entertainment on the surrounding uses:

- The amplifier and volume controls are set with a limiter to prevent over driving the speakers as well to limit the overall volume.

Speaker Locations and directions

- The speakers are mounted on the outdoor Patio wall aiming down and 14' off the ground.

Sound System details and controls

- System consists of 4 Terra AC 17e speakers made in Brunswick, Maine. Amplification is a Crown Dci 8/300 and sound mixer with Sonos for a music source.

Stage and site layout and direction

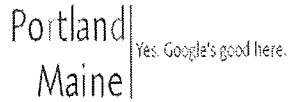
- Noise cancelling or mitigating measures proposed
- Speakers were aimed down so that the first reflection was the ground to limit the amount of stray sound to the area.

Anticipated Sound readings

- 65 Db -75 Db

On-Site monitor when attendees are expected to exceed 250

- n/a – not expected to exceed 250 this year.



Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Re: Allagash

Glen McGary <glenm@portlandmaine.gov>

Thu, Jun 25, 2020 at 8:13 AM

To: Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Approved PPD

On Thu, Jun 25, 2020 at 7:49 AM Jessica Hanscombe <jhanscombe@portlandmaine.gov> wrote:
Hi guys

Please see the attached for a Combo Entertainment Renewal. Please advise. Jess

Jessica Blais Hanscombe
Licensing and Housing Safety Manager
City of Portland
389 Congress Street Room 307
Portland, Maine 04101
207-874-8783
jhanscombe@portlandmaine.gov

--
Lieutenant Glen McGary
Portland Police Department
109 Middle Street
Portland, Maine 04101
Office (207) 756-8294
Fax (207) 874-8580

City of Portland

Sound Mitigation Review

Date: 7/8/2020

Business Allagash Brewing Company

Applicant Tim Chalmers

DESCRIPTION		yes	no
Sound system appropriate for the size venue		Yes	
Performance space located in an appropriate location		Yes	
Performance space facing in an appropriate direction to control sound		Yes	
Surrounding surfaces appropriate to control sound		Yes	
Additional sound absorbing features		Vinyl tent walls	
additional notes	natural plantings shield the neighbors from sound source		
Approved		Yes	
DIRECT ALL INQUIRIES TO:			
Kevin Schneck			
(207) 756-8433			
kschneck@portlandmaine.gov			



CITY OF PORTLAND
Permitting and Inspections Department

August 13, 2020

Allagash Brewing Company
50 Industrial Way
Portland ME 04103

Re: Allagash Brewing Company dba Allagash Brewing Company. Application for a Combined Entertainment License at 50 Industrial Way.

Dear Tim Chalmers

This letter shall serve as a reminder of the public hearing before the Portland City Council on **Monday August 31, 2020 at 5:30 p.m.**, for the review of application for a Combined Entertainment License at 50 Industrial Way. The meeting will take place virtually. The link can be found on the Meeting Agenda which will be posted on the City Website on August 28th.

You or a representative of the business must be present at this meeting in the event that the city council has questions regarding the license application. If there is no representation and questions arise, the item may be postponed.

Please contact our office directly with questions at (207) 874-8557 or jhanscombe@portlandmaine.gov.

Sincerely,

Jessica Hanscombe
Licensing and Housing Safety Manager

Legal Advertisement

Notice of Public Hearing City of Portland

A Public Hearing will be held on August 31, 2020 at 5:30 P.M., virtually, Allagash Brewing Company dba Allagash Brewing Company. Application for a Combined Entertainment License at 50 Industrial Way. Sponsored by Jon P. Jennings, City Manager.

MEMORANDUM
City Council Agenda Item

FROM:

DATE: July 14, 2020

SUBJECT: Order 50-20/21 Granting Municipal Officers' Approval of Navis LLC dba Navis Café. Application for a Class III & IV with Outdoor Dining on Private Property at 1 Hancock Street - Sponsored by Jon P. Jennings, City Manager

SPONSOR:

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

Can action be taken at a later date: No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

II. AGENDA DESCRIPTION

Navis LLC dba Navis Café. Application for a Class III & IV with Outdoor Dining on Private Property at 1 Hancock Street.

Application was filed on 7/8/2020. New City and State applications.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Navis Cafe
2. 20200813090508453

Prepared by:

Date: 7/14/2020

KATE SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
TAE Y. CHONG (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

Navis LLC dba Navis Café. Application for a Class III & IV with Outdoor Dining on Private Property at 1 Hancock Street.

Mark & Renae Roy

12 Fieldstone Lane
Falmouth, ME 04105
(207) 210-5176
imelroy6@gmail.com

1st July 2020

Dear Mayor and City Council Members,

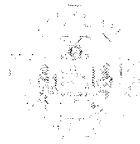
I am writing to request approval of our application for a Food Service Establishment with Alcoholic Beverages License for Navis Cafe at One Hancock Street, Portland.

We plan to offer 35 seats for indoor dining and 8 seats for outdoor dining in our new establishment, Navis Cafe. We have included the application, architect designs and specifications.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark & Renae Roy", with a long horizontal flourish extending to the right.

Mark & Renae Roy



CITY OF PORTLAND

Permitting and Inspections Department

Application for Food Service Establishment with Alcoholic Beverages License

Business Information					
Business Name (d/b/a):	NAVIS CAFE	Phone:			
Location Address:	ONE HANCOCK STREET	Zip:	04101		
If new, what was formerly at this location:					
Mailing Address:	12 Fieldstone Lane, Falmouth	Zip:	04105		
Contact Person:	RENAE ROY	Phone:	207-210-5176		
Contact Person Email:	info@naviscafe.com				
Manager of Establishment:	RENAE ROY	Date of Birth:	03/03/77	Phone:	207-210-5176
Owner of Premises (Landlord):	JOHNATHAN ECKEN 0 HANCOCK STREET LLC				
Address of Premises Owner:	P.O. Box 910, Westbrook ME	Zip:	04098		

Sole Proprietor/Partnership Information (If Corporation, leave blank)

Name of Owner(s)	Date of Birth	Residence Address

Corporate/LLC/Non-Profit Organization Applicants (If Sole Proprietor or Partnership, leave blank)

Corporate Name		Corporate Mailing Address			
NAVIS LLC		12 Fieldstone Lane, Falmouth		Zip:	04105
Contact Person:	RENAE ROY	Phone:	207-210-5176		
Principal Officers					
Title		Date of Birth	Residence Address		
MARK ROY		OWNER	06/09/69	12 Fieldstone Lane, Falmouth	
Class of Liquor License:		(III + IV) MALT & VINOUS			

389 Congress Street, Room 307 • Portland, Maine 04101 • 207-874-8557

bl@portlandmaine.gov • www.portlandmaine.gov

CITY OF PORTLAND
Permitting and Inspections Department

Type of food served:	SOUP, SANDWICHES, SALADS		
Please circle all that will be served:	☒ Beer	☒ Wine	☐ Liquor
Projected percentage of sales:	Generated from Food: 75%	Generated from Alcohol: 25%	
Hours & days of operation:	7Am - 8pm MONDAY - SUNDAY		

QUESTIONS	Y/N
Will full-course meals, only capable of consumption with the use of tableware, be served the entire time the establishment is open?	☒ Y
If No, please explain:	
Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment?	☒ Y
If yes, give the distance:	
Will you have entertainment on the premises? (If yes, a Supplemental Application for Entertainment is required.)	☒ Y
Will you permit dancing after 1:00 a.m.?	☒ Y
Will you have outside dining? (If yes, an Outdoor Dining Application is required)	☒ Y
If yes, will the outside dining be on PUBLIC or PRIVATE property (circle one).	
Will you have any amusement devices (pinball, video games, juke box)?	☒ Y
If yes, please list: # of pinball machines: _____ # of amusements: _____ # of pool tables: _____	
What is your targeted opening date? August 5th, 2020	
Does the Issuance of this license directly or indirectly benefit any City employee(s)?	☒ Y
If Yes, list name(s) of employee(s) and department(s):	
Have any of the applicants, including the corporation (if applicable), ever held a business license with the City of Portland?	☒ Y
If Yes, please list business name(s) and location(s):	
Is any principal officer under the age of 21?	☒ Y
Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of law?	☒ Y
If Yes, please explain:	

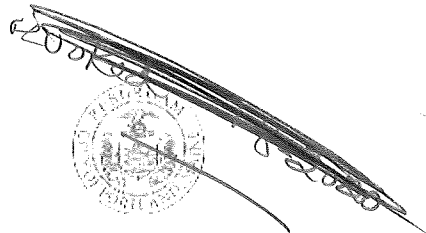
I, Renee Ray, do hereby swear and affirm that every employee in my establishment that serves alcohol to the public has attended server training, or will attend server training within 90 days of their hire. I also understand that at any time the City license administrator can, upon request, require me to produce Server Training certificates for each employee that serves alcohol to the public in my establishment. Failure to meet the training requirement imposed by section 15-41 may result in the denial of a liquor license pursuant to 28-A M.R.S.A. § 653 (2) (G).

Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above licensee and further agrees that any misstatement of material fact may result in refusal of license or revocation if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect thereto. I/We, hereby authorize the release of any criminal history record information to the City Clerk's Office or licensing authority. I/We, hereby waive any rights to privacy with respect thereto.

Signature Renee Ray Title Manager Date July 1st, 2020

PAID 547870



this is only 125.00 if it is Private Property

CITY OF PORTLAND
Permitting and Inspections Department
Outdoor Dining Permit on Private Property
Supplemental Application

License accompanies a City of Portland Food Service Establishment or Food Service Establishment with Liquor License

☒ Outdoor Dining on Private Property \$125.00 ☒ Legal Advertisement Deposit \$100.00

Business Information	
Business Name (d/b/a):	NAVIS CAFE Phone: 207-210-5176
Location Address:	0 HANCOCK STREET, PORTLAND Zip: 04101
Mailing Address:	12 Fieldstone Lane, Falmouth Zip: 04105
Contact Person:	RENAE ROY Phone: 207-210-5176
Contact Person Email:	ime1roy6@gmail.com
Manager of Establishment:	RENAE ROY Date of Birth: 03/03/77 Phone: 207-210-5176
Owner of Premises (Landlord):	0 HANCOCK LLC
Address of Premises Owner:	P.O. BOX 910, WESTBROOK, ME Zip: 04098

Owner Information

Corporate Name		Corporate Mailing Address																					
NAVIS LLC		12 Fieldstone Lane Zip: 04105																					
Contact Person:	RENAE ROY	Phone:	207-210-5176																				
<table border="1"> <thead> <tr> <th>Principal Officers</th> <th>Title</th> <th>Date of Birth</th> <th>Residence Address</th> </tr> </thead> <tbody> <tr> <td>MARK P. ROY</td> <td>OWNER</td> <td>06/09/69</td> <td>12 Fieldstone Lane, Falmouth 04105</td> </tr> <tr> <td>RENAE ROY</td> <td>OWNER</td> <td>03/03/77</td> <td>12 Fieldstone Lane, Falmouth</td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>				Principal Officers	Title	Date of Birth	Residence Address	MARK P. ROY	OWNER	06/09/69	12 Fieldstone Lane, Falmouth 04105	RENAE ROY	OWNER	03/03/77	12 Fieldstone Lane, Falmouth								
Principal Officers	Title	Date of Birth	Residence Address																				
MARK P. ROY	OWNER	06/09/69	12 Fieldstone Lane, Falmouth 04105																				
RENAE ROY	OWNER	03/03/77	12 Fieldstone Lane, Falmouth																				



CITY OF PORTLAND
Permitting and Inspections Department

Class of License:	3 and 4
Type of food served:	Sandwiches, Soups, Salads, BREAKFAST
Please circle all that will be served:	Beer Wine Liquor
Hours & days of operation:	8:00 AM - 7pm Monday through Sunday
Number of Tables	7
Number of Chairs	30

Design and Construction

- If you are building a structure or adding impervious surface for the outdoor dining area please contact the Permitting and Inspections Department for permitting requirements at permitting@portlandmaine.gov or 874-8703.

Maintenance and Operations

- Outdoor dining components must be within the permitted area and allow safe passage of pedestrian traffic. Failure to comply may result in a revocation of the permit.
- No food shall be prepared in the designated outdoor dining area.
- Outdoor dining areas must meet ADA regulations and accessible seating is required.

I/We fully understand that the City of Portland, its agents, officers and employees accept no responsibility and will not be liable for any injury, harm or damage to my/our person or property arising out of the establishment's occupancy of the sidewalk or park space. To the fullest extent permitted by law, I/We do hereby agree to assume all risk of injury, harm or damage to my/our person or property (including but not limited to all risk of injury, harm or damage to my/our property cause by the negligence of the City of Portland, its agents, officers or employees) arising out of the establishment's occupancy of the sidewalk or park space. I/We hereby agree, to the fullest extent permitted by law, to defend, indemnify and hold harmless the City of Portland, its agents, officers and employees, from and against all claims, damages, losses and expenses, just or unjust, including, but not limited to costs of defense and attorney's fees, arising out of the establishment's occupancy of the sidewalk or park space, provided that any such claims, damage, loss or expense (1) is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property including the loss of use there from, and (2) is caused in whole or in part by any negligent act or omission of the establishment, anyone directly or indirectly employed by it, or anyone for whose act it may be liable.

Signature *Dennis Roy* Title OWNER Date 4/6/20

For Administrative Use Only

Amount: <u>779⁰⁰</u>	Request Date /	Approval	Notes: _____
Date Paid: <u>5/4/2020</u>	FD: <u>5-4-2020</u>	_____	_____
CC _____ CA _____ CK _____	Health: _____	_____	_____
	PD: _____	_____	_____
Amount: _____	PR: _____	_____	_____
Date Paid: _____	Treasury: _____	_____	_____
CC _____ CA _____ CK _____	Zoning: _____	_____	_____

BUREAU OF ALCOHOL BEVERAGES AND LOTTERY OPERATIONS
DIVISION OF LIQUOR LICENSING AND ENFORCEMENT
8 STATE HOUSE STATION, AUGUSTA, ME 04333-0008 (Regular Mail)
10 WATER STREET, HALLOWELL, ME 04347 (Overnight Mail)
TEL: (207) 624-7220 FAX: (207) 287-3434
EMAIL INQUIRIES: MAINELIQUOR@MAINE.GOV

DIVISION USE ONLY	
License No:	
Class:	By:
Deposit Date:	
Amt. Deposited:	
Cash Ck Mo:	
Good SOS & DBA: YES ☐ NO ☐	

NEW license ☒ Yes ☐ No

Present License Expires _____

If business is NEW indicate opening date: July 11, 2020

Business Hours 8am - 7pm

- ☒ Off-Premise Retailer – Malt Liquor\$200.00
☒ Off-Premise Retailer – Table Wine\$200.00
☒ Filing Fee\$ 10.00

NOTE: if the place of business is located in an unincorporated place, the County Commissioners must approve the application. All such applications shall be accompanied by receipt of payment of the \$10.00 filing fee to the County Treasurer.

Check Payable: Treasurer, State of Maine

ALL QUESTIONS MUST BE ANSWERED IN FULL

Corporation Name: <u>NAVIS LLC</u>			Business Name (D/B/A) <u>NAVIS CAFE</u>		
APPLICANT(S) – (Sole Proprietor) <u>MARK P. ROY</u>		DOB: <u>06/09/69</u>	Physical Location: <u>ONE HANCOCK STREET</u>		
<u>RENAE ROY</u>		DOB: <u>03/03/77</u>	City/Town Code <u>PORTLAND</u>	State <u>ME</u>	Zip <u>04101</u>
Address <u>12 Fieldstone Lane</u>			Mailing Address <u>12 Fieldstone Lane</u>		
City/Town <u>FALMOUTH</u> State <u>ME</u> Zip Code <u>04105</u>			City/Town Code <u>Falmouth</u> State <u>ME</u> Zip <u>04105</u>		
Telephone Number <u>207-210-5176</u>		Fax Number <u>X</u>	Business Telephone Number <u>207-210-5176</u>		Fax Number
Federal I.D. # <u>85-0576435</u>			Seller Certificate #: or Sales Tax #:		
Email Address: <u>jme.roy6@gmail.com</u>			Website: <u>N/A</u>		

1. List of Wholesale Value and Types of Merchandise in inventory: (must be answered)

Edible Foods \$ _____ Tobacco Products \$ 0 Paper Goods # _____

Greeting cards, Magazines, Newspapers \$ 0 Total all other inventory \$ _____

2. Is applicant a Corporation, Limited Liability Co., or Limited Partnership? Yes ☒ No ☐

(If Yes complete Corporate Information Required for Business Entities)

3. If Manager is to be hired, give name: X

4. Is/Are applicant(s) citizens of the United States? Yes ☒ No ☐
5. Is/Are applicant(s) residents of the State of Maine? Yes ☒ No ☐

7. List name, date of birth, place of birth for all applicants and managers. Give maiden name if married.

Name in Full (Print Clearly)	DOB	Place of Birth
MARK Paul Roy	06/09/68	FORT KENT, ME
RENae Roy	03/03/77	MANCHESTER, CT

Residence address on all of the above for previous 5 years (Limit answer to city & state)

Name: MARK Paul Roy	City: Falmouth	State: ME
Name: RENAE Roy	City: Falmouth	State: ME
Name:	City:	State:

Use a separate sheet of paper if necessary.

8. Has applicant(s) or manager(s) ever been convicted of any violation of the law, other than minor traffic violations of any State of the United States? Yes ☐ No ☒

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____ Use a separate sheet of paper if necessary.

9. Will any law enforcement official benefit directly in your license, if issued?

Yes ☐ No ☒ If Yes, give name: _____

10. Has applicant(s) formerly held a Maine liquor license? Yes ☐ No ☒

11. Do applicant(s) own the premises? Yes ☐ No ☒ If No, give name and address of owner: _____

12. Describe in detail where liquor will be stored: (Off Premise Diagram Required) Stored behind the service counter inside cooler. Dry storage locked storage area behind kitchen

13. Have you received any assistance financially or otherwise (including any mortgages) from any source other than yourself in the establishment of your business? Yes ☐ No ☒ If Yes, give details: _____

14. Do you own or have any interest in any other Maine Liquor License? ☐ Yes ☒ No
If yes, please list License Number, Name, and physical location of any other Maine Liquor Licenses.

License # _____ Name of Business _____

Physical Location _____ City / Town _____

Use an additional sheet(s) if necessary.

15. Does any other person have any interest directly or indirectly in your business (husband, wife, child, etc)?
Yes ☐ No ☒ If Yes, give details _____

PAYMENTS TO THE DIVISION OF LIQUOR LICENSING & ENFORCEMENT BY CHECK SUBJECT TO
PENALTY PROVIDED BY SECTION 3 OF TITLE 28A, MAINE REVISED STATUTES

NOTE: "I understand that false statements made on this form are punishable by law. Knowingly supplying false information on this form is a Class D offense under the Criminal Code, punishable by confinement of up to one year or by monetary fine of up to \$500.00 or by both."

Dated at: Falmouth on April 2, 2020
City/Town Date Year

PLEASE SIGN IN BLUE INK

[Signature]
Signature(s) of Applicant(s) or Corporate Officer(s)

Rena Roy
Print Name of Applicant(s) or Corporate Officer(s)

Signature(s) of Applicant(s) or Corporate Officer(s)

Print Name of Applicant(s) or Corporate Officer(s)

Submit Completed Forms To:

Bureau of Alcoholic Beverages
Division of Liquor Licensing and Enforcement
8 State House Station, Augusta, Me 04333-0008 (Regular address)
10 Water Street, Hallowell, ME 04347 (Overnight address)
Telephone Inquiries: (207) 624-7220 Fax: (207) 287-3434
Email Inquiries: MaineLiquor@Maine.gov

State of Maine
Division of Alcoholic Beverages and
Lottery Operations
Division of Liquor Licensing and Enforcement

**Corporate Information Required for
Business Entities Who Are Licensees**

Questions 1 to 4 must match information on file with the Maine Secretary of State's office. If you have questions regarding this information, please call the Secretary of State's office at (207) 624-7752.

Please clearly complete this form in its entirety.

1. Exact legal name: NAVIS LLC
2. Doing Business As, if any: NAVIS CAFE
3. Legal Entity's FEIN #: 85-0576435
4. Date of filing with Secretary of State: 3/31/20 State in which you are formed: MAINE
5. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine: _____
6. List the name and addresses for previous 5 years, birth dates, titles of officers, directors and list the percentage ownership: (attach additional sheets as needed)

NAME	ADDRESS (5 YEARS)	Date of Birth	TITLE	Ownership %
MARK PAUL ROY	12 Fieldstone Lane Falmouth, ME 04105	06/09/69	OWNER	
RENAE ROY	12 Fieldstone Lane Falmouth, ME 04105	03/03/77	OWNER	

(Stock ownership in non-publicly traded companies must add up to 100%.)

7. If Co-Op # of members: _____ (list primary officers in the above boxes)

8. Has any principal person involved in the entity ever been convicted of any violation of the law, other than minor traffic violations, in the United States? ☐ Yes ☒ No

9. If Yes to Question 8, please complete the following: (attached additional sheets as needed)

Name: _____

Date of Conviction: _____

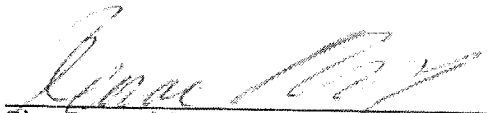
Offense: _____

Location of Conviction: _____

Disposition: _____

Signature:

PLEASE SIGN IN BLUE INK



Signature of Owner or Corporate Officer

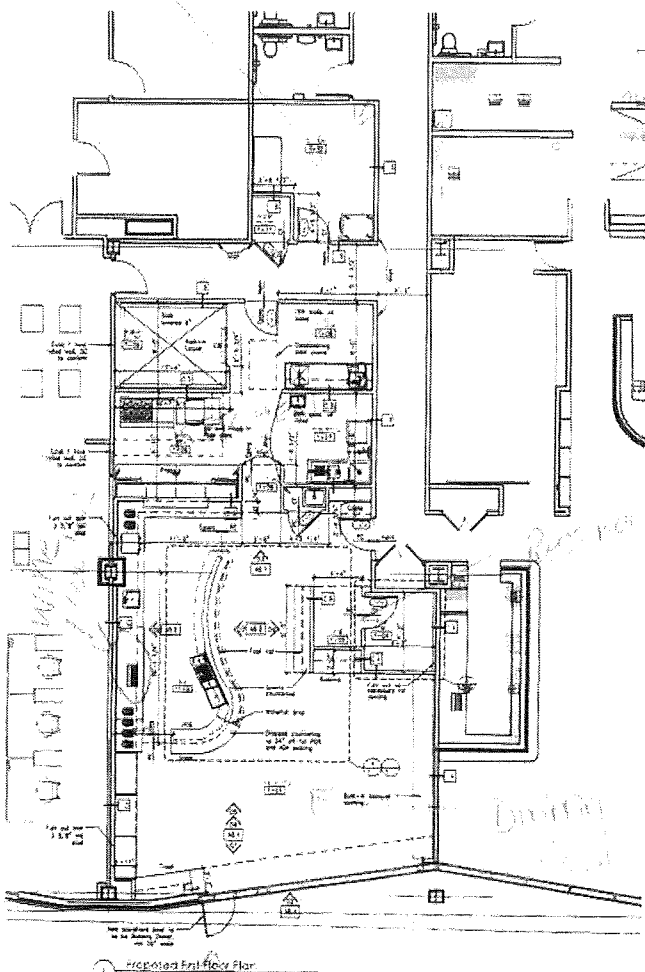
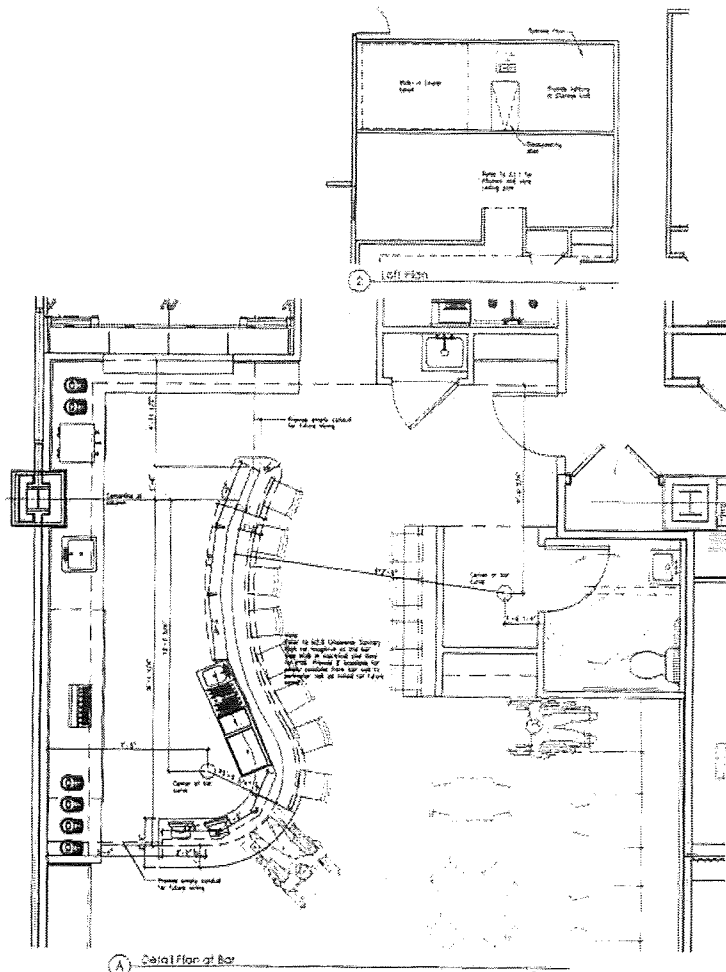
April 2, 2020
Date

RENAE ROY

Print Name of Owner or Corporate Officer

Submit Completed Forms to:

Bureau of Alcoholic Beverages
Division of Liquor Licensing and Enforcement
8 State House Station, Augusta, Me 04333-0008 (Regular address)
10 Water Street, Hallowell, ME 04347 (Overnight address)



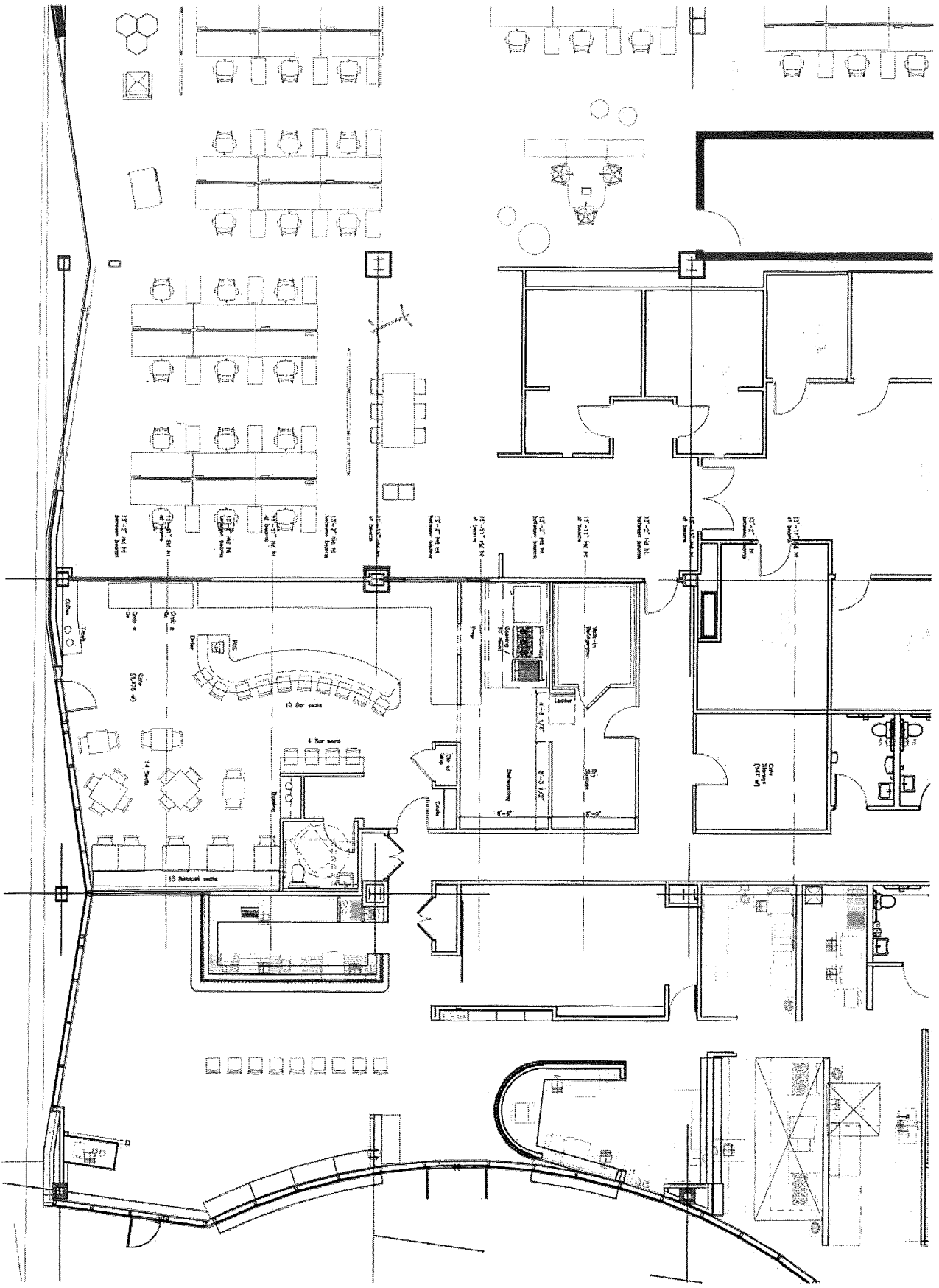
David Matero
Architecture

1111 1st Ave.
New York, NY 10003
Tel: 212 677 1111

ONE HANCOCK CATE
One Hancock Street
Fortune, Maine

100 Number 20 210
Date 03/19/02
Scale 1/4" = 1'-0"
Drawing Title
Proposed Floor Plan

A1.1
Issued for
Permit



1 Proposed First Floor Plan

Scale: 1/4" = 1'-0"

David Matteo
Architecture

1000 East Street
Suite 100
New York, NY 10002
Tel: 212-512-1234
Fax: 212-512-1235
Email: info@matteoarch.com



Consultants:
LMA Consulting
1000 East Street
Suite 100
New York, NY 10002
Tel: 212-512-1234
Fax: 212-512-1235
Email: info@lmaconsulting.com

Designer:

One Hancock
Cafe

One Hancock Street
Lower Level

Job Number: 20100
Date: 02.25.20
Scale: 1/4" = 1'-0"
Drawing Title:
Proposed
Floor Plan

A1.1

Not for
Construction

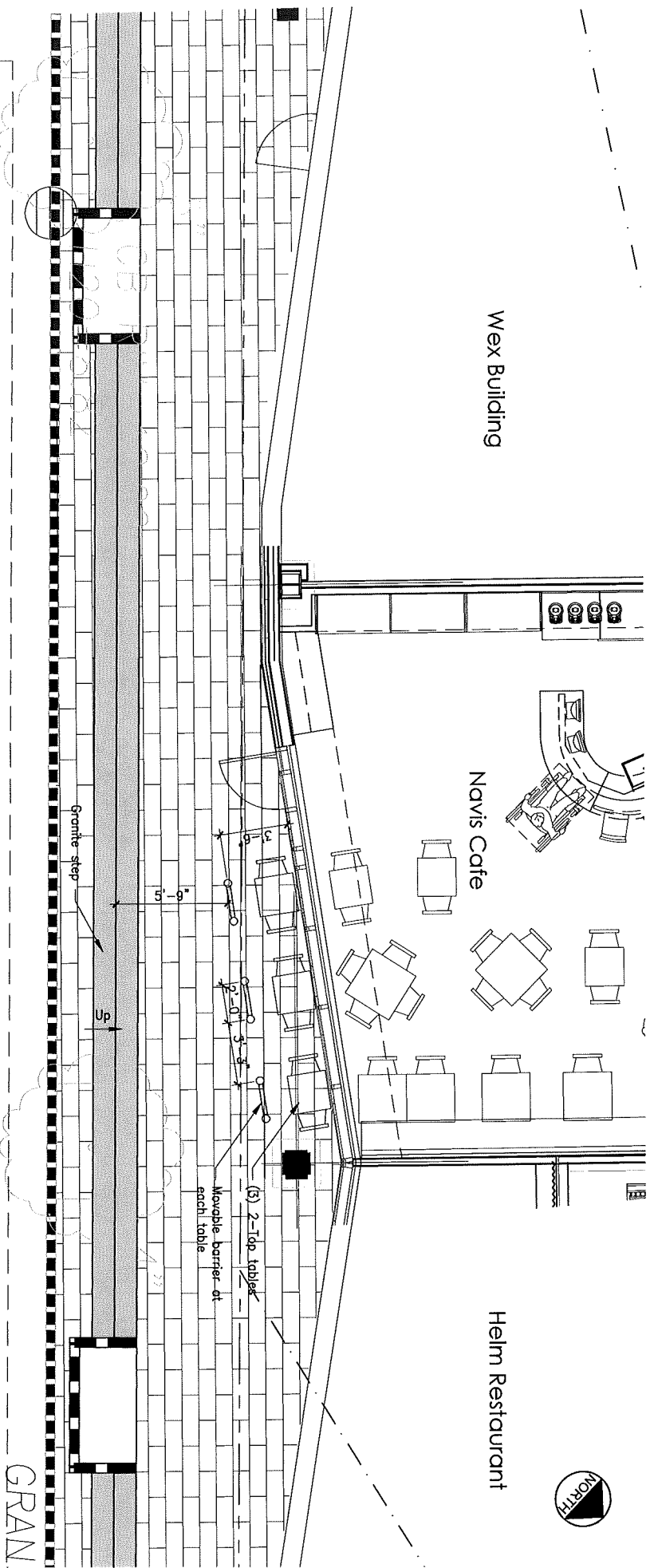
Copyright 2010 David Matteo
Architecture, LLC



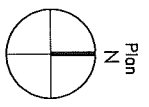
Wex Building

Navis Cafe

Helm Restaurant



David Matero
Architecture



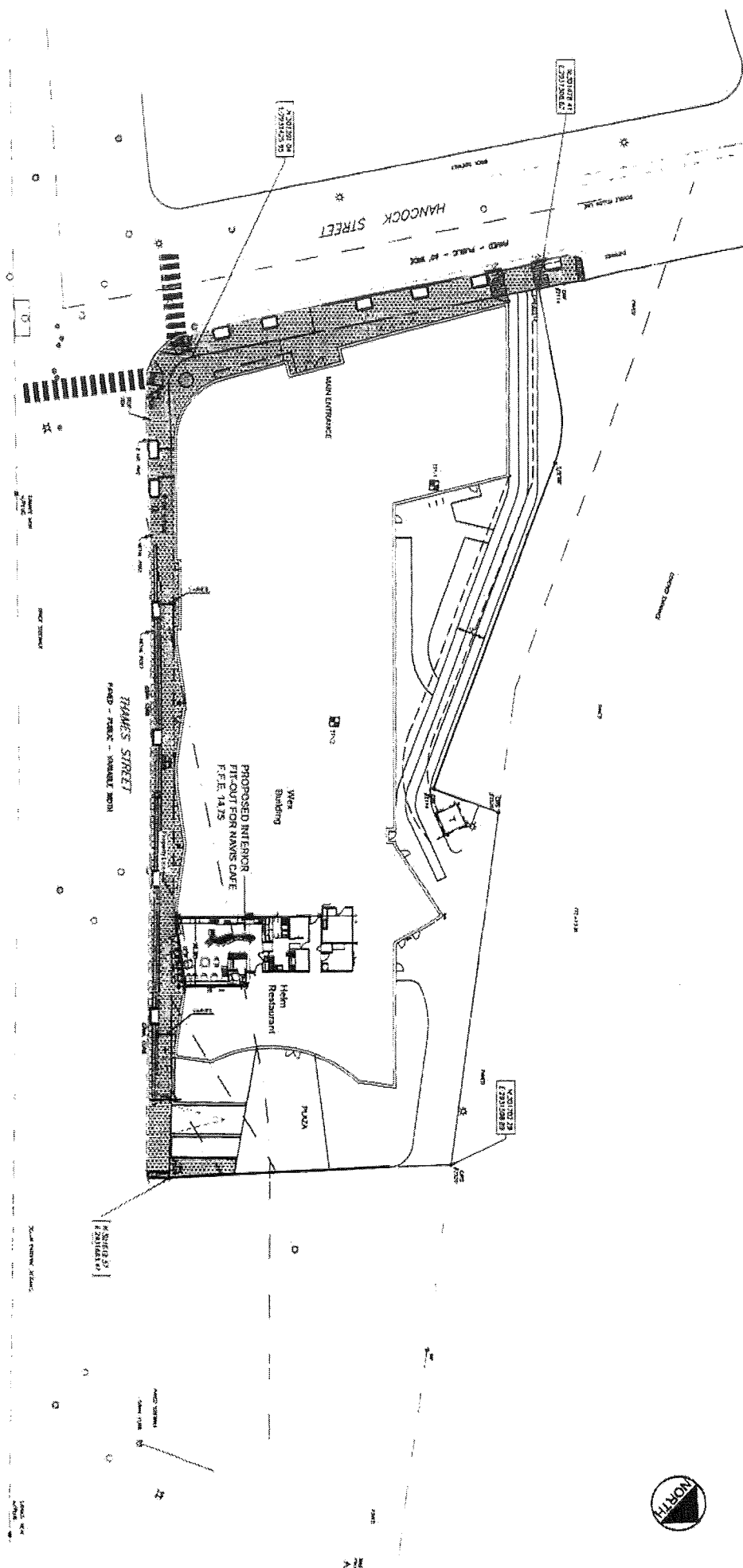
Navis Cafe
One Hancock Street, Portland, ME

Navis Site Plan

Scale: 1"=5'
Date: 04.12.20

L.2

Copyright 2020, David Matero
Architecture, LLC



NAVIS CAFE MENU

BREAKFAST

EGG WHITE BAGEL \$9.99 -Two Egg whites, Avocado Spread, Cheddar, Spinach & Tomato

WICKED SIMPLE BAGEL \$5.99 -Bacon, Ham, or Tomato. Served with Egg & Cheddar.

LOX OF LOVE \$9.99 -Cold Smoked Salmon, Red Onion, Fresh Greens, Capers & Dill Cream Cheese

TOASTED BAGEL \$2.99 -Served with Cream cheese, dill cream cheese, homemade jam, or peanut butter

HOUSEMADE SOUP

Soup

Cup \$4.99 Bowl \$6.99

Chowder

Market price

SALADS

CLASSIC CAESAR \$9.99 - Romaine, Parmesan cheese, Croutons & Caesar dressing

NAVIS COBB \$10.99 - Romaine, Smoked Bacon, Vine Ripened Tomato, Bleu cheese, Hard Boiled Egg & Ranch dressing

NUTS & BERRIES \$9.99 -Spinach, Fresh Seasonal Berries, Red onion, Walnuts, Goat cheese & Balsamic vinaigrette

ASIAN \$8.99 - Spinach, Chickpeas, Red onion, Carrots & Red cabbage & Ginger Soy dressing

Add to Any Salad:

Chicken \$3.50, Baked Sesame Sweet Potato Falafel \$2.50, Bacon \$2.50

Salmon \$3.99 , Hummus \$2.50

COLD SANDWICHES

Available on: White, Ciabatta, Sourdough, Wheat, Wrap, (Gluten Free add \$2.00)

OLD PORT BLT \$7.99 -Applewood smoked bacon, romaine lettuce, tomato with a Garlic pepper aioli

LOBSTAH ROLL -Single \$16.99, Double \$26.99 -Lobster meat, mayonnaise , on a brioche roll.

THE BOW \$9.99 - Roast Turkey, Smoked bacon, cheddar, fresh greens, red onion & chipotle mayo

WALK THE PLANK \$8.99 - Homestyle Chicken salad with fresh greens

MAINLY MOZZ Sandwich \$8.99 -Fresh mozzarella, tomatoes, roasted red peppers, with pesto dressing & balsamic glaze

THE MAINAH \$9.99 - Roast Beef , cheddar, red onion, fresh greens, tomato & horseradish spread

HOT SANDWICHES

Available on: White, Ciabatta, Sourdough, Wheat, (Gluten Free add\$2.00)

DOWNEAST \$9.99-Baked Sesame Sweet Potato Falafel, Baby spinach, carrots & red cabbage, cucumbers with Tahini Dressing

THE BUOY \$10.99 - Grilled chicken breast, fresh mozzarella, tomato, basil & pesto dressing

THE ANCHOR \$10.99 -Grilled chicken breast, smoked bacon, cheddar & ranch dressing

CASCO BAY CUBANO \$10.99- Sliced Roast pork, ham, cheddar, pepperoncinis, tomatoes & 1,000 drsg

THE STERN \$10.99 -Roast Turkey, smoked gouda, apple, caramelized onions & chipotle mayo

CHILDREN'S MENU:

THE CREW SNACK PLATE \$6.99 - Peanut Butter & Local Jam served with Pita Wedge & Fresh Fruit

THE CAPTAIN SNACK PLATE \$6.99 -Ham & Cheddar served with Baguette & Fresh Fruit

GRILL CHEESE \$4.50



MAINE STATE BUREAU OF IDENTIFICATION
45 Commerce Drive, Suite 1 / STATE HOUSE STATION # 42
AUGUSTA, ME 04333
(207) 624-7240 (VOICE)

JESSICA HANSCOMBE
389 CONGRESS ST
PORTLAND, ME 04101

Transaction Response #: MIQ99E402384

Criminal History Record

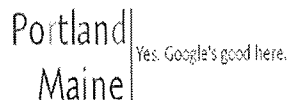
Introduction

This criminal history record was produced in response to the following request (Produced on 2020-07-09) :

Inquiries Name(s) MARK ROY (1969-06-09)

NO MATCH WAS FOUND FOR YOUR REQUEST.





Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Re: Navis Cafe

Glen McGary <glenm@portlandmaine.gov>

Thu, Jul 9, 2020 at 11:57 AM

To: Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Cc: Aaron Bridges <bridgesa@portlandmaine.gov>, Benjamin Pearson <bnp@portlandmaine.gov>, Chris Beaumont <cbeaumont@portlandmaine.gov>, Danielle Buck <dbuck@portlandmaine.gov>, David Nichols <nicholsd@portlandmaine.gov>, David Petruccelli <petruccellid@portlandmaine.gov>, Eric Cobb <ecobb@portlandmaine.gov>, James Sweatt <jjs@portlandmaine.gov>, Jason Grant <jgrant@portlandmaine.gov>, Kathryn Barnes <kbarnes@portlandmaine.gov>, Laurie Carlson <lac@portlandmaine.gov>, Stephen Marcotte <smarcotte@portlandmaine.gov>, Tom Williams <tw@portlandmaine.gov>, Treasury Division <treasury@portlandmaine.gov>, Zoning <zoning@portlandmaine.gov>

PPD approves

On Thu, Jul 9, 2020 at 8:51 AM Jessica Hanscombe <jhanscombe@portlandmaine.gov> wrote:

Good Morning

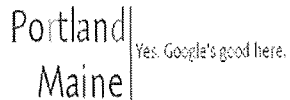
Please see the attached application for a Class 3 & 4 This will go before the council on 8/3/2020.
Please advise. Jessica

Jessica Blais Hanscombe
Licensing and Housing Safety Manager
City of Portland
389 Congress Street Room 307
Portland, Maine 04101
207-874-8783
jhanscombe@portlandmaine.gov

--

Lieutenant Glen McGary
Portland Police Department
109 Middle Street
Portland, Maine 04101
Office (207) 756-8294
Fax (207) 874-8580





Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Re: Navis Cafe

cstacey <cstacey@portlandmaine.gov>
To: Zoning <zoning@portlandmaine.gov>
Cc: jhanscombe@portlandmaine.gov

Fri, Jul 10, 2020 at 7:11 AM

Hi Jess,

A restaurant (Class III & IV Malt and Vinous license) is permitted in the B-6 Zone under section 14-269(a)(2) in Chapter 14, City Code of Ordinances.

I signed off in Energov.

Thanks,
Chris

On Thursday, July 9, 2020 at 8:51:15 AM UTC-4, Jessica Hanscombe wrote:

Good Morning

Please see the attached application for a Class 3 & 4 This will go before the council on 8/3/2020.
Please advise. Jessica

Jessica Blais Hanscombe
Licensing and Housing Safety Manager
City of Portland
389 Congress Street Room 307
Portland, Maine 04101
207-874-8783
jhanscombe@portlandmaine.gov



Legal Advertisement

Notice of Public Hearing City of Portland

A Public Hearing will be held on August 31, 2020 at 5:30 P.M., virtually, Navis LLC dba Navis Café. Application for a Class III & IV with Outdoor Dining on Private Property at 1 Hancock Street. Sponsored by Jon P. Jennings, City Manager.



CITY OF PORTLAND
Permitting and Inspections Department

August 13, 2020

Navis LLC
12 Fieldstone Lane
Falmouth ME 04105

Re: Navis LLC dba Navis Café. Application for a Class III & IV with Outdoor Dining on Private Property at 1 Hancock Street.

Dear Mark Roy

This letter shall serve as a reminder of the public hearing before the Portland City Council on **Monday August 31, 2020 at 5:30 p.m.**, for the review of application for a Class III & IV with Outdoor Dining on Private Property at 1 Hancock Street. The meeting will take place virtually. The link can be found on the Meeting Agenda which will be posted on the City Website on August 28th.

You or a representative of the business must be present at this meeting in the event that the city council has questions regarding the license application. If there is no representation and questions arise, the item may be postponed.

Please contact our office directly with questions at (207) 874-8557 or jhanscombe@portlandmaine.gov.

Sincerely,

Jessica Hanscombe
Licensing and Housing Safety Manager

MEMORANDUM
City Council Agenda Item

FROM:

DATE: July 14, 2020

SUBJECT: **Order 51-20/21 Granting Municipal Officers' Approval of Asian Food Truck LLC dba Kuno. Application for a Class I FSE with Outdoor Dining on Private Property at 166 Cumberland Avenue - Sponsored by Jon P. Jennings, City Manager**

SPONSOR:

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

Can action be taken at a later date: No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

II. AGENDA DESCRIPTION

Asian Food Truck LLC dba Kuno. Application for a Class I FSE with Outdoor Dining on Private Property at 166 Cumberland Avenue.

Application was filed on 7/10/2020. New City and State applications.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Kuno

2. 20200813090823282

Prepared by:

Date: 7/14/2020

KATE SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
TAE Y. CHONG (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

Asian Food Truck LLC dba Kuno. Application for a Class I FSE with Outdoor Dining on Private Property at 166 Cumberland Avenue.

Asian Food Truck LLC
DBA. KUNO
671 Congress St,
Portland, ME 04101

July 09, 2020

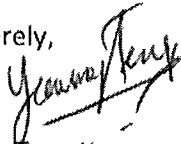
To The Mayor and Member of the City Council

My name is Weng Teng Yee. I am the owner of Asian Food Truck LLC DBA. KUNO. I am serving the Southeast Asian food.

I am opening a restaurant at 166 Cumberland Ave., Portland, ME 04101 to serve the same type of food. I would like to submit the application for Liquor License to serve alcohol in my restaurant.

Please feel free to contact me with any question that you might have, Thank you for your consideration

Sincerely,

A handwritten signature in black ink, appearing to read 'Weng Teng Yee', written over a horizontal line.

Weng Teng Yee
Owner



CITY OF PORTLAND

Permitting and Inspections Department

Application for Food Service Establishment with Alcoholic Beverages License

Business Information			
Business Name (d/b/a):	ASIAN FOOD TRUCK LLC DBA. KUNO	Phone:	207-321-8877
Location Address:	166 Cumberland Ave Portland, ME	Zip:	04101
If new, what was formerly at this location:			
Mailing Address:	671 Congress St. PORTLAND, ME	Zip:	04101
Contact Person:	Bob Wongsachua	Phone:	207-415-7879
Contact Person Email:	Bob@bodamaine.com		
Manager of Establishment:	Date of Birth:	Phone:	
Owner of Premises (Landlord):	Daniel T Haley JR Living Trust Dated May 26, 1999 and Connie B Haley Living Trust Dated May 26, 1999		
Address of Premises Owner:	140 Eastern Promenade, Portland ME 04101		

Sole Proprietor/Partnership Information (If Corporation, leave blank)

Name of Owner(s)	Date of Birth	Residence Address

Corporate/LLC/Non-Profit Organization Applicants (If Sole Proprietor or Partnership, leave blank)

Corporate Name		Corporate Mailing Address	
ASIAN Food Truck LLC		671 Congress St. Portland ME 04101	
Contact Person:	Bob Wongsachua	Phone:	207-415-7879
Principal Officers:	Title	Date of Birth	Residence Address
WENG TENG YEE	OWNER	05/27/85	58 Fickett St. South Portland ME 04101
Class of Liquor License:			



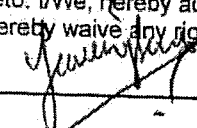
CITY OF PORTLAND
Permitting and Inspections Department

Type of food served:	<u>Southeast Asian</u>		
Please circle all that will be served:	☒ Beer	☒ Wine	☒ Liquor
Projected percentage of sales:	Generated from Food: <u>80</u>	Generated from Alcohol: <u>20</u>	
Hours & days of operation:	<u>MON - SUN 11:00 AM - 10:00 PM</u>		
QUESTIONS			
Will full-course meals, only capable of consumption with the use of tableware, be served the entire time the establishment is open?			Y/N ☒ Y
If No, please explain:			
Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment?			Y/N
If yes, give the distance:			
Will you have entertainment on the premises? (If yes, a Supplemental Application for Entertainment is required.)			☒ Y
Will you permit dancing after 1:00 a.m.?			☒ Y
Will you have outside dining? (If yes, an Outdoor Dining Application is required)			☒ Y
If yes, will the outside dining be on PUBLIC or PRIVATE property (circle one).			
Will you have any amusement devices (pinball, video games, juke box)?			☒ Y
If yes, please list: # of pinball machines: _____ # of amusements: _____ # of pool tables: _____			
What is your targeted opening date?			
Does the issuance of this license directly or indirectly benefit any City employee(s)?			☒ Y
If Yes, list name(s) of employee(s) and department(s):			
Have any of the applicants, including the corporation (if applicable), ever held a business license with the City of Portland?			☒ Y
If Yes, please list business name(s) and location(s): <u>Fee Kuno Food Truck</u>			
Is any principal officer under the age of 21?			☒ Y
Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of law?			☒ Y
If Yes, please explain:			

I WENG TENG YEE do hereby swear and affirm that every employee in my establishment that serves alcohol to the public has attended server training, or will attend server training within 90 days of their hire. I also understand that at any time the City license administrator can, upon request, require me to produce Server Training certificates for each employee that serves alcohol to the public in my establishment. Failure to meet the training requirement imposed by section 15-41 may result in the denial of a liquor license pursuant to 28-A M.R.S.A. § 653 (2) (G).

Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above licensee and further agrees that any misstatement of material fact may result in refusal of license or revocation if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect thereto. I/We, hereby authorize the release of any criminal history record information to the City Clerk's Office or licensing authority. I/We, hereby waive any rights to privacy with respect thereto.

Signature  Title Owner Date 07/09/20



CITY OF PORTLAND
Permitting and Inspections Department
Outdoor Dining Permit on Private Property
Supplemental Application

License accompanies a City of Portland Food Service Establishment or Food Service Establishment with Liquor License

☒ Outdoor Dining on Private Property \$125.00 ☐ Legal Advertisement Deposit \$100.00

Business Information			
Business Name (d/b/a):	KUNO	Phone:	207-321-8877
Location Address:	166 Cumberland Ave. Portland, ME	Zip:	04101
Mailing Address:	671 Congress St. Portland, ME	Zip:	04101
Contact Person:	Weng Teng Yee	Phone:	603-203-6276
Contact Person Email:	nick_ywte@yahoo.com		
Manager of Establishment:	Date of Birth:	Phone:	
Owner of Premises (Landlord):	Daniel T Haley		
Address of Premises Owner:	140 Eastern Promenade, Portland, ME		Zip: 04101

Owner Information

Corporate Name		Corporate Mailing Address	
Asian Food Truck LLC		671 Congress St. Portland, ME Zip: 04101	
Contact Person:	Bob Wongsachua	Phone:	207-415-7879
Principal Officers	Title	Date of Birth	Residence Address
Weng Teng Yee	owner	05/27/1985	58 Fickett St. South Portland ME 04106



CITY OF PORTLAND
Permitting and Inspections Department

Class of License:	Food Truck
Type of food served:	Southeast Asian Food
Please circle all that will be served:	Beer Wine Liquor
Hours & days of operation:	MON - SUN 11:00 am - 10:00 pm
Number of Tables	6
Number of Chairs	24

Design and Construction

- If you are building a structure or adding impervious surface for the outdoor dining area please contact the Permitting and Inspections Department for permitting requirements at permitting@portlandmaine.gov or 874-8703.

Maintenance and Operations

- Outdoor dining components must be within the permitted area and allow safe passage of pedestrian traffic. Failure to comply may result in a revocation of the permit.
- No food shall be prepared in the designated outdoor dining area.
- Outdoor dining areas must meet ADA regulations and accessible seating is required.

I/We fully understand that the City of Portland, its agents, officers and employees accept no responsibility and will not be liable for any injury, harm or damage to my/our person or property arising out of the establishment's occupancy of the sidewalk or park space. To the fullest extent permitted by law, I/We do hereby agree to assume all risk of injury, harm or damage to my/our person or property (including but not limited to all risk of injury, harm or damage to my/our property cause by the negligence of the City of Portland, its agents, officers or employees) arising out of the establishment's occupancy of the sidewalk or park space. I/We hereby agree, to the fullest extent permitted by law, to defend, indemnify and hold harmless the City of Portland, its agents, officers and employees, from and against all claims, damages, losses and expenses, just or unjust, including, but not limited to costs of defense and attorney's fees, arising out of the establishment's occupancy of the sidewalk or park space, provided that any such claims, damage, loss or expense (1) is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property including the loss of use there from, and (2) is caused in whole or in part by any negligent act or omission of the establishment, anyone directly or indirectly employed by it, or anyone for whose act it may be liable.

Signature *[Signature]* Title Owner Date 7/9/2020

For Administrative Use Only

Amount: _____	Request Date / Approval	Notes: _____
Date Paid: _____	FD: _____	_____
CC _____ CA _____ CK _____	Health: _____	_____
	PD: _____	_____
Amount: _____	PR: _____	_____
Date Paid: _____	Treasury: _____	_____
CC _____ CA _____ CK _____	Zoning: _____	_____



STATE OF MAINE
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES
BUREAU OF ALCOHOLIC BEVERAGES AND LOTTERY OPERATIONS
DIVISION OF LIQUOR LICENSING AND ENFORCEMENT

Application for an On-Premises License

All Questions Must Be Answered Completely. Please print legibly.

Division Use Only	
License No:	
Class:	By:
Deposit Date:	
Amt. Deposited:	
Payment Type:	
OK with SOS: Yes ☐ No ☐	

Section I: Licensee/Applicant(s) Information;
Type of License and Status

Legal Business Entity Applicant Name (corporation, LLC): Asian Food Truck LLC	Business Name (D/B/A): KUNO
Individual or Sole Proprietor Applicant Name(s):	Physical Location: 166 Cumberland Ave. Portland, ME 04101
Individual or Sole Proprietor Applicant Name(s):	Mailing address, if different: 671 Congress ST., Portland, ME 04101
Mailing address, if different from DBA address: 671 Congress ST., Portland, ME 04101	Email Address: Kuno Maine@gmail.com
Telephone # Fax #: 1-207-321-8877	Business Telephone # Fax #:
Federal Tax Identification Number: 81-415-3893	Maine Seller Certificate # or Sales Tax #: 1197087
Retail Beverage Alcohol Dealers Permit:	Website address:

1. New license or renewal of existing license? ☒ New Expected Start date: September 01, 2020
☐ Renewal Expiration Date: _____

2. The dollar amount of gross income for the licensure period that will end on the expiration date above:
Food: 186,725.00 Beer, Wine or Spirits: N/A Guest Rooms: N/A

3. Please indicate the type of alcoholic beverage to be sold: (check all that apply)

☒ Malt Liquor (beer) ☒ Wine ☒ Spirits

4. Indicate the type of license applying for: (choose only one)

- | | | |
|--|--|---|
| ☒ Restaurant
(Class I, II, III, IV) | ☐ Class A Restaurant/Lounge
(Class XI) | ☐ Class A Lounge
(Class X) |
| ☐ Hotel
(Class I, II, III, IV) | ☐ Hotel – Food Optional
(Class I-A) | ☐ Bed & Breakfast
(Class V) |
| ☐ Golf Course (included optional licenses, please check if apply)
(Class I, II, III, IV) | ☐ Auxiliary | ☐ Mobile Cart |
| ☐ Tavern
(Class IV) | ☐ Other: _____ | |
| ☐ Qualified Caterer | ☐ Self-Sponsored Events (Qualified Caterers Only) | |

Refer to Section V for the License Fee Schedule on page 9

5. Business records are located at the following address:

58 Fickett St, South Portland, ME 04106

6. Is the licensee/applicant(s) citizens of the United States? ☐ Yes ☒ No

7. Is the licensee/applicant(s) a resident of the State of Maine? ☒ Yes ☐ No

NOTE: Applicants that are not citizens of the United States are required to file for the license as a business entity.

8. Is licensee/applicant(s) a business entity like a corporation or limited liability company?

☒ Yes ☐ No If Yes, complete Section VII at the end of this application

9. For a licensee/applicant who is a business entity as noted in Section I, does any officer, director, member, manager, shareholder or partner have in any way an interest, directly or indirectly, in their capacity in any other business entity which is a holder of a wholesaler license granted by the State of Maine?

☐ Yes ☒ No

☐ Not applicable – licensee/applicant(s) is a sole proprietor

10. Is the licensee or applicant for a license receiving, directly or indirectly, any money, credit, thing of value, endorsement of commercial paper, guarantee of credit or financial assistance of any sort from any person or entity within or without the State, if the person or entity is engaged, directly or indirectly, in the manufacture, distribution, wholesale sale, storage or transportation of liquor.

☐ Yes ☒ No

If yes, please provide details: _____

11. Do you own or have any interest in any another Maine Liquor License? ☐ Yes ☒ No

If yes, please list license number, business name, and complete physical location address: (attach additional pages as needed using the same format)

Name of Business	License Number	Complete Physical Address

12. List name, date of birth, place of birth for all applicants including any manager(s) employed by the licensee/applicant. Provide maiden name, if married. (attach additional pages as needed using the same format)

Full Name	DOB	Place of Birth
Weng Teng Yee	05/27/1985	Penang, Malaysia
Residence address on all the above for previous 5 years		
Name	Address:	
Weng Teng Yee	248 Flat Road Mill Road, Swanzey, NH 03446	
Name	Address:	
Name	Address:	
Name	Address:	

13. Will any law enforcement officer directly benefit financially from this license, if issued?

☐ Yes ☒ No

If Yes, provide name of law enforcement officer and department where employed:

14. Has the licensee/applicant(s) ever been convicted of any violation of the liquor laws in Maine or any State of the United States? ☐ Yes ☒ No

If Yes, please provide the following information and attach additional pages as needed using the same format.

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____

15. Has the licensee/applicant(s) ever been convicted of any violation of any law, other than minor traffic violations, in Maine or any State of the United States? ☐ Yes ☒ No

If Yes, please provide the following information and attach additional pages as needed using the same format.

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____

16. Has the licensee/applicant(s) formerly held a Maine liquor license? ☐ Yes ☒ No

17. Does the licensee/applicant(s) own the premises? ☐ Yes ☒ No

If No, please provide the name and address of the owner:

Daniel T Haley JR Living Trust Dated May 26, 1999 and Connie B Haley Living Trust Dated May 26, 1999
140 Eastern Promenade, Portland ME 04101

18. If you are applying for a liquor license for a Hotel or Bed & Breakfast, please provide the number of guest rooms available: N/A

19. Please describe in detail the area(s) within the premises to be licensed. This description is in addition to the diagram in Section VI. (Use additional pages as needed)

See Attachment

20. What is the distance from the premises to the nearest school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel?

Name: St. Paul's Anglican Church

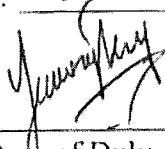
Distance: 400 Feet

Section II: Signature of Applicant(s)

By signing this application, the licensee/applicant understands that false statements made on this application are punishable by law. Knowingly supplying false information on this application is a Class D Offense under Maine's Criminal Code, punishable by confinement of up to one year, or by monetary fine of up to \$2,000 or by both.

Please sign and date in blue ink.

Dated: July 09, 2020



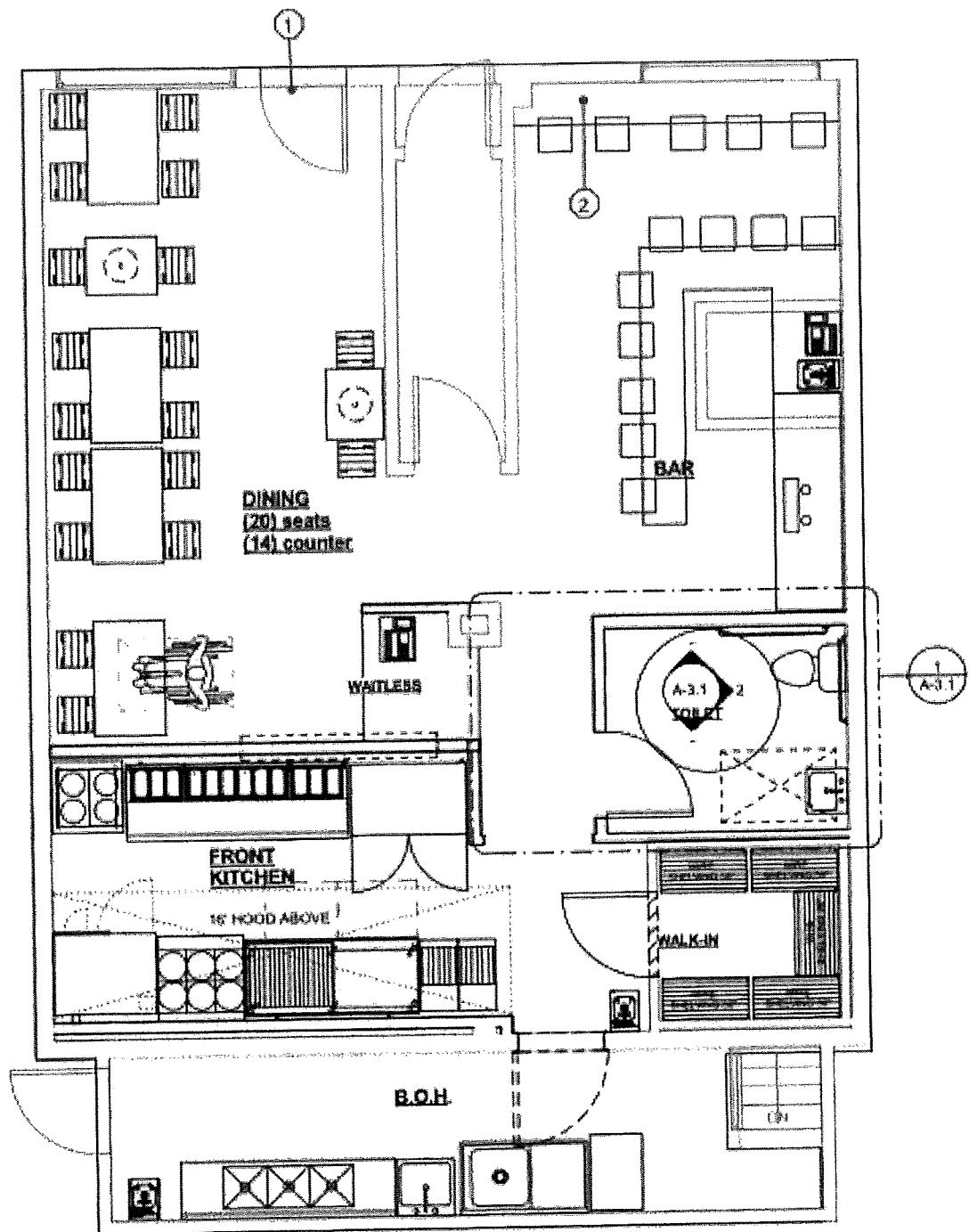
Signature of Duly Authorized Person

Signature of Duly Authorized Person

Weng Teng Yee

Printed Name Duly Authorized Person

Printed Name of Duly Authorized Person



② PROPOSED FLOOR PLAN
 1/4" = 1'-0"

Section VII: Required Additional Information for a Licensee/Applicant for an On-Premises Liquor License Who are Legal Business Entities

Questions 1 to 4 of this part of the application must match information in Section I of the application above and match the information on file with the Maine Secretary of State's office. If you have questions regarding your legal entity name or DBA, please call the Secretary of State's office at (207) 624-7752.

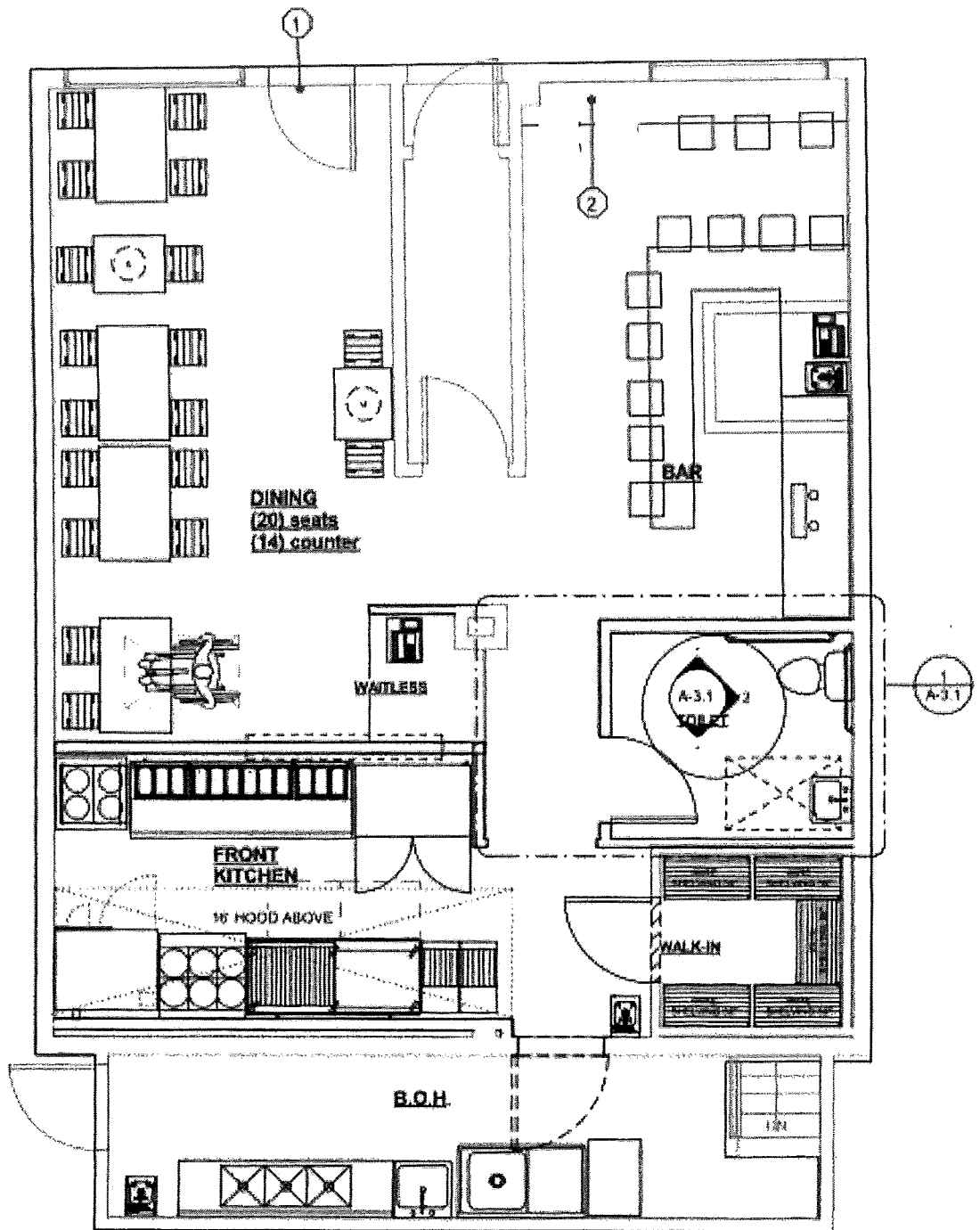
All Questions Must Be Answered Completely. Please print legibly.

1. Exact legal name: Asian Food Truck LLC
2. Doing Business As, if any: KUNO
3. Date of filing with Secretary of State: _____ State in which you are formed: Maine
4. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine:

5. List the name and addresses for previous 5 years, birth dates, titles of officers, directors, managers, members or partners and the percentage ownership any person listed: (attached additional pages as needed)

Name	Address (5 Years)	Date of Birth	Title	Percentage of Ownership
Weng Teng Yee	58 Fickett St, South Portland, ME 04106	05/27/1985	Owner	100%
Weng Teng Yee	248 Flat Roof Mill Rd, Swansey, NH 03446	05/27/1985	Owner	100%

(Ownership in non-publicly traded companies must add up to 100%.)



② **PROPOSED FLOOR PLAN**
 $\frac{1}{4}" = 1'-0"$

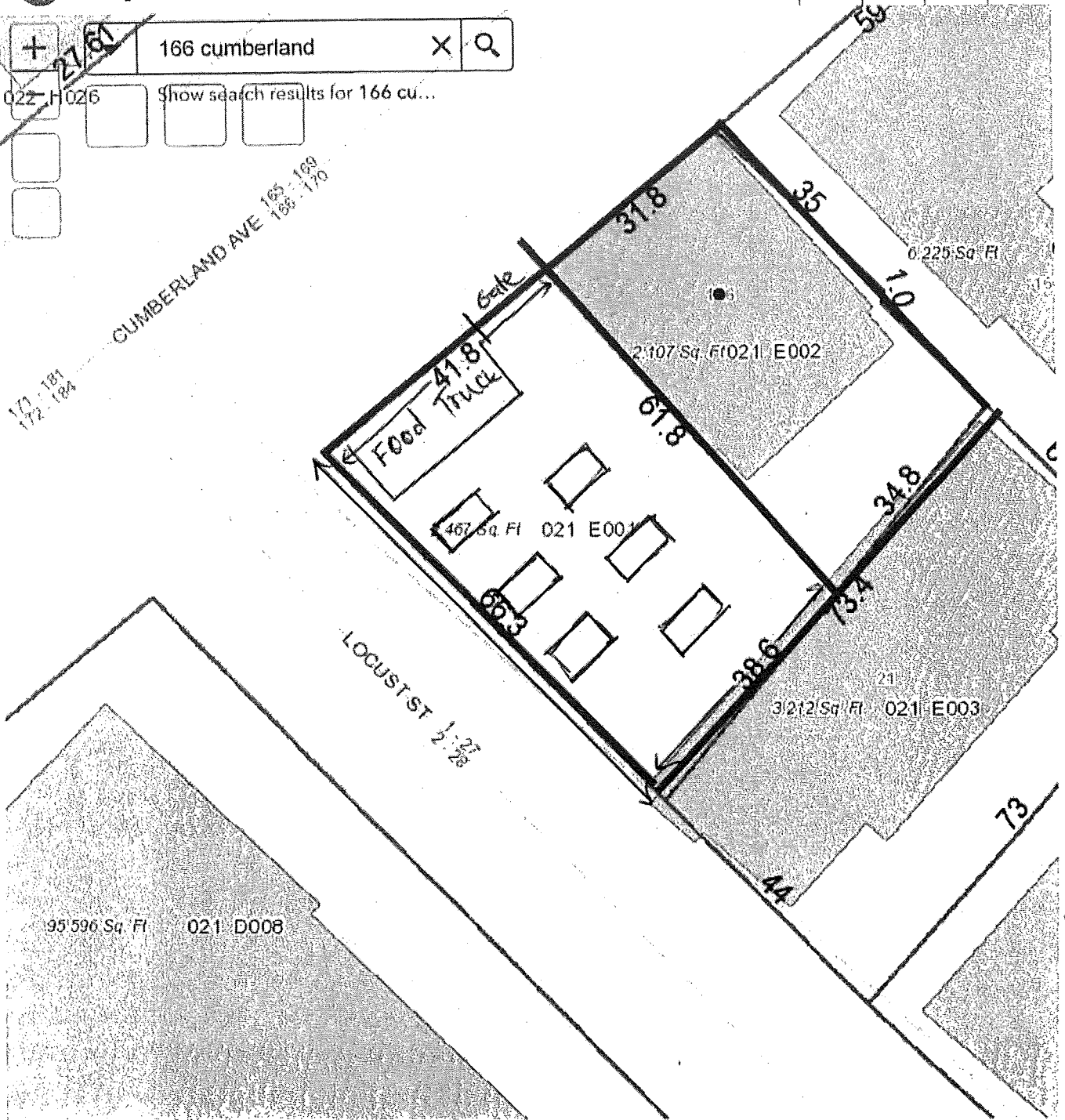


City of Portland Maine Parcel Viewer

☐ 022 H 026 ☐ ☐ ☐ Show search results for 166 cu...

☐

☐



2,929,659.798 302,176.451 Feet

Menu Sample

- Restaurant & Bar Menu
 - Grilled Chicken Satay Skewers \$9
 - Fried Crispy Pork Belly \$10
 - Braised Pork Bun \$10
 - Gado Gado Indonesian salad with peanut sauce dressing \$10
 - Brussels Sprout with spicy green sambal \$7
 - Nasi Goreng Indonesian Fried Rice \$12
 - Char Guay Teow, Malaysian stir fry wide rice noodles \$14
 - Mee Goreng Mamak, stir fry egg noodles with spicy chili and veggies \$14
 - Gang Dang Red Curry Vegetables with jasmine rice \$12
 - Chicken and Rice Clay Pot \$17
 - Grilled Fish stuffed with spicy sambal. \$20
- Food Trucks Menu
 - Chicken and Vegetable Dumplings \$7
 - Crab Wontons \$7
 - Tamarind Wings \$7
 - Grilled Beef Skewers \$8
 - Brussels Sprout with spicy green sambal \$7
 - Pad Thai chicken \$11
 - Pad Thai Shrimp \$11
 - Fried Chicken Sandwich and Fries \$11
 - Stir fry ground chickens with Thai basil \$10
 - Green Curry Vegetables \$10



MAINE STATE BUREAU OF IDENTIFICATION
45 Commerce Drive, Suite 1 / STATE HOUSE STATION # 42
AUGUSTA, ME 04333
(207) 624-7240 (VOICE)

JESSICA HANSCOMBE
389 CONGRESS ST
PORTLAND, ME 04101

Transaction Response #: MIQ99E404970

Criminal History Record

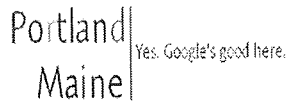
Introduction

This criminal history record was produced in response to the following request (Produced on 2020-07-13) :

Inquiries Name(s) **WENG YEE (1985-05-27)**

NO MATCH WAS FOUND FOR YOUR REQUEST.





Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Re: Kuno

Dan Hondo <danh@portlandmaine.gov>
To: Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Mon, Jul 13, 2020 at 11:41 AM

No issues on PD side

On Mon, Jul 13, 2020 at 9:26 AM Jessica Hanscombe <jhanscombe@portlandmaine.gov> wrote:

Good Morning

Please see the attached application for a Class I FSE which will go before council on 8/3/2020. Please advise. Jessica

Jessica Blais Hanscombe
Licensing and Housing Safety Manager
City of Portland
389 Congress Street Room 307
Portland, Maine 04101
207-874-8783
jhanscombe@portlandmaine.gov

--

Lt. Dan Hondo
Portland Maine Police Dept.
Patrol Team B3/B4
(207)874-8513





Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Re: Kuno

cstacey <cstacey@portlandmaine.gov>
To: Zoning <zoning@portlandmaine.gov>
Cc: jhanscombe@portlandmaine.gov

Tue, Jul 28, 2020 at 3:16 PM

A Class A Restaurant (Class I) is a permitted use in the B-1b Zone under section 14-162 in Chapter 14, City Code of Ordinances, with the following conditions:

- Maximum total floor area for use of the public shall be 2,000 square feet
- Hours of operation are limited to 6 AM to 11 PM daily
- Food service and consumption are the primary function of the restaurant

Based on permitting and licensing material submitted, it appears the applicant will be meeting these conditions.

Side note: the restaurant that wanted to occupy this space originally never got a final inspection/CO, and never opened. The new tenant will need to get a CO. I assume the health inspectors would catch this before signing off?

Thanks,
Chris

On Monday, July 13, 2020 at 9:26:19 AM UTC-4, Jessica Hanscombe wrote:

Good Morning

Please see the attached application for a Class I FSE which will go before council on 8/3/2020. Please advise. Jessica

Jessica Blais Hanscombe
Licensing and Housing Safety Manager
City of Portland
389 Congress Street Room 307
Portland, Maine 04101
207-874-8783
jhanscombe@portlandmaine.gov





CITY OF PORTLAND
Permitting and Inspections Department

August 13, 2020

Asian Food Truck LLC
671 Congress Street
Portland ME 04101

Re: Asian Food Truck LLC dba Kuno. Application for a Class I FSE with Outdoor Dining on Private Property at 166 Cumberland Avenue.

Dear Weng Teng Yee

This letter shall serve as a reminder of the public hearing before the Portland City Council on **Monday August 31, 2020 at 5:30 p.m.**, for the review of application for a Class I FSE with Outdoor Dining on Private Property at 166 Cumberland Avenue. The meeting will take place virtually. The link can be found on the Meeting Agenda which will be posted on the City Website on August 28th.

You or a representative of the business must be present at this meeting in the event that the city council has questions regarding the license application. If there is no representation and questions arise, the item may be postponed.

Please contact our office directly with questions at (207) 874-8557 or jhanscombe@portlandmaine.gov.

Sincerely,

Jessica Hanscombe
Licensing and Housing Safety Manager

Legal Advertisement

Notice of Public Hearing City of Portland

A Public Hearing will be held on August 31, 2020 at 5:30 P.M., virtually, Asian Food Truck LLC dba Kuno. Application for a Class I FSE with Outdoor Dining on Private Property at 166 Cumberland Avenue. Sponsored by Jon P. Jennings, City Manager.

MEMORANDUM
City Council Agenda Item

FROM:

DATE: July 14, 2020

SUBJECT: Order 52-20/21 Granting Municipal Officers' Approval of Bar Harbor Lobster Co dba Bar Harbor Lobster Company. Application for a Class I FSE with Outdoor Dining on Private Property at 113 W Commercial Street - Sponsored by Jon P. Jennings, City Manager

SPONSOR:

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

Can action be taken at a later date: No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

II. AGENDA DESCRIPTION

Bar Harbor Lobster Co dba Bar Harbor Lobster Company. Application for a Class I FSE with Outdoor Dining on Private Property at 113 W Commercial Street.

Application was filed on 7/13/2020. New City and State applications.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Bar Harbor Lobster

2. 20200813091246242

Prepared by:

Date: 7/14/2020

KATE SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
TAE Y. CHONG (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

**Bar Harbor Lobster Co dba Bar Harbor Lobster Company. Application for a Class I FSE
with Outdoor Dining on Private Property at 113 W Commercial Street.**

Mayor Snyder and members of Portland's City Council,

Thanks for taking the time to review my application.

As owner of the Bar Harbor Lobster Co., I would like to give notice of my intent to have outdoor seating & dining with service of alcohol at a new location at 199 W Commercial St.

I am planning a seasonal seafood restaurant similar to one that I run in Bar Harbor.

I will be using stone blocks to surround the area showing orange tables in the diagram. The deck will contain 4 tables (although likely only two during the course of the COVID-19 pandemic) along with 8 picnic tables off the deck (also socially distanced for the foreseeable future).

Thanks again,

A handwritten signature in black ink, appearing to read 'Garrett FitzGerald', with a long horizontal stroke extending to the right.

Garrett FitzGerald
Bar Harbor Lobster Co.



CITY OF PORTLAND
Permitting and Inspections Department
Application for Food Service Establishment with Alcoholic Beverages License

Business Information			
Business Name (d/b/a):	BAR HARBOR LOBSTER COMPANY	Phone:	2072882529
Location Address:	199 W COMMERCIAL STREET PORTLAND, ME		Zip: 04101
If new, what was formerly at this location:	113		
Mailing Address:	52 RIVERVIEW ST. PORTLAND, ME		Zip: 04102
Contact Person:	GARRETT FITZGERALD	Phone:	2072663825
Contact Person Email:	GJKFITZ@GMAIL.COM		
Manager of Establishment:	GARRETT FITZGERALD	Date of Birth: 04/09/77	Phone: 2072663825
Owner of Premises (Landlord):	JB BROWN & SONS		
Address of Premises Owner:	10 FREE ST. #100 PORTLAND, ME		Zip: 04101

Sole Proprietor/Partnership Information (If Corporation, leave blank)

Name of Owner(s)	Date of Birth	Residence Address

Corporate/LLC/Non-Profit Organization Applicants (If Sole Proprietor or Partnership, leave blank)

Corporate Name		Corporate Mailing Address	
BAR HARBOR LOBSTER COMPANY		52 RIVERVIEW ST. PORTLAND, ME	Zip: 04102
Contact Person:	GARRETT FITZGERALD	Phone:	2072663825
Principal Officers	Title	Date of Birth	Residence Address
GARRETT FITZGERALD	OWNER	04/09/77	52 RIVERVIEW ST. PORTLAND, ME 04012
Class of Liquor License:		RESTAURANT CLASS I	

389 Congress Street, Room 307 • Portland, Maine 04101 • 207-874-8557

bl@portlandmaine.gov • www.portlandmaine.gov



CITY OF PORTLAND
Permitting and Inspections Department

Type of food served:	COMFORT / SEAFOOD		
Please circle all that will be served:	Beer ☒ Wine ☒ Liquor ☒		
Projected percentage of sales:	Generated from Food: 80	Generated from Alcohol:	20
Hours & days of operation:	SEASONALLY - MON-SUN 11:30-10		
QUESTIONS			
Will full-course meals, only capable of consumption with the use of tableware, be served the entire time the establishment is open?			Y/N Y
If No, please explain:			
Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment?			Y/N N
If yes, give the distance:			
Will you have entertainment on the premises? (If yes, a Supplemental Application for Entertainment is required.)			Y/N Y
Will you permit dancing after 1:00 a.m.?			Y/N N
Will you have outside dining? (If yes, an Outdoor Dining Application is required)			Y/N Y
If yes, will the outside dining be on PUBLIC or PRIVATE property (circle one).			PRIVATE
Will you have any amusement devices (pinball, video games, juke box)?			Y/N N
If yes, please list: # of pinball machines: _____ # of amusements: _____ # of pool tables: _____			
What is your targeted opening date?			08/01/20
Does the Issuance of this license directly or indirectly benefit any City employee(s)?			Y/N N
If Yes, list name(s) of employee(s) and department(s):			
Have any of the applicants, including the corporation (if applicable), ever held a business license with the City of Portland?			Y/N Y
If Yes, please list business name(s) and location(s): ROYALE LUNCH BAR - 7 UNION ST PORTLAND & ROCHESTER PUB - PREBLE ST.			
Is any principal officer under the age of 21?			Y/N N
Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of law?			Y/N Y
If Yes, please explain: GARRETT FITZGERALD - 02/16/2011 - OUI HANCOCK COUNTY - GUILTY			

I, GARRETT FITZGERALD do hereby swear and affirm that every employee in my establishment that serves alcohol to the public has attended server training, or will attend server training within 90 days of their hire. I also understand that at any time the City license administrator can, upon request, require me to produce Server Training certificates for each employee that serves alcohol to the public in my establishment. Failure to meet the training requirement imposed by section 15-41 may result in the denial of a liquor license pursuant to 28-A M.R.S.A. § 653 (2) (G).

Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above licensee and further agrees that any misstatement of material fact may result in refusal of license or revocation if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect thereto. I/We, hereby authorize the release of any criminal history record information to the City Clerk's Office or licensing authority. I/We, hereby waive any rights to privacy with respect thereto.

Signature _____ Title OWNER Date _____



CITY OF PORTLAND
Permitting and Inspections Department
Outdoor Dining Permit on Private Property
Supplemental Application

License accompanies a City of Portland Food Service Establishment or Food Service Establishment with Liquor License

☒ Outdoor Dining on Private Property \$125.00 ☒ Legal Advertisement Deposit \$100.00

Business Information					
Business Name (d/b/a):	BAR HARBOR LOBSTER COMPANY	Phone:	2072882529		
Location Address:	199 W COMMERCIAL STREET	Zip:	04101		
Mailing Address:	52 RIVERVIEW ST. PORTLAND, ME	Zip:	04102		
Contact Person:	GARRETT FITZGERALD	Phone:	207-266-3825		
Contact Person Email:	GJKFITZ@GMAIL.COM				
Manager of Establishment:	GARRETT FITZGERALD	Date of Birth:	04/09/77	Phone:	207-266-3825
Owner of Premises (Landlord):	JB BROWN & SONS				
Address of Premises Owner:	10 FREE ST. #100 PORTLAND, ME	Zip:	04101		

Owner Information

Corporate Name		Corporate Mailing Address	
BAR HARBOR LOBSTER CO.		52 RIVERVIEW ST. PORTLAND, ME	Zip: 04102
Contact Person:	GARRETT FITZGERALD	Phone:	207-266-3825
Principal Officers	Title	Date of Birth	Residence Address
GARRETT FITZGERALD	OWNER	04/09/77	52 RIVERVIEW ST. PORTLAND, ME 04102



CITY OF PORTLAND
Permitting and Inspections Department

Class of License:	RESTAURANT CLASS I
Type of food served:	COMFORT / SEAFOOD
Please circle all that will be served:	☒ Beer ☒ Wine ☒ Liquor
Hours & days of operation:	MAY 1 - NOV 30 - 7 DAYS - 11-11
Number of Tables	12
Number of Chairs	50

Design and Construction

- If you are building a structure or adding impervious surface for the outdoor dining area please contact the Permitting and Inspections Department for permitting requirements at permitting@portlandmaine.gov or 874-8703.

Maintenance and Operations

- Outdoor dining components must be within the permitted area and allow safe passage of pedestrian traffic. Failure to comply may result in a revocation of the permit.
- No food shall be prepared in the designated outdoor dining area.
- Outdoor dining areas must meet ADA regulations and accessible seating is required.

I/We fully understand that the City of Portland, its agents, officers and employees accept no responsibility and will not be liable for any injury, harm or damage to my/our person or property arising out of the establishment's occupancy of the sidewalk or park space. To the fullest extent permitted by law, I/We do hereby agree to assume all risk of injury, harm or damage to my/our person or property (including but not limited to all risk of injury, harm or damage to my/our property cause by the negligence of the City of Portland, its agents, officers or employees) arising out of the establishment's occupancy of the sidewalk or park space. I/We hereby agree, to the fullest extent permitted by law, to defend, indemnify and hold harmless the City of Portland, its agents, officers and employees, from and against all claims, damages, losses and expenses, just or unjust, including, but not limited to costs of defense and attorney's fees, arising out of the establishment's occupancy of the sidewalk or park space, provided that any such claims, damage, loss or expense (1) is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property including the loss of use there from, and (2) is caused in whole or in part by any negligent act or omission of the establishment, anyone directly or indirectly employed by it, or anyone for whose act it may be liable.

Signature Garrett Fitzgerald Title OWNER Date 7/13/2020

For Administrative Use Only

Amount: _____		Request Date / Approval	Notes: _____
Date Paid: _____	FD: _____	/	_____
CC _____ CA _____ CK _____	Health: _____	/	_____
	PD: _____	/	_____
Amount: _____	PR: _____	/	_____
Date Paid: _____	Treasury: _____	/	_____
CC _____ CA _____ CK _____	Zoning: _____	/	_____



STATE OF MAINE
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES
BUREAU OF ALCOHOLIC BEVERAGES AND LOTTERY OPERATIONS
DIVISION OF LIQUOR LICENSING AND ENFORCEMENT

Application for an On-Premises License

All Questions Must Be Answered Completely. Please print legibly.

Division Use Only	
License No:	
Class:	By:
Deposit Date:	
Amt. Deposited:	
Payment Type:	
OK with SOS: Yes ☐ No ☐	

Section I: Licensee/Applicant(s) Information;
Type of License and Status

Legal Business Entity Applicant Name (corporation, LLC): BAR HARBOR LOBSTER COMPANY	Business Name (D/B/A): Bar Harbor Lobster Company
Individual or Sole Proprietor Applicant Name(s):	Physical Location: 199 W. COMMERCIAL ST PORTLAND ME04101
Individual or Sole Proprietor Applicant Name(s):	Mailing address, if different: 52 RIVERVIEW ST. PORTLAND ME 04102
Mailing address, if different from DBA address:	Email Address: GJKFITZ@GMAIL.COM
Telephone # Fax #:	Business Telephone # Fax #: 2072882529
Federal Tax Identification Number: 45-5122501	Maine Seller Certificate # or Sales Tax #: 1207498
Retail Beverage Alcohol Dealers Permit:	Website address: WWW.BHLOBSTER.COM

1. New license or renewal of existing license? ☒ New Expected Start date: 08.01.2020
☐ Renewal Expiration Date: _____

2. The dollar amount of gross income for the licensure period that will end on the expiration date above:

Food: \$ 250,000.00 Beer, Wine or Spirits: \$ 30,000.00 Guest Rooms: _____

3. Please indicate the type of alcoholic beverage to be sold: (check all that apply)

☒ Malt Liquor (beer) ☒ Wine ☒ Spirits

4. Indicate the type of license applying for: (choose only one)

- | | | |
|--|--|---|
| ☒ Restaurant
(Class I, II, III, IV) | ☐ Class A Restaurant/Lounge
(Class XI) | ☐ Class A Lounge
(Class X) |
| ☐ Hotel
(Class I, II, III, IV) | ☐ Hotel – Food Optional
(Class I-A) | ☐ Bed & Breakfast
(Class V) |
| ☐ Golf Course (included optional licenses, please check if apply)
(Class I, II, III, IV) | ☐ Auxiliary | ☐ Mobile Cart |
| ☐ Tavern
(Class IV) | ☐ Other: _____ | |
| ☐ Qualified Caterer | ☐ Self-Sponsored Events (Qualified Caterers Only) | |

Refer to Section V for the License Fee Schedule on page 9

5. Business records are located at the following address:

52 RIVERVIEW ST. PORTLAND, ME 04102

6. Is the licensee/applicant(s) citizens of the United States? ☒ Yes ☐ No

7. Is the licensee/applicant(s) a resident of the State of Maine? ☒ Yes ☐ No

NOTE: Applicants that are not citizens of the United States are required to file for the license as a business entity.

8. Is licensee/applicant(s) a business entity like a corporation or limited liability company?

☒ Yes ☐ No If Yes, complete Section VII at the end of this application

9. For a licensee/applicant who is a business entity as noted in Section I, does any officer, director, member, manager, shareholder or partner have in any way an interest, directly or indirectly, in their capacity in any other business entity which is a holder of a wholesaler license granted by the State of Maine?

☐ Yes ☒ No

☐ Not applicable – licensee/applicant(s) is a sole proprietor

10. Is the licensee or applicant for a license receiving, directly or indirectly, any money, credit, thing of value, endorsement of commercial paper, guarantee of credit or financial assistance of any sort from any person or entity within or without the State, if the person or entity is engaged, directly or indirectly, in the manufacture, distribution, wholesale sale, storage or transportation of liquor.

☐ Yes ☒ No

If yes, please provide details: _____

11. Do you own or have any interest in any another Maine Liquor License? ☐ Yes ☐ No

If yes, please list license number, business name, and complete physical location address: (attach additional pages as needed using the same format)

Name of Business	License Number	Complete Physical Address
BAR HARBOR LOBSTER COMPANY	CAR20155126	297 MAIN ST. BAR HARBOR ME 04609

12. List name, date of birth, place of birth for all applicants including any manager(s) employed by the licensee/applicant. Provide maiden name, if married. (attach additional pages as needed using the same format)

Full Name	DOB	Place of Birth
GARRETT FITZGERALD	04/09/1977	PEI CANADA
Residence address on all the above for previous 5 years		
Name	Address:	
GARRETT FITZGERALD	52 RIVERVIEW ST. PORTLAND ME 04102	
Name	Address:	
Name	Address:	
Name	Address:	

13. Will any law enforcement officer directly benefit financially from this license, if issued?

☐ Yes ☒ No

If Yes, provide name of law enforcement officer and department where employed:

14. Has the licensee/applicant(s) ever been convicted of any violation of the liquor laws in Maine or any State of the United States? ☐ Yes ☒ No

If Yes, please provide the following information and attach additional pages as needed using the same format.

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____

15. Has the licensee/applicant(s) ever been convicted of any violation of any law, other than minor traffic violations, in Maine or any State of the United States? ☒ Yes ☐ No

If Yes, please provide the following information and attach additional pages as needed using the same format.

Name: GARRETT FITZGERALD Date of Conviction: 02/16/2011

Offense: OUI Location: HANCOCK COUNTY

Disposition: GUILTY

16. Has the licensee/applicant(s) formerly held a Maine liquor license? ☒ Yes ☐ No

17. Does the licensee/applicant(s) own the premises? ☐ Yes ☒ No

If No, please provide the name and address of the owner:

JB BROWN & SONS - 10 FREE ST. #100 PORTLAND ME 04101

18. If you are applying for a liquor license for a Hotel or Bed & Breakfast, please provide the number of guest rooms available: _____

19. Please describe in detail the area(s) within the premises to be licensed. This description is in addition to the diagram in Section VI. (Use additional pages as needed)

I AM APPLYING TO LICENSE THE ENTIRE PROPERTY, BUT WILL ONLY BE SERVING IN
AREAS LISTED AS BAR OR DINING UNLESS I HAVE A LARGER CATERED EVENT ON THE
PREMISES. ALCOHOL WILL BE SAFELY STORED AND LOCKED DURING OFF HOURS.

20. What is the distance from the premises to the nearest school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel?

Name: WAYNFLETE

Distance: 0.50

Section II: Signature of Applicant(s)

By signing this application, the licensee/applicant understands that false statements made on this application are punishable by law. Knowingly supplying false information on this application is a Class D Offense under Maine's Criminal Code, punishable by confinement of up to one year, or by monetary fine of up to \$2,000 or by both.

Please sign and date in blue ink.

Dated: 6-15-2020



Signature of Duly Authorized Person

Signature of Duly Authorized Person

GARRETT FITZGERALD
Printed Name Duly Authorized Person

Printed Name of Duly Authorized Person

Section VII: Required Additional Information for a Licensee/Applicant for an On-Premises Liquor License Who are Legal Business Entities

Questions 1 to 4 of this part of the application must match information in Section I of the application above and match the information on file with the Maine Secretary of State's office. If you have questions regarding your legal entity name or DBA, please call the Secretary of State's office at (207) 624-7752.

All Questions Must Be Answered Completely. Please print legibly.

1. Exact legal name: BAR HARBOR LOBSTER COMPANY
2. Doing Business As, if any: _____
3. Date of filing with Secretary of State: 04/24/2012 State in which you are formed: MAINE
4. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine:

5. List the name and addresses for previous 5 years, birth dates, titles of officers, directors, managers, members or partners and the percentage ownership any person listed: (attached additional pages as needed)

Name	Address (5 Years)	Date of Birth	Title	Percentage of Ownership
GARRETT FITZGERALD	PORTLAND, ME	04/09/1977	OWNER	100.0000

(Ownership in non-publicly traded companies must add up to 100%.)

B&E HARBOUR LOBSTER CO.
199 W. COMMERCIAL ST.
PORTLAND, ME

CONTINUED
FROM
BELOW

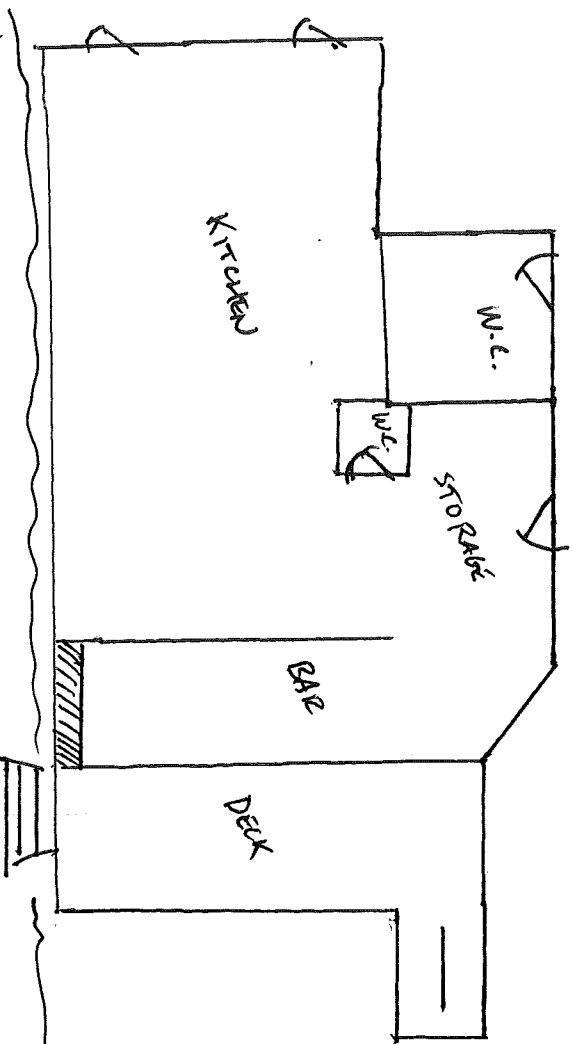
WOODS

EMPTY
FIELD

I WOULD LIKE TO RESERVE
THE OPTION TO SERVE HERE
IN THE EVENT OF A LARGE
PARTY I.E. WEDDINGS ETC.

PROPERTY
LINE

WOODS



OUTDOOR
PATIO

w/ PICNIC TABLES

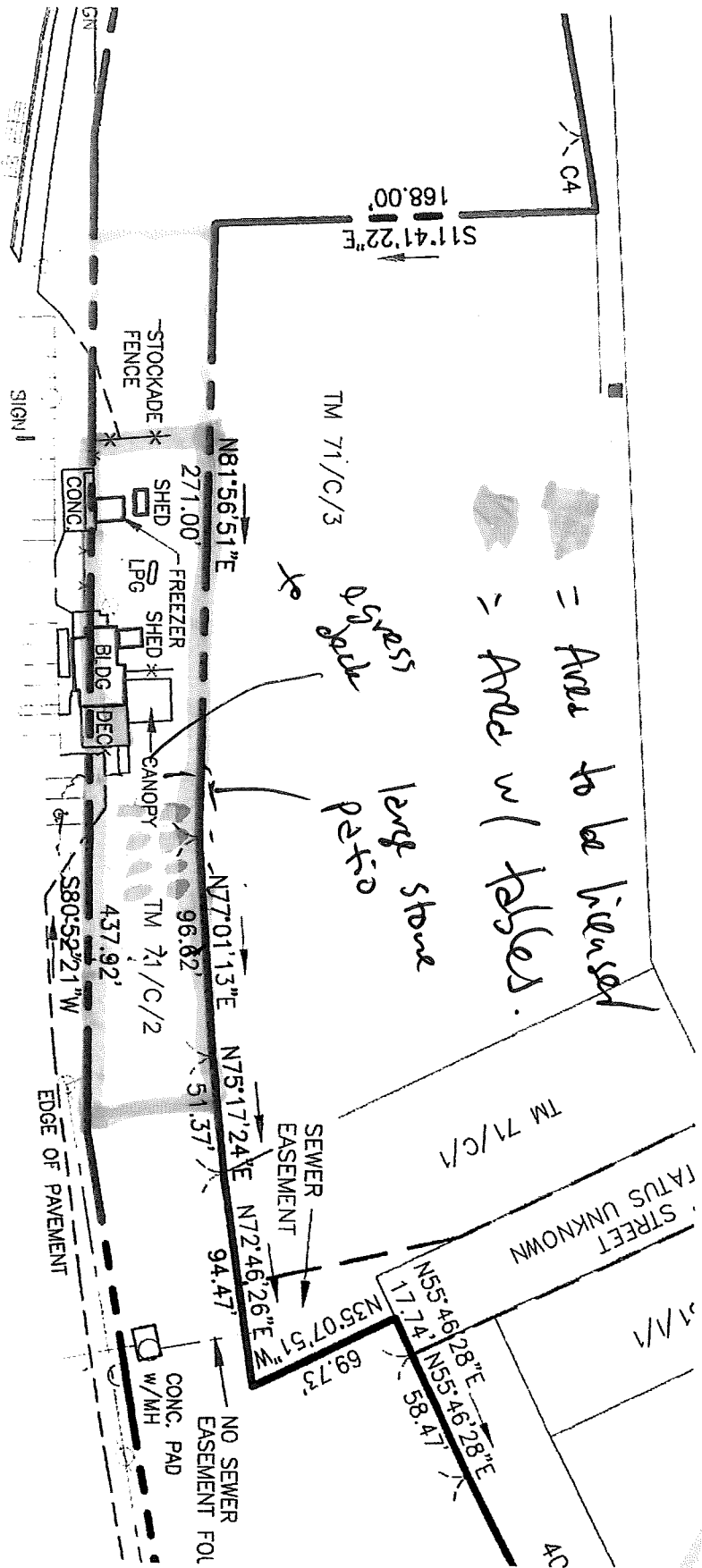
w/ ROBES + SIGNAGE

CONTINUED
ABOVE

PARKING

COMMERCIAL ST.





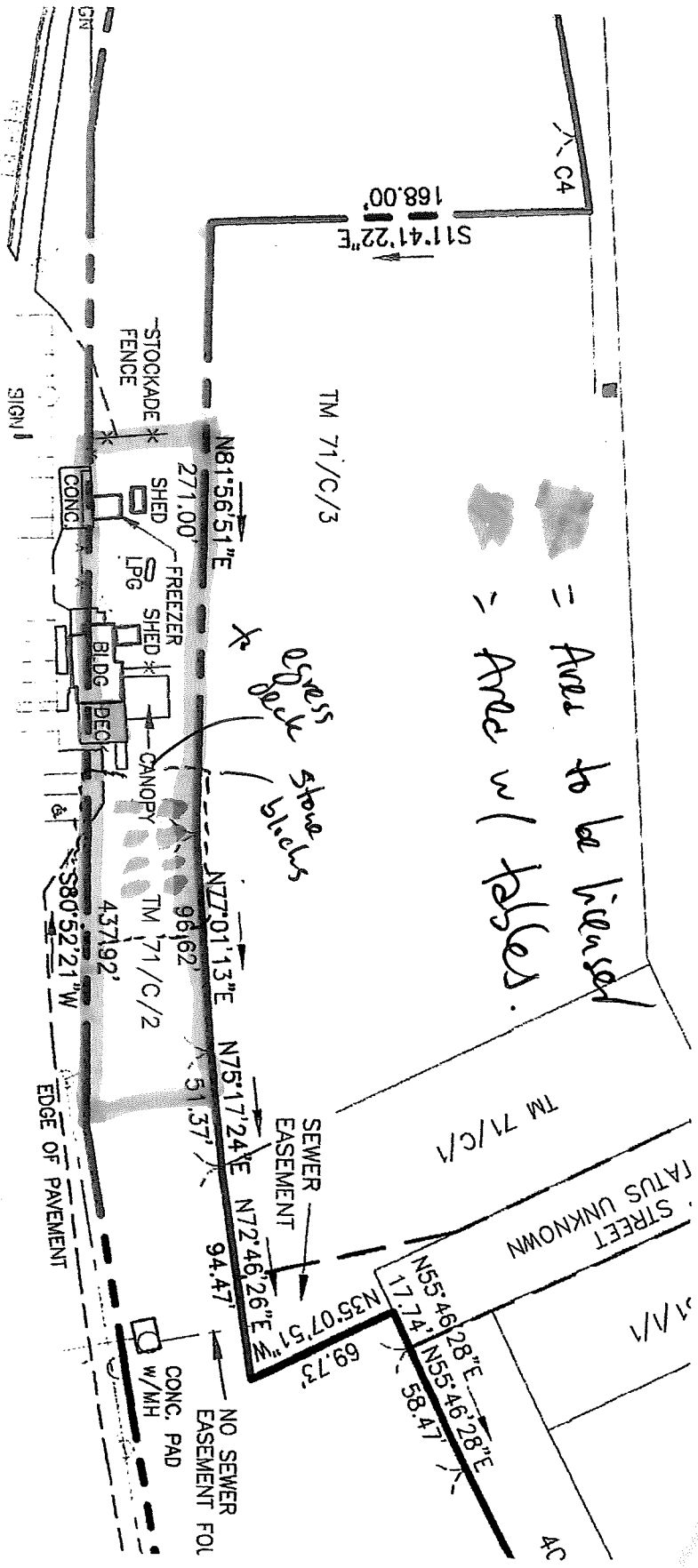
= Area to be leased
= Area w/ tables.

glass
patio
long stone

PTC

Exhibit A

= Area to be leased
= Area w/ tables.



PTC

Exhibit A

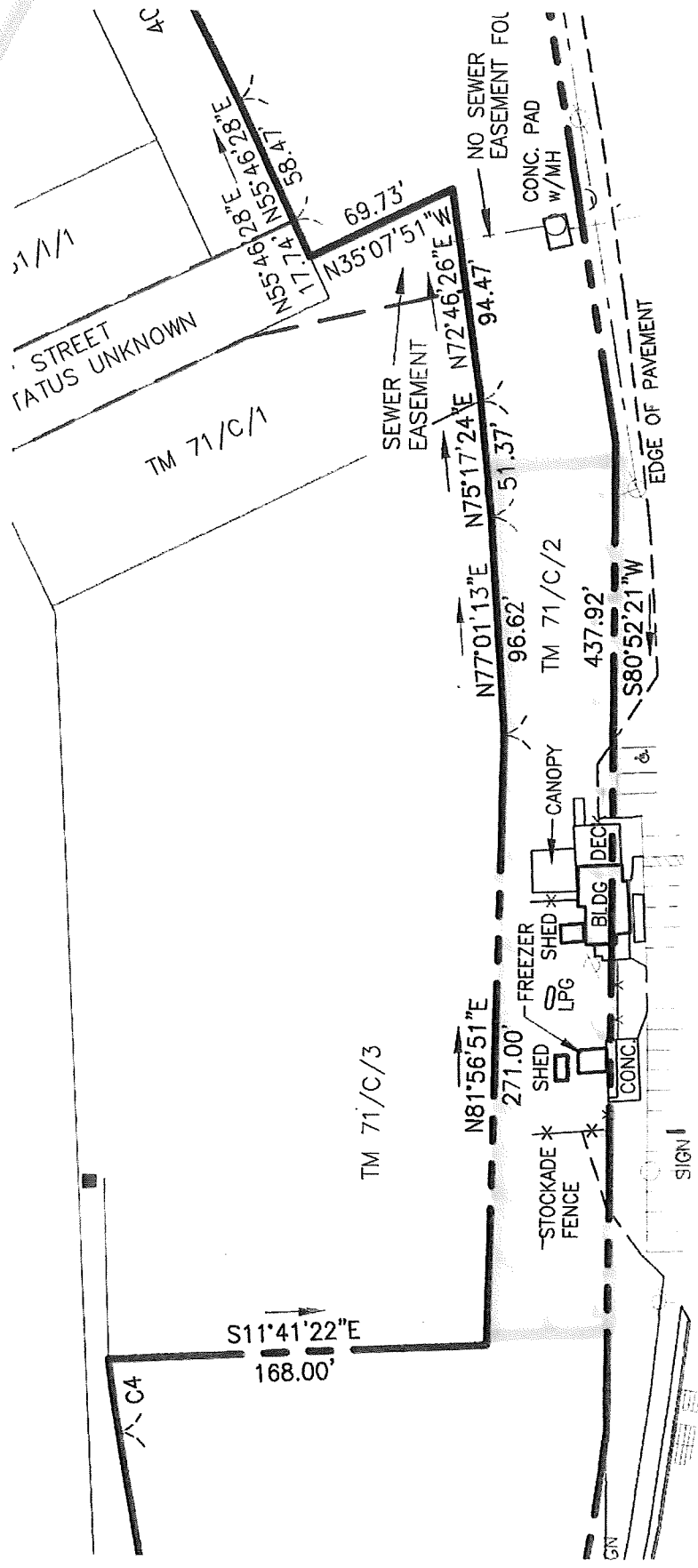


Exhibit A

PTC

B&B HARBOUR LOBSTER CO.
 199 W. COMMERCIAL ST.
 BOSTON, ME

CONTINUED
 FROM
 BELOW

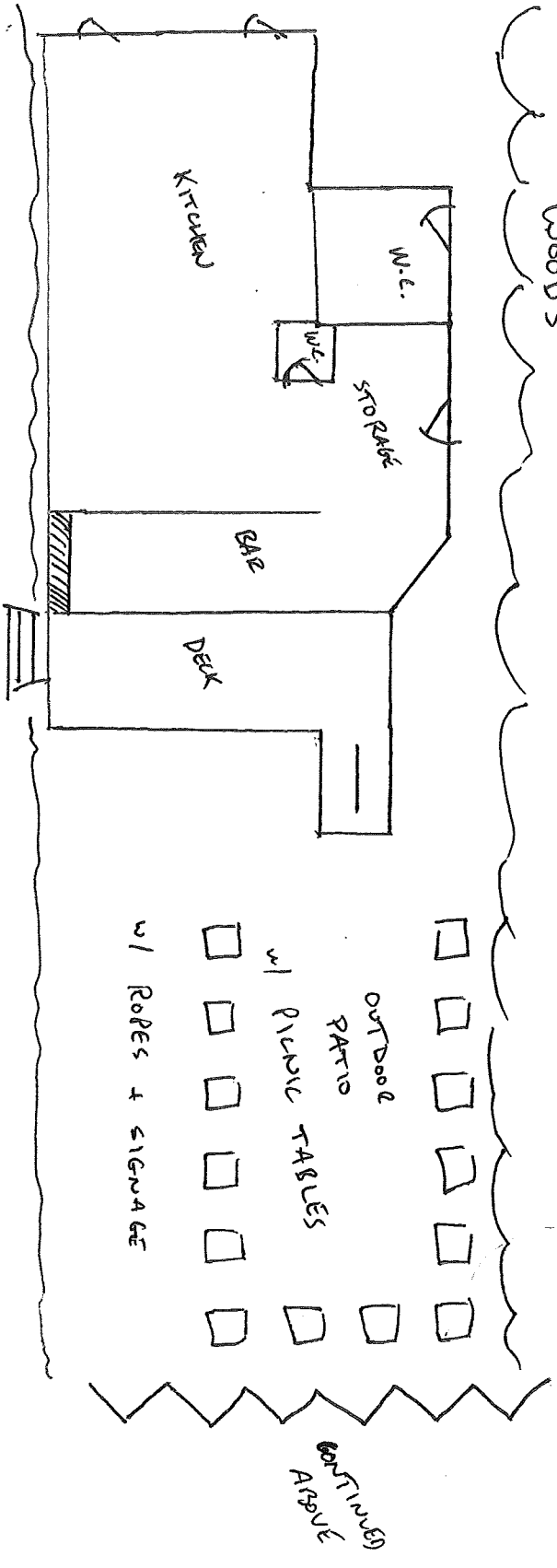
WOODS

EMPTY
 FIELD

I WOULD LIKE TO RESERVE
 THE OPTION TO SEAVE HERE
 IN THE EVENT OF A LARGE
 PARTY I.E. WEDDINGS ETC.

PROPERTY
 LINE

WOODS



PARKING

COMMERCIAL ST. →



STARTERS

- fried pickles** 8
with spicy ranch
- poutine** 8
fries, curds & house gravy
- wings** 13
5 whole chicken wings with your choice of signature sauce,
buffalo or hot pineapple w/ bleu cheese or ranch
- chilled lobster claws (gf)** 4/ea
with house cocktail
- mussels & brussels** 15
with dijon cream sauce
- mussels or steamer clams (gf)** 11/14

SANDWICHES

*served with your choice of fries, slaw, or onion rings
gluten free buns available (+2)*

- new england lobster roll** 20
5oz. fresh lobster, mayo, scallions, lettuce on toasted brioche
- big lobster roll** 35
same size brioche bun w/ double the lobster meat (10oz.)
- BLT lobster roll** 22
5oz. fresh lobster, mayo, bacon, lettuce, tomato on toasted brioche
- surf n' turf** 24
beef patty, lobster salad, fontina, bacon & béarnaise
- new england crab roll** 16
fresh crab, mayo, lettuce, scallions on toasted brioche
- grilled caprese chicken** 12
house basil pesto, roasted tomatoes & mozz
- rum burger** 13
shoulder bacon, fontina & rum sauce,
delicious veggie patties available

SIDES

- | | |
|------------------------------|---------------------------------------|
| creamy slaw • 3 | boiled potatoes
w/ herb butter • 5 |
| fried brussel
sprouts • 5 | brown butter fries • 5 |
| mac & cheese • 5 | onion rings • 5 |

SOUP/SALAD

- new england clam chowder (gf)** ... 5.5 cup / 7.5 bowl
rich, creamy soup w/ sea clams, celery & bacon
- lobster & roasted corn bisque** ... 6 cup / 8 bowl
- bar harbor lobster salad (gf)** 21
mixed greens, cherry tomatoes, citrus champagne vinaigrette
- substitute w/ grilled chicken or crispy tofu** ... 14

MAINS

- maine lobster dinner (gf)** many sizes / mp
with boiled potatoes w/ herb butter, lemon & butter
- fried clam basket** 17
with fries & house tartar
- fried shrimp basket** 15
with fries & chili lime dipping sauce
- fish & chips** 17
beer battered local fish with fries & house tartar
- lobster mac & cheese** 25

KIDS

- mac & cheese** 7
- chicken tenders w/ french fries or carrots** 7
- fish & chips** 7
- hot dog w/ french fries or carrots** 7

DESSERTS

- housemade blueberry pie a la mode** 7.5
- ice cream cookie** 6

Consuming raw or undercooked meals, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness.

We regret that we cannot provide substitutions unless otherwise noted.

An 18% service gratuity fee may be applied to parties of 6 or larger. Your server will let you know.

WIFI • TWCWIFI (click guest)

PASSWORD • lobster



MAINE STATE BUREAU OF IDENTIFICATION
45 Commerce Drive, Suite 1 / STATE HOUSE STATION # 42
AUGUSTA, ME 04333
(207) 624-7240 (VOICE)

JESSICA HANSCOMBE
389 CONGRESS ST
PORTLAND, ME 04101

Transaction Response #: MIQ99E406561

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2020-07-14) :

Inquiries Name(s) GARRETT FITGERALD (1977-04-09)

The information in this criminal history record is provided subject to the following caveats:

Important! When a criminal history record and juvenile crime information record check is processed by the State Bureau of Identification using personal identifiers such as name and date of birth, it is possible that the record supplied belongs to another person with the same or essentially similar name and date of birth. Confirmation that convictions relate to person whose record has been requested requires fingerprint comparison. If the information contained in this response will be used to disqualify an applicant for employment, housing, credit, or other benefits or programs, the person making the eligibility determination using this record should provide the applicant with an opportunity to complete or contest the accuracy of the criminal history information in the response. An individual may request amendment or correction of criminal history record information by a criminal justice agency pursuant to 16 M.R.S. section 709.

****THIS RESPONSE IS BEING PRODUCED FOR YOUR REQUEST SENT: 2020-07-14**

This record, effective September 1, 2000, contains information relating to persons arrested as fugitives from justice, 15 M.R.S section 201.4 or arrested or charged with Maine crimes. It does not include former crimes no longer classified as criminal, or Class D and E crimes in Title 12 or Title 29-A, former Title 29, unless the crime is alcohol-related or drug-related 25 M.R.S. section 1541.4-A.A. For information regarding excluded Marine Resources crimes in Title 12, contact the Department of Marine Resources. For information regarding excluded Inland Fisheries and Wildlife crimes in Title 12, contact the Department of Inland Fisheries and Wildlife. For information relating to excluded crimes in Title 29-A former Title 29, contact the Secretary of State, Motor Vehicle Division. / former crimes is available from this Bureau.



Identification

Subject Name/or potential Alias Name(s)

FITZGERALD, GARRETT J

Subject Description (date information provided listed in parentheses)

State ID Number

ME0205629

DOC Number

Unknown/NA

Sex

Male

Race

White

Skin Tone

Unknown/NA

Height

508 (2010-12-04)
508

Weight

190 (2010-12-04)
155

Date of Birth

1977-04-09

Hair Color

Brown (2010-12-04)
Brown

Eye Color

Blue (2010-12-04)
Blue

Scars, Marks, and Tattoos

Unknown/NA

Place of Birth

Unknown/NA

Citizenship

XX (2010-12-04)

Residence

Residence as of
Address

2011-07-02
3 1/2 MYRTLE AVENUE
BAR HARBOR, ME 04609

Residence as of
Address

2010-12-04
108 KNOX ROAD
BAR HARBOR, ME 04609

Caution Information

Firearms Disqualified

X - Unknown

Criminal History

Cycle 001

ATN/Tracking Number

843570A

Earliest Event Date

2010-11-29



Arrest No data supplied

Prosecutor Disposition (Cycle 001)
Prosecutor Agency HANCOCK COUNTY DISTRICT ATTORNEY; ME005023A
Charge 2

Charge Number 843570A 002
Charge Tracking Number 843570A
Charge Description VIOLATING CONDITION OF RELEASE (Charge Class E)
Statute 15 MRSA SUBSECTION 1092(1)(A)
State Sequence Code 9632
Severity Misdemeanor
Prosecutor Record ADDED
Modified/Updated

Court Disposition (Cycle 001)
Court Case Number CALDCCR201000512
Court Agency 4TH DISTRICT COURT CALAIS; ME015025J
Charge 2

Charge Number 843570A 002
Charge Tracking Number 843570A
Agency 4TH DISTRICT COURT CALAIS; ME015025J
Charge Description VIOLATING CONDITION OF RELEASE (Charge Class E)
Statute 15 MRSA SUBSECTION 1092(1)(A)
State Sequence Code 9632
Severity Misdemeanor
Disposition 2011-01-11; TRANSFER FOR JURY TRIAL

Court Disposition (Cycle 001)
Court Case Number MACSCCR201100011
Court Agency SUPERIOR COURT MACHIAS; ME015015J
Charge 2

Charge Number 843570A 002
Charge Tracking Number 843570A
Agency SUPERIOR COURT MACHIAS; ME015015J
Charge Description VIOLATING CONDITION OF RELEASE (Charge Class E)
Statute 15 MRSA SUBSECTION 1092(1)(A)
State Sequence Code 9632
Severity Misdemeanor
Disposition 2011-01-11; TRANSFER FOR JURY TRIAL
2011-06-06; DISMISSED BY DA/AG - PLED OTHER CHARGE

Sentencing No data supplied

Corrections No data supplied



Index of Agencies

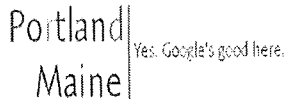
Agency	SUPERIOR COURT MACHIAS; ME015015J
Agency Telephone	207-255-3326
Address	PO BOX 526 MACHIAS, ME 04654

Agency	4TH DISTRICT COURT CALAIS; ME015025J
Agency Telephone	207-454-2055
Address	382 south street ste b CALAIS, ME 04619

Agency	HANCOCK COUNTY DISTRICT ATTORNEY; ME005023A
Agency Telephone	207-667-4621
Address	PO BOX 722 ELLSWORTH, ME 04605

Agency	MAINE ST POLICE TROOP J EAST MACHIAS; MEMSP0J00
Agency Telephone	207-667-3722
Address	PO BOX 359 ELLSWORTH, ME 04605





Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Re: Bar Harbor Lobster Company

Dan Hondo <danh@portlandmaine.gov>

Tue, Jul 14, 2020 at 8:33 PM

To: Jessica Hanscombe <jhanscombe@portlandmaine.gov>

No issues on PD side

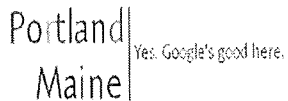
On Tue, Jul 14, 2020 at 11:30 AM Jessica Hanscombe <jhanscombe@portlandmaine.gov> wrote:

Good Morning

Please see the attached application for a Class I FSE. This will go to council on 8/3. Please advise.
JessJessica Blais Hanscombe
Licensing and Housing Safety Manager
City of Portland
389 Congress Street Room 307
Portland, Maine 04101
207-874-8783
jhanscombe@portlandmaine.gov

--

Lt. Dan Hondo
Portland Maine Police Dept.
Patrol Team B3/B4
(207)874-8513



Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Re: Bar Harbor Lobster Company

cstacey <cstacey@portlandmaine.gov>
To: Zoning <zoning@portlandmaine.gov>
Cc: jhanscombe@portlandmaine.gov

Tue, Jul 28, 2020 at 3:04 PM

A Class A Restaurant (Class I) is a permitted use in the B-5b Zone under section 14-230.1(a)(2) in Chapter 14, City Code of Ordinances.

I am signing off for zoning in Energov.

Thanks,
Chris

On Tuesday, July 14, 2020 at 11:30:48 AM UTC-4, Jessica Hanscombe wrote:

Good Morning

Please see the attached application for a Class I FSE. This will go to council on 8/3. Please advise.
Jess

Jessica Blais Hanscombe
Licensing and Housing Safety Manager
City of Portland
389 Congress Street Room 307
Portland, Maine 04101
207-874-8783
jhanscombe@portlandmaine.gov



Legal Advertisement

Notice of Public Hearing City of Portland

A Public Hearing will be held on August 31, 2020 at 5:30 P.M., virtually, Bar Harbor Lobster Co dba Bar Harbor Lobster Company. Application for a Class I FSE with Outdoor Dining on Private Property at 113 W Commercial Street. Sponsored by Jon P. Jennings, City Manager.



CITY OF PORTLAND
Permitting and Inspections Department

August 13, 2020

Bar Harbor Lobster Company
52 Riverview Street
Portland ME 04102

Re: Bar Harbor Lobster Co dba Bar Harbor Lobster Company. Application for a Class I FSE with Outdoor Dining on Private Property at 113 W Commercial Street.

Dear Garrett Fitzgerald

This letter shall serve as a reminder of the public hearing before the Portland City Council on **Monday August 31, 2020 at 5:30 p.m.**, for the review of application for a Class I FSE with Outdoor Dining on Private Property at 113 W Commercial Street. The meeting will take place virtually. The link can be found on the Meeting Agenda which will be posted on the City Website on August 28th.

You or a representative of the business must be present at this meeting in the event that the city council has questions regarding the license application. If there is no representation and questions arise, the item may be postponed.

Please contact our office directly with questions at (207) 874-8557 or jhanscombe@portlandmaine.gov.

Sincerely,

Jessica Hanscombe
Licensing and Housing Safety Manager

MEMORANDUM
City Council Agenda Item

FROM:

DATE: July 14, 2020

SUBJECT: **Order 53-20/21 Granting Municipal Officers' Approval of Matt's Coffee LLC dba Speckled Ax. Application for a Class III & IV with Outdoor Dining on Private Property at 18 Thames Street - Sponsored by Jon P. Jennings, City Manager**

SPONSOR:

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

Can action be taken at a later date: No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

II. AGENDA DESCRIPTION

Matt's Coffee LLC dba Speckled Ax. Application for a Class III & IV with Outdoor Dining on Private Property at 18 Thames Street.

Application was filed on 7/13/2020. New City and State applications.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Speckled Ax

2. 20200813091547961

Prepared by:

Date: 7/14/2020

KATE SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
TAE Y. CHONG (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

Matt's Coffee LLC dba Speckled Ax. Application for a Class III & IV with Outdoor Dining on Private Property at 18 Thames Street

7/1/20
Matt Bolinder
41 Atlantic St
Portland, ME 04101

Dear Mayor Snyder and City Council Members;

I will be opening a coffee shop and café at 18 Thames Street, in one of two retail spaces in a new construction along the waterfront, and would like to apply for a class III and IV license in order to serve beer and wine. I currently own and run Speckled Ax Coffee at 567 Congress Street. This new business—also called Speckled Ax--will be a larger venture, and will include a prep kitchen. Along with a variety of coffee drinks—our staple and focus--we will be serving pastries, breakfast and lunch items, and snacks through the afternoon. At some point in the future the space will seat approximately 35 people, but for the foreseeable future, we will not be serving customers in our cafe. Instead, it will be operating primarily as a takeaway establishment, with limited outdoor seating for customers on private property. We would like to extend service into the early evening (our lease does not permit us to hold regular hours past 9) in the warmer months, and so include a small selection of beer and wine on our menu. While I do not anticipate alcohol being a large component of our business, the addition of a focused beer and wine selection will complement our offerings and provide an additional amenity for prospective customers. Thank you for considering this application.

Sincerely,
Matt Bolinder, owner
Matt's Coffee, dba Speckled Ax Wood Roasted Coffee



CITY OF PORTLAND
Permitting and Inspections Department
Application for Food Service Establishment with Alcoholic Beverages License

Business Information					
Business Name (d/b/a):	Speckled Ax	Phone:	2076603333		
Location Address:	18 Thames St		Zip: 04101		
If new, what was formerly at this location:	new construction				
Mailing Address:	41 Atlantic St Portland ME		Zip: 04101		
Contact Person:	Matt Bolinder	Phone:	207-509-4206		
Contact Person Email:	matt@speckledax.com				
Manager of Establishment:	Lindsey Bania	Date of Birth:	3/16/1989	Phone:	414-343-6365
Owner of Premises (Landlord):	Ara Aftandilian, EssexNorth Portland LLC				
Address of Premises Owner:	PO Box 394 Topsfield MA		Zip: 01983		

Sole Proprietor/Partnership Information (If Corporation, leave blank)

Name of Owner(s)	Date of Birth	Residence Address

Corporate/LLC/Non-Profit Organization Applicants (If Sole Proprietor or Partnership, leave blank)

Corporate Name		Corporate Mailing Address	
Matt's Coffee LLC		567 Congress St Portland ME	Zip: 04101
Contact Person:	Matt Bolinder	Phone:	207-509-4206
Principal Officers			
Title	Date of Birth	Residence Address	
Matthew Bolinder	president	01/02/1972	41 Atlantic St Portland ME 04101
Class of Liquor License:		III-IV	



CITY OF PORTLAND
Permitting and Inspections Department

Type of food served:	coffee, pastries, sandwiches, soup, salad	
Please circle all that will be served:	Beer ☒ Wine ☒ Liquor	
Projected percentage of sales:	Generated from Food: 90	Generated from Alcohol: 10
Hours & days of operation:	7 am-9 pm 7 days a week	
QUESTIONS		
Will full-course meals, only capable of consumption with the use of tableware, be served the entire time the establishment is open?	Y/N	N
If No, please explain: most of our food options will not require tableware, but food will be served all day		
Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment?	Y/N	N
If yes, give the distance:		
Will you have entertainment on the premises? (If yes, a Supplemental Application for Entertainment is required.)	Y/N	N
Will you permit dancing after 1:00 a.m.?	Y/N	N
Will you have outside dining? (If yes, an Outdoor Dining Application is required)	Y/N	Y
If yes, will the outside dining be on PUBLIC or PRIVATE property (circle one).		
Will you have any amusement devices (pinball, video games, juke box)?	Y/N	N
If yes, please list: # of pinball machines: _____ # of amusements: _____ # of pool tables: _____		
What is your targeted opening date?	August 7	
Does the Issuance of this license directly or indirectly benefit any City employee(s)?	Y/N	N
If Yes, list name(s) of employee(s) and department(s):		
Have any of the applicants, including the corporation (if applicable), ever held a business license with the City of Portland?	Y/N	Y
If Yes, please list business name(s) and location(s): Speckled Ax Coffee, 567 Congress St, Portland		
Is any principal officer under the age of 21?	Y/N	N
Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of law?	Y/N	N
If Yes, please explain:		

I, NATHAN BOLINDER do hereby swear and affirm that every employee in my establishment that serves alcohol to the public has attended server training, or will attend server training within 90 days of their hire. I also understand that at any time the City license administrator can, upon request, require me to produce Server Training certificates for each employee that serves alcohol to the public in my establishment. Failure to meet the training requirement imposed by section 15-41 may result in the denial of a liquor license pursuant to 28-A M.R.S.A. § 653 (2) (G).

Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above licensee and further agrees that any misstatement of material fact may result in refusal of license or revocation if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect thereto. I/We, hereby authorize the release of any criminal history record information to the City Clerk's Office or licensing authority. I/We, hereby waive any rights to privacy with respect thereto.

Signature Title owner Date 7/7/20



CITY OF PORTLAND
Permitting and Inspections Department
Outdoor Dining Permit on Private Property
Supplemental Application

License accompanies a City of Portland Food Service Establishment or Food Service Establishment with Liquor License

☐ Outdoor Dining on Private Property \$125.00 ☐ Legal Advertisement Deposit \$100.00

Business Information			
Business Name (d/b/a):	Speckled Ax Wood Roasted Coffee	Phone:	207-660-3333
Location Address:	18 Thames St Portland	Zip:	04101
Mailing Address:	567 Congress St Portland ME1	Zip:	04101
Contact Person:	Matt Bolinder	Phone:	207-509-4206
Contact Person Email:	matt@speckledax.com		
Manager of Establishment:	Lindsay Bania	Date of Birth:	3/16/1989
		Phone:	414-343-6365
Owner of Premises (Landlord):	Ara Afadillian/EssexNorth Portland LLC		
Address of Premises Owner:	PO Box 394 Topsfield, MA	Zip:	01983

Owner Information

Corporate Name		Corporate Mailing Address	
Matt's Coffee LLC		567 Congress	Zip: 04101
Contact Person:	Matt Bolinder	Phone:	207-509-4206
Principal Officers	Title	Date of Birth	Residence Address
Matthew Bolinder	president	1/2/72	41 Atlantic St Portland ME 04101



CITY OF PORTLAND
Permitting and Inspections Department

Class of License:	FSE
Type of food served:	coffee, pastries, breakfast sandwiches, lunch, snacks
Please circle all that will be served:	Beer Wine Liquor
Hours & days of operation:	Mon-Sun, 7 AM-8 PM
Number of Tables	4
Number of Chairs	12

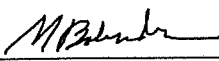
Design and Construction

- If you are building a structure or adding impervious surface for the outdoor dining area please contact the Permitting and Inspections Department for permitting requirements at permitting@portlandmaine.gov or 874-8703.

Maintenance and Operations

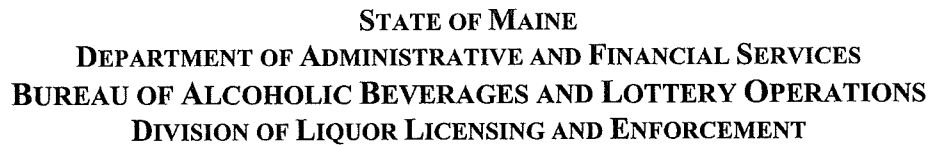
- Outdoor dining components must be within the permitted area and allow safe passage of pedestrian traffic. Failure to comply may result in a revocation of the permit.
- No food shall be prepared in the designated outdoor dining area.
- Outdoor dining areas must meet ADA regulations and accessible seating is required.

I/We fully understand that the City of Portland, its agents, officers and employees accept no responsibility and will not be liable for any injury, harm or damage to my/our person or property arising out of the establishment's occupancy of the sidewalk or park space. To the fullest extent permitted by law, I/We do hereby agree to assume all risk of injury, harm or damage to my/our person or property (including but not limited to all risk of injury, harm or damage to my/our property cause by the negligence of the City of Portland, its agents, officers or employees) arising out of the establishment's occupancy of the sidewalk or park space. I/We hereby agree, to the fullest extent permitted by law, to defend, indemnify and hold harmless the City of Portland, its agents, officers and employees, from and against all claims, damages, losses and expenses, just or unjust, including, but not limited to costs of defense and attorney's fees, arising out of the establishment's occupancy of the sidewalk or park space, provided that any such claims, damage, loss or expense (1) is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property including the loss of use there from, and (2) is caused in whole or in part by any negligent act or omission of the establishment, anyone directly or indirectly employed by it, or anyone for whose act it may be liable.

Signature  Title owner Date 5/3/20

For Administrative Use Only

Amount: _____		Request Date / Approval	Notes: _____
Date Paid: _____	FD: _____	/	_____
CC _____ CA _____ CK _____	Health: _____	/	_____
	PD: _____	/	_____
Amount: _____	PR: _____	/	_____
Date Paid: _____	Treasury: _____	/	_____
CC _____ CA _____ CK _____	Zoning: _____	/	_____



All Questions Must Be Answered Completely. Please print legibly.

Division Use Only	
License No:	
Class:	By:
Deposit Date:	
Amt. Deposited:	
Payment Type:	
OK with SOS: Yes ☐ No ☐	

Legal Business Entity Applicant Name (corporation, LLC): Matt's Coffee LLC	Business Name (D/B/A): Speckled Ax
Individual or Sole Proprietor Applicant Name(s): Matthew Bolinder	Physical Location: 18 Thames St Portland ME 04101
Individual or Sole Proprietor Applicant Name(s):	Mailing address, if different: 567 Congress St Portland ME 04101
Mailing address, if different from DBA address: 41 Atlantic St Portland ME 04101	Email Address: matt@speckledax.com
Telephone # Fax #: 2075094206	Business Telephone # Fax #: 2076603333
Federal Tax Identification Number: 20-8695261	Maine Seller Certificate # or Sales Tax #:
Retail Beverage Alcohol Dealers Permit:	Website address: speckledax.com

- On Premise Application, Rev. 3/2020

4. Indicate the type of license applying for: (choose only one)

- | | | |
|--|--|---|
| ☒ Restaurant
(Class I, II, III, IV) | ☐ Class A Restaurant/Lounge
(Class XI) | ☐ Class A Lounge
(Class X) |
| ☐ Hotel
(Class I, II, III, IV) | ☐ Hotel – Food Optional
(Class I-A) | ☐ Bed & Breakfast
(Class V) |
| ☐ Golf Course (included optional licenses, please check if apply)
(Class I, II, III, IV) | ☐ Auxiliary | ☐ Mobile Cart |
| ☐ Tavern
(Class IV) | ☐ Other: _____ | |
| ☐ Qualified Caterer | ☐ Self-Sponsored Events (Qualified Caterers Only) | |

Refer to Section V for the License Fee Schedule on page 9

5. Business records are located at the following address:

567 Congress St Portland ME 04101

6. Is the licensee/applicant(s) citizens of the United States? ☒ Yes ☐ No

7. Is the licensee/applicant(s) a resident of the State of Maine? ☒ Yes ☐ No

NOTE: Applicants that are not citizens of the United States are required to file for the license as a business entity.

8. Is licensee/applicant(s) a business entity like a corporation or limited liability company?

☒ Yes ☐ No If Yes, complete Section VII at the end of this application

9. For a licensee/applicant who is a business entity as noted in Section I, does any officer, director, member, manager, shareholder or partner have in any way an interest, directly or indirectly, in their capacity in any other business entity which is a holder of a wholesaler license granted by the State of Maine?

☐ Yes ☒ No

☐ Not applicable – licensee/applicant(s) is a sole proprietor

10. Is the licensee or applicant for a license receiving, directly or indirectly, any money, credit, thing of value, endorsement of commercial paper, guarantee of credit or financial assistance of any sort from any person or entity within or without the State, if the person or entity is engaged, directly or indirectly, in the manufacture, distribution, wholesale sale, storage or transportation of liquor.

☐ Yes ☒ No

If yes, please provide details: _____

11. Do you own or have any interest in any another Maine Liquor License? ☐ Yes ☒ No

If yes, please list license number, business name, and complete physical location address: (attach additional pages as needed using the same format)

Name of Business	License Number	Complete Physical Address

12. List name, date of birth, place of birth for all applicants including any manager(s) employed by the licensee/applicant. Provide maiden name, if married. (attach additional pages as needed using the same format)

Full Name	DOB	Place of Birth
Matthew Scott Bolinder	01/02/1972	Brockton, MA
Residence address on all the above for previous 5 years		
Name	Address:	
Matthew Bolinder	41 Atlantic St Portland, ME 04101	
Name	Address:	
Name	Address:	
Name	Address:	

13. Will any law enforcement officer directly benefit financially from this license, if issued?

☐ Yes ☒ No

If Yes, provide name of law enforcement officer and department where employed:

14. Has the licensee/applicant(s) ever been convicted of any violation of the liquor laws in Maine or any State of the United States? ☐ Yes ☒ No

If Yes, please provide the following information and attach additional pages as needed using the same format.

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____

15. Has the licensee/applicant(s) ever been convicted of any violation of any law, other than minor traffic violations, in Maine or any State of the United States? ☐ Yes ☒ No

If Yes, please provide the following information and attach additional pages as needed using the same format.

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____

16. Has the licensee/applicant(s) formerly held a Maine liquor license? ☐ Yes ☒ No

17. Does the licensee/applicant(s) own the premises? ☐ Yes ☒ No

If No, please provide the name and address of the owner:

Ara Aftandilian, EssexNorth Portland LLC, PO Box 394, Topsfield, MA 01983

18. If you are applying for a liquor license for a Hotel or Bed & Breakfast, please provide the number of guest rooms available: _____

19. Please describe in detail the area(s) within the premises to be licensed. This description is in addition to the diagram in Section VI. (Use additional pages as needed)

Space is 1800 square foot, with approximately 400 for food preparation, and another 200 for coffee
prep. There are 35 seats along the front of the space--counters, tables and free-standing seats.

20. What is the distance from the premises to the **nearest** school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel?

Name: Abyssinian Meeting House, approx 1800 feet away

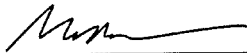
Distance: 1,800.00

Section II: Signature of Applicant(s)

By signing this application, the licensee/applicant understands that false statements made on this application are punishable by law. Knowingly supplying false information on this application is a Class D Offense under Maine's Criminal Code, punishable by confinement of up to one year, or by monetary fine of up to \$2,000 or by both.

Please sign and date in blue ink.

Dated: 07/06/2020



Signature of Duly Authorized Person

Signature of Duly Authorized Person

Matthew Bolinder

Printed Name Duly Authorized Person

Printed Name of Duly Authorized Person

**Section VII: Required Additional Information for a Licensee/Applicant for an On-Premises
Liquor License Who are Legal Business Entities**

Questions 1 to 4 of this part of the application must match information in Section I of the application above and match the information on file with the Maine Secretary of State's office. If you have questions regarding your legal entity name or DBA, please call the Secretary of State's office at (207) 624-7752.

All Questions Must Be Answered Completely. Please print legibly.

1. Exact legal name: Matt's Coffee LLC
2. Doing Business As, if any: Speckled Ax
3. Date of filing with Secretary of State: 03/12/2007 State in which you are formed: Maine
4. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine:

5. List the name and addresses for previous 5 years, birth dates, titles of officers, directors, managers, members or partners and the percentage ownership any person listed: (attached additional pages as needed)

Name	Address (5 Years)	Date of Birth	Title	Percentage of Ownership
matthew bolinder	41 Atlantic St Portland ME 04101	01/02/1972	owner	100.0000

(Ownership in non-publicly traded companies must add up to 100%.)

9'-11 1/2"

Seating area
will be cordoned
off with 4
30"x11"
x12x12"
planters
and connected
chains

5'-2 3/4"

THAMES STREET

X = chair

□ = table

(small coffee table)

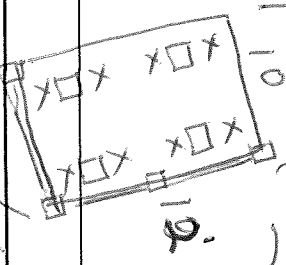
SPECKLED AX

open space (10 ft x 5 ft)

60'-7"

23'-5"

15'-2 1/2"



TWENTY THAMES RETAIL

166 Fore Street, Portland Maine

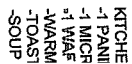
(116 18 and 20 Thames Street)

07/8/20



48 Union Wharf Portland, Maine 04101

ALL WALLS TYPE 1 UNLESS NOTED OTHERWISE



Speckled Ax Coffee
18 Thames St

Sample Menu

Full coffee bar (espresso, cappuccino, latte)

Batch brewed drip coffee

Single cup pourover coffee

Iced coffee

Teas

Breakfast sandwich of the day: scrambled egg, pickled onion,
smoked boston butt, arugula, toasted Portuguese muffin

Avocado toast with smoked salmon, pepitas and pistachio oil

Yogurt with honey, apple and pear, seasonal berry, black sesame
seeds

Assorted pastries

Lunch:

--dark tuna, egg salad, sweet pickle, green olive, croissant

--smoked ham, cultured butter, sweet roll

--sous vide beef, pimiento cheese, arugula, sriracha, baguette

--beet salad with orange zest, quinoa, yogurt

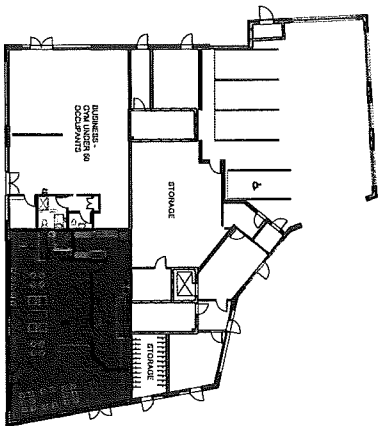
Snacks:

--cookies

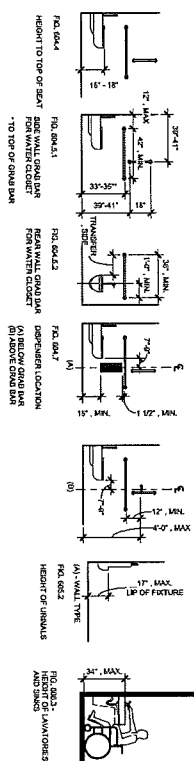
--tea biscuits

--toasted nuts

--assorted grilled cheese

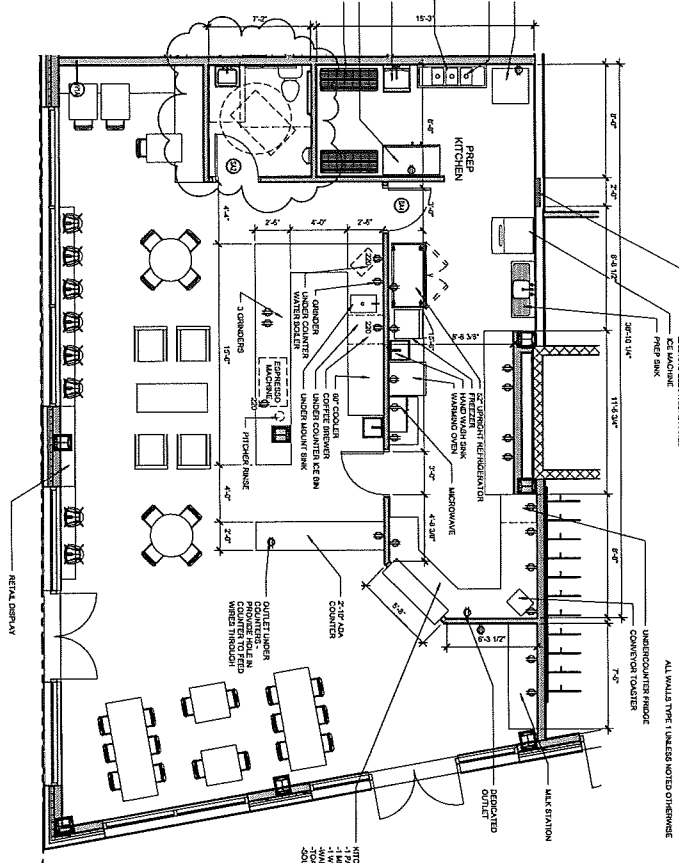
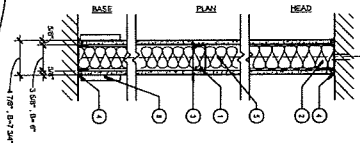
$$\sqrt{1/16} = 1/4$$


0.1 = 1.0

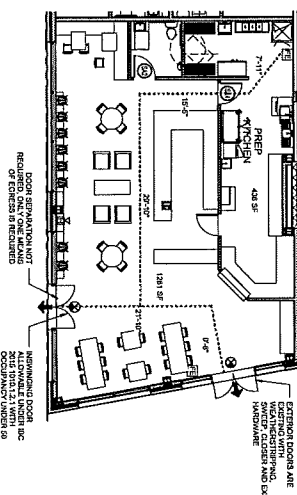


Door Schedule						
Mark	Height	Width	Thickness	Frame Type	OPERATION	Label
S&M	7'-0"	3'-0"	1 3/4"	HM		PASSAGE
S&M	7'-0"	3'-0"	1 3/4"			PASSAGE
S&M	7'-0"	3'-0"	1 3/4"	HM		PRIVACY
S&M	7'-0"	3'-0"	1 3/4"			PASSAGE
S&M	7'-0"	0"	1 3/4"			PASSAGE
S&M	7'-0"	3'-0"	1 3/4"			PASSAGE
S&M	7'-0"	3'-0"	1 3/4"			PASSAGE
S&M	7'-0"	3'-0"	1 3/4"	HM		PASSAGE

4 17FICA



7	191
---	-----

[illegible]

W1	W1A
3 5/8"	6"

SOUND - NEA

Date: 07/2/19

Scale:
As indicated

SPECKLED AX 2

Project:
**TWENTY THAMES
RETAIL**
166 Fore Street, Portland Maine
116-38 and 122 Thomas Street

Architect:

ARCHETYPE
architects

48 Union Wharf Portland, Maine 04101
(207) 772-6022 Fax (207) 772-4056

Consultant:

Prepared For:





MAINE STATE BUREAU OF IDENTIFICATION
45 Commerce Drive, Suite 1 / STATE HOUSE STATION # 42
AUGUSTA, ME 04333
(207) 624-7240 (VOICE)

JESSICA HANSCOMBE
389 CONGRESS ST
PORTLAND, ME 04101

Transaction Response #: MIQ99E406558

Criminal History Record

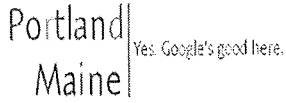
Introduction

This criminal history record was produced in response to the following request (Produced on 2020-07-14) :

Inquiries Name(s) MATTHEW BOLINDER (1972-01-02)

NO MATCH WAS FOUND FOR YOUR REQUEST.





Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Re: Speckled Ax

Dan Hondo <danh@portlandmaine.gov>

Tue, Jul 14, 2020 at 8:31 PM

To: Jessica Hanscombe <jhanscombe@portlandmaine.gov>

No issues on PD side

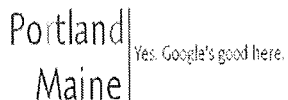
On Tue, Jul 14, 2020 at 11:44 AM Jessica Hanscombe <jhanscombe@portlandmaine.gov> wrote:

Good Morning

Please see the attached Class III & IV that will go before council on 8/3. Please advise with approvals.
JessicaJessica Blais Hanscombe
Licensing and Housing Safety Manager
City of Portland
389 Congress Street Room 307
Portland, Maine 04101
207-874-8783
jhanscombe@portlandmaine.gov

--

Lt. Dan Hondo
Portland Maine Police Dept.
Patrol Team B3/B4
(207)874-8513



Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Re: Speckled Ax

cstacey <cstacey@portlandmaine.gov>
To: Zoning <zoning@portlandmaine.gov>
Cc: jhanscombe@portlandmaine.gov

Tue, Jul 28, 2020 at 1:48 PM

Hi Jess,

Class III & IV Vinous and Malt license associated with this restaurant is a permitted use in the IS-FBC Zone under section 14-275.6 in Chapter 14, City Code of Ordinances.

I am signing off in Energov.

Thanks,
Chris

On Tuesday, July 14, 2020 at 11:44:51 AM UTC-4, Jessica Hanscombe wrote:

Good Morning

Please see the attached Class III & IV that will go before council on 8/3. Please advise with approvals.
Jessica

Jessica Blais Hanscombe
Licensing and Housing Safety Manager
City of Portland
389 Congress Street Room 307
Portland, Maine 04101
207-874-8783
jhanscombe@portlandmaine.gov



Legal Advertisement

Notice of Public Hearing City of Portland

A Public Hearing will be held on August 31, 2020 at 5:30 P.M., virtually, Matt's Coffee LLC dba Speckled Ax. Application for a Class III & IV with Outdoor Dining on Private Property at 18 Thames Street. Sponsored by Jon P. Jennings, City Manager.



CITY OF PORTLAND
Permitting and Inspections Department

August 13, 2020

Matt's Coffee LLC
567 Congress Street
Portland ME 04101

Re: Matt's Coffee LLC dba Speckled Ax. Application for a Class III & IV with Outdoor Dining on Private Property at 18 Thames Street

Dear Matthew Bolinder

This letter shall serve as a reminder of the public hearing before the Portland City Council on **Monday August 31, 2020 at 5:30 p.m.**, for the review of application for a Class III & IV with Outdoor Dining on Private Property at 18 Thames Street. The meeting will take place virtually. The link can be found on the Meeting Agenda which will be posted on the City Website on August 28.

You or a representative of the business must be present at this meeting in the event that the city council has questions regarding the license application. If there is no representation and questions arise, the item may be postponed.

Please contact our office directly with questions at (207) 874-8557 or jhanscombe@portlandmaine.gov.

Sincerely,

Jessica Hanscombe
Licensing and Housing Safety Manager

MEMORANDUM
City Council Agenda Item

FROM:

DATE: July 14, 2020

SUBJECT: Order 54-20/21 Granting Municipal Officers' Approval of JoLa Functions LLC dba Jones Landing. Application for a Combined Entertainment License at 6 Welch Street - Sponsored by Jon P. Jennings, City Manager

SPONSOR:

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

Can action be taken at a later date: No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

II. AGENDA DESCRIPTION

JoLa Functions LLC dba Jones Landing. Application for a Combined Entertainment License at 6 Welch Street.

Application was filed on 4/3/2020. Applicant currently holds a Class A Lounge license with Entertainment with Dance. Chapter 4 Sec 4-53 (2) requires a public hearing for all initial applications for a Combined Entertainment License.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Jones Landing
2. 20200813091758552

Prepared by:

Date: 7/14/2020

KATE SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
TAE Y. CHONG (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

JoLa Functions LLC dba Jones Landing. Application for a Combined Entertainment License at 6 Welch Street.



CITY OF PORTLAND
Permitting and Inspections Department
Renewal Application for an Entertainment License

Must Include:

- ☒ 8 1/2" x 11" diagram showing layout of the premises to include dimensions, locations of dancing, seating, toilet rooms and means of egress.
- ☒ Sound Mitigation Plan (**not required if renewal application for indoor only entertainment)
 - ☒ Prepared and Certified by a Professional Sound Engineer
 - ☒ Details of methods used to minimize the impact on entertainment on the surrounding uses
 - ☒ Speaker Locations and directions
 - ☒ Sound System details and controls
 - ☒ Stage and site layout and direction
 - ☒ Noise cancelling or mitigating measures proposed
 - ☒ Anticipated Sound readings
 - Indoors Entertainment-8 feet from any outer wall
 - Outdoor/Combined Entertainment-Property line and closest residence
- ☒ On-Site monitor when attendees are expected to exceed 250

Business Information			
Business Name (d/b/a):	Jones Landing, Harbor View @ Jones Landing	Phone:	766-5652
Location Address:	6 Welch St. Peaks Is	Zip:	04108
Owner Name:	Robin Clark	Phone:	766-2295
Owner Email:	r1peak@aol.com		
Contact Person responsible for Entertainment:	Robin Clark	Phone:	766-2295
Contact Person Email:	r1peak@aol.com		
Manager of Establishment:	Robin Clark	Phone:	766-2295
Manager Email:	r1peak@aol.com		

About Your Establishment

Describe in detail the type and nature of the business and proposed entertainment: Wedding ceremony & reception venue, also for private parties & music. Bomdyr DJ for the event.

Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above license and further agrees that any misstatement of material fact may result in refusal of license or revocation, if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

Signature Robin Clark Title owner Date 2-17-20

For more information, refer to the City Code of Ordinance: Chapter 4 Amusements, at www.portlandmaine.gov

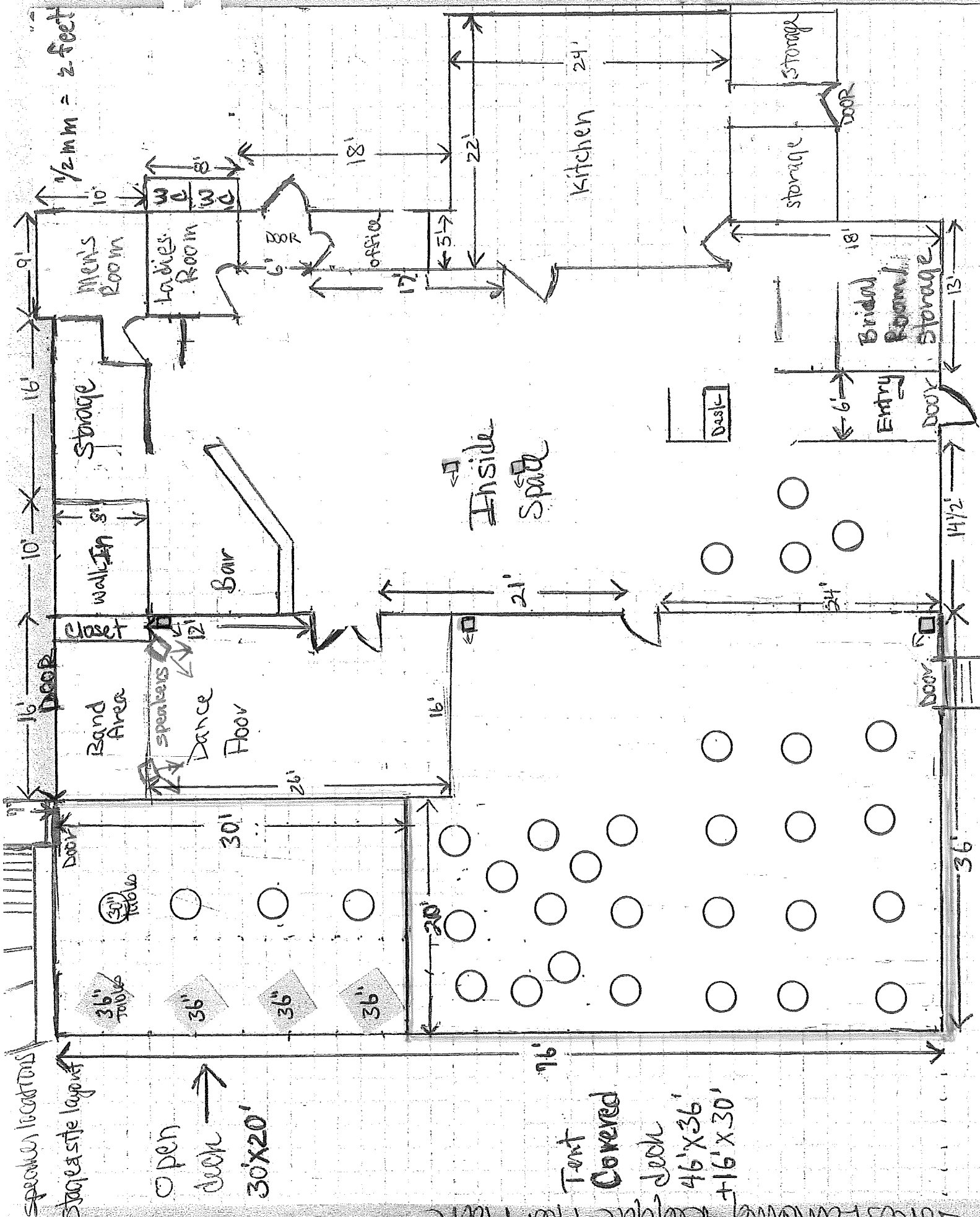
389 Congress Street, Room 307 • Portland, Maine 04101 • 207-874-8557

bl@portlandmaine.gov • www.portlandmaine.gov

JoLa Functions LLC dba Jones Landing 3.21.20

Sound Mitigation Plan by Brian Murphy

- Two sets of speakers are facing the street that abuts the beach to the south and the ocean to the west. The building and canopy block the sound traveling to the east where there are dwellings in the Peaks Island Business zone and to the north where the property owner lives. This is to minimize the impact on surrounding area.
- These two sets are placed 110 feet North of the sidewalk located on Welch Street . Two sets of three speakers, one for base, one for mid-range and one for high range of sound, that have a maximum of 95 dB. These speakers are controlled by the band at the request of the on-site manager. Three small house speakers attached to the building under the canopy. The closest one is 44', next one is 66' and 3rd one is 102' from the Welch Street sidewalk.
Two small house speakers are placed inside the building 37' from outside wall and then 44' to sidewalk. These five small speakers have a maximum of 75 dB and are controlled by the manager
- Stage & site layout and direction attached
- If the dB level is higher than the maximum for the business zone on Peaks Island, Jones Landing will have the sound turned down until it does reach the maximum allowance
- Anticipated sound readings of indoor entertainment 8' from outer wall 30 dB
Anticipated sound readings of outdoor entertainment on the deck at property line 80 dB
- Our on-site monitor will be our security team provided by Event Safe Professional on Sundays when capacity nears 250 guests, and on-staff manager Monday thru Saturday when capacity is under 200 guests.



speakers locations
stage & site layout

open
deck →
30'x20'

Tent Covered
deck
46'x36'
+16'x30'

landscaping, lighting, floor plan

green lines show plastic sides that can minimize noise if necessary

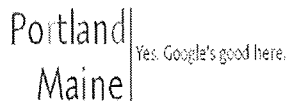
pink boxes show the typical speaker placement when band plays

Area from band to edge of deck 68'

Area from edge of deck to sidewalk 44'

DBLs 80

orange boxes show placement of "base speakers"



Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Re: Jones Landing

Glen McGary <glenm@portlandmaine.gov>

Fri, Apr 3, 2020 at 4:13 PM

To: Jessica Hanscombe <jhanscombe@portlandmaine.gov>

PPD approves

On Fri, Apr 3, 2020 at 9:44 AM Jessica Hanscombe <jhanscombe@portlandmaine.gov> wrote:

Good Morning

Please see the attached application for Jones Landing. They are applying for a combined entertainment license. This will go before council. Please advise. Thanks Jessica

Jessica Blais Hanscombe
Licensing and Housing Safety Manager
389 Congress Street Room 307
Portland, Maine 04101
207-874-8783
jhanscombe@portlandmaine.gov

--

Lieutenant Glen McGary
Portland Police Department
109 Middle Street
Portland, Maine 04101
Office (207) 756-8294
Fax (207) 874-8580

City of Portland

Sound Mitigation Review

Date: 7/1/2020

Business Harbor View at Jones Landing

Applicant Robin Clark

DESCRIPTION		yes	no
Sound system appropriate for the size venue		Yes	
Performance space located in an appropriate location		Yes	
Performance space facing in an appropriate direction to control sound		Yes	
Surrounding surfaces appropriate to control sound		Yes	
Additional sound absorbing features		Tent walls	
additional notes			
Approved		Yes	
DIRECT ALL INQUIRIES TO:			
Kevin Schneck			
(207) 756-8433			
kschneck@portlandmaine.gov			

Legal Advertisement

Notice of Public Hearing City of Portland

A Public Hearing will be held on August 31, 2020 at 5:30 P.M., virtually, JoLa Functions LLC dba Jones Landing. Application for a Combined Entertainment License at 6 Welch Street. Sponsored by Jon P. Jennings, City Manager.



CITY OF PORTLAND
Permitting and Inspections Department

August 13, 2020

JoLa Functions LLC
PO Box 69
Peaks Island ME 04108

Re: JoLa Functions LLC dba Jones Landing. Application for a Combined Entertainment License at 6 Welch Street.

Dear Robin Clark

This letter shall serve as a reminder of the public hearing before the Portland City Council on **Monday August 31, 2020 at 5:30 p.m.**, for the review of application for a Combined Entertainment License at 6 Welch Street. The meeting will take place virtually.

You or a representative of the business must be present at this meeting in the event that the city council has questions regarding the license application. If there is no representation and questions arise, the item may be postponed.

Please contact our office directly with questions at (207) 874-8557 or jhanscombe@portlandmaine.gov.

Sincerely,

Jessica Hanscombe
Licensing and Housing Safety Manager

MEMORANDUM
City Council Agenda Item

FROM:

DATE: August 13, 2020

SUBJECT: Order 55-20/21 Granting Municipal Officers' Approval of The Whiskey Barrel LLC dba The Yard. Application for a Combined Entertainment License at 82 Hanover Street - Sponsored by Jon P. Jennings, City Manager

SPONSOR:

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

Can action be taken at a later date: No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

II. AGENDA DESCRIPTION

The Whiskey Barrel LLC dba The Yard. Application for a Combined Entertainment License at 82 Hanover Street.

Application was filed on 6/16/2020. Applicant currently holds a Class XI FSE with Entertainment with Dance and Outdoor Dining on Private Property. Chapter 4 Sec 4-53 (2) requires a public hearing for all initial applications for a Combined Entertainment License.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. The Yard
2. 20200813092730280

Prepared by:

Date: 8/13/2020

KATE SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
TAE Y. CHONG (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

The Whiskey Barrel LLC dba The Yard. Application for a Combined Entertainment License at 82 Hanover Street.



CITY OF PORTLAND
Permitting and Inspections Department
Renewal Application for an Entertainment License

Must Include:

- ☐ 8 1/2" x 11" diagram showing layout of the premises to include dimensions, locations of dancing, seating, toilet rooms and means of egress.
- ☐ Sound Mitigation Plan (**not required if renewal application for indoor only entertainment)
 - o Prepared and Certified by a Professional Sound Engineer
 - o Details of methods used to minimize the impact on entertainment on the surrounding uses
 - o Speaker Locations and directions
 - o Sound System details and controls
 - o Stage and site layout and direction
 - o Noise cancelling or mitigating measures proposed
 - o Anticipated Sound readings
 - Indoors Entertainment-8 feet from any outer wall
 - Outdoor/Combined Entertainment-Property line and closest residence
 - o On-Site monitor when attendees are expected to exceed 250

Business Information	The Whiskey Barrel LLC		
Business Name (d/b/a):	The Yard	Phone:	207-735-7773
Location Address:	82 Hanover St. S.R. 7	Zip:	04101
Owner Name:	John Ferrara	Phone:	207-735-7773
Owner Email:	John.J.ferrara@icloud.com		
Contact Person responsible for Entertainment:	John Ferrara	Phone:	207-735-7773
Contact Person Email:	John.J.ferrara@icloud.com		
Manager of Establishment:	Dustin Day	Phone:	207-344-7011
Manager Email:	dustin.day1@yahoo.com		

About Your Establishment

Describe in detail the type and nature of the business and proposed entertainment:

Restaurant / Lounge with outdoor Band consisting of 10 more than a trio nothing past 10pm. Decibel meter will be used to measure sound. There will be a sound mitigation Buffer on speaker.

Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above license and further agrees that any misstatement of material fact may result in refusal of license or revocation, if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

Signature [Signature] Title owner Date 6/16/2020

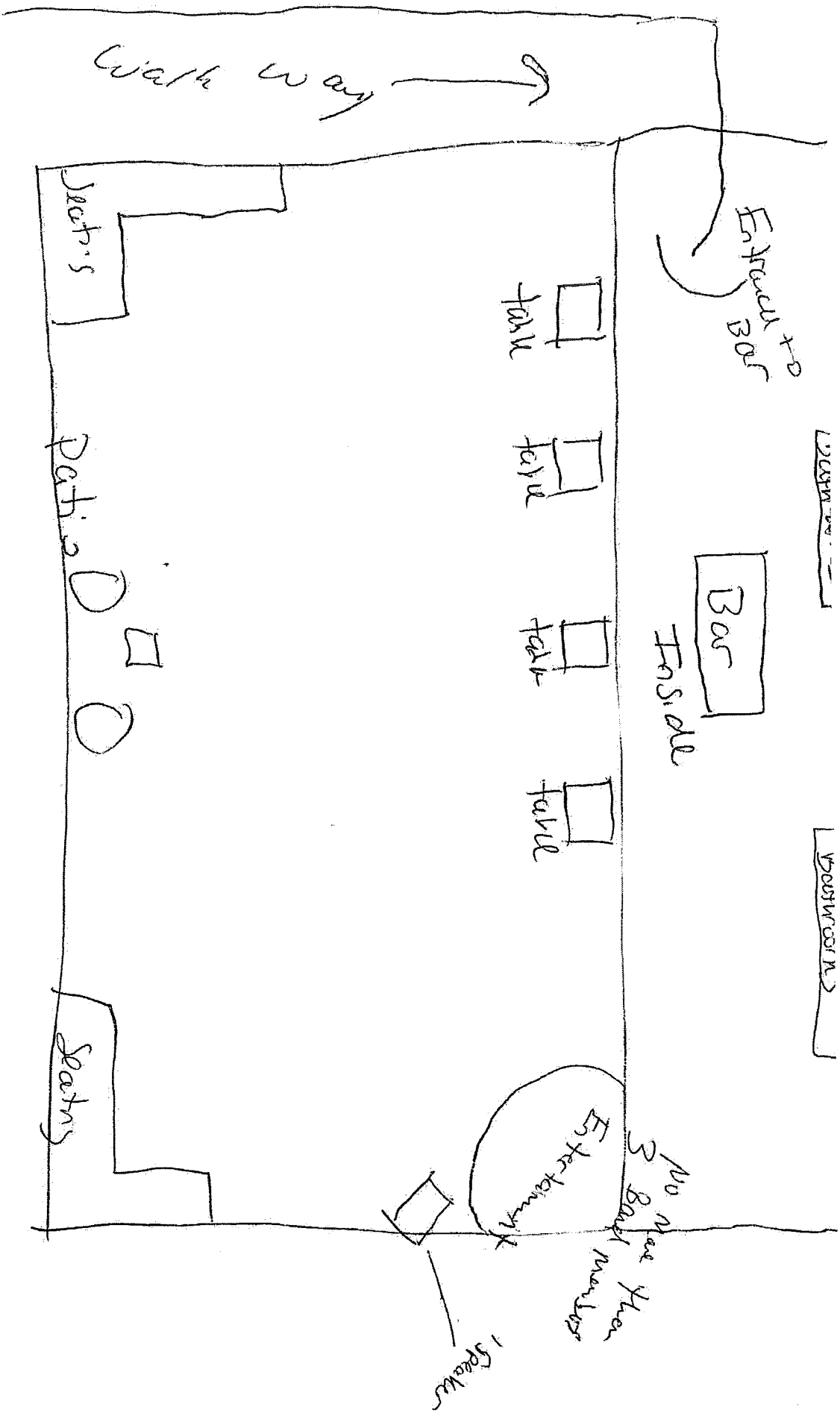
For more information, refer to the City Code of Ordinance: Chapter 4 Amusements, at www.portlandmaine.gov

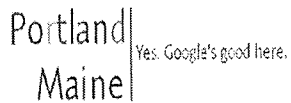
389 Congress Street, Room 307 • Portland, Maine 04101 • 207-874-8557

bl@portlandmaine.gov • www.portlandmaine.gov

Sound Mitigation plan

- The Yard does not intend to have any music outside past 10 pm on weekends and nothing past 8pm on weekdays.
- Bands will consist of no more than a trio
- We plan to measure the sound with decibel meter that will read no more than 75 decibels
- There will be only one speaker on the patio with a sound mitigation buffer to reduce noise.
- The speaker will be positioned at a 45-degree tilt for sound to travel within the patio area
- The sound system will be just a speaker that can be controlled by the artist to reduce noise
- There will be no stage or lighting as entertainment is seasonal and weather permitting
- Per covid-19, there will be no dancing or congregating of patrons





Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Re: The Yard

Glen McGary <glenm@portlandmaine.gov>
To: Jessica Hanscombe <jhanscombe@portlandmaine.gov>
Cc: Kevin Schneck <kschneck@portlandmaine.gov>

Tue, Jun 16, 2020 at 3:03 PM

Looks good for us.

PPD approved

On Tue, Jun 16, 2020 at 2:22 PM Jessica Hanscombe <jhanscombe@portlandmaine.gov> wrote:

Good AFTernoon Gentleman

Please see the attached for a Combo Entertainment license. Thanks Jess

Jessica Blais Hanscombe
Licensing and Housing Safety Manager
City of Portland
389 Congress Street Room 307
Portland, Maine 04101
207-874-8783
jhanscombe@portlandmaine.gov

--
Lieutenant Glen McGary
Portland Police Department
109 Middle Street
Portland, Maine 04101
Office (207) 756-8294
Fax (207) 874-8580

City of Portland

Sound Mitigation Review

Date: 7/15/2020

Business The Yard

Applicant John Ferrara

DESCRIPTION		yes	no
Sound system appropriate for the size venue		Yes	
Performance space located in an appropriate location		Yes	
Performance space facing in an appropriate direction to control sound		Yes	
Surrounding surfaces appropriate to control sound		Yes	
Additional sound absorbing features		potted shrubs	
additional notes			
Approved		Yes	
DIRECT ALL INQUIRIES TO:			
Kevin Schneck			
(207) 756-8433			
kschneck@portlandmaine.gov			

Legal Advertisement

Notice of Public Hearing City of Portland

A Public Hearing will be held on August 31, 2020 at 5:30 P.M., virtually, The Whiskey Barrel LLC dba The Yard. Application for a Combined Entertainment License at 82 Hanover Street. Sponsored by Jon P. Jennings, City Manager.



CITY OF PORTLAND
Permitting and Inspections Department

July 16, 2020

The Yard
82 Hanover Street
Portland ME 04101

Re: The Whiskey Barrel LLC dba The Yard. Application for a Combined Entertainment License at 82 Hanover Street.

Dear John Ferrara

This letter shall serve as a reminder of the public hearing before the Portland City Council on **Monday August 31, 2020 at 5:30 p.m.**, for the review of application for a Combined Entertainment License at 82 Hanover Street. The meeting will take place virtually. The link can be found on the Meeting Agenda which will be posted on the City Website on August 28, 2020.

You or a representative of the business must be present at this meeting in the event that the city council has questions regarding the license application. If there is no representation and questions arise, the item may be postponed.

Please contact our office directly with questions at (207) 874-8557 or jhanscombe@portlandmaine.gov.

Sincerely,

Jessica Hanscombe
Licensing and Housing Safety Manager

MEMORANDUM
City Council Agenda Item

FROM:

DATE: August 13, 2020

SUBJECT: Order 56-20/21 Granting Municipal Officers' Approval of Illmadic LLC dba Portland Zoo. Application for a Combined Entertainment License at 41 Fox Street - Sponsored by Jon P. Jennings, City Manager

SPONSOR:

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

Can action be taken at a later date: No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

II. AGENDA DESCRIPTION

Illmadic LLC dba Portland Zoo. Application for a Combined Entertainment License at 41 Fox Street.

Application was filed on 3/11/2020. Applicant currently holds a Class A Lounge license with Indoor Entertainment and Outdoor Dining on Private Property. Chapter 4 Sec 4-53 (2) requires a public hearing for all initial applications for a Combined Entertainment License.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. 20200813093059017

2. Portland Zoo

Prepared by:

Date: 8/13/2020



CITY OF PORTLAND
Permitting and Inspections Department

Application for an Entertainment License

☐ Indoor Entertainment \$500.00 ☐ Outdoor Entertainment \$700.00 ☒ Combined Entertainment \$800.00

Business Information			
Business Name (d/b/a):	Portland Zoo	Phone:	207.536.0166
Location Address:	41 Fox St.	Zip:	04101
Owner Name:	Mark Miller & Chris Blake	Phone:	785.845.2263
Owner Email:	admin@theportlandzoo.com		
Contact Person responsible for Entertainment:	Mark Miller	Phone:	785.845.2263
Contact Person Email:	mark.miller@portlandzoo.com admin@theportlandzoo.com		
Manager of Establishment:	JOSH MANER	Phone:	865-256-9489
Manager Email:	jmaner07@gmail.com		

About Your Establishment

Describe in detail the type and nature of the business and proposed entertainment:

Class A large Bar. w/ beer garden patio space building community within Portland. ~~entertainment~~ Entertainment is mostly used for DJs.

Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above license and further agrees that any misstatement of material fact may result in refusal of license or revocation, if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

Signature

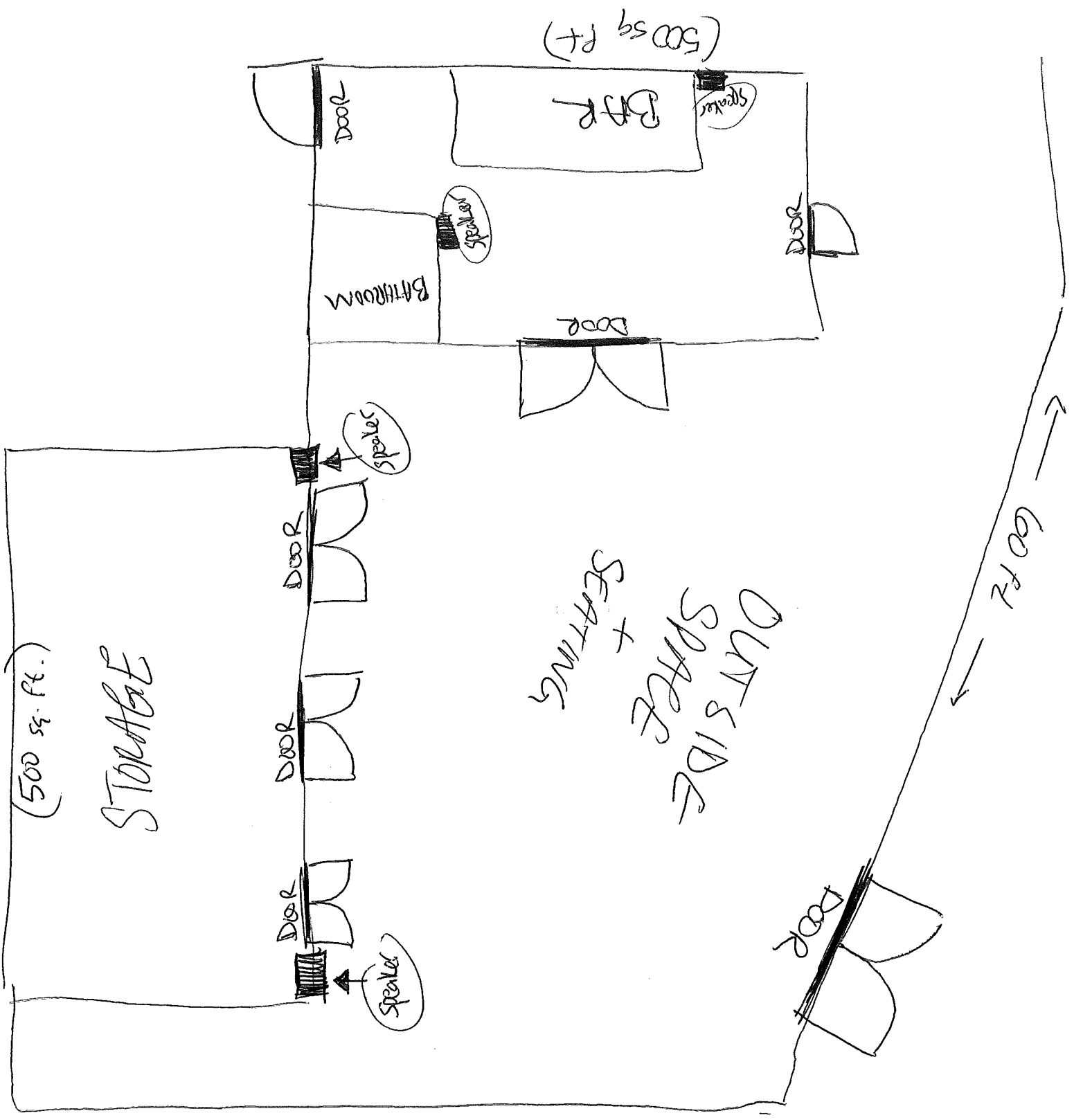
Title

CO-owner

Date

3-9-2020

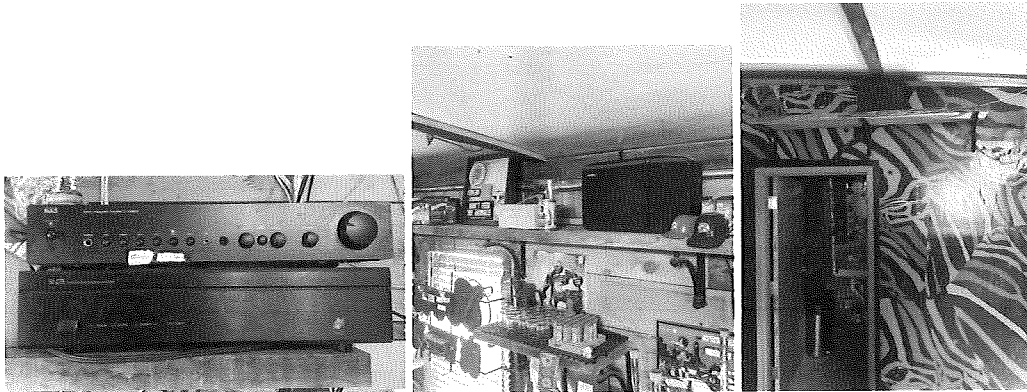
For more information, refer to the City Code of Ordinance: Chapter 4 Amusements, at www.portlandmaine.gov



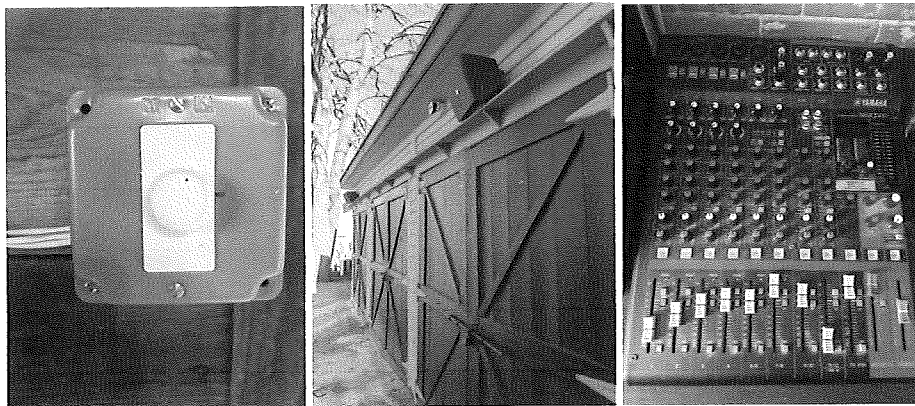
Portland Zoo

Sound Mitigation Plan by Cecil Gardner - Fermented Entertainment, LLC.

The Portland Zoo has a total of 4 speakers. 2 are inside the bar, and 2 are mounted outside the bar. The stereo receiver can only allow 2 speakers wired inside. (Pictures below.)



The outside speakers are pointed towards Anderson Street, which faces away from all residential housing. The Zoo has also invested in an extra receiver, which allows the outside speaker volume to be controlled separately from inside speakers. (Picture below showcasing volume knob & outside speaker location.)



The Zoo has also invested in a sound decibel reader, which staff takes readings during events to ensure operation within the legal sound limit. During events, the sound readings, at the loudest, have been captured at 75 dBs. Typically operating within 60 - 70 dBs. The Zoo also schedules events to end by 10PM at the latest to be respectful to their surrounding neighbors.



City of Portland

Sound Mitigation Review

Date: 7/15/2020

Business Portland Zoo

Applicant Josh Maner

DESCRIPTION		yes	no
Sound system appropriate for the size venue		Yes	
Performance space located in an appropriate location		Yes	
Performance space facing in an appropriate direction to control sound		Yes	
Surrounding surfaces appropriate to control sound		Yes	
Additional sound absorbing features	Wooden stockade fence		
additional notes			
Approved		Yes	
DIRECT ALL INQUIRIES TO:			
Kevin Schneck			
(207) 756-8433			
kschneck@portlandmaine.gov			



CITY OF PORTLAND
Permitting and Inspections Department

July 16, 2020

Portland Zoo
41 Fox Street
Portland ME 04101

Re: Illmadic LLC dba Portland Zoo. Application for a Combined Entertainment License at 41 Fox Street.

Dear Mark Miller

This letter shall serve as a reminder of the public hearing before the Portland City Council on **Monday August 31, 2020 at 5:30 p.m.**, for the review of application for a Combined Entertainment License at 41 Fox Street. The meeting will take place virtually. The link can be found on the Meeting Agenda which will be posted on the City Website on August 28, 2020.

You or a representative of the business must be present at this meeting in the event that the city council has questions regarding the license application. If there is no representation and questions arise, the item may be postponed.

Please contact our office directly with questions at (207) 874-8557 or jhanscombe@portlandmaine.gov.

Sincerely,

Jessica Hanscombe
Licensing and Housing Safety Manager

Legal Advertisement

Notice of Public Hearing City of Portland

A Public Hearing will be held on August 31, 2020 at 5:30 P.M., virtually, Illmadic LLC dba Portland Zoo. Application for a Combined Entertainment License at 41 Fox Street. Sponsored by Jon P. Jennings, City Manager.

KATE SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
TAE Y. CHONG (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

**Illmadic LLC dba Portland Zoo. Application for a Combined Entertainment License at 41
Fox Street.**

MEMORANDUM
City Council Agenda Item

FROM:

DATE: August 13, 2020

SUBJECT: Order 57-20/21 Granting Municipal Officers Approval of Tangible Alchemy dba Urban Farm Fermentory. Application for a Combined Entertainment License at 200 Anderson Street - Sponsored by Jon P. Jennings, City Manager

SPONSOR:

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

Can action be taken at a later date: No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

II. AGENDA DESCRIPTION

Tangible Alchemy dba Urban Farm Fermentory. Application for a Combined Entertainment License at 200 Anderson Street.

Application was filed on 7/10/2020. Applicant currently holds a Brewery/Winery/Distillery on Premise Consumption with Entertainment with Dance and Outdoor Dining on Private Property. Chapter 4 Sec 4-53 (2) requires a public hearing for all initial applications for a Combined Entertainment License.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Urban Farm
2. 20200813093533758

Prepared by:

Date: 8/13/2020

KATE SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
TAE Y. CHONG (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

**Tangible Alchemy dba Urban Farm Fermentory. Application for a Combined
Entertainment License at 200 Anderson Street.**



Jack Murray Engineer/Producer/System Designer

Odds Are Productions LLC
Ocean Sound & Lighting
Portland, ME

Urban Farm Fermentory

200 Anderson Street
Portland, ME 04101

July 6, 2020

Dear Eli,

Thanks so much for taking the time to reach out about a sound mitigation plan. It appears as though you've come up with a solid plan to combat any potential complaints.

Highlights from our talks include:

- An official handbook of rules for any staff to reference during a shift containing outdoor music.
- Position speakers away from residential dwellings keeping volume levels reasonable. Hiring a professional for bigger events.
- Documenting consistent sound decibel readings from pre-determined locations every hour during the operation of outdoor music. These readings will be 60-second dBA weighted average. (Taking a reading before the music begins will help determine a baseline to compare during performances)
- A signed agreement on file for every group/artist affirming they know the rules contained within the official handbook.
- If a Portland police office arrives on location to do a decibel reading, you will cooperate in all respects and be ready to provide this policy/procedure document, the band's signed agreements, and decibel reading log without hesitation.

I believe the plan you've laid out to me and will subsequently provide to the city will satisfy their criteria to show you are taking a proactive approach and not a reactive approach after complaints may arise.

Take care,

Jack



CITY OF PORTLAND
Permitting and Inspections Department
Renewal Application for an Entertainment License

Must Include:

- ☐ 8 1/2" x 11" diagram showing layout of the premises to include dimensions, locations of dancing, seating, toilet rooms and means of egress.
- ☐ Sound Mitigation Plan (**not required if renewal application for indoor only entertainment)
 - o Prepared and Certified by a Professional Sound Engineer
 - o Details of methods used to minimize the impact on entertainment on the surrounding uses
 - o Speaker Locations and directions
 - o Sound System details and controls
 - o Stage and site layout and direction
 - o Noise cancelling or mitigating measures proposed
 - o Anticipated Sound readings
 - Indoors Entertainment-8 feet from any outer wall
 - Outdoor/Combined Entertainment-Property line and closest residence
 - o On-Site monitor when attendees are expected to exceed 250

Business Information			
Business Name (d/b/a):	urban farm fermentory	Phone:	2076537406
Location Address:	200 anderson st portland maine		Zip: 04101
Owner Name:	eli cayer	Phone:	same
Owner Email:	eli@fermentory.com		
Contact Person responsible for Entertainment:	eli cayer	Phone:	same
Contact Person Email:	same		
Manager of Establishment:	same	Phone:	same
Manager Email:	same		

About Your Establishment

Describe in detail the type and nature of the business and proposed entertainment:

we are a brewery winery. we have expanded out outdoor seating aroundout parking lot.
the front willbe for table service and the side lot

Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above license and further agrees that any misstatement of material fact may result in refusal of license or revocation, if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

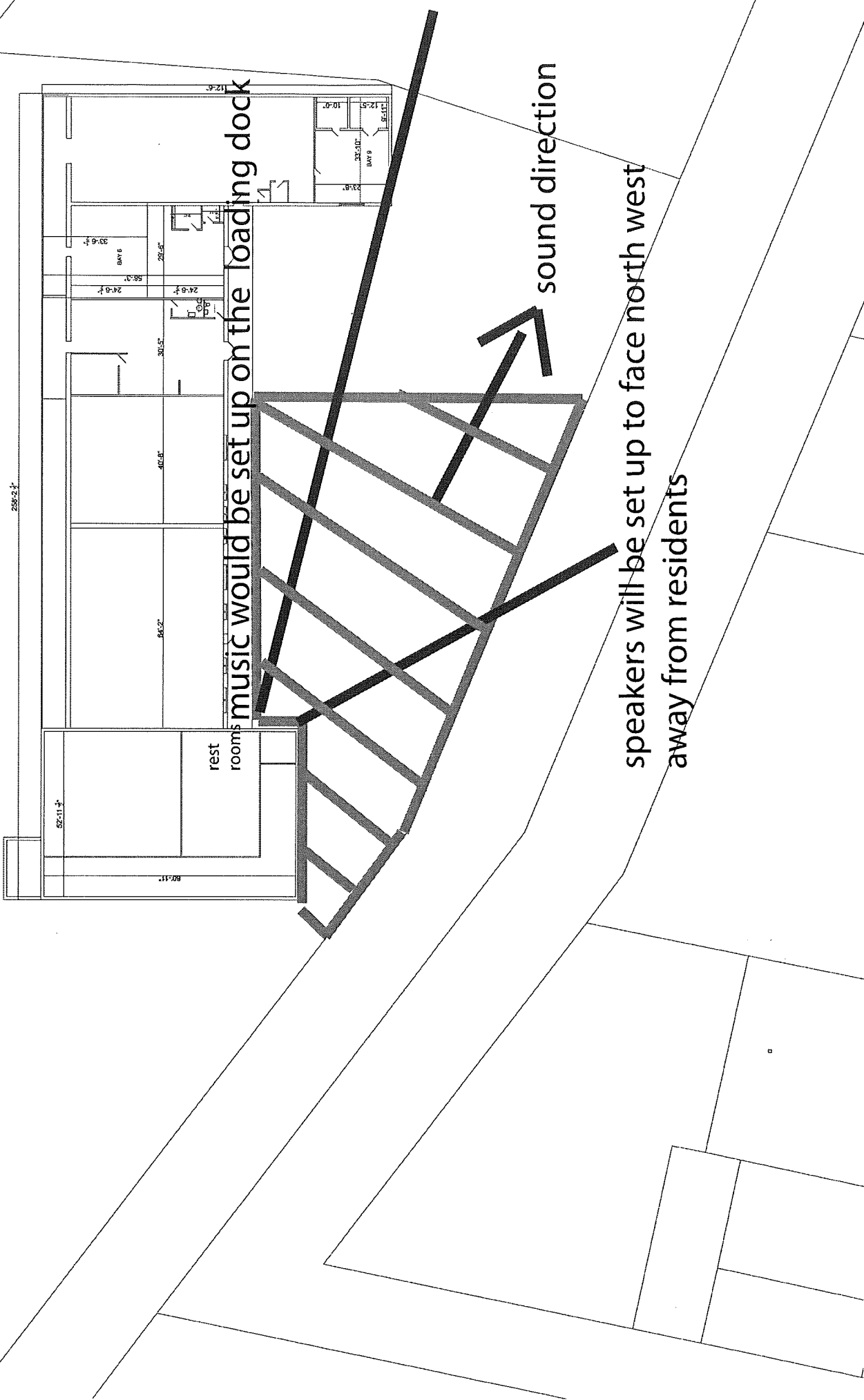
Signature eli Title owner Date 6/26/20

For more information, refer to the City Code of Ordinance: Chapter 4 Amusements, at www.portlandmaine.gov

389 Congress Street, Room 307 • Portland, Maine 04101 • 207-874-8557

bl@portlandmaine.gov • www.portlandmaine.gov

200 Anderson st.



City of Portland

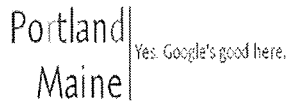
Sound Mitigation Review

Date: 7/22/2020

Business Urban Farm Fermentory

Applicant Eli Cayer

DESCRIPTION		yes	no
Sound system appropriate for the size venue		Yes	
Performance space located in an appropriate location		Yes	
Performance space facing in an appropriate direction to control sound		Yes	
Surrounding surfaces appropriate to control sound		Yes	
Additional sound absorbing features		no	
additional notes			
Approved		Yes	
DIRECT ALL INQUIRIES TO:			
Kevin Schneck			
(207) 756-8433			
kschneck@portlandmaine.gov			



Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Re: Urban Farm

Glen McGary <glenm@portlandmaine.gov>

Fri, Jul 10, 2020 at 1:06 PM

To: Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Cc: Kevin Schneck <kschneck@portlandmaine.gov>

Looks good.

On Fri, Jul 10, 2020 at 12:21 PM Jessica Hanscombe <jhanscombe@portlandmaine.gov> wrote:

Hi guys

Please see the attached for a combined entertainment license. Please advise. Thanks Jess

Jessica Blais Hanscombe
Licensing and Housing Safety Manager
City of Portland
389 Congress Street Room 307
Portland, Maine 04101
207-874-8783
jhanscombe@portlandmaine.gov

--

Lieutenant Glen McGary
Portland Police Department
109 Middle Street
Portland, Maine 04101
Office (207) 756-8294
Fax (207) 874-8580





CITY OF PORTLAND
Permitting and Inspections Department

July 24, 2020

Tangible Alchemy
200 Anderson Street
Portland ME 04101

Re: Tangible Alchemy dba Urban Farm Fermentory. Application for a Combined Entertainment License at 200 Anderson Street.

Dear Eli Cayer

This letter shall serve as a reminder of the public hearing before the Portland City Council on **Monday August 31, 2020 at 5:30 p.m.**, for the review of application for a Combined Entertainment License at 200 Anderson Street. The meeting will take place virtually. The link can be found on the Meeting Agenda which will be posted on the City Website on August 28, 2020.

You or a representative of the business must be present at this meeting in the event that the city council has questions regarding the license application. If there is no representation and questions arise, the item may be postponed.

Please contact our office directly with questions at (207) 874-8557 or jhanscombe@portlandmaine.gov.

Sincerely,

Jessica Hanscombe
Licensing and Housing Safety Manager

Legal Advertisement

Notice of Public Hearing City of Portland

A Public Hearing will be held on August 31, 2020 at 5:30 P.M., virtually, Tangible Alchemy dba Urban Farm Fermentory. Application for a Combined Entertainment License at 200 Anderson Street. Sponsored by Jon P. Jennings, City Manager.

MEMORANDUM
City Council Agenda Item

FROM:

DATE: August 13, 2020

SUBJECT: Order 58-20/21 Granting Municipal Officers' Approval of Forefront Brick South LLC dba Forefront Brick South Catering Co. Application for a Combined Entertainment License 8 Thompson's Point Road - Sponsored by Jon P. Jennings, City Manager

SPONSOR:

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

Can action be taken at a later date: No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

II. AGENDA DESCRIPTION

Forefront Brick South LLC dba Forefront Brick South Catering Co. Application for a Combined Entertainment License 8 Thompson's Point Road.

Application was filed on 7/27/2020. Applicant currently holds a Qualified Caterer license with Entertainment with Dance and Outdoor Dining on Private Property. Chapter 4 Sec 4-53 (2) requires a public hearing for all initial applications for a Combined Entertainment License.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. 20200813094130817
2. Forefront Brick South

Prepared by:

Date: 8/13/2020



CITY OF PORTLAND
Permitting and Inspections Department
Renewal Application for an Entertainment License

Must Include:

8 1/2" x 11" diagram showing layout of the premises to include dimensions, locations of dancing, seating, toilet rooms and means of egress.

Sound Mitigation Plan (**not required if renewal application for indoor only entertainment)

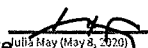
- Prepared and Certified by a Professional Sound Engineer
- Details of methods used to minimize the impact on entertainment on the surrounding uses
- Speaker Locations and directions
- Sound System details and controls
- Stage and site layout and direction
- Noise cancelling or mitigating measures proposed
- Anticipated Sound readings
 - Indoors Entertainment-8 feet from any outer wall
 - Outdoor/Combined Entertainment-Property line and closest residence
- On-Site monitor when attendees are expected to exceed 250

Business Information			
Business Name (d/b/a):	Forefront Brick South Catering Co.	Phone:	747-5288
Location Address:	501 Danforth Street Zip: 04038		
Owner Name:	Chris Thompson	Phone:	747-5288
Owner Email:	parallaxpartners@gmail.com		
Contact Person responsible for Entertainment:	Julia May	Phone:	747-5288
Contact Person Email:	julia@thompsonspointmaine.com		
Manager of Establishment:	Julia May	Phone:	747-5288
Manager Email:	julia@thompsonspointmaine.com		

About Your Establishment

Describe in detail the type and nature of the business and proposed entertainment: Multi-purpose event center capable of hosting 2,500 people for all types of private and public events ranging from weddings to conferences to trade shows and beyond. Entertainment ranging from live music, plug and play radio music, dancers, and DJ's

Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above license and further agrees that any misstatement of material fact may result in refusal of license or revocation, if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

Signature  Title Director of Operations Date May 8, 2020
For more information, refer to the City Code of Ordinance: Chapter 4 Amusements, at www.portlandmaine.gov

Entertainment Application (003) 2020

Final Audit Report

2020-05-08

Created:	2020-05-08
By:	Bo Kennedy (bo@placemakerpartners.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAky38f-UIVxYE80CjdVhDQuZV_7fNQybJ

"Entertainment Application (003) 2020" History

-  Document created by Bo Kennedy (bo@placemakerpartners.com)
2020-05-08 - 8:04:14 PM GMT - IP address: 67.244.35.139
-  Document emailed to Julia May (julia@thompsonspointmaine.com) for signature
2020-05-08 - 8:05:11 PM GMT
-  Email viewed by Julia May (julia@thompsonspointmaine.com)
2020-05-08 - 9:00:51 PM GMT - IP address: 108.183.163.240
-  Document e-signed by Julia May (julia@thompsonspointmaine.com)
Signature Date: 2020-05-08 - 9:05:58 PM GMT - Time Source: server- IP address: 108.183.163.240
-  Signed document emailed to Julia May (julia@thompsonspointmaine.com) and Bo Kennedy (bo@placemakerpartners.com)
2020-05-08 - 9:05:58 PM GMT

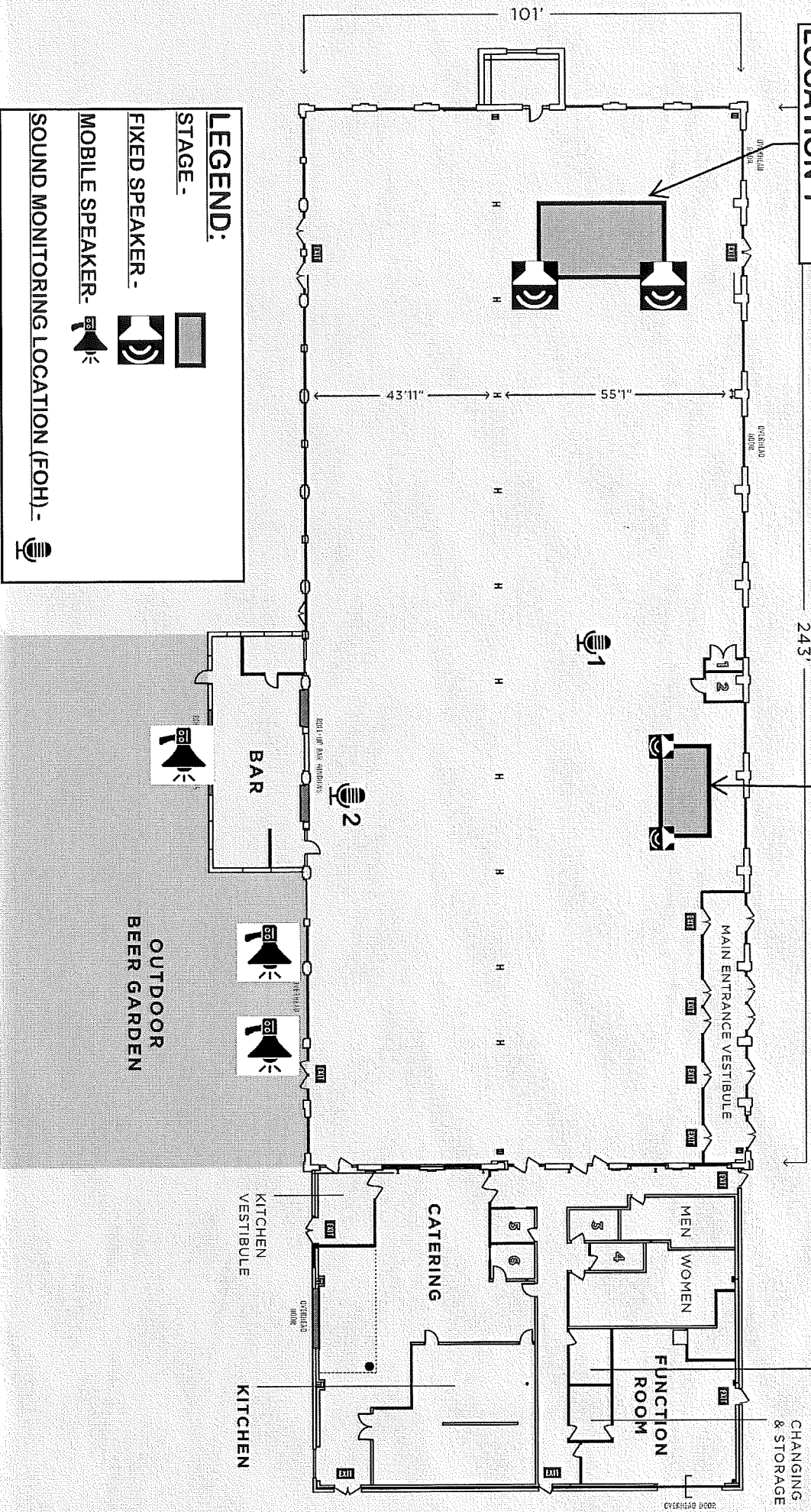


Adobe Sign



TYPICAL STAGE
LOCATION 1

TYPICAL STAGE
LOCATION 2





SOUND MITIGATION PLAN

PREPARED FOR:
FOREFRONT BRICK SOUTH, LLC,
FOREFRONT EVENTS, LLC, AND HALO AT THE POINT

VENUES ANALYZED:
BRICK SOUTH, DEPOT PAVILION,
AND HALO AT THE POINT (BRICK NORTH)

LOCATED AT:
FOREFRONT AT THOMPSON'S POINT
PORTLAND, MAINE

PREPARED BY:
HALO STUDIOS
WINDHAM, ME

14 MAY 2020

14 May 2020

From: Darren Elder, Halo Studios

To: Jessica Hanscombe, Licensing, City of Portland

Dear Ms. Hanscombe,

On behalf of our clients at Thompson's Point, Halo Studios is pleased to provide this Sound Mitigation Plan in support of entertainment licensing for Forefront Brick South, LLC ("Brick South"), Forefront Events, LLC ("Depot Pavilion"), and Halo at the Point, which is a tenant in the Brick North mixed-use commercial building ("Halo").

For ease of review, we have provided our findings and recommendations in order of the required items as outlined in the Code of Ordinances, Chapter 4, Sec. 4-52, Rev. 7-15-2019 4-10, 2 (a-d) inclusive.

Because Thompson's Point accommodates a variety of events around its campus, often in conjunction with qualified catering service from Brick South, we have assembled all three primary areas on site where entertainment generally occurs under this mitigation plan, namely Brick South, the Depot Pavilion, and Halo; we have not, however, addressed the large outdoor concerts that are held at the Depot Pavilion in partnership with the State Theatre in this Sound Mitigation Plan.

We trust that the information and guidance we have provided will meet the City's needs, and stand ready to answer any questions you may have as you conduct your review.

(a.)

This plan meets the requirement that it be prepared by a professional sound engineer with appropriate experience and training. Halo Studios brings decades of experience and a track record that is second to none in terms of sophisticated sound engineering, acoustic design, and consulting on complex sound and audio-visual environments. Our proprietary design and modeling permits us to "tame" indoor and outdoor spaces of any size and configuration, and we have been on board at Thompson's Point for several years accomplishing these outcomes for the businesses that are the subject of the current license application.

The team at Halo Studios is routinely called upon by clients ranging from world-renowned recording artists and mastering studios to private businesses and municipalities to solve their acoustical needs and sound engineering challenges.

Over the last sixteen years, we have become beta-testers for multiple cutting edge audio software and treatment companies, which allows us to take every measure to maximize the acoustic experience within each designated space while minimizing unwanted frequencies and decibel levels.

Professional references are available upon request, and more information about the specialists at Halo Studios can be found here:

<http://thehalostudio.com/about-us/who-we-are/>

(b.)

Our Sound Mitigation Plan begins by identifying the surrounding uses to which we aim to minimize, and indeed to eliminate, impact, both in terms of overall dba levels and tonal and impulse sounds.

The nearest residential uses to the project are located in the R-5 and R-6 zones and are approximately 1,640 feet north and west of the portion of Thompson's Point were Brick South and Halo are located and in excess of 2,000 ft from the Depot Pavilion.

Other surrounding land uses include the Portland Jetport across the Fore River to the Southwest, Interstate 295 which parallels the site to the east, and the Portland Transportation Center (bus and train stations) to the north.

These surrounding land uses are all significant transportation noise sources and the aircraft noise from the Portland Jetport is analyzed at periodic intervals in accordance with Federal Aviation Regulation Part 150. As a practical matter, with respect to nearby residents, the sound output from these neighbors (jet engines, train engines and whistles, etc.), and from the I-295 corridor, far exceeds the dba, tonal, and impulse impacts from any entertainment activity that Thompson's Point could generate.

Our Sound Mitigation Plan combines three simple elements which, when operated in conjunction, permit us to deliver superior sound mitigation that results in negligible impacts on neighboring uses.

These are:

1. Underlying sound measurement matrix and mathematical assumptions;
2. Distribution of professional audio equipment;

3. Regular monitoring during events

Items 1 and 2 are discussed in more detail in response to section (c.) below, and item 3 is treated in response to section (d.) below.

(c.)

Both indoor and outdoor events utilize a distributed professional sound amplification system that will consist of two sound production assemblies which may be integrated; one type of assembly is mobile, and one type (in the case of the Halo space in Brick North, and the house PA system in Brick South), is fixed. Each is designed to be compatible with the other and operated to achieve the best sound quality with the least amount of negative impact on surrounding uses.

Halo Studios staff specified, procured, designed the installation of, and continues to provide technical oversight of this equipment, and has trained Thompson's Point staff on its basic operation as well.

Because of the design of their audio systems, and given the substance and heft of the materials used in the construction of both Halo and Brick South, when the doors of the venues are closed, there is, for all intents and purposes, no appreciable sound within 8' of the building as measured by SPL meter (as well as by general observation).

One or both arrangements of the distributed amplification system can be used depending on whether entertainment presented indoors, outdoors, or is an indoor/outdoor event.

The following data is intended to present generally anticipated sound pressure levels at various points on and adjacent to the Thompson's Point property resulting from amplified entertainment. Though the intent of the ordinance is to include all modes of entertainment, including but not limited to acoustic performance as well as pre-recorded music played via speakers, whether indoor or outdoor, as a practical (and perhaps obvious) matter these modes are far less impactful than concert-level amplified music, so, to be as conservative as possible, we have utilized outdoor concert industry metrics to establish our underlying matrix and mathematical models.

For the purposes of modeling impacts, the base line for these calculations is concerts with 85dB (A-weighted) measured SPL at the FOH mix position (usually 75' from the stage).

The mathematical model used is the Inverse Square Law:

$$20 \cdot \log(D2/D1) = X$$

where "D1" represents distance from center stage to FOH Mix, "D2" represents distance from center stage to perimeter location and "X" represents the reduction in dBspl from "D1" to "D2".

Using inverse square law calculations we would expect the following resulting SPL outcomes in each given location/distance from an amplified entertainment source measuring 85dBA at the FOH mix position (which is assumed to be located approximately at or near an axis line running along the northerly edge of the concrete floor of the Depot Pavilion):

Location (dist.)	Resulting SPL
Railroad Tracks (750')	65.0dBA
Portland Transportation Center (1050')	62.1dBA
50 Sewall Street offices (1600')	58.4dBA
Sewall Street (1350')	59.9dBA
Fore River Parkway Entrance (1350')	59.9dBA
Northerly end of parking lot at northwestern end of Thompson's Point (1350')	59.9dBA
Nearest Residential Property at Powsland Street (1640')	58.3dBA

It is important to note that the use of a quality sound system, such as the equipment deployed by our team; the presence of various buildings on-site (and off-site, such as the Portland Transportation Center terminal and Concord Coach Lines bus depot) and the buffering effect of the landscaping around Thompson's Point and at its northwesterly edge, will all combine to result in significantly lower "real-world" measurements at each location than those "pure" figures shown above.

Further, it is important to note that these landscape and architectural features will also buffer against tonal and impulse sounds to the benefit of the residential properties to the north and northwest.

As a practical matter, sound levels at the FOH mix position could be higher than 85dBA and still result in sound levels at the nearest residential property that do not exceed 60dBA. As discussed earlier, the surrounding conditions, such as the Portland Jetport, I-295, and the Portland Transportation Center, already create ambient sound exceeds these levels. But with respect to entertainment held on the Thompson's Point campus, the intent of our analysis has been to demonstrate that, even with an output of 85 dBA at the source, it is mathematically impossible for any sound impact produced on campus to be in excess of 60 dBA at the nearest residential property, and the impact will most certainly be well below

this level when “real world” factors such as buildings, topography, and landscaping are introduced into the equation.

Obviously, any indoor entertainment at Brick South or Halo would never generate a sound output even remotely approximating the level of a large outdoor concert (it would be so excruciating to patrons to be in a venue with such sound levels that this almost doesn't bear mentioning); any outdoor entertainment, including entertainment at the Depot Pavilion, entertainment inside the Brick South or Halo spaces with their garage doors open, or entertainment in the outdoor plaza adjacent to the Halo space, would have to exceed concert-level output to negatively impact neighboring uses, which is a practical impossibility.

The Halo space in Brick North has been outfitted with customized sound treatments consisting of sound absorbing panel arrays distributed throughout the space; a large diffuser wall custom installed by Halo Studios; and intelligent lighting arrays whose material and form is designed to supplement the acoustic treatments.

For most any type of indoor entertainment (Brick South and Halo), we anticipate that 8' from any outer wall of either venue we will be no more than 65 dba.

The mobile sound units used at the Depot Pavilion, Brick South, and Halo consist of:

JBL Speakers

Grace Design Reference Monitoring

Customized Avid Console with Mac Hardware and Operating System and ProTools PlugIns and Avid Audio Interface

Exhibit A shows the Brick South venue with speaker location and direction for a typical entertainment event, together with typical stage location, together with locations for sound monitoring for events of 250 patrons or greater;

Exhibit B shows the Halo venue with speaker location and direction for a typical entertainment event, together with typical stage location, together with locations for sound monitoring for events of 250 patrons or greater;

Exhibit C shows the Depot Pavilion building with speaker location and direction for a typical entertainment event, together with locations for sound monitoring for events of 250 patrons or greater

(d.)

Halo Studios personnel have routinely been deployed to perform sound monitoring with SPL meters on the Thompson's Point campus and at selected locations nearby during entertainment events since 2017.

By arrangement with Thompson's Point's venues, and under the direction of Thompson's Point staff, we will continue to ensure that one or more of our team members continues to be present to perform sound monitoring for events with entertainment that falls under the rubric of the definitions in the ordinance when those events are anticipated to exceed 250 patrons. More specific detail on the anticipated standard locations for our sound measurements during events is outlined in (c.) above.

Further, Thompson's Point's Director of Operations, Julia May, is equipped with and trained to use an SPL meter, and is available at any time prior to, during, or after events to respond to outreach from City officials.

Her contact information is as follows:

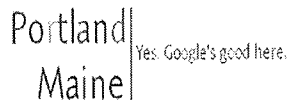
Julia May
Director of Operations
Thompson's Point
julia@thompsonspointmaine.com
(207) 710-1302

We trust that the foregoing will be sufficient to meet the requirements of the ordinance, and stand ready to answer any questions you may have.

Thank you,

Darren Elder
The Halo Studios

Exhibit A: Brick South layout (typ.)



Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Re: Forefront

Glen McGary <glenm@portlandmaine.gov>
To: Jessica Hanscombe <jhanscombe@portlandmaine.gov>
Cc: Kevin Schneck <kschneck@portlandmaine.gov>

Tue, May 19, 2020 at 6:07 PM

Approved PD

On Tue, May 19, 2020 at 11:16 AM Jessica Hanscombe <jhanscombe@portlandmaine.gov> wrote:

Good Morning

Please see the attached application for a Combined Entertainment license. Please advise. Jessica

Jessica Blais Hanscombe
Licensing and Housing Safety Manager
City of Portland
389 Congress Street Room 307
Portland, Maine 04101
207-874-8783
jhanscombe@portlandmaine.gov

--

Lieutenant Glen McGary
Portland Police Department
109 Middle Street
Portland, Maine 04101
Office (207) 756-8294
Fax (207) 874-8580

City of Portland

Sound Mitigation Review

Date: 6/24/2020

Business Forefront Brick South

Applicant Julia May

DESCRIPTION		yes	no
Sound system appropriate for the size venue			Yes
Performance space located in an appropriate location			Yes
Performance space facing in an appropriate direction to control sound			Yes
Surrounding surfaces appropriate to control sound			Yes
Additional sound absorbing features	outdoor beer garden has a wooden fence		
additional notes			
Approved			Yes
DIRECT ALL INQUIRIES TO:			
Kevin Schneck			
(207) 756-8433			
kschneck@portlandmaine.gov			



CITY OF PORTLAND
Permitting and Inspections Department

August 13, 2020

Forefront LLC
501 Danforth Street
Portland ME 04102

Re: Forefront Brick South LLC dba Forefront Brick South Catering Co. Application for a Combined Entertainment License 8 Thompson's Point Road.

Dear Julia May

This letter shall serve as a reminder of the public hearing before the Portland City Council on **Monday August 31, 2020 at 5:30 p.m.**, for the review of application for a Combined Entertainment License at 8 Thompson's Point Rd. The meeting will take place virtually. The link can be found on the Meeting Agenda which will be posted on the City Website on August 28, 2020.

You or a representative of the business must be present at this meeting in the event that the city council has questions regarding the license application. If there is no representation and questions arise, the item may be postponed.

Please contact our office directly with questions at (207) 874-8557 or jhanscombe@portlandmaine.gov.

Sincerely,

Jessica Hanscombe
Licensing and Housing Safety Manager

Legal Advertisement

Notice of Public Hearing City of Portland

A Public Hearing will be held on August 31, 2020 at 5:30 P.M., virtually, Forefront Brick South LLC dba Forefront Brick South Catering Co. Application for a Combined Entertainment License 8 Thompson's Point Road. Sponsored by Jon P. Jennings, City Manager.

KATE SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
TAE Y. CHONG (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

**Forefront Brick South LLC dba Forefront Brick South Catering Co. Application for a
Combined Entertainment License 8 Thompson's Point Road.**

MEMORANDUM
City Council Agenda Item

FROM:

DATE: August 13, 2020

SUBJECT: **Order 59-20/21 Granting Municipal Officers' Approval of Forefront Brick South LLC dba Forefront Events. Application for an Outdoor Entertainment License 10 Thompson's Point Road - Sponsored by Jon P. Jennings, City Manager**

SPONSOR:

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

Can action be taken at a later date: No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

II. AGENDA DESCRIPTION

Forefront Brick South LLC dba Forefront Events. Application for an Outdoor Entertainment License 10 Thompson's Point Road.

Application was filed on 7/27/2020. Chapter 4 Sec 4-53 (2) requires a public hearing for all initial applications for an Outdoor Entertainment License.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Halo
2. 20200813094412842

Prepared by:

Date: 8/13/2020

KATE SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
TAE Y. CHONG (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

**Forefront Brick South LLC dba Halo at the Point. Application for a Combined
Entertainment License 4 Thompson's Point Road.**



CITY OF PORTLAND
Permitting and Inspections Department

Application for an Entertainment License

☐ Indoor Entertainment \$500.00	☒ Outdoor Entertainment \$700.00	☐ Combined Entertainment \$800.00
--	--	--

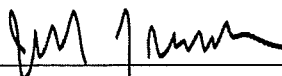
Business Information			
Business Name (d/b/a):	FOREFRONT EVENTS	Phone:	207-747-5288
Location Address:	10 THOMPSONS PT RD		Zip: 04102
Owner Name:	Jed Troubh, Chris Thompson	Phone:	207-747-5288
Owner Email:	jtroubh@gmail.com, parallaxpartners@gmail.com		
Contact Person responsible for Entertainment:	Julia May	Phone:	207-710-1302
Contact Person Email:	julia@thompsonspointmaine.com		
Manager of Establishment:	Julia May	Phone:	207-710-1302
Manager Email:	julia@thompsonspointmaine.com		

About Your Establishment

Describe in detail the type and nature of the business and proposed entertainment:

The Depot venue is utilized for a range of events including food truck events, concerts, fitness classes and private gatherings. This space is outdoors only and entertainment ranges from live bands to DJs.

Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above license and further agrees that any misstatement of material fact may result in refusal of license or revocation, if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

Signature  Title Managing Member Date 7/21/2020

For more information, refer to the City Code of Ordinance: Chapter 4 Amusements, at www.portlandmaine.gov



SOUND MITIGATION PLAN

PREPARED FOR:
FOREFRONT BRICK SOUTH, LLC,
FOREFRONT EVENTS, LLC, AND HALO AT THE POINT

VENUES ANALYZED:
BRICK SOUTH, DEPOT PAVILION,
AND HALO AT THE POINT (BRICK NORTH)

LOCATED AT:
FOREFRONT AT THOMPSON'S POINT
PORTLAND, MAINE

PREPARED BY:
HALO STUDIOS
WINDHAM, ME

14 MAY 2020

14 May 2020

From: Darren Elder, Halo Studios

To: Jessica Hanscombe, Licensing, City of Portland

Dear Ms. Hanscombe,

On behalf of our clients at Thompson's Point, Halo Studios is pleased to provide this Sound Mitigation Plan in support of entertainment licensing for Forefront Brick South, LLC ("Brick South"), Forefront Events, LLC ("Depot Pavilion"), and Halo at the Point, which is a tenant in the Brick North mixed-use commercial building ("Halo").

For ease of review, we have provided our findings and recommendations in order of the required items as outlined in the Code of Ordinances, Chapter 4, Sec. 4-52, Rev. 7-15-2019 4-10, 2 (a-d) inclusive.

Because Thompson's Point accommodates a variety of events around its campus, often in conjunction with qualified catering service from Brick South, we have assembled all three primary areas on site where entertainment generally occurs under this mitigation plan, namely Brick South, the Depot Pavilion, and Halo; we have not, however, addressed the large outdoor concerts that are held at the Depot Pavilion in partnership with the State Theatre in this Sound Mitigation Plan.

We trust that the information and guidance we have provided will meet the City's needs, and stand ready to answer any questions you may have as you conduct your review.

(a.)

This plan meets the requirement that it be prepared by a professional sound engineer with appropriate experience and training. Halo Studios brings decades of experience and a track record that is second to none in terms of sophisticated sound engineering, acoustic design, and consulting on complex sound and audio-visual environments. Our proprietary design and modeling permits us to "tame" indoor and outdoor spaces of any size and configuration, and we have been on board at Thompson's Point for several years accomplishing these outcomes for the businesses that are the subject of the current license application.

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Professional references are available upon request, and more information about the specialists at Halo Studios can be found here:

<http://thehalostudio.com/about-us/who-we-are/>

(b.)

Our Sound Mitigation Plan begins by identifying the surrounding uses to which we aim to minimize, and indeed to eliminate, impact, both in terms of overall dba levels and tonal and impulse sounds.

The nearest residential uses to the project are located in the R-5 and R-6 zones and are approximately 1,640 feet north and west of the portion of Thompson's Point where Brick South and Halo are located and in excess of 2,000 ft from the Depot Pavilion.

Other surrounding land uses include the Portland Jetport across the Fore River to the Southwest, Interstate 295 which parallels the site to the east, and the Portland Transportation Center (bus and train stations) to the north.

These surrounding land uses are all significant transportation noise sources and the aircraft noise from the Portland Jetport is analyzed at periodic intervals in accordance with Federal Aviation Regulation Part 150. As a practical matter, with respect to nearby residents, the sound output from these neighbors (jet engines, train engines and whistles, etc.), and from the I-295 corridor, far exceeds the dba, tonal, and impulse impacts from any entertainment activity that Thompson's Point could generate.

Our Sound Mitigation Plan combines three simple elements which, when operated in conjunction, permit us to deliver superior sound mitigation that results in negligible impacts on neighboring uses.

These are:

1. Underlying sound measurement matrix and mathematical assumptions;
2. Distribution of professional audio equipment;

3. Regular monitoring during events

Items 1 and 2 are discussed in more detail in response to section (c.) below, and item 3 is treated in response to section (d.) below.

(c.)

Both indoor and outdoor events utilize a distributed professional sound amplification system that will consist of two sound production assemblies which may be integrated; one type of assembly is mobile, and one type (in the case of the Halo space in Brick North, and the house PA system in Brick South), is fixed. Each is designed to be compatible with the other and operated to achieve the best sound quality with the least amount of negative impact on surrounding uses.

Halo Studios staff specified, procured, designed the installation of, and continues to provide technical oversight of this equipment, and has trained Thompson's Point staff on its basic operation as well.

Because of the design of their audio systems, and given the substance and heft of the materials used in the construction of both Halo and Brick South, when the doors of the venues are closed, there is, for all intents and purposes, no appreciable sound within 8' of the building as measured by SPL meter (as well as by general observation).

One or both arrangements of the distributed amplification system can be used depending on whether entertainment presented indoors, outdoors, or is an indoor/outdoor event.

The following data is intended to present generally anticipated sound pressure levels at various points on and adjacent to the Thompson's Point property resulting from amplified entertainment. Though the intent of the ordinance is to include all modes of entertainment, including but not limited to acoustic performance as well as pre-recorded music played via speakers, whether indoor or outdoor, as a practical (and perhaps obvious) matter these modes are far less impactful than concert-level amplified music, so, to be as conservative as possible, we have utilized outdoor concert industry metrics to establish our underlying matrix and mathematical models.

For the purposes of modeling impacts, the base line for these calculations is concerts with 85dB (A-weighted) measured SPL at the FOH mix position (usually 75' from the stage).

The mathematical model used is the Inverse Square Law:

$$20 \cdot \log(D2/D1) = X$$

where "D1" represents distance from center stage to FOH Mix, "D2" represents distance from center stage to perimeter location and "X" represents the reduction in dBspl from "D1" to "D2".

Using inverse square law calculations we would expect the following resulting SPL outcomes in each given location/distance from an amplified entertainment source measuring 85dBA at the FOH mix position (which is assumed to be located approximately at or near an axis line running along the northerly edge of the concrete floor of the Depot Pavilion):

Location (dist.)	Resulting SPL
Railroad Tracks (750')	65.0dBA
Portland Transportation Center (1050')	62.1dBA
50 Sewall Street offices (1600')	58.4dBA
Sewall Street (1350')	59.9dBA
Fore River Parkway Entrance (1350')	59.9dBA
Northerly end of parking lot at northwestern end of Thompson's Point (1350')	59.9dBA
Nearest Residential Property at Powsland Street (1640')	58.3dBA

It is important to note that the use of a quality sound system, such as the equipment deployed by our team; the presence of various buildings on-site (and off-site, such as the Portland Transportation Center terminal and Concord Coach Lines bus depot) and the buffering effect of the landscaping around Thompson's Point and at its northwesterly edge, will all combine to result in significantly lower "real-world" measurements at each location than those "pure" figures shown above.

Further, it is important to note that these landscape and architectural features will also buffer against tonal and impulse sounds to the benefit of the residential properties to the north and northwest.

As a practical matter, sound levels at the FOH mix position could be higher than 85dBA and still result in sound levels at the nearest residential property that do not exceed 60dBA. As discussed earlier, the surrounding conditions, such as the Portland Jetport, I-295, and the Portland Transportation Center, already create ambient sound exceeds these levels. But with respect to entertainment held on the Thompson's Point campus, the intent of our analysis has been to demonstrate that, even with an output of 85 dBA at the source, it is mathematically impossible for any sound impact produced on campus to be in excess of 60 dBA at the nearest residential property, and the impact will most certainly be well below

this level when “real world” factors such as buildings, topography, and landscaping are introduced into the equation.

Obviously, any indoor entertainment at Brick South or Halo would never generate a sound output even remotely approximating the level of a large outdoor concert (it would be so excruciating to patrons to be in a venue with such sound levels that this almost doesn’t bear mentioning); any outdoor entertainment, including entertainment at the Depot Pavilion, entertainment inside the Brick South or Halo spaces with their garage doors open, or entertainment in the outdoor plaza adjacent to the Halo space, would have to exceed concert-level output to negatively impact neighboring uses, which is a practical impossibility.

The Halo space in Brick North has been outfitted with customized sound treatments consisting of sound absorbing panel arrays distributed throughout the space; a large diffuser wall custom installed by Halo Studios; and intelligent lighting arrays whose material and form is designed to supplement the acoustic treatments.

For most any type of indoor entertainment (Brick South and Halo), we anticipate that 8’ from any outer wall of either venue we will be no more than 65 dba.

The mobile sound units used at the Depot Pavilion, Brick South, and Halo consist of:

JBL Speakers

Grace Design Reference Monitoring

Customized Avid Console with Mac Hardware and Operating System and ProTools PlugIns and Avid Audio Interface

Exhibit A shows the Brick South venue with speaker location and direction for a typical entertainment event, together with typical stage location, together with locations for sound monitoring for events of 250 patrons or greater;

Exhibit B shows the Halo venue with speaker location and direction for a typical entertainment event, together with typical stage location, together with locations for sound monitoring for events of 250 patrons or greater;

Exhibit C shows the Depot Pavilion building with speaker location and direction for a typical entertainment event, together with locations for sound monitoring for events of 250 patrons or greater

(d.)

Halo Studios personnel have routinely been deployed to perform sound monitoring with SPL meters on the Thompson’s Point campus and at selected locations nearby during entertainment events since 2017.

By arrangement with Thompson's Point's venues, and under the direction of Thompson's Point staff, we will continue to ensure that one or more of our team members continues to be present to perform sound monitoring for events with entertainment that falls under the rubric of the definitions in the ordinance when those events are anticipated to exceed 250 patrons. More specific detail on the anticipated standard locations for our sound measurements during events is outlined in (c.) above.

Further, Thompson's Point's Director of Operations, Julia May, is equipped with and trained to use an SPL meter, and is available at any time prior to, during, or after events to respond to outreach from City officials.

Her contact information is as follows:

Julia May
Director of Operations
Thompson's Point
julia@thompsonspointmaine.com
(207) 710-1302

We trust that the foregoing will be sufficient to meet the requirements of the ordinance, and stand ready to answer any questions you may have.

Thank you,

Darren Elder
The Halo Studios

Exhibit A: Brick South layout (typ.)

PORTLAND, ME

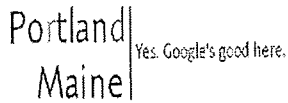


MOBILE SPEAKER-



DEPUT PAVII ION SOIUND MITIGATION PI AII

DATE: 2020.05.1



Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Re: Forefront

Glen McGary <glenm@portlandmaine.gov>
To: Jessica Hanscombe <jhanscombe@portlandmaine.gov>
Cc: Kevin Schneck <kschneck@portlandmaine.gov>

Tue, May 19, 2020 at 6:07 PM

Approved PD

On Tue, May 19, 2020 at 11:16 AM Jessica Hanscombe <jhanscombe@portlandmaine.gov> wrote:

Good Morning

Please see the attached application for a Combined Entertainment license. Please advise. Jessica

Jessica Blais Hanscombe
Licensing and Housing Safety Manager
City of Portland
389 Congress Street Room 307
Portland, Maine 04101
207-874-8783
jhanscombe@portlandmaine.gov

--
Lieutenant Glen McGary
Portland Police Department
109 Middle Street
Portland, Maine 04101
Office (207) 756-8294
Fax (207) 874-8580

City of Portland

Sound Mitigation Review

Date: 6/24/2020

Business Forefront Brick South

Applicant Julia May

DESCRIPTION		yes	no
Sound system appropriate for the size venue		Yes	
Performance space located in an appropriate location		Yes	
Performance space facing in an appropriate direction to control sound		Yes	
Surrounding surfaces appropriate to control sound		Yes	
Additional sound absorbing features	outdoor beer garden has a wooden fence		
additional notes			
Approved		Yes	
DIRECT ALL INQUIRIES TO:			
Kevin Schneck			
(207) 756-8433			
kschneck@portlandmaine.gov			



CITY OF PORTLAND
Permitting and Inspections Department

August 13, 2020

Forefront LLC
501 Danforth Street
Portland ME 04102

Re: Forefront Brick South LLC dba Halo at the Point. Application for a Combined Entertainment License 4 Thompson's Point Road.

Dear Julia May

This letter shall serve as a reminder of the public hearing before the Portland City Council on **Monday August 31, 2020 at 5:30 p.m.**, for the review of application for a Combined Entertainment License at 4 Thompson's Point Rd. The meeting will take place virtually. The link can be found on the Meeting Agenda which will be posted on the City Website on August 28, 2020.

You or a representative of the business must be present at this meeting in the event that the city council has questions regarding the license application. If there is no representation and questions arise, the item may be postponed.

Please contact our office directly with questions at (207) 874-8557 or jhanscombe@portlandmaine.gov.

Sincerely,

Jessica Hanscombe
Licensing and Housing Safety Manager

Legal Advertisement

Notice of Public Hearing City of Portland

A Public Hearing will be held on August 31, 2020 at 5:30 P.M., virtually, Forefront Brick South LLC dba Forefront Events. Application for an Outdoor Entertainment License 10 Thompson's Point Road. Sponsored by Jon P. Jennings, City Manager.

MEMORANDUM
City Council Agenda Item

FROM:

DATE: August 13, 2020

SUBJECT: Order 60-20/21 Granting Municipal Officers' Approval of Forefront Brick South LLC dba Halo at the Point. Application for a Combined Entertainment License 4 Thompson's Point Road - Sponsored by Jon P. Jennings, City Manager

SPONSOR:

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

Can action be taken at a later date: No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

II. AGENDA DESCRIPTION

Forefront Brick South LLC dba Halo at the Point. Application for a Combined Entertainment License 4 Thompson's Point Road.

Application was filed on 7/27/2020. Chapter 4 Sec 4-53 (2) requires a public hearing for all initial applications for a Combined Entertainment License.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. 20200813094735580
2. Halo

Prepared by:

Date: 8/13/2020



CITY OF PORTLAND
Permitting and Inspections Department

Application for an Entertainment License

☐ Indoor Entertainment \$500.00 ☐ Outdoor Entertainment \$700.00 ☒ Combined Entertainment \$800.00

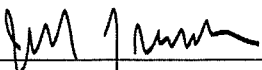
Business Information			
Business Name (d/b/a):	HALO AT THE POINT	Phone:	207-747-5288
Location Address:	4 THOMPSONS PT RD Suite 101		Zip: 04102
Owner Name:	Jed Troubh, Chris Thompson	Phone:	207-747-5288
Owner Email:	jtroubh@gmail.com, parallaxpartners@gmail.com		
Contact Person responsible for Entertainment:	Julia May	Phone:	207-710-1302
Contact Person Email:	julia@thompsonspointmaine.com		
Manager of Establishment:	Julia May	Phone:	207-710-1302
Manager Email:	julia@thompsonspointmaine.com		

About Your Establishment

Describe in detail the type and nature of the business and proposed entertainment:

Halo at the Point in an indoor/outdoor venue where different events take place ranging from weddings to concerts to trade shows and corporate gatherings/training seminars. Halo at the Point contracts the services of Brick South Catering for beverage service at their contracted events. Levels of entertainment range from live bands to DJs.

Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above license and further agrees that any misstatement of material fact may result in refusal of license or revocation, if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

Signature  Title Managing Member Date 7/21/2020

For more information, refer to the City Code of Ordinance: Chapter 4 Amusements, at www.portlandmaine.gov



SOUND MITIGATION PLAN

PREPARED FOR:
FOREFRONT BRICK SOUTH, LLC,
FOREFRONT EVENTS, LLC, AND HALO AT THE POINT

VENUES ANALYZED:
BRICK SOUTH, DEPOT PAVILION,
AND HALO AT THE POINT (BRICK NORTH)

LOCATED AT:
FOREFRONT AT THOMPSON'S POINT
PORTLAND, MAINE

PREPARED BY:
HALO STUDIOS
WINDHAM, ME

14 MAY 2020

14 May 2020

From: Darren Elder, Halo Studios

To: Jessica Hanscombe, Licensing, City of Portland

Dear Ms. Hanscombe,

On behalf of our clients at Thompson's Point, Halo Studios is pleased to provide this Sound Mitigation Plan in support of entertainment licensing for Forefront Brick South, LLC ("Brick South"), Forefront Events, LLC ("Depot Pavilion"), and Halo at the Point, which is a tenant in the Brick North mixed-use commercial building ("Halo").

For ease of review, we have provided our findings and recommendations in order of the required items as outlined in the Code of Ordinances, Chapter 4, Sec. 4-52, Rev. 7-15-2019 4-10, 2 (a-d) inclusive.

Because Thompson's Point accommodates a variety of events around its campus, often in conjunction with qualified catering service from Brick South, we have assembled all three primary areas on site where entertainment generally occurs under this mitigation plan, namely Brick South, the Depot Pavilion, and Halo; we have not, however, addressed the large outdoor concerts that are held at the Depot Pavilion in partnership with the State Theatre in this Sound Mitigation Plan.

We trust that the information and guidance we have provided will meet the City's needs, and stand ready to answer any questions you may have as you conduct your review.

(a.)

This plan meets the requirement that it be prepared by a professional sound engineer with appropriate experience and training. Halo Studios brings decades of experience and a track record that is second to none in terms of sophisticated sound engineering, acoustic design, and consulting on complex sound and audio-visual environments. Our proprietary design and modeling permits us to "tame" indoor and outdoor spaces of any size and configuration, and we have been on board at Thompson's Point for several years accomplishing these outcomes for the businesses that are the subject of the current license application.

The team at Halo Studios is routinely called upon by clients ranging from world-renowned recording artists and mastering studios to private businesses and municipalities to solve their acoustical needs and sound engineering challenges.

Over the last sixteen years, we have become beta-testers for multiple cutting edge audio software and treatment companies, which allows us to take every measure to maximize the acoustic experience within each designated space while minimizing unwanted frequencies and decibel levels.

Professional references are available upon request, and more information about the specialists at Halo Studios can be found here:

<http://thehalostudio.com/about-us/who-we-are/>

(b.)

Our Sound Mitigation Plan begins by identifying the surrounding uses to which we aim to minimize, and indeed to eliminate, impact, both in terms of overall dba levels and tonal and impulse sounds.

The nearest residential uses to the project are located in the R-5 and R-6 zones and are approximately 1,640 feet north and west of the portion of Thompson's Point where Brick South and Halo are located and in excess of 2,000 ft from the Depot Pavilion.

Other surrounding land uses include the Portland Jetport across the Fore River to the Southwest, Interstate 295 which parallels the site to the east, and the Portland Transportation Center (bus and train stations) to the north.

These surrounding land uses are all significant transportation noise sources and the aircraft noise from the Portland Jetport is analyzed at periodic intervals in accordance with Federal Aviation Regulation Part 150. As a practical matter, with respect to nearby residents, the sound output from these neighbors (jet engines, train engines and whistles, etc.), and from the I-295 corridor, far exceeds the dba, tonal, and impulse impacts from any entertainment activity that Thompson's Point could generate.

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These are:

1. Underlying sound measurement matrix and mathematical assumptions;
2. Distribution of professional audio equipment;

3. Regular monitoring during events

Items 1 and 2 are discussed in more detail in response to section (c.) below, and item 3 is treated in response to section (d.) below.

(c.)

Both indoor and outdoor events utilize a distributed professional sound amplification system that will consist of two sound production assemblies which may be integrated; one type of assembly is mobile, and one type (in the case of the Halo space in Brick North, and the house PA system in Brick South), is fixed. Each is designed to be compatible with the other and operated to achieve the best sound quality with the least amount of negative impact on surrounding uses.

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For the purposes of modeling impacts, the base line for these calculations is concerts with 85dB (A-weighted) measured SPL at the FOH mix position (usually 75' from the stage).

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Using inverse square law calculations we would expect the following resulting SPL outcomes in each given location/distance from an amplified entertainment source measuring 85dBA at the FOH mix position (which is assumed to be located approximately at or near an axis line running along the northerly edge of the concrete floor of the Depot Pavilion):

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Nearest Residential Property at Powsland Street (1640')	58.3dBA

It is important to note that the use of a quality sound system, such as the equipment deployed by our team; the presence of various buildings on-site (and off-site, such as the Portland Transportation Center terminal and Concord Coach Lines bus depot) and the buffering effect of the landscaping around Thompson's Point and at its northwesterly edge, will all combine to result in significantly lower "real-world" measurements at each location than those "pure" figures shown above.

Further, it is important to note that these landscape and architectural features will also buffer against tonal and impulse sounds to the benefit of the residential properties to the north and northwest.

As a practical matter, sound levels at the FOH mix position could be higher than 85dBA and still result in sound levels at the nearest residential property that do not exceed 60dBA. As discussed earlier, the surrounding conditions, such as the Portland Jetport, I-295, and the Portland Transportation Center, already create ambient sound exceeds these levels. But with respect to entertainment held on the Thompson's Point campus, the intent of our analysis has been to demonstrate that, even with an output of 85 dBA at the source, it is mathematically impossible for any sound impact produced on campus to be in excess of 60 dBA at the nearest residential property, and the impact will most certainly be well below

this level when “real world” factors such as buildings, topography, and landscaping are introduced into the equation.

Obviously, any indoor entertainment at Brick South or Halo would never generate a sound output even remotely approximating the level of a large outdoor concert (it would be so excruciating to patrons to be in a venue with such sound levels that this almost doesn’t bear mentioning); any outdoor entertainment, including entertainment at the Depot Pavilion, entertainment inside the Brick South or Halo spaces with their garage doors open, or entertainment in the outdoor plaza adjacent to the Halo space, would have to exceed concert-level output to negatively impact neighboring uses, which is a practical impossibility.

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Exhibit A shows the Brick South venue with speaker location and direction for a typical entertainment event, together with typical stage location, together with locations for sound monitoring for events of 250 patrons or greater;

Exhibit B shows the Halo venue with speaker location and direction for a typical entertainment event, together with typical stage location, together with locations for sound monitoring for events of 250 patrons or greater;

Exhibit C shows the Depot Pavilion building with speaker location and direction for a typical entertainment event, together with locations for sound monitoring for events of 250 patrons or greater

(d.)

Halo Studios personnel have routinely been deployed to perform sound monitoring with SPL meters on the Thompson’s Point campus and at selected locations nearby during entertainment events since 2017.

By arrangement with Thompson's Point's venues, and under the direction of Thompson's Point staff, we will continue to ensure that one or more of our team members continues to be present to perform sound monitoring for events with entertainment that falls under the rubric of the definitions in the ordinance when those events are anticipated to exceed 250 patrons. More specific detail on the anticipated standard locations for our sound measurements during events is outlined in (c.) above.

Further, Thompson's Point's Director of Operations, Julia May, is equipped with and trained to use an SPL meter, and is available at any time prior to, during, or after events to respond to outreach from City officials.

Her contact information is as follows:

Julia May
Director of Operations
Thompson's Point
julia@thompsonspointmaine.com
(207) 710-1302

We trust that the foregoing will be sufficient to meet the requirements of the ordinance, and stand ready to answer any questions you may have.

Thank you,

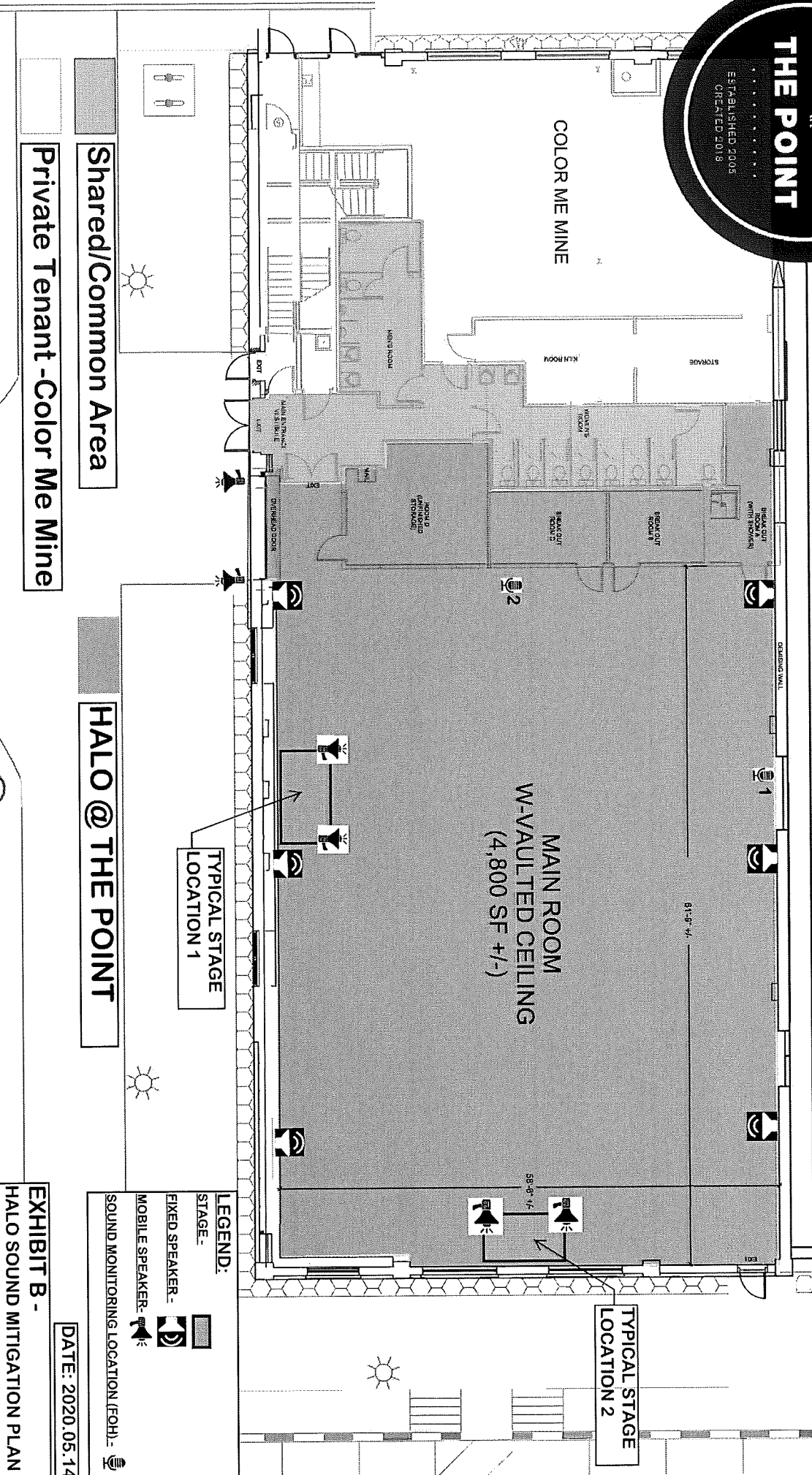
Darren Elder
The Halo Studios

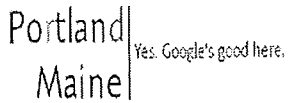
Exhibit A: Brick South layout (typ.)



Location:
4 Thompson's Point, Portland Maine

Email:
events@thompsonspointmaine.com





Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Re: Forefront

Glen McGary <glenm@portlandmaine.gov>
To: Jessica Hanscombe <jhanscombe@portlandmaine.gov>
Cc: Kevin Schneck <kschneck@portlandmaine.gov>

Tue, May 19, 2020 at 6:07 PM

Approved PD

On Tue, May 19, 2020 at 11:16 AM Jessica Hanscombe <jhanscombe@portlandmaine.gov> wrote:

Good Morning

Please see the attached application for a Combined Entertainment license. Please advise. Jessica

Jessica Blais Hanscombe
Licensing and Housing Safety Manager
City of Portland
389 Congress Street Room 307
Portland, Maine 04101
207-874-8783
jhanscombe@portlandmaine.gov

--
Lieutenant Glen McGary
Portland Police Department
109 Middle Street
Portland, Maine 04101
Office (207) 756-8294
Fax (207) 874-8580

City of Portland

Sound Mitigation Review

Date: 6/24/2020

Business Forefront Brick South

Applicant Julia May

DESCRIPTION		yes	no
Sound system appropriate for the size venue		Yes	
Performance space located in an appropriate location		Yes	
Performance space facing in an appropriate direction to control sound		Yes	
Surrounding surfaces appropriate to control sound		Yes	
Additional sound absorbing features	outdoor beer garden has a wooden fence		
additional notes			
Approved		Yes	
DIRECT ALL INQUIRIES TO:			
Kevin Schneck			
(207) 756-8433			
kschneck@portlandmaine.gov			

Legal Advertisement

Notice of Public Hearing City of Portland

A Public Hearing will be held on August 31, 2020 at 5:30 P.M., virtually, Forefront Brick South LLC dba Halo at the Point. Application for a Combined Entertainment License 4 Thompson's Point Road. Sponsored by Jon P. Jennings, City Manager.



CITY OF PORTLAND
Permitting and Inspections Department

August 13, 2020

Forefront LLC
501 Danforth Street
Portland ME 04102

Re: Forefront Brick South LLC dba Halo at the Point. Application for a Combined Entertainment License 4 Thompson's Point Road.

Dear Julia May

This letter shall serve as a reminder of the public hearing before the Portland City Council on **Monday August 31, 2020 at 5:30 p.m.**, for the review of application for a Combined Entertainment License at 4 Thompson's Point Rd. The meeting will take place virtually. The link can be found on the Meeting Agenda which will be posted on the City Website on August 28, 2020.

You or a representative of the business must be present at this meeting in the event that the city council has questions regarding the license application. If there is no representation and questions arise, the item may be postponed.

Please contact our office directly with questions at (207) 874-8557 or jhanscombe@portlandmaine.gov.

Sincerely,

Jessica Hanscombe
Licensing and Housing Safety Manager

KATE SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
TAE Y. CHONG (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

**Forefront Brick South LLC dba Halo at the Point. Application for a Combined
Entertainment License 4 Thompson's Point Road.**

MEMORANDUM
City Council Agenda Item

FROM:

DATE: August 13, 2020

SUBJECT: Order 61-20/21 Granting Municipal Officers' Approval of Press Hotel LLC dba The Press Hotel. Application for a Class IA Inn with Indoor Entertainment at 119 Exchange Street - Sponsored by Jon P. Jennings, City Manager

SPONSOR:

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

Can action be taken at a later date: No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

II. AGENDA DESCRIPTION

Press Hotel LLC dba The Press Hotel. Application for a Class IA Inn with Indoor Entertainment at 119 Exchange Street.

Application was filed on 8/23/2020. New City and State application. This is a change in ownership of an existing business.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. 20200813100556559

2. Press Hotel

Prepared by:

Date: 8/13/2020



July 16, 2020

City of Portland
389 Congress Street
Portland, ME 04101

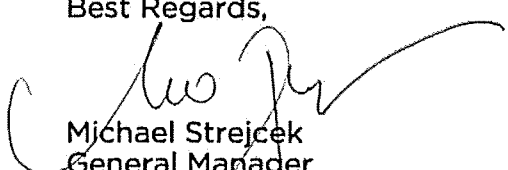
To the Mayor and Members of City Council.

Please accept this letter of intention for application for a liquor license. We are The Press Hotel located at 119 Exchange Street and have obtained a liquor license in the years past under HOT-2015-4306 for Press Hotel MT, LLC. Our annual renewal was successfully approved on April 28, 2020. Our previous financing structure required a master tenant and the master tenant (Press Hotel MT, LLC) held the license. This financing structure ended in early May, 2020 and we are now applying for the license under Press Hotel LLC, the owner of the property. We continue to have the same hotel manager and management team in place.

At the Press Hotel we have a full-service hotel which includes a food and beverage operation UNION Restaurant, along with a separate bar, lounge, banquet and conference space.

We appreciate your consideration in this process and look forward to our continued successful working relationship with the City.

Best Regards,



Michael Strejcek
General Manager
The Press Hotel
119 Exchange Street
Portland, ME 04101



CITY OF PORTLAND
Permitting and Inspections Department
Application for Food Service Establishment with Alcoholic Beverages License

Business Information	
Business Name (d/b/a):	The Press Hotel Phone: 207-808-8800
Location Address:	119 Exchange Street Portland, ME Zip: 04101
If new, what was formerly at this location:	
Mailing Address:	119 Exchange Street Portland, ME Zip: 04101
Contact Person:	Michael Strejcek Phone: 207-808-8710
Contact Person Email:	GM@thepresshotel.com
Manager of Establishment:	Michael Strejcek Date of Birth: 05/04/1962 Phone: 207-808-8710
Owner of Premises (Landlord):	Press Hotel, LLC
Address of Premises Owner:	119 Exchange Street Portland, ME Zip: 04101

Sole Proprietor/Partnership Information (If Corporation, leave blank)

Name of Owner(s)	Date of Birth	Residence Address

Corporate/LLC/Non-Profit Organization Applicants (If Sole Proprietor or Partnership, leave blank)

Corporate Name		Corporate Mailing Address	
Press Hotel, LLC		119 Exchange Street Portland, ME Zip: 04101	
Contact Person:	James Brady	Phone:	207-808-8787
Principal Officers			
Title	Date of Birth	Residence Address	
James Brady	President	06/27/1963	118 Congress Street Portland, ME 04101
Class of Liquor License:		Class I-Hotel- Malt, Liquor & Wine	



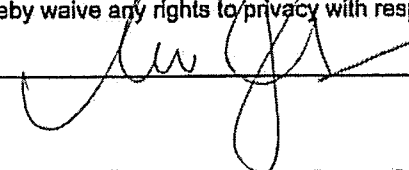
CITY OF PORTLAND
Permitting and Inspections Department

Type of food served:	Upscale New Americana	
Please circle all that will be served:	☒ Beer ☒ Wine ☒ Liquor	
Projected percentage of sales:	Generated from Food: 70%	Generated from Alcohol: 30%
Hours & days of operation:	7:00am - 11:00pm, 7 days a week	
QUESTIONS		
Will full-course meals, only capable of consumption with the use of tableware, be served the entire time the establishment is open?		☒ Y/N
If No, please explain:		
Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment?		☒ Y/N
If yes, give the distance:		
Will you have entertainment on the premises? (If yes, a Supplemental Application for Entertainment is required.)		☒ Y/N
Will you permit dancing after 1:00 a.m.?		☒ Y/N
Will you have outside dining? (If yes, an Outdoor Dining Application is required)		☒ Y/N
If yes, will the outside dining be on ☒ PUBLIC or PRIVATE property (circle one).		
Will you have any amusement devices (pinball, video games, juke box)?		☒ Y/N
If yes, please list: # of pinball machines: _____ # of amusements: _____ # of pool tables: _____		
What is your targeted opening date? Existing		
Does the issuance of this license directly or indirectly benefit any City employee(s)?		☒ Y/N
If Yes, list name(s) of employee(s) and department(s):		
Have any of the applicants, including the corporation (if applicable), ever held a business license with the City of Portland?		☒ Y/N
If Yes, please list business name(s) and location(s): Press Hotel MT, LLC		
Is any principal officer under the age of 21?		☒ Y/N
Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of law?		☒ Y/N
If Yes, please explain:		

I, Michael Strejcek do hereby swear and affirm that every employee in my establishment that serves alcohol to the public has attended server training, or will attend server training within 90 days of their hire. I also understand that at any time the City license administrator can, upon request, require me to produce Server Training certificates for each employee that serves alcohol to the public in my establishment. Failure to meet the training requirement imposed by section 15-41 may result in the denial of a liquor license pursuant to 28-A M.R.S.A. § 653 (2) (G).

Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above licensee and further agrees that any misstatement of material fact may result in refusal of license or revocation if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect thereto. I/We, hereby authorize the release of any criminal history record information to the City Clerk's Office or licensing authority. I/We, hereby waive any rights to privacy with respect thereto.

Signature  Title General Manager Date 07-16-2020



CITY OF PORTLAND
Permitting and Inspections Department

Application for an Entertainment License

☒ Indoor Entertainment \$500.00 ☐ Outdoor Entertainment \$700.00 ☐ Combined Entertainment \$800.00

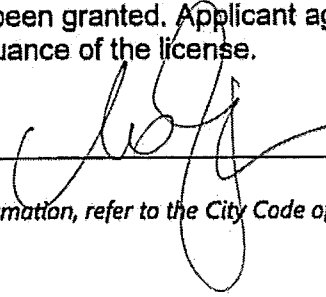
Business Information			
Business Name (d/b/a):	The Press Hotel	Phone:	207-808-8800
Location Address:	119 Exchange Street Portland, ME		Zip: 04101
Owner Name:	Press Hotel, LLC	Phone:	207-808-8800
Owner Email:	N/A		
Contact Person responsible for Entertainment:	Michael Strejcek	Phone:	207-808-8710
Contact Person Email:	GM@thepresshotel.com		
Manager of Establishment:	Press Hotel, LLC	Phone:	207-808-8800
Manager Email:	jbrady@fathomcompanies.com		

About Your Establishment

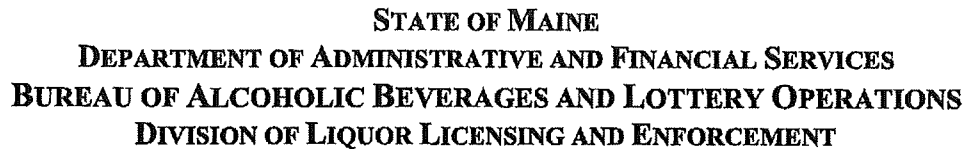
Describe in detail the type and nature of the business and proposed entertainment:

The Press Hotel is a full-service hotel, including food and beverage operations along with a separate bar, lounge, banquet and conference space. Indoor entertainment would be applicable only when requested and appropriately approved within the designated banquet function spaces.

Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above license and further agrees that any misstatement of material fact may result in refusal of license or revocation, if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

Signature  Title General Manager Date 07-16-2020

For more information, refer to the City Code of Ordinance: Chapter 4 Amusements, at www.portlandmaine.gov



All Questions Must Be Answered Completely. Please print legibly.

Division Use Only	
License No:	
Class:	By:
Deposit Date:	
Amt. Deposited:	
Payment Type:	
OK with SOS: Yes ☐ No ☐	

1. New license or renewal of existing license? ☐ New Expected Start date: _____
☒ Renewal Expiration Date: 05/04/2020

Food: \$ 3,000,000.00 Beer, Wine or Spirits: \$ 1,300,000.00 Guest Rooms: \$ 10,300,000.00

☒ Malt Liquor (beer) ☒ Wine ☒ Spirits

4. Indicate the type of license applying for: (choose only one)

- | | | |
|--|--|---|
| ☐ Restaurant
(Class I, II, III, IV) | ☐ Class A Restaurant/Lounge
(Class XI) | ☐ Class A Lounge
(Class X) |
| ☒ Hotel
(Class I, II, III, IV) | ☐ Hotel – Food Optional
(Class I-A) | ☐ Bed & Breakfast
(Class V) |
| ☐ Golf Course (included optional licenses, please check if apply)
(Class I, II, III, IV) | ☐ Auxiliary | ☐ Mobile Cart |
| ☐ Tavern
(Class IV) | ☐ Other: _____ | |
| ☐ Qualified Caterer | ☐ Self-Sponsored Events (Qualified Caterers Only) | |

Refer to Section V for the License Fee Schedule on page 9

5. Business records are located at the following address:

119 Exchange Street, Portland, ME 04101

6. Is the licensee/applicant(s) citizens of the United States? ☒ Yes ☐ No

7. Is the licensee/applicant(s) a resident of the State of Maine? ☒ Yes ☐ No

NOTE: Applicants that are not citizens of the United States are required to file for the license as a business entity.

8. Is licensee/applicant(s) a business entity like a corporation or limited liability company?

☒ Yes ☐ No If Yes, complete Section VII at the end of this application

9. For a licensee/applicant who is a business entity as noted in Section I, does any officer, director, member, manager, shareholder or partner have in any way an interest, directly or indirectly, in their capacity in any other business entity which is a holder of a wholesaler license granted by the State of Maine?

☐ Yes ☒ No

☐ Not applicable – licensee/applicant(s) is a sole proprietor

10. Is the licensee or applicant for a license receiving, directly or indirectly, any money, credit, thing of value, endorsement of commercial paper, guarantee of credit or financial assistance of any sort from any person or entity within or without the State, if the person or entity is engaged, directly or indirectly, in the manufacture, distribution, wholesale sale, storage or transportation of liquor.

☐ Yes ☒ No

If yes, please provide details: _____

11. Do you own or have any interest in any another Maine Liquor License? ☐ Yes ☒ No

If yes, please list license number, business name, and complete physical location address: (attach additional pages as needed using the same format)

Name of Business	License Number	Complete Physical Address

12. List name, date of birth, place of birth for all applicants including any manager(s) employed by the licensee/applicant. Provide maiden name, if married. (attach additional pages as needed using the same format)

Full Name	DOB	Place of Birth
Michael Strejcek	05/04/1962	Prague Czech Republic
Karl McElligot	03/01/1973	Cork Ireland
Residence address on all the above for previous 5 years		
Name	Address:	
Michael Strejcek	Portland, ME; Cambridge, MA	
Name	Address:	
Karl McElligot	Yarmouth, ME; Norway, ME; Stowe, VT	
Name	Address:	
Name	Address:	

13. Will any law enforcement officer directly benefit financially from this license, if issued?

☐ Yes ☒ No

If Yes, provide name of law enforcement officer and department where employed:

14. Has the licensee/applicant(s) ever been convicted of any violation of the liquor laws in Maine or any State of the United States? ☐ Yes ☒ No

If Yes, please provide the following information and attach additional pages as needed using the same format.

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____

15. Has the licensee/applicant(s) ever been convicted of any violation of any law, other than minor traffic violations, in Maine or any State of the United States? ☐ Yes ☒ No

If Yes, please provide the following information and attach additional pages as needed using the same format.

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____

16. Has the licensee/applicant(s) formerly held a Maine liquor license? ☒ Yes ☐ No

17. Does the licensee/applicant(s) own the premises? ☒ Yes ☐ No

If No, please provide the name and address of the owner:

18. If you are applying for a liquor license for a Hotel or Bed & Breakfast, please provide the number of guest rooms available: 110.00

19. Please describe in detail the area(s) within the premises to be licensed. This description is in addition to the diagram in Section VI. (Use additional pages as needed)

Hotel with full service restaurant, bar, reception, lounge, fireplace, flex space, banquet, meeting room,
and prefunction gallery

20. What is the distance from the premises to the nearest school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel?

Name: Portland High School

Distance: 0.20

Section II: Signature of Applicant(s)

By signing this application, the licensee/applicant understands that false statements made on this application are punishable by law. Knowingly supplying false information on this application is a Class D Offense under Maine's Criminal Code, punishable by confinement of up to one year, or by monetary fine of up to \$2,000 or by both.

Please sign and date in blue ink.

Dated: 07/10/2020



Signature of Duly Authorized Person

Signature of Duly Authorized Person

James Brady

Printed Name Duly Authorized Person

Printed Name of Duly Authorized Person

Section VII: Required Additional Information for a Licensee/Applicant for an On-Premises Liquor License Who are Legal Business Entities

Questions 1 to 4 of this part of the application must match information in Section I of the application above and match the information on file with the Maine Secretary of State's office. If you have questions regarding your legal entity name or DBA, please call the Secretary of State's office at (207) 624-7752.

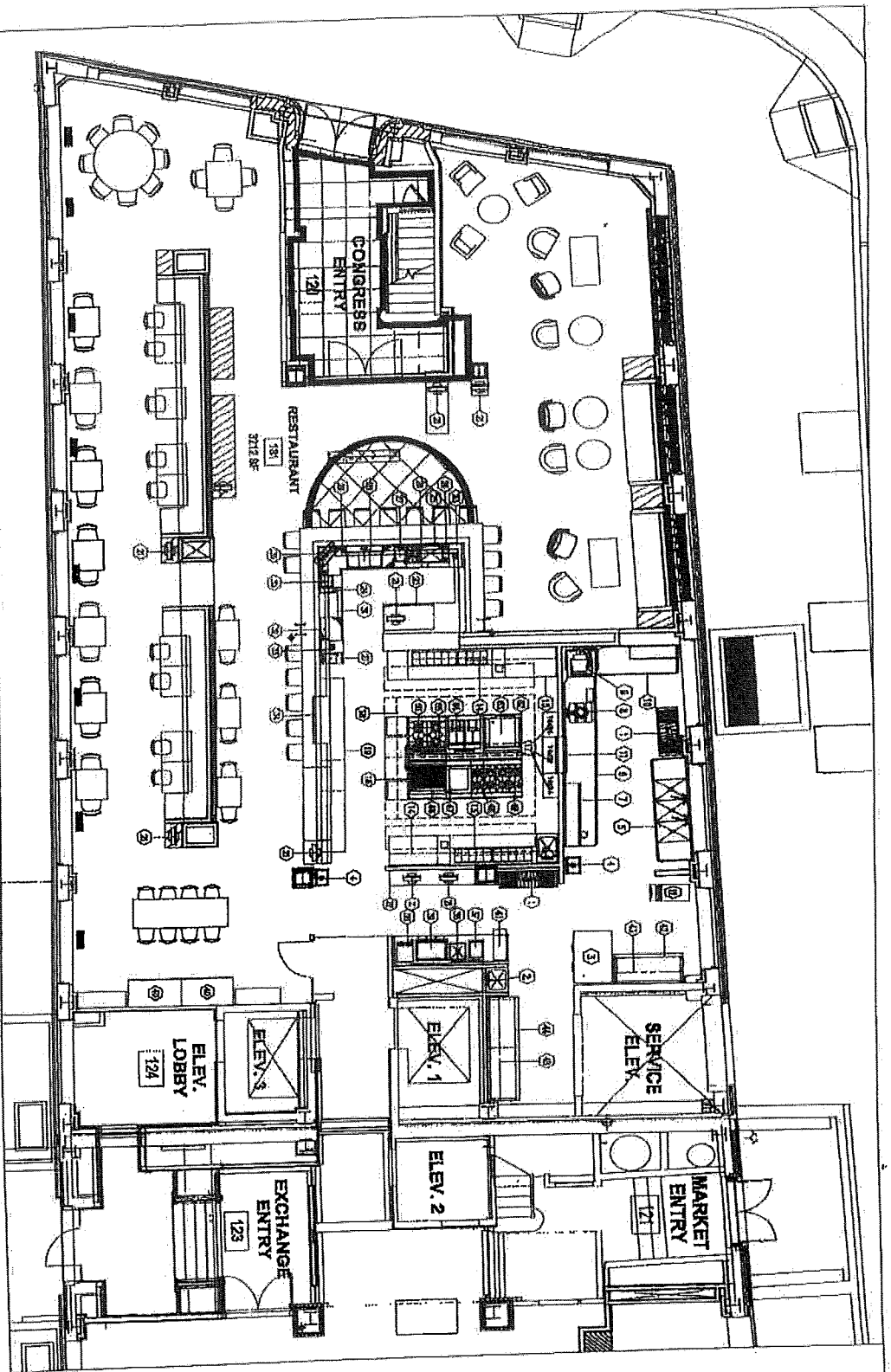
All Questions Must Be Answered Completely. Please print legibly.

1. Exact legal name: Press Hotel LLC
2. Doing Business As, if any: The Press Hotel
3. Date of filing with Secretary of State: 08/26/2013 State in which you are formed: Maine
4. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine:

5. List the name and addresses for previous 5 years, birth dates, titles of officers, directors, managers, members or partners and the percentage ownership any person listed: (attached additional pages as needed)

Name	Address (5 Years)	Date of Birth	Title	Percentage of Ownership
Press Hotel Manager	PO Box 7486, Portland ME 04112		Manager	99.0000
Coastal Enterprises	30 Federal Street, Suite 100 Brunswick, ME 04011		Member	1.0000
James Brady	118 Congress Portland, ME 04101	06/27/1963	President	

(Ownership in non-publicly traded companies must add up to 100%.)

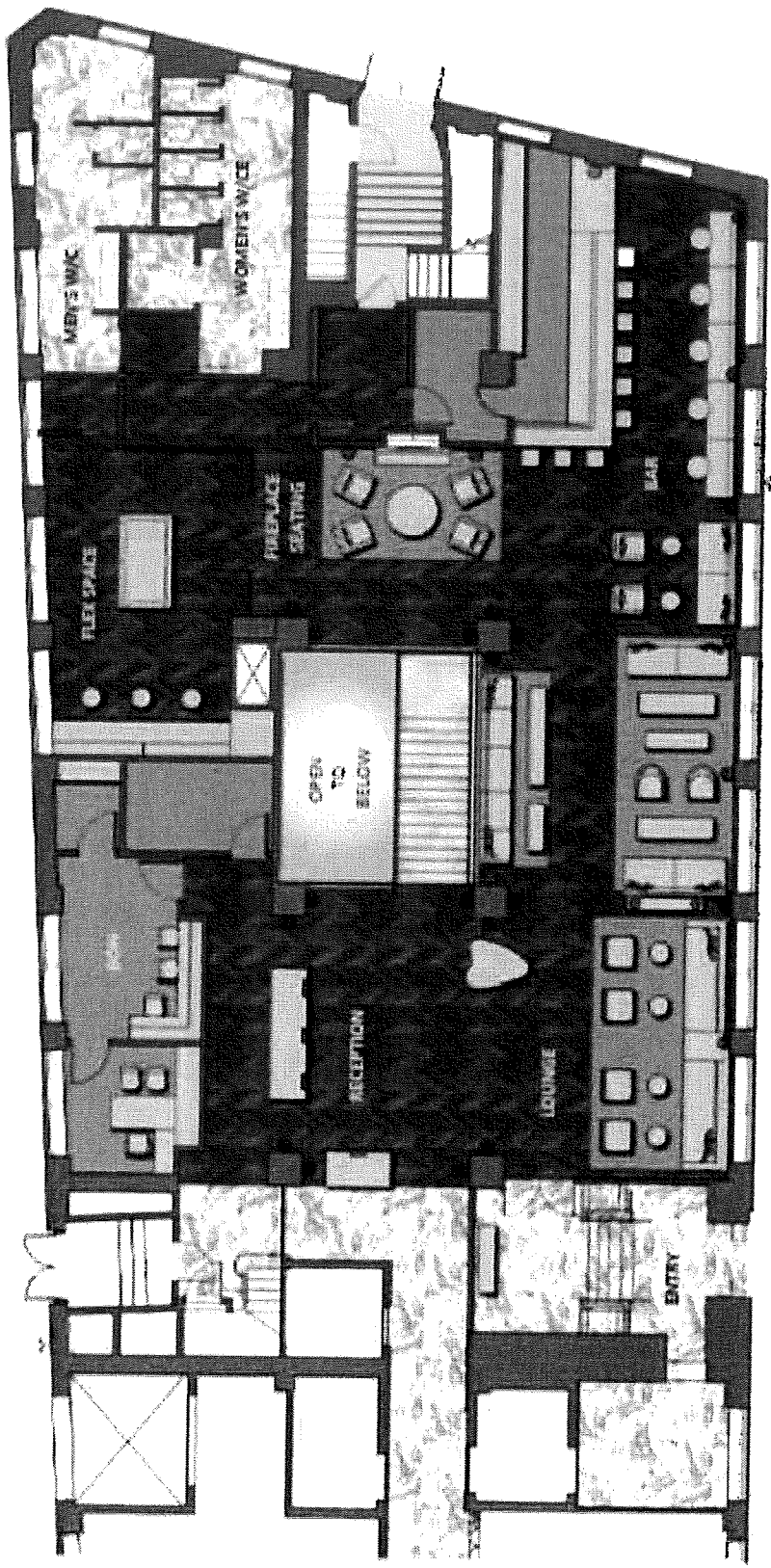


First Floor Restaurant Plan
 SCALE - 1/4" = 1'-0"

- NOTES:**
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EQUIPMENT SCHEDULE	
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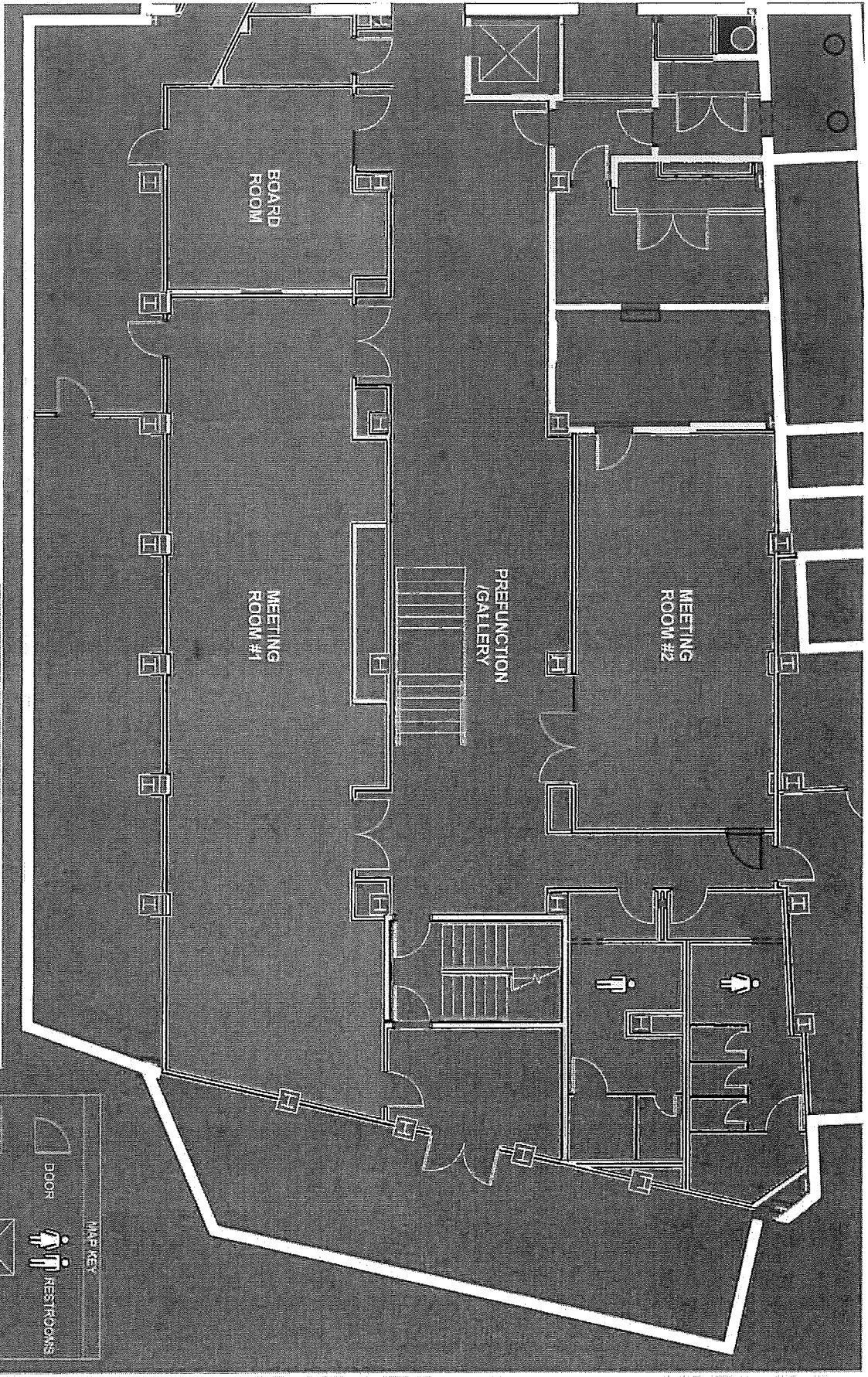
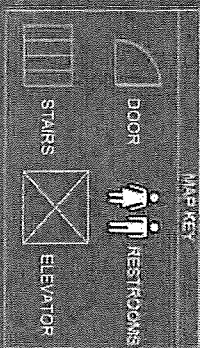
FS-1A 13 AUG. 27 Foodservice Equipment Floor Plan and Schedule First Floor	Project: PRESS HOTEL 400 CONVENT ST. SUITE 101 PORTLAND, ME 04101	Architect: ARCHETYPE 40 Union Street, Portland, Maine 04101 (207) 773-0823 Fax (207) 773-0825	Prepared For: 119 Development, LLC
	Revision: 1. 07-24 1995 Interim Schedule 2. 08-24 1995 Interim Schedule 3. 10-24 1995 Interim Schedule 4. 11-24 1995 Interim Schedule 5. 12-24 1995 Interim Schedule		



1 | MEETING ROOM SPACE PLAN

1/8" = 1'-0"

ROOM NAME	DIM. (LxW)	AREA	HEIGHT
BOARD ROOM	16' x 17'	282 SF	10' 2"
MEETING ROOM #1	16' x 67' +/-	1168 SF	10' 2"
MEETING ROOM #2	17' x 34'	573 SF	10' 2"



MR-1

Project: PRESS HOTEL

390 CONGRESS STREET
PORTLAND, ME 04101

Date: 04 FEB 14

MEETING ROOM SPACE
PLAN

Scale: As indicated

Architect:
ARCHETYPE
Architects
48 Union Wharf Portland, Maine 04101
(207) 772-6022 Fax (207) 772-4056

Starters

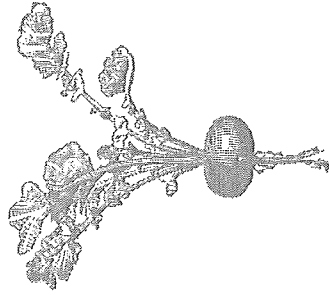
CRISPED BRUSSELS SPROUTS — 9
charred lemon, aioli, toasted walnuts

CRAB PASTA — 17/26
campagnele pasta, spring peas,
light cream, shaved smoked scallop

SPRING PANZANELLA SALAD — 15
grilled focaccia, torn mozzarella, panache of seasonal
vegetables, truffle vinaigrette

SALT ROASTED BEET SALAD — 14
toasted fennel hummus, whipped feta,
pickled onions, pistachio, crispy chickpeas

CRISPY POLENTA FRIES — 14
braised lamb sugo, cipollini onions, mint, parmesan



Mains

SMOKED HALF CHICKEN — 17
miso-rooftop honey, pan sauce
ricotta gnocchi, brown butter powder

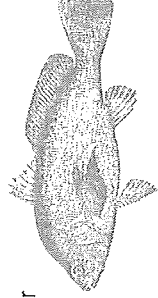
PAN ROAST HALIBUT — 26
spring herb chimichurri, roasted potatoes
chili oil, lemon zest

BRINED & BONE IN PORK CHOP — 19
sweet soy sauce
mushroom fried brown rice, local egg

SEARED HANGER STEAK — 26
soft polenta, local cheddar,
mushroom Worcestershire

FAROE ISLAND SALMON — 25
caper crème friche, pea tendrils

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RED FLANNEL HASH & POACHED EGGS — 16
corned beef, onions, fingerling potatoes, local beets,
slow-poached eggs, choice of toast

AVOCADO TOAST — 14
avocado, whole wheat toast, poached egg,
chili & lime marinated tomatoes, grains of paradise

PORK BELLY BLT BREAKFAST SANDWICH — 14
farm fresh egg, seared pork belly, sliced tomato,
arugula pesto, grilled english muffin

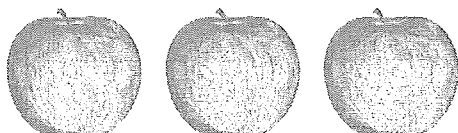
FRESH START — 12
local yogurt, fresh berries, rooftop honey,
bee pollen, house-made toasted almond granola

OVERNIGHT OATS & CHIA SEEDS — 9
coconut milk, Maine blueberry compote, puffed quinoa

Drinks

DETOX SMOOTHIE — 9
banana, apple, pear, spinach, kale, celery

KICK-STARTER CLEANSE — 6
organic apple cider vinegar, fresh ginger & turmeric,
honey, lemon, cayenne



panache of seasonal vegetables, truffle vinaigrette

CRISPED BRUSSELS — 9
toasted walnuts, charred lemon, aioli

FRIED CHICKEN SANDWICH — 15
gochujang aioli, pea greens, pickled onions

CALDWELL FARMS BEEF BURGER — 16
press sauce, LTO, smoke house bacon,
cheddar cheese

UPPER EXCHANGE LOBSTER ROLL — MP
lemon mayonnaise,
bibb lettuce, snipped chives, two split-top rolls

Sides

TOAST — 3

ENGLISH MUFFIN — 4

FRUITWOOD-SMOKED BACON — 5

MAPLE SAUSAGE — 5

RED FLANNEL HASH — 7

TOASTED ALMOND GRANOLA & MILK — 7

DAILY FRESH-BAKED MUFFIN — 4

SEASONAL BERRIES — 9

LOCAL FARM FRESH EGGS (ONE/TWO) — 3/4

PLAIN LOCAL YOGURT — 6

BREAKFAST POTATOES — 4

Please practice social distancing and wear your mask when not seated at your table.

Please advise us if you have any dietary concerns or food allergies. Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illnesses, especially if you have certain medical conditions.



CITY OF PORTLAND
Permitting and Inspections Department

August 13, 2020

Press Hotel LLC
119 Exchange Street
Portland ME 04101

Re: Press Hotel LLC dba The Press Hotel. Application for a Class IA Inn with Indoor Entertainment at 119 Exchange Street.

Dear Michael Strejcek

This letter shall serve as a reminder of the public hearing before the Portland City Council on **Monday August 31, 2020 at 5:30 p.m.**, for the review of application for a Class IA Inn with Indoor Entertainment at 119 Exchange Street. The meeting will take place virtually. The link can be found on the Meeting Agenda which will be posted on the City Website on August 28th.

You or a representative of the business must be present at this meeting in the event that the city council has questions regarding the license application. If there is no representation and questions arise, the item may be postponed.

Please contact our office directly with questions at (207) 874-8557 or jhanscombe@portlandmaine.gov.

Sincerely,

Jessica Hanscombe
Licensing and Housing Safety Manager

Legal Advertisement

Notice of Public Hearing City of Portland

A Public Hearing will be held on August 31, 2020 at 5:30 P.M., virtually, Press Hotel LLC dba The Press Hotel. Application for a Class IA Inn with Indoor Entertainment at 119 Exchange Street. Sponsored by Jon P. Jennings, City Manager.

KATE SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
TAE Y. CHONG (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

**Press Hotel LLC dba The Press Hotel. Application for a Class IA Inn with Indoor
Entertainment at 119 Exchange Street.**

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MEMORANDUM
City Council Agenda Item

FROM:

DATE: August 13, 2020

SUBJECT: Order 62-20/21 Granting Municipal Officers' Approval of Banded Brewing Company dba Banded Brewing Company. Application for a Brewery with Outdoor Dining on Private Property at 82 Hanover Street - Sponsored by Jon P. Jennings, City Manager

SPONSOR:

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

Can action be taken at a later date: No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

II. AGENDA DESCRIPTION

Banded Brewing Company dba Banded Brewing Company. Application for a Brewery with Outdoor Dining on Private Property at 82 Hanover Street.

Application was filed on 8/13/2020. New City applications.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. 20200813113201281

2. Banded Brewing

Prepared by:

Date: 8/13/2020

Letter of Intent

To: Mayor Snyder, and the City Council of Portland, Maine

Banded Brewing Company
32 Main Street 13-W STE 102
Biddeford, Maine 04005

July 6th, 2020
Ian A McConnell
Principal Owner, Brewmaster
Banded Brewing Company

Dear Mayor Snyder and esteemed City Councillors of Portland,

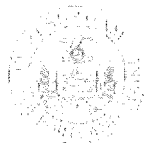
This letter is to inform you that Banded Brewing Company of Biddeford, Maine, wishes to expand our brewing and tasting room operations to the City of Portland. Our intention is to operate a small brewery and tasting room on the premise of 82 Hanover Street in the Bayside neighborhood, to be opened as soon as possible.

The facility shall consist of a newly constructed 5-barrel pilot brew house which will produce beers primarily to be served at our Portland and Biddeford locations, as well as a small tasting room and outdoor patio.

Thank you very much for your time and consideration. We at Banded Brewing are very excited to work in and spend more time with the people of Portland going forward. Please reach out to me personally with any questions or concerns about this project. I look forward to hearing from you and working with your wonderful city.

Yours,
Ian A McConnell

Cell - 207 944 5026
Email - ian@bandedbrewing.com



rec'd
7-9-2020

CITY OF PORTLAND

Permitting and Inspections Department

Application for Brewery, Winery and Distillery On Premise Consumption License

License expiration date concurrent with that of State of Maine Dept. of Liquor Licensing & Enforcement License.

Business Information			
Business Name (d/b/a):	Banded Brewing Company	Phone:	(207) 602 1561
Location Address:	82 Hanover St STE 6, Portland, ME		Zip: 04101
If new, what was formerly at this location:			
Mailing Address:	32 Main Street STE 102, Biddeford, ME		Zip: 04101
Contact Person:	Ian McConnell	Phone:	(207) 944 5026
Contact Person Email:	ian@bandedbrewing.com		
Manager of Establishment:	Ian McConnell	Date of Birth: 02/24/80	Phone: (207) 944 5026
Owner of Premises (Landlord):	82 Hanover, LLC, c/o Port Property Management		
Address of Premises Owner:	104 Grant St, Portland, ME		Zip: 04101

Sole Proprietor/Partnership Information (If Corporation, leave blank)

Name of Owner(s)	Date of Birth	Residence Address

Corporate/LLC/Non-Profit Organization Applicants (If Sole Proprietor or Partnership, leave blank)

Corporate Name		Corporate Mailing Address	
<i>Banded Brewing Company LLC</i>		<i>Banded Brewing Company</i>	
<i>Banded Brewing Company</i>		<i>32 Main St Bldg B-W Ste 102 Biddeford, ME</i>	
Contact Person:	<i>Antonio Lynch</i>	Phone:	<i>207-602-1561</i>
Principal Officers	Title	Date of Birth	Residence Address
Ian McConnell	Owner, Manager	2/24/80	150 Oak Ln, Dayton, ME, 04005
Antonio Lynch	Manager	2/1/83	50 Granite Street, Biddeford, ME 04005



CITY OF PORTLAND

Permitting and Inspections Department

Type of Establishment:	<u>Brewery</u> Winery Distillery
Hours & days of operation:	<u>M-Th 2pm-9pm, Fri + Sat 12pm-10pm, Sun 12pm-8pm</u>

QUESTIONS

Will food be made, served, and/or sold on the premise by this establishment?

Y/N

Y/N

If yes, please submit a City of Portland Food Service Establishment license application.

Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment?

Y/N

If yes, give the distance:

Will you have entertainment on the premises? (If yes, a Supplemental Application for Dancing & Entertainment is required.)

Y/N

Y/N

Will you permit dancing on the premises?

Y/N

Y/N

Will you permit dancing after 1:00 a.m.?

Y/N

Y/N

Will you have outside dining? (If yes, an Outdoor Dining Application is required)

Y/N

Y/NIf yes, will the outside dining be on PUBLIC or PRIVATE property (circle one).

Will you have any amusement devices (pinball, video games, juke box)?

Y/N

Y/N

If yes, please list: # of pinball machines: _____ # of amusements: _____ # of pool tables: _____

What is your targeted opening date?

4/6/20

Does the Issuance of this license directly or indirectly benefit any City employee(s)?

Y/N

Y/N

If Yes, list name(s) of employee(s) and department(s):

Have any of the applicants, including the corporation (if applicable), ever held a business license with the City of Portland?

Y/N

Y/N

If Yes, please list business name(s) and location(s):

Is any principal officer under the age of 21?

Y/N

Y/N

Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of law?

Y/N

Y/N

If Yes, please explain:

I Sam A. McConnell do hereby swear and affirm that every employee in my establishment that serves alcohol to the public has attended server training, or will attend server training within 90 days of their hire. I also understand that at any time the City license administrator can, upon request, require me to produce Server Training certificates for each employee that serves alcohol to the public in my establishment. Failure to meet the training requirement imposed by section 15-41 may result in the denial of a liquor license pursuant to 28-A M.R.S.A. § 653 (2) (G).

Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above licensee and further agrees that any misstatement of material fact may result in refusal of license or revocation if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect thereto. I/We, hereby authorize the release of any criminal history record information to the City Clerk's Office or licensing authority. I/We, hereby waive any rights to privacy with respect thereto.

Signature [Signature] Title Principal Date 2/11/20

For more information about Liquor Licenses, see Portland City Code Chapter 15 at www.portlandmaine.gov and M.R.S.A. Title 28-A at www.maine.gov.

389 Congress Street, Room 307 • Portland, Maine 04101 • 207-874-8557

bl@portlandmaine.gov • www.portlandmaine.gov



Pa
7-22-2020

CITY OF PORTLAND
Permitting and Inspections Department
Outdoor Dining Permit on Private Property
Supplemental Application

License accompanies a City of Portland Food Service Establishment or Food Service Establishment with Liquor License

☒ Outdoor Dining on Private Property \$125.00 ☐ Legal Advertisement Deposit \$100.00

Business Information			
Business Name (d/b/a):	Banded Brewing Company	Phone:	2076021561
Location Address:	82 Hanover St STE 6, Portland, ME	Zip:	04101
Mailing Address:	32 Main Street STE 102, Biddeford, ME	Zip:	04005
Contact Person:	Ian McConnell	Phone:	(207) 944 5026
Contact Person Email:	ian@bandedbrewing.com		
Manager of Establishment:	Ian McConnell	Date of Birth: 2/24/80	Phone: (207) 944 5026
Owner of Premises (Landlord):	82 Hanover, LLC, c/o Port Property Management		
Address of Premises Owner:	104 Grant St, Portland, ME	Zip:	04101

Owner Information

Corporate Name		Corporate Mailing Address	
		Zip:	
Contact Person:		Phone:	
Principal Officers			
Title	Date of Birth	Residence Address	
Ian McConnell	Owner, Manager	2/24/80	150 Oak Ln, Dayton, ME, 04005
Antonio Lynch	Manager	2/1/83	50 Granite Street, Biddeford, ME 04005



CITY OF PORTLAND
Permitting and Inspections Department

Class of License:	
Type of food served:	PRE-PACKAGED SNACK FOODS (POPCORN, PEANUTS)
Please circle all that will be served:	(Beer) (Wine) Liquor
Hours & days of operation:	MONDAY - THURSDAY 2pm - 9pm, FRIDAY + SATURDAY 12pm - 10pm, SUNDAY 12pm - 8pm
Number of Tables	8
Number of Chairs	50

Business
License

Design and Construction

- If you are building a structure or adding impervious surface for the outdoor dining area please contact the Permitting and Inspections Department for permitting requirements at permitting@portlandmaine.gov or 874-8703.

Maintenance and Operations

- Outdoor dining components must be within the permitted area and allow safe passage of pedestrian traffic. Failure to comply may result in a revocation of the permit.
- No food shall be prepared in the designated outdoor dining area.
- Outdoor dining areas must meet ADA regulations and accessible seating is required.

I/We fully understand that the City of Portland, its agents, officers and employees accept no responsibility and will not be liable for any injury, harm or damage to my/our person or property arising out of the establishment's occupancy of the sidewalk or park space. To the fullest extent permitted by law, I/We do hereby agree to assume all risk of injury, harm or damage to my/our person or property (including but not limited to all risk of injury, harm or damage to my/our property cause by the negligence of the City of Portland, its agents, officers or employees) arising out of the establishment's occupancy of the sidewalk or park space. I/We hereby agree, to the fullest extent permitted by law, to defend, indemnify and hold harmless the City of Portland, its agents, officers and employees, from and against all claims, damages, losses and expenses, just or unjust, including, but not limited to costs of defense and attorney's fees, arising out of the establishment's occupancy of the sidewalk or park space, provided that any such claims, damage, loss or expense (1) is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property including the loss of use there from, and (2) is caused in whole or in part by any negligent act or omission of the establishment, anyone directly or indirectly employed by it, or anyone for whose act it may be liable.

Signature

Title

Principal

Date

6/20/20

For Administrative Use Only

Amount: _____
 Date Paid: _____
 CC _____ CA _____ CK _____

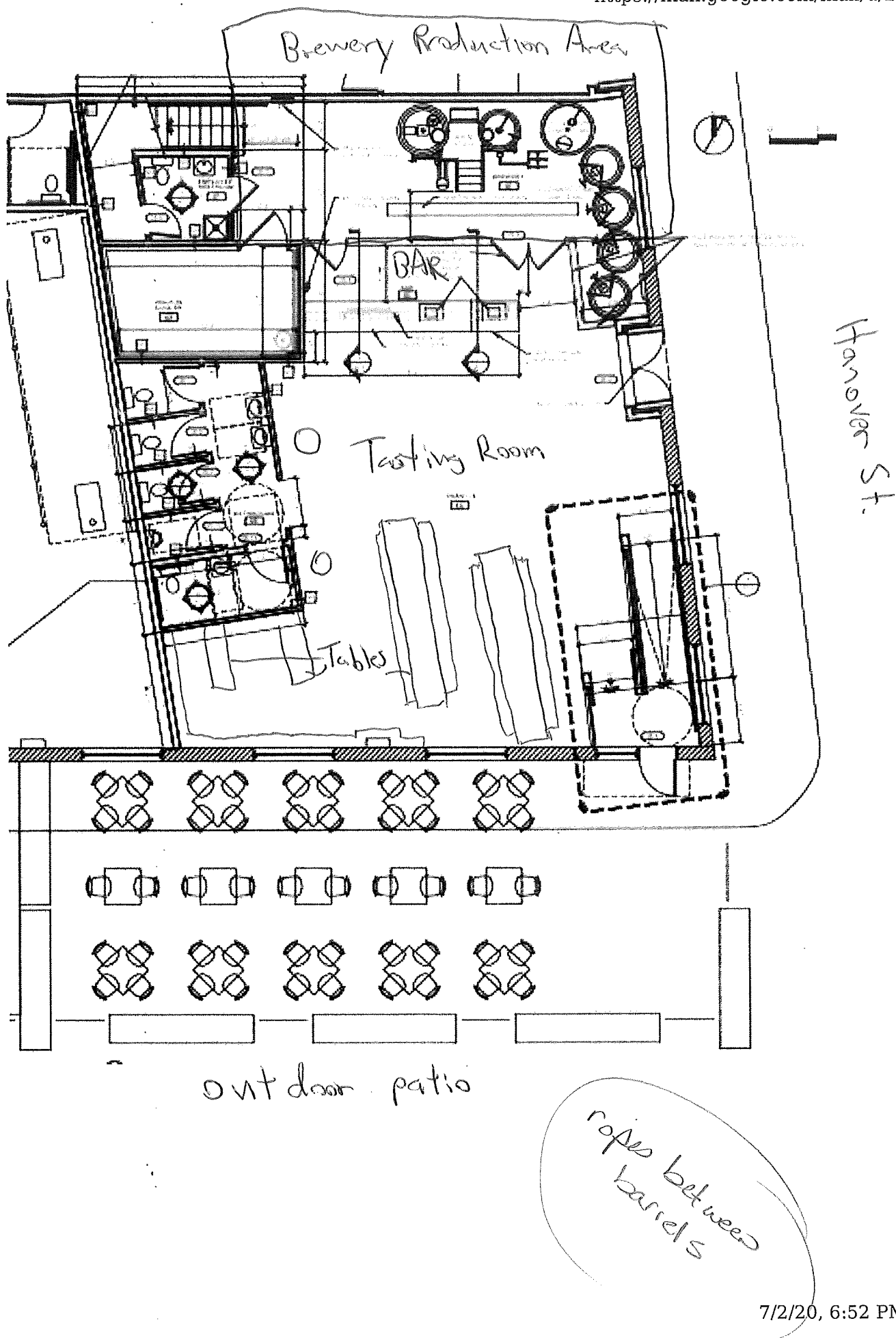
FD: _____
 Health: _____
 PD: _____
 PR: _____

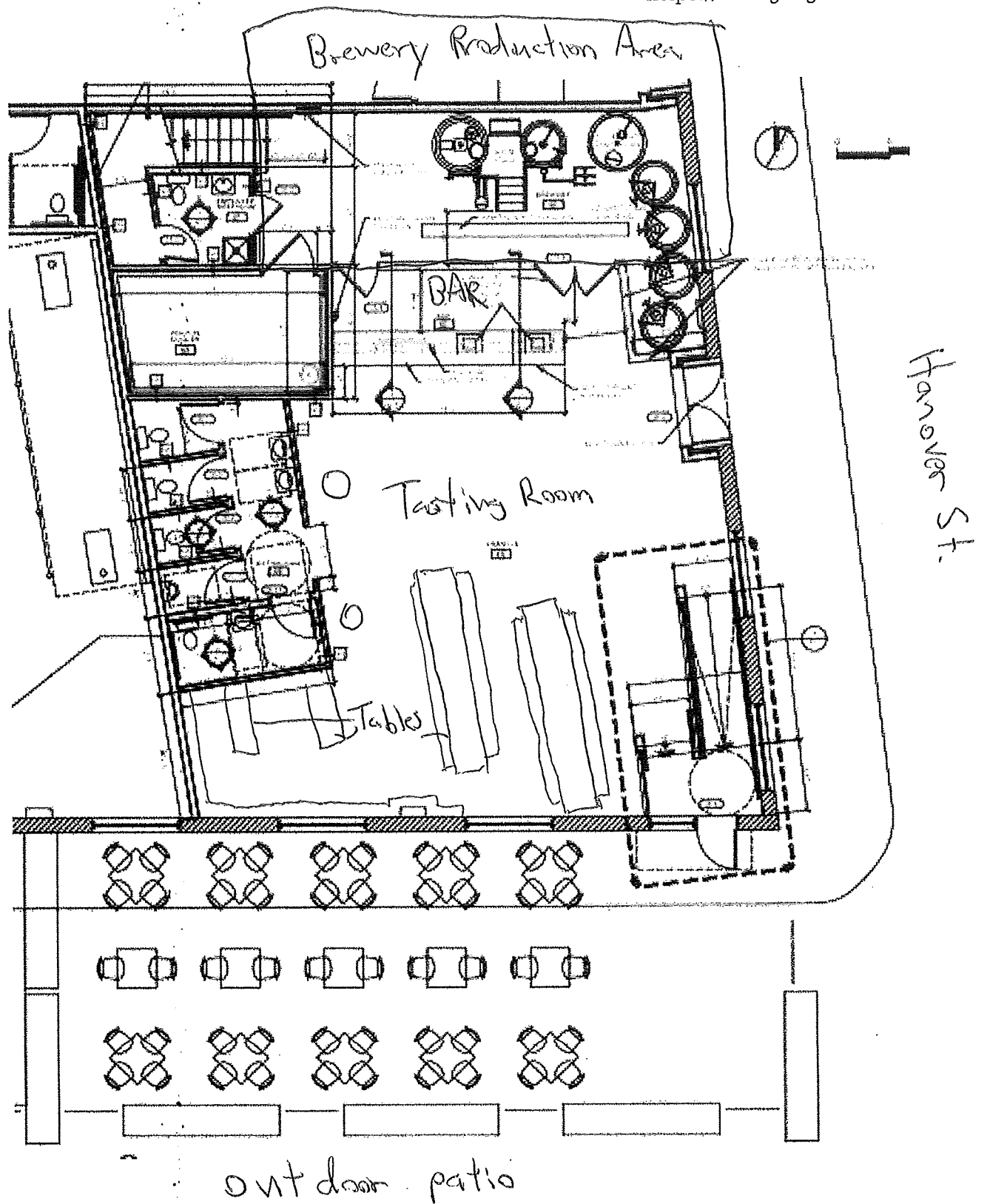
Request Date / Approval

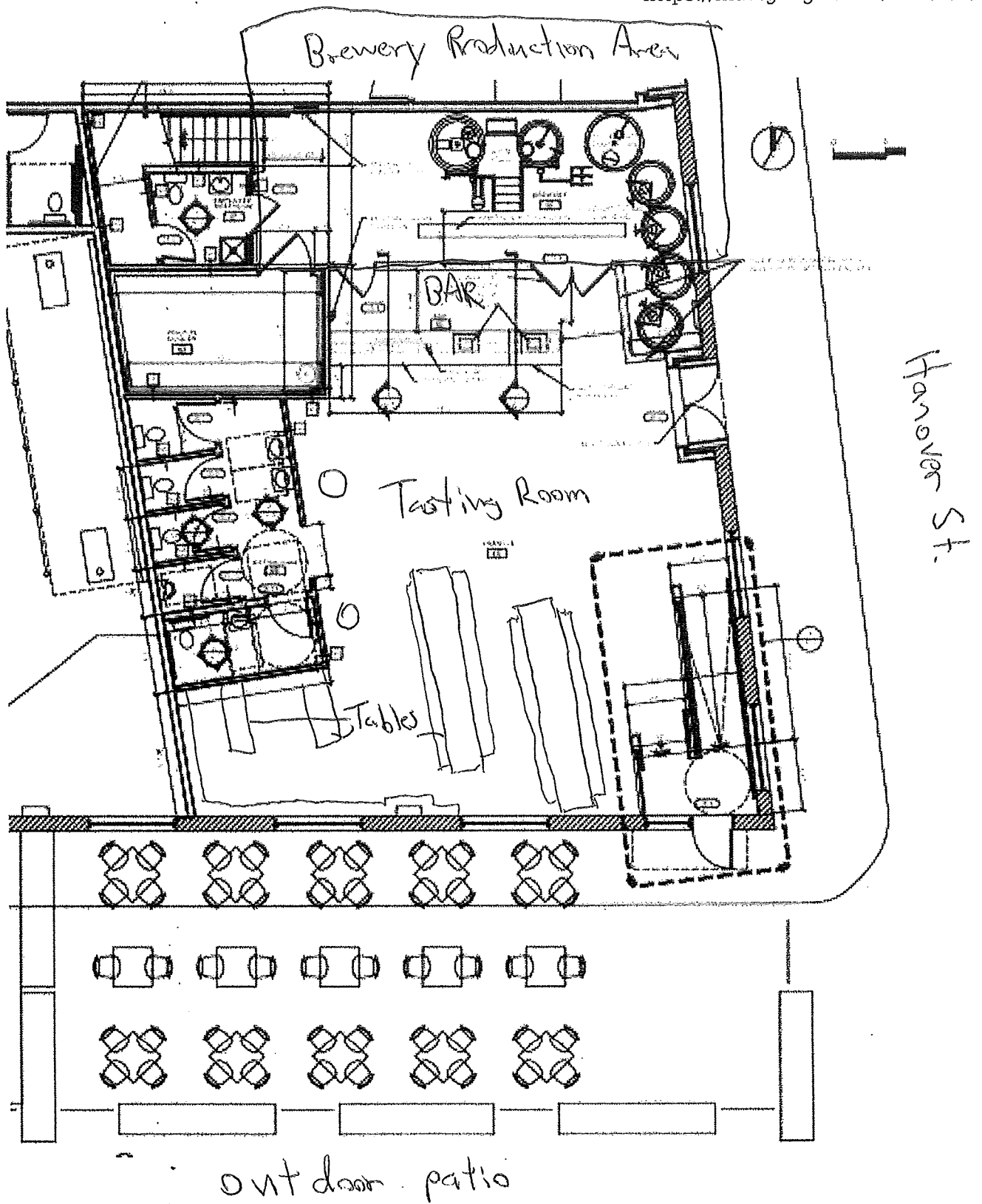
Notes: _____

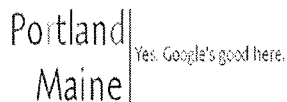
Amount: _____
 Date Paid: _____
 CC _____ CA _____ CK _____

Treasury: _____
 Zoning: _____









Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Re: Banded Brewing Company-Brewery Manufacturing

cstacey <cstacey@portlandmaine.gov>
To: Zoning <zoning@portlandmaine.gov>
Cc: jhanscombe@portlandmaine.gov

Fri, Jul 24, 2020 at 2:58 PM

A microbrewery is a permitted use in the B-7 Zone under section 14-295(a)(16) in Chapter 14, City Code of Ordinances.

I signed off for zoning in Energov.

Thanks,
Chris

On Friday, July 10, 2020 at 10:53:04 AM UTC-4, Jessica Hanscombe wrote:

Good Morning

Please see the attached for a manufacturing license. Please advise with approvals. Thanks Jessica

Jessica Blais Hanscombe
Licensing and Housing Safety Manager
City of Portland
389 Congress Street Room 307
Portland, Maine 04101
207-874-8783
jhanscombe@portlandmaine.gov





CITY OF PORTLAND
Permitting and Inspections Department

August 13, 2020

Banded Brewing Company
32 Main Street Bldg 13-W Suite 102
Biddeford ME 04005

Re: Banded Brewing Company dba Banded Brewing Company. Application for a Brewery with Outdoor Dining on Private Property at 82 Hanover Street.

Dear Ian McConnell

This letter shall serve as a reminder of the public hearing before the Portland City Council on **Monday August 31, 2020 at 5:30 p.m.**, for the review of application for a Brewery with Outdoor Dining on Private Property at 82 Hanover Street. The meeting will take place virtually. The link can be found on the Meeting Agenda which will be posted on the City Website on August 28th.

You or a representative of the business must be present at this meeting in the event that the city council has questions regarding the license application. If there is no representation and questions arise, the item may be postponed.

Please contact our office directly with questions at (207) 874-8557 or jhanscombe@portlandmaine.gov.

Sincerely,

Jessica Hanscombe
Licensing and Housing Safety Manager

Legal Advertisement

Notice of Public Hearing City of Portland

A Public Hearing will be held on August 31, 2020 at 5:30 P.M., virtually, Banded Brewing Company dba Banded Brewing Company. Application for a Brewery with Outdoor Dining on Private Property at 82 Hanover Street. Sponsored by Jon P. Jennings, City Manager.

KATE SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
TAE Y. CHONG (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

**Banded Brewing Company dba Banded Brewing Company. Application for a Brewery
with Outdoor Dining on Private Property at 82 Hanover Street.**

MEMORANDUM
City Council Agenda Item

FROM:

DATE: August 13, 2020

SUBJECT: Order 63-20/21 Granting Municipal Officers' Approval of Island Operations LLC dba Inn on Peaks Island. Application for a Combined Entertainment License at 33 Island Avenue - Sponsored by Jon P. Jennings, City Manager

SPONSOR:

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

Can action be taken at a later date: No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

II. AGENDA DESCRIPTION

Island Operations LLC dba Inn on Peaks Island. Application for a Combined Entertainment License at 33 Island Avenue.

Application was filed on 7/14/2020. Applicant currently holds a Class I FSE license with Entertainment with Dance. Chapter 4 Sec 4-53 (2) requires a public hearing for all initial applications for a Combined Entertainment License.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Inn on Peaks Island
2. 20200813114733037

Prepared by:

Date: 8/13/2020

KATE SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
TAE Y. CHONG (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

**Island Operations LLC dba Inn on Peaks Island. Application for a Combined
Entertainment License at 33 Island Avenue.**



CITY OF PORTLAND
Permitting and Inspections Department
Renewal Application for an Entertainment License

Must Include:

- ☒ 8 1/2" x 11" diagram showing layout of the premises to include dimensions, locations of dancing, seating, toilet rooms and means of egress. *2 Pages*
- ☐ Sound Mitigation Plan (**not required if renewal application for indoor only entertainment)
 - ☒ Prepared and Certified by a Professional Sound Engineer *Ian Hundt*
 - ☒ Details of methods used to minimize the impact on entertainment on the surrounding uses
 - ☒ Speaker Locations and directions
 - ☒ Sound System details and controls
 - ☒ Stage and site layout and direction
 - ☒ Noise cancelling or mitigating measures proposed
 - ☒ Anticipated Sound readings
 - Indoors Entertainment-8 feet from any outer wall
 - Outdoor/Combined Entertainment-Property line and closest residence
- ☒ On-Site monitor when attendees are expected to exceed 250

Business Information			
Business Name (d/b/a):	<i>Inn on Peaks Island</i>	Phone:	<i>207-766-5100</i>
Location Address:	<i>33 Island Avenue, Peaks Island, ME</i>	Zip:	<i>04108</i>
Owner Name:	<i>Fred Forsley</i>	Phone:	<i>207-450-1104</i>
Owner Email:	<i>fforsley@shipyard.com</i>		
Contact Person responsible for Entertainment:	<i>Victoria Brookings</i>	Phone:	<i>207-766-5100</i>
Contact Person Email:	<i>victoria@innonpeaks.com</i>		
Manager of Establishment:	<i>Victoria Brookings</i>	Phone:	<i>207-766-5100</i>
Manager Email:	<i>victoria@innonpeaks.com</i>		

About Your Establishment

Describe in detail the type and nature of the business and proposed entertainment: *Small Inn and Restaurant centered around a beautiful wedding event center. Restaurant is open to the public and so are room rentals.*

Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above license and further agrees that any misstatement of material fact may result in refusal of license or revocation, if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

Signature _____ Title *Manager* Date _____

For more information, refer to the City Code of Ordinance: Chapter 4 Amusements, at www.portlandmaine.gov

389 Congress Street, Room 307 • Portland, Maine 04101 • 207-874-8557

bl@portlandmaine.gov • www.portlandmaine.gov

11:22

12074390607

11/11 - Andrews Prop

Gravel
Pavers
Treated Lamin

Dr. J. H. P.

Twisted Lanes

204

Tipton
Hawes

180

to New Gencent

Sunt

Covered -
~~Shaded~~
 Area -
 Tented/
 Shading

Handing
Tentacle

Address

New
York

Existing fence



* Licensed Areas:

- Gravel Area - DECK
- Porch
- DECK
- TENT

FENCE

INN ON PEAKS SPEAKERS

BANDS/DJS SPEAKERS

BAR

BAYVIEW
ROOM

PHOTO BOOTH
AREA

PATIO

LOUNGE

HANDICAP RAMP

FENCE

CEREMONY
SPACE

TENT

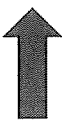
LAWN GAMES
& Photos

GARDEN

FENCE



PUD SIDE



TREES FENCE TREES

TREES

FENCE



FENCE



- INN ON PEAKS SPEAKERS
- BANDS/DJS SPEAKERS

EVENT SIDE

Outside seating

Front Patio

Rope & posts

GARDEN

Posts

Patio

Host stand

BAR

stairs

GARDEN

Posts

HANDICAP RAMP



Sound Abatement and Mitigation Plan

Inn on Peaks Island

This plan has been developed by Inn on Peaks managing partner Joseph Christopher and sound engineer, Ian Hundt as supporting information for the city of Portland to issue the entertainment license for Inn On Peaks. The plan was developed using standard equipment, techniques and in compliance with the ordinances of the City of Portland.

The Inn on Peaks has a limited entertainment schedule that is associated primarily with wedding ceremonies and receptions. All DJs and bands associated with these events are inside but can be heard from the outside. We also schedule 2 comedy shows outside under the tent each summer. We have included a 2020 reduced schedule due to The Covid 19 Virus.

Bob Marley Comedy Shows- July 8th - 2 shows 5:30pm and 7:30pm

August 19th – 2 shows 5:30 and 7:30PM

2020 PENDING
Wedding Date
7.25.20 Jensen
8.15.20 Draicchio
8.30.20 Meagher
9.5.19 Horn
9.18.20 Ainsworth
9.19.20 Tetu
9.25.20 Loring
9.27.20 Healy
10.2.20 Morgan
10.17.20 Jones
10.24.20 Markham
11.7.20 Newman
12.5.20 Wentworth
TOTAL GUESTS
13 WEDDINGS

To prepare this plan sound Engineer Ian Hundt toured the property on June 24th and took sound measurements at many locations on the property and in the adjacent streets. Ian took many readings inside and outside including 8 to 10ft from the building, at the corners of the property and in all adjacent streets. These measurements were all taken with no additional music or event occurring as well as with music playing at a maximum normal level for an event. We tried to simulate events to get an accurate read on noise levels for the report. All noise levels were within city ordinance guidelines. In most cases measurements were near or around 50 decibels. At times ambient street noise was 80 decibels having nothing to do with our operations. We have provided a diagram and marked with black X where measurements were taken. From our measurements and analysis of the property and the events that we host at the site, that only at specific moments of applause or cheering associated with ceremonies would the noise exceed levels consistent with normal operations.

We have also taken many steps to mitigate the noise of our operations and events to limit any nuisance or problem for the surrounding residents and neighborhood. Our sound mitigation strategies were discussed with sound engineer Ian Hundt and his input was used to enhance the steps taken to decrease how far noise from our events would carry. His input also resulted in the changing of some speaker positioning. All music whether it be provided by DJ or by live band are performed or played from inside our event facility. We have provided a 2020 schedule above. The only events involving outside amplification are the four Bob Marley Comedy shows that are performed under the wedding tent. Our maximum event size is 200 people.

We have provided a two-page diagram of the facility and marked speaker placement for daily restaurant use and for events. The daily restaurant music is played at a low dining room level and is relatively immeasurable outside the facility. We have also provided the normal wedding event schedule and itinerary that illustrates time and duration of events.

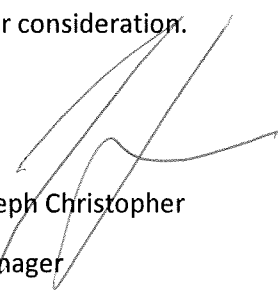
These are the steps we have taken to limit noise due to our operations.

1. Provided a schedule that limits duration of events and assures that all event noise is over by 10pm
2. Changed and limited speaker placement to limiting any casting of noise off the premises.
3. All DJ or Live music performed is performed inside the facility except for 4 Comedy shows on two dates that are performed outside with one speaker and they are spoken performances
4. Installed 6ft wooden fence on three sides of the property to contain and deflect all music or event crowd noise. The fence is installed on all three sides aside front side of the building on Island Avenue. The entire facility is also built into the side of the embankment which greatly reduces noise leaving the facility.
5. All performed or DJ music and its volume is immediately supervised by event staff. Sound measuring equipment is on site and used to be sure that proper levels are maintained at all time
6. We have installed additional trees, bushes, and shrubs at the property's edge along the fence to further dampen and control noise.
7. Maximum event size is 200 participants. Sound monitoring is still provided though not required under the ordinance.
8. The restaurant sound system is a standard residential style system with fairly low output for basic dining room music. Equipment for events is provided for by the contractor hired for the

event and is to be under 500 watts. Performances are monitored by management with sound measuring equipment on site.

This sound management plan has been well thought out and executed. The plans development was evaluated and certified by sound engineer Ian Hundt of South Portland, phone 631-488-7145. It is well designed and will be executed inside city regulations and ordinances to the best of our ability and any problems or occurrences of noise exceeding normal legal limits will be eliminated.

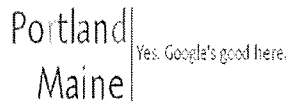
We appreciate your acceptance of our plan and the issuance of our entertainment license. Thank you for your consideration.



Joseph Christopher

Manager

Inn on Peaks Island



Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Re: Inn on Peaks

Glen McGary <glenm@portlandmaine.gov>

Tue, Jul 14, 2020 at 4:28 PM

To: Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Cc: Kevin Schneck <kschneck@portlandmaine.gov>

PPD Approved

On Tue, Jul 14, 2020 at 11:38 AM Jessica Hanscombe <jhanscombe@portlandmaine.gov> wrote:

Good Morning

Please see the attached Entertainment application. Please advise. Jess

Jessica Blais Hanscombe
Licensing and Housing Safety Manager
City of Portland
389 Congress Street Room 307
Portland, Maine 04101
207-874-8783
jhanscombe@portlandmaine.gov

--
Lieutenant Glen McGary
Portland Police Department
109 Middle Street
Portland, Maine 04101
Office (207) 756-8294
Fax (207) 874-8580



City of Portland

Sound Mitigation Review

Date: 8/5/2020

Business Inn on Peaks Island

Applicant Victoria Brookings

DESCRIPTION		yes	no
Sound system appropriate for the size venue		Yes	
Performance space located in an appropriate location		Yes	
Performance space facing in an appropriate direction to control sound		Yes	
Surrounding surfaces appropriate to control sound		Yes	
Additional sound absorbing features	wooden stockade fence		
additional notes	tent walls		
	live landscape		
Approved		Yes	
DIRECT ALL INQUIRIES TO:			
Kevin Schneck			
(207) 756-8433			
kschneck@portlandmaine.gov			



CITY OF PORTLAND
Permitting and Inspections Department

August 13, 2020

Inn on Peaks Island
33 Island Avenue
Peaks Island ME 04108

Re: Island Operations LLC dba Inn on Peaks Island. Application for a Combined Entertainment License at 33 Island Avenue.

Dear Victoria Brookings

This letter shall serve as a reminder of the public hearing before the Portland City Council on **Monday August 31, 2020 at 5:30 p.m.**, for the review of application for a Combined Entertainment License at 33 Island Avenue. The meeting will take place virtually. The link can be found on the Meeting Agenda which will be posted on the City Website on August 28th.

You or a representative of the business must be present at this meeting in the event that the city council has questions regarding the license application. If there is no representation and questions arise, the item may be postponed.

Please contact our office directly with questions at (207) 874-8557 or jhanscombe@portlandmaine.gov.

Sincerely,

Jessica Hanscombe
Licensing and Housing Safety Manager

Legal Advertisement

Notice of Public Hearing City of Portland

A Public Hearing will be held on August 31, 2020 at 5:30 P.M., virtually, Island Operations LLC dba Inn on Peaks Island. Application for a Combined Entertainment License at 33 Island Avenue. Sponsored by Jon P. Jennings, City Manager.

MEMORANDUM
City Council Agenda Item

FROM:

DATE: August 14, 2020

SUBJECT: Order 64-20/21 Granting Municipal Officers' Approval of Newsclapes Brewing Inc. dba Newsclapes Brewing Inc. Application for a Tavern Class IV with Outside Dining on Private Property at 163 Washington Avenue - Sponsored by Jon P. Jennings, City Manager

SPONSOR:

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

Can action be taken at a later date: No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

II. AGENDA DESCRIPTION

Newsclapes Brewing Inc. dba Newsclapes Brewing Inc. Application for a Tavern Class IV with Outside Dining on Private Property at 163 Washington Avenue.

Application was filed on 7/9/2020. New City and State application.

Jeffrey Curran has submitted this application for a Tavern (Class IV) liquor license for his property at 163 Washington Avenue. That application is before you with a recommendation not to approve by the Zoning Administrator, on the grounds that a tavern is not permitted in the B-1 Zone where the property in question is.

The memo from Attorney Anne Torregrossa in the back up material outlines the Council's powers with respect to granting or denying a liquor license and provides the relevant ordinance and statutory provisions. Also attached is an older memo by Gary Wood, former Corporation Counsel, outlining the process for hearing disputed liquor license applications.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. 20200814140123899
2. Newsclapes
3. 163 Washington memo
4. Memorandum from Gary Wood Criteria for Denying Liquor Lic. 2005 for Newsclapes 8.31.2020 (1)

Prepared by:

Date: 8/14/2020

Re: Newsclapes

amachado <amachado@portlandmaine.gov>

Fri, Jul 10, 2020 at 2:21 PM

To: Zoning <zoning@portlandmaine.gov>

Cc: amachado@portlandmaine.gov, jhanscombe@portlandmaine.gov, Anne Torregrossa <atorregrossa@portlandmaine.gov>

Jessica -

163 Washington Avenue is located in the B-1 (Neighborhood Business) Zone. Newsclapes Brewing Inc is going before the City Council for approval of a Malt License (Class IV) to serve beer. Under Chapter 14 of the City Code, this use is considered a drinking establishment as defined in section 14-47. A drinking establishment is not listed as a permitted use (section 14-162) or a conditional use (section 14-163) in the B-1 Zone. Since it is not a permitted or conditional in the B-1 Zone, Zoning must deny the request for a Malt License (Class IV) for Newsclapes Brewing Inc. at 163 Washington Avenue.

Ann Machado
Zoning Administrator
City Of Portland, Maine.

On Thursday, July 9, 2020 at 1:50:17 PM UTC-4, Jessica Hanscombe wrote:

I missed sending this to you also... Sorry!

Jessica Blais Hanscombe
Licensing and Housing Safety Manager
City of Portland
389 Congress Street Room 307
Portland, Maine 04101
207-874-8783
jhanscombe@portlandmaine.gov

----- Forwarded message -----

From: **Jessica Hanscombe** <jhanscombe@portlandmaine.gov>

Date: Thu, Jul 9, 2020 at 1:06 PM

Subject: Newsclapes

To: Aaron Bridges <bridgesa@portlandmaine.gov>, Benjamin Pearson <bnp@portlandmaine.gov>, Chris Beaumont <cbeaumont@portlandmaine.gov>, Danielle Buck <dbuck@portlandmaine.gov>, David Nichols <nicholsd@portlandmaine.gov>, David Petruccelli <petruccellid@portlandmaine.gov>, Eric Cobb <ecobb@portlandmaine.gov>, Glen McGary <glenm@portlandmaine.gov>, James Sweatt <jjs@portlandmaine.gov>, Jason Grant <jgrant@portlandmaine.gov>, Kathryn Barnes <kbarnes@portlandmaine.gov>, Laurie Carlson <lac@portlandmaine.gov>, Stephen Marcotte <smarcotte@portlandmaine.gov>, Tom Williams <tw@portlandmaine.gov>, Treasury Division <treasury@portlandmaine.gov>

Good Afternoon

Please see the attached application for a Class V (Beer) license. Please advise with approvals as this will need to go before council. Thanks Jessica

Jessica Blais Hanscombe
Licensing and Housing Safety Manager
City of Portland
389 Congress Street Room 307
Portland, Maine 04101
207-874-8783
jhanscombe@portlandmaine.gov



Letter of intent

Jeffrey Curran

May 20, 2020

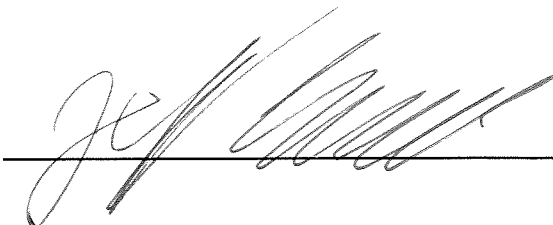
Newscapes Inc.

163 Washington Ave.

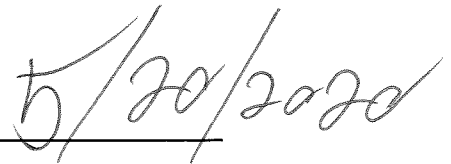
Portland ME. 04101

I Jeffrey Curran owner of Newscapes Inc. intend to open a food service establishment with outside seating at 163 Washington Ave. Portland ME. 04101.

Jeffrey A Curran



Date





CITY OF PORTLAND

Permitting and Inspections Department

Application for Food Service Establishment with Alcoholic Beverages License

Business Information	
Business Name (d/b/a):	Newscapes Brewing Inc. Phone: 207-415-9933
Location Address:	163 Washington Ave. Portland ME Zip: 04101
If new, what was formerly at this location:	Newscapes Inc.
Mailing Address:	163 Washington Ave. Portland ME Zip: 04101
Contact Person:	Jeffrey A. Curran Phone: 207-415-9933
Contact Person Email:	newscapesbrewing@gmail.com
Manager of Establishment:	Jeffrey A. Curran Date of Birth: 7/4/1977 Phone: 207-415-9933
Owner of Premises (Landlord):	Jeffrey A. Curran
Address of Premises Owner:	163 Washington Ave. Unit 2 Portland, ME Zip: 04101

Sole Proprietor/Partnership Information (If Corporation, leave blank)

Name of Owner(s)	Date of Birth	Residence Address
N/A	N/A	N/A

Corporate/LLC/Non-Profit Organization Applicants (If Sole Proprietor or Partnership, leave blank)

Corporate Name		Corporate Mailing Address	
Newscapes Brewing Inc.		163 Washington Ave. Portland ME Zip: 04101	
Contact Person:	Jeffrey A. Curran	Phone:	207-415-9933
Principal Officers	Title	Date of Birth	Residence Address
Jeffrey A. Curran	Owner	7/4/1977	163 Washington Ave. Unit 2 Portland ME 04101
Class of Liquor License:	Malt licence Class IV		

CITY OF PORTLAND
Permitting and Inspections Department

Type of food served:	<u>Pub</u>		
Please circle all that will be served:	☒ Beer	☐ Wine	☐ Liquor
Projected percentage of sales:	Generated from Food: <u>25%</u>	Generated from Alcohol: <u>75%</u>	
Hours & days of operation:	<u>Mon - Sun 12-8 PM</u>		

QUESTIONS	Y/N
Will full-course meals, only capable of consumption with the use of tableware, be served the entire time the establishment is open?	☒ Y
If No, please explain: <u>N/A</u>	
Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment?	☒ Y
If yes, give the distance: <u>N/A</u>	
Will you have entertainment on the premises? (If yes, a Supplemental Application for Entertainment is required.)	☒ Y
Will you permit dancing after 1:00 a.m.? <u>N/A</u>	☒ Y
Will you have outside dining? (If yes, an Outdoor Dining Application is required)	☒ Y
If yes, will the outside dining be on PUBLIC or <u>PRIVATE</u> property (circle one).	
Will you have any amusement devices (pinball, video games, juke box)?	☒ Y
If yes, please list: # of pinball machines: <u>N/A</u> # of amusements: <u>N/A</u> # of pool tables: <u>N/A</u>	
What is your targeted opening date? <u>ASAP</u>	
Does the Issuance of this license directly or indirectly benefit any City employee(s)?	☒ Y
If Yes, list name(s) of employee(s) and department(s): <u>N/A</u>	
Have any of the applicants, including the corporation (if applicable), ever held a business license with the City of Portland?	☒ Y
If Yes, please list business name(s) and location(s): <u>N/A</u>	
Is any principal officer under the age of 21?	☒ Y
Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of law?	☒ Y
If Yes, please explain: <u>All Charges were dropped</u>	

I, [Signature] do hereby swear and affirm that every employee in my establishment that serves alcohol to the public has attended server training, or will attend server training within 90 days of their hire. I also understand that at any time the City license administrator can, upon request, require me to produce Server Training certificates for each employee that serves alcohol to the public in my establishment. Failure to meet the training requirement imposed by section 15-41 may result in the denial of a liquor license pursuant to 28-A M.R.S.A. § 653 (2) (G).

Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above licensee and further agrees that any misstatement of material fact may result in refusal of license or revocation if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect thereto. I/We, hereby authorize the release of any criminal history record information to the City Clerk's Office or licensing authority. I/We, hereby waive any rights to privacy with respect thereto.

Signature [Signature] Title Owner Date 6/15/2020

CITY OF PORTLAND
Permitting and Inspections Department
Outdoor Dining Permit on Private Property
Supplemental Application

License accompanies a City of Portland Food Service Establishment or Food Service Establishment with Liquor License

☒ Outdoor Dining on Private Property \$125.00
 ☒ Legal Advertisement Deposit \$100.00

Business Information	
Business Name (d/b/a):	Newspaces Brewing Inc. Phone: 207-415-9933
Location Address:	163 Washington Ave. Portland ME Zip: 04101
Mailing Address:	163 Washington Ave. Portland ME Zip: 04101
Contact Person:	Jeffrey A. Curran Phone: 207-415-9933
Contact Person Email:	newspacesbrewing@gmail.com
Manager of Establishment:	Jeffrey A. Curran Date of Birth: 7/4/1977 Phone: 207-415-9933
Owner of Premises (Landlord):	Jeffrey A. Curran
Address of Premises Owner:	163 Washington Ave. ^{Unit 2} Portland ME Zip: 04101

Owner Information

Corporate Name		Corporate Mailing Address	
Newspaces Brewing Inc.		163 Washington Ave. Portland ME Zip: 04101	
Contact Person:	Jeffrey A. Curran	Phone:	207 831 0920
Principal Officers	Title	Date of Birth	Residence Address
Jeffrey A. Curran	Owner	7/4/1977	163 Washington Ave.
			Portland ME. 04101

CITY OF PORTLAND
Permitting and Inspections Department

Class of License:	IV
Type of food served:	Pub
Please circle all that will be served:	☒ Beer ☐ Wine ☐ Liquor
Hours & days of operation:	12:00 Am to 8:00 Pm Monday - Sunday
Number of Tables	5 Picnic tables
Number of Chairs	49

Design and Construction

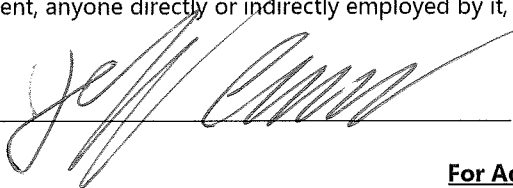
- If you are building a structure or adding impervious surface for the outdoor dining area please contact the Permitting and Inspections Department for permitting requirements at permitting@portlandmaine.gov or 874-8703.

Maintenance and Operations

- Outdoor dining components must be within the permitted area and allow safe passage of pedestrian traffic. Failure to comply may result in a revocation of the permit.
- No food shall be prepared in the designated outdoor dining area.
- Outdoor dining areas must meet ADA regulations and accessible seating is required.

I/We fully understand that the City of Portland, its agents, officers and employees accept no responsibility and will not be liable for any injury, harm or damage to my/our person or property arising out of the establishment's occupancy of the sidewalk or park space. To the fullest extent permitted by law, I/We do hereby agree to assume all risk of injury, harm or damage to my/our person or property (including but not limited to all risk of injury, harm or damage to my/our property cause by the negligence of the City of Portland, its agents, officers or employees) arising out of the establishment's occupancy of the sidewalk or park space. I/We hereby agree, to the fullest extent permitted by law, to defend, indemnify and hold harmless the City of Portland, its agents, officers and employees, from and against all claims, damages, losses and expenses, just or unjust, including, but not limited to costs of defense and attorney's fees, arising out of the establishment's occupancy of the sidewalk or park space, provided that any such claims, damage, loss or expense (1) is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property including the loss of use there from, and (2) is caused in whole or in part by any negligent act or omission of the establishment, anyone directly or indirectly employed by it, or anyone for whose act it may be liable.

Signature



Title

Owner

Date

6/18/2020

For Administrative Use Only

Amount: _____
 Date Paid: _____
 CC _____ CA _____ CK _____

FD: _____
 Health: _____
 PD: _____
 PR: _____
 Treasury: _____
 Zoning: _____

Request Date / Approval

Notes: _____

Amount: _____
 Date Paid: _____
 CC _____ CA _____ CK _____



STATE OF MAINE
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES
BUREAU OF ALCOHOLIC BEVERAGES AND LOTTERY OPERATIONS
DIVISION OF LIQUOR LICENSING AND ENFORCEMENT

Application for an On-Premises License

All Questions Must Be Answered Completely. Please print legibly.

Division Use Only	
License No:	
Class:	By:
Deposit Date:	
Amt. Deposited:	
Payment Type:	
OK with SOS: Yes ☐ No ☐	

Section I: Licensee/Applicant(s) Information;
Type of License and Status

Legal Business Entity Applicant Name (corporation, LLC): <u>Newscares Brewing Inc.</u>	Business Name (D/B/A): <u>Newscares Brewing Inc.</u>
Individual or Sole Proprietor Applicant Name(s):	Physical Location: <u>163 Washington Ave. Portland ME</u>
Individual or Sole Proprietor Applicant Name(s):	Mailing address, if different: <u>04101</u> <u>Same</u>
Mailing address, if different from DBA address:	Email Address: <u>Newscaresbrewing@gmail.com</u>
Telephone # Fax #: <u>207-415-9933</u>	Business Telephone # Fax #: <u>207-415-9933</u>
Federal Tax Identification Number: <u>35-2652365</u>	Maine Seller Certificate # or Sales Tax #: <u>11891074 1207889</u>
Retail Beverage Alcohol Dealers Permit: <u>N/A</u>	Website address: <u>N/A</u>

1. New license or renewal of existing license? ☒ New Expected Start date: ASAP
☐ Renewal Expiration Date: N/A

2. The dollar amount of gross income for the licensure period that will end on the expiration date above:

Food: N/A Beer, Wine or Spirits: N/A Guest Rooms: N/A

3. Please indicate the type of alcoholic beverage to be sold: (check all that apply)

☒ Malt Liquor (beer) ☐ Wine ☐ Spirits

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JUN 22 2020

Liquor Licensing
& Enforcement

4. Indicate the type of license applying for: (choose only one)

- | | | |
|--|--|---|
| ☐ Restaurant
(Class I, II, III, IV) | ☐ Class A Restaurant/Lounge
(Class XI) | ☐ Class A Lounge
(Class X) |
| ☐ Hotel
(Class I, II, III, IV) | ☐ Hotel – Food Optional
(Class I-A) | ☐ Bed & Breakfast
(Class V) |
| ☐ Golf Course (included optional licenses, please check if apply)
(Class I, II, III, IV) | ☐ Auxiliary | ☐ Mobile Cart |
| ☒ Tavern
(Class IV) | ☐ Other: _____ | |
| ☐ Qualified Caterer | ☐ Self-Sponsored Events (Qualified Caterers Only) | |

Refer to Section V for the License Fee Schedule on page 9

5. Business records are located at the following address:

163 Washington Ave. Portland ME. 04101

6. Is the licensee/applicant(s) citizens of the United States? ☒ Yes ☐ No

7. Is the licensee/applicant(s) a resident of the State of Maine? ☒ Yes ☐ No

NOTE: Applicants that are not citizens of the United States are required to file for the license as a business entity.

8. Is licensee/applicant(s) a business entity like a corporation or limited liability company?

☒ Yes ☐ No If **Yes**, complete Section VII at the end of this application

9. For a licensee/applicant who is a business entity as noted in Section I, does any officer, director, member, manager, shareholder or partner have in any way an interest, directly or indirectly, in their capacity in any other business entity which is a holder of a wholesaler license granted by the State of Maine?

☒ Yes ☐ No

☐ Not applicable – licensee/applicant(s) is a sole proprietor

10. Is the licensee or applicant for a license receiving, directly or indirectly, any money, credit, thing of value, endorsement of commercial paper, guarantee of credit or financial assistance of any sort from any person or entity within or without the State, if the person or entity is engaged, directly or indirectly, in the manufacture, distribution, wholesale sale, storage or transportation of liquor.

☐ Yes ☒ No

If yes, please provide details: N/A

11. Do you own or have any interest in any another Maine Liquor License? ☒ Yes ☐ No

If yes, please list license number, business name, and complete physical location address: (attach additional pages as needed using the same format)

Name of Business	License Number	Complete Physical Address
Newscoapes Inc.	SMB-2018 10745	163 Washington Ave. Portland ME 04101

12. List name, date of birth, place of birth for all applicants including any manager(s) employed by the licensee/applicant. Provide maiden name, if married. (attach additional pages as needed using the same format)

Full Name	DOB	Place of Birth
Jeffrey A. Curran	7/4/77	Portland

Residence address on all the above for previous 5 years

Name: Jeffrey A. Curran Address: 163 Washington Ave. Portland ME 04101

Name: Address:

Name: Address:

Name: Address:

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JUN 22 2020

Liquor Licensing
& Enforcement

13. Will any law enforcement officer directly benefit financially from this license, if issued?

☐ Yes ☒ No

If Yes, provide name of law enforcement officer and department where employed:

N/A

14. Has the licensee/applicant(s) ever been convicted of any violation of the liquor laws in Maine or any State of the United States? ☐ Yes ☒ No

If Yes, please provide the following information and attach additional pages as needed using the same format.

Name: N/A

Date of Conviction: N/A

Offense: N/A

Location: N/A

Disposition: N/A

15. Has the licensee/applicant(s) ever been convicted of any violation of any law, other than minor traffic violations, in Maine or any State of the United States? ☐ Yes ☒ No

If Yes, please provide the following information and attach additional pages as needed using the same format.

Name: N/A

Date of Conviction: N/A

Offense: N/A

Location: N/A

Disposition: N/A

16. Has the licensee/applicant(s) formerly held a Maine liquor license? ☒ Yes ☐ No

17. Does the licensee/applicant(s) own the premises? ☒ Yes ☐ No

If No, please provide the name and address of the owner:

N/A

18. If you are applying for a liquor license for a Hotel or Bed & Breakfast, please provide the number of guest rooms available: N/A

19. Please describe in detail the area(s) within the premises to be licensed. This description is in addition to the diagram in Section VI. (Use additional pages as needed)

Outside dining area 56' x 25', Picnic table seating
for 40. Inside Bar 12' x 16' Seating for 6.
Kitchen 12' x 22'

20. What is the distance from the premises to the **nearest** school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel?

Name: East End Community

Distance: 1/4 Mile

Section II: Signature of Applicant(s)

By signing this application, the licensee/applicant understands that false statements made on this application are punishable by law. Knowingly supplying false information on this application is a Class D Offense under Maine's Criminal Code, punishable by confinement of up to one year, or by monetary fine of up to \$2,000 or by both.

Please sign and date in blue ink.

Dated: 6/15/2020

[Signature]
Signature of Duly Authorized Person

Jeffrey A. Curran
Printed Name Duly Authorized Person

N/A
Signature of Duly Authorized Person

N/A
Printed Name of Duly Authorized Person

RECEIVED

JUN 22 2020

**Liquor Licensing
& Enforcement**

Section VII: Required Additional Information for a Licensee/Applicant for an On-Premises Liquor License Who are Legal Business Entities

Questions 1 to 4 of this part of the application must match information in Section I of the application above and match the information on file with the Maine Secretary of State's office. If you have questions regarding your legal entity name or DBA, please call the Secretary of State's office at (207) 624-7752.

All Questions Must Be Answered Completely. Please print legibly.

1. Exact legal name: Newsapes Brewing Inc.
2. Doing Business As, if any: Newsapes Brewing Inc.
3. Date of filing with Secretary of State: 2/19/19 State in which you are formed: ME
4. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine:
N/A
5. List the name and addresses for previous 5 years, birth dates, titles of officers, directors, managers, members or partners and the percentage ownership any person listed: (attached additional pages as needed)

Name	Address (5 Years)	Date of Birth	Title	Percentage of Ownership
Jeffrey A Curran	163 Washington Ave. Portland ME 04101	7/4/77	Owner	100

(Ownership in non-publicly traded companies must add up to 100%.)

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 Liquor Licensing
 & Enforcement

Section VI Premises Floor Plan

In an effort to clearly define your license premise and the areas that consumption and storage of liquor authorized by your license type is allowed, the Bureau requires all applications to include a diagram of the premise to be licensed.

Diagrams should be submitted on this form and should be as accurate as possible. Be sure to label the following areas: entrances, office area, coolers, storage areas, display cases, shelves, restroom, point of sale area, area for on-premise consumption, dining rooms, event/function rooms, lounges, outside area/decks or any other areas on the premise that you are requesting approval. Attached an additional page as needed to fully describe the premise.

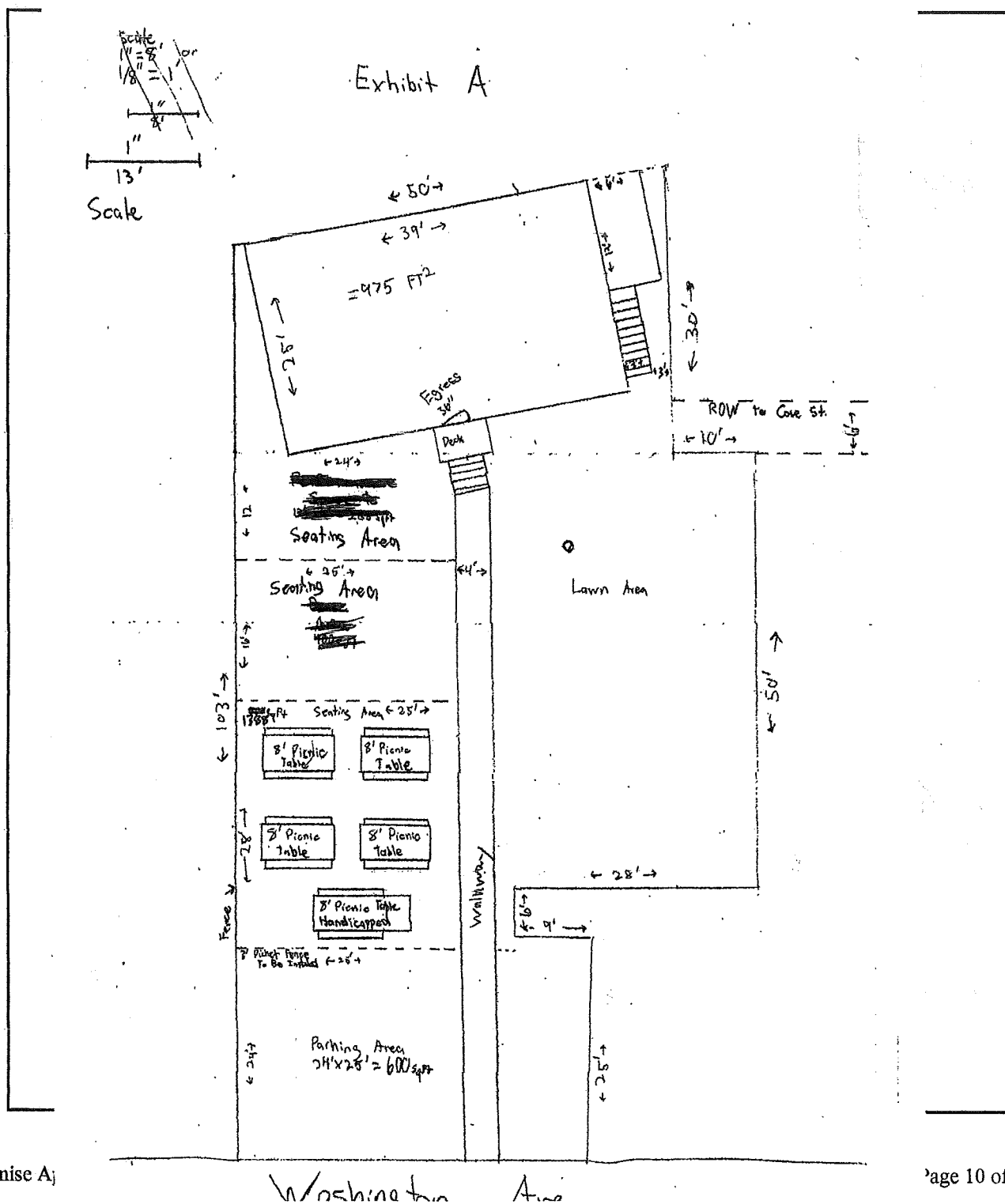
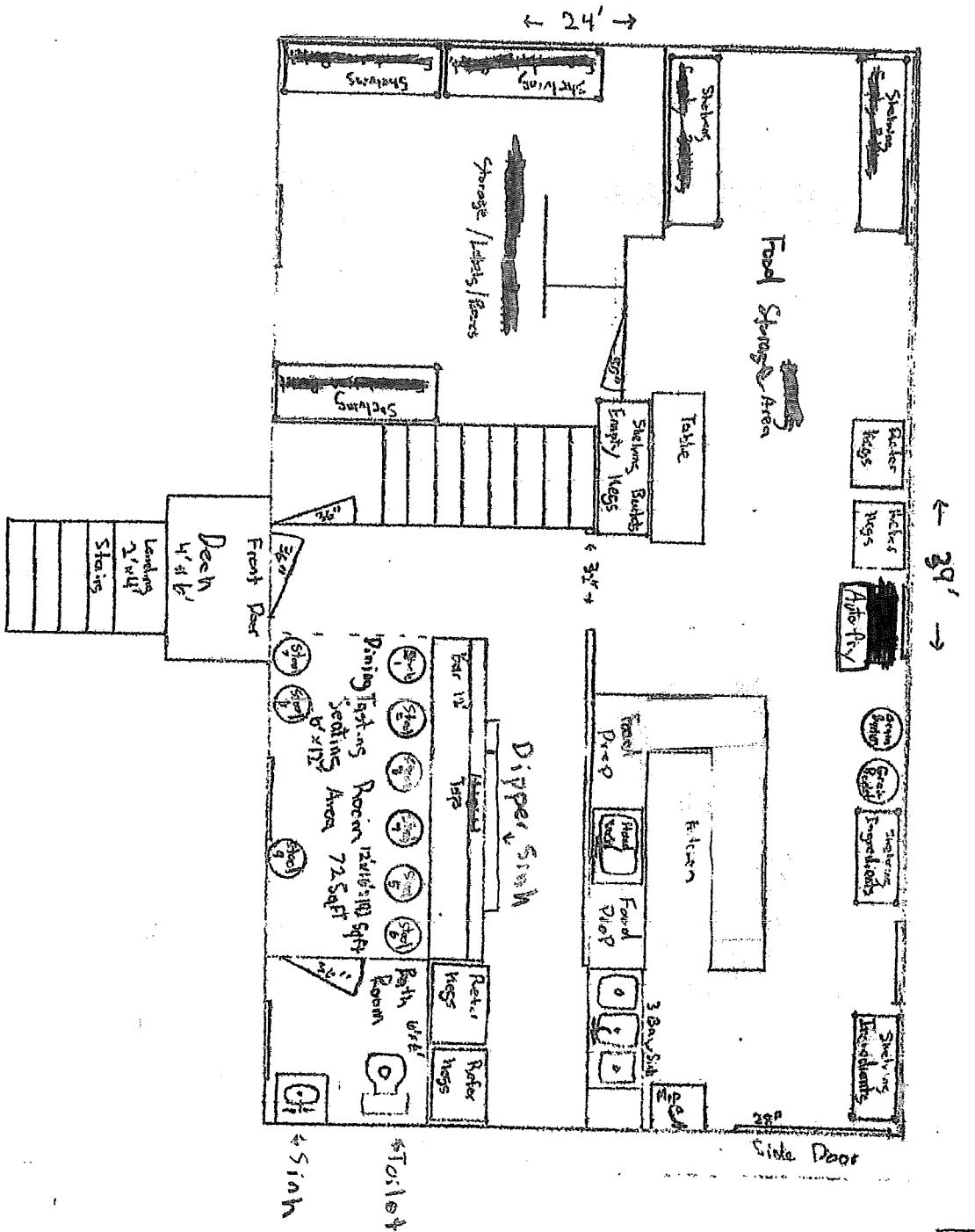


Exhibit B 1st Floor Plan



- a. All walls are wood construction, R-B insulation and 1/2" Sheet Rock
- b. From discussion with Christopher Baccant
Occupancy Load is based on
100 sqft per person in the Brewery
Area. $600 \div 100 = 6$ people
(Industrial code)
7 sqft in the testing Room
 $142 \div 7 = 27$ people (From 54 sqft) or
 $72 \div 7 = 10$ people (Seating area 54 sqft)
(Assembly code)
3 Target Estimate for total wear
Seating is less than 50 people

Scale
1" = 4'
1/4" = 1'

Draft Menu

Food

1. Chicken fingers
2. Chicken wings
3. French fries
4. Onion rings
5. Cheese Sticks
6. Salads
7. Sandwiches Turkey, ham, chicken
8. Fried Chicken tacos
9. Fried chicken sliders

Drinks

Local Craft Beer



MAINE STATE BUREAU OF IDENTIFICATION
45 Commerce Drive, Suite 1 / STATE HOUSE STATION # 42
AUGUSTA, ME 04333
(207) 624-7240 (VOICE)

JESSICA HANSCOMBE
389 CONGRESS ST.
PORTLAND, ME 04101

Transaction Response #: MIQ99D873867

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2019-02-05) :

Inquiries Name(s) JEFFREY CURRAN (1977-07-04)

The information in this criminal history record is provided subject to the following caveats:

Important! When a criminal history record and juvenile crime information record check is processed by the State Bureau of Identification using personal identifiers such as name and date of birth, it is possible that the record supplied belongs to another person with the same or essentially similar name and date of birth. Confirmation that convictions relate to person whose record has been requested requires fingerprint comparison. If the information contained in this response will be used to disqualify an applicant for employment, housing, credit, or other benefits or programs, the person making the eligibility determination using this record should provide the applicant with an opportunity to complete or contest the accuracy of the criminal history information in the response. An individual may request amendment or correction of criminal history record information by a criminal justice agency pursuant to 16 M.R.S. section 709.

****THIS RESPONSE IS BEING PRODUCED FOR YOUR REQUEST SENT: 2019-02-05**

This record, effective September 1, 2000, contains information relating to persons arrested as fugitives from justice, 15 M.R.S section 201.4 or arrested or charged with Maine crimes. It does not include former crimes no longer classified as criminal, or Class D and E crimes in Title 12 or Title 29-A, former Title 29, unless the crime is alcohol-related or drug-related 25 M.R.S. section 1541.4-A.A. For information regarding excluded Marine Resources crimes in Title 12, contact the Department of Marine Resources. For information regarding excluded Inland Fisheries and Wildlife crimes in Title 12, contact the Department of Inland Fisheries and Wildlife. For information relating to excluded crimes in Title 29-A former Title 29, contact the Secretary of State, Motor Vehicle Division. A list of former crimes is available from this Bureau.

THE FOLLOWING ATN(S) ARE UNSUPPORTED BY FINGERPRINTS IN STATE BUREAU OF

IDENTIFICATION FILES: (557786A, 937902A).

Identification

Subject Name/or potential Alias Name(s)

CURRAN, JEFFREY

Subject Description (date information provided listed in parentheses)

State ID Number

ME0128218

DOC Number

Unknown/NA

Sex

Male

Race

White

Skin Tone

Unknown/NA

Height

602

Weight

160

Date of Birth

1977-07-04

Hair Color

Brown

Eye Color

Blue

Scars, Marks, and Tattoos

Unknown/NA

Place of Birth

Unknown/NA

Citizenship

Unknown/NA

ResidenceResidence as of
Address

2018-02-05

163 WASHINGTON AVENUE
PORTLAND, ME 04101Residence as of
Address

2007-06-29

402 MITCHELL ROAD
CAPE ELIZABETH, ME**Caution Information**

Firearms Disqualified

X - Unknown

Criminal History

Cycle 001

ATN/Tracking Number

557786A

Earliest Event Date

2002-08-01

Arrest/Charge (Cycle 001)
Arrest/Charge Date 2002-08-01
Arresting/Charging Agency PORTLAND PD; ME0030500
Subject Name(s) CURRAN, JEFFREY
Arrest Type Adult
Charge 1

Charge Number 557786A 001
Charge Tracking Number 557786A
Agency PORTLAND PD; ME0030500
Offense Date 2002-08-01
Charge Description DISORDERLY CONDUCT (Charge Class E)
Statute 17-A MRSA SUBSECTION 501(3)
State Sequence Code 4834
Severity Misdemeanor

Prosecutor Disposition No data supplied

Court Disposition (Cycle 001)
Court Case Number PORDCCR200205535
Court Agency 9TH DISTRICT COURT PORTLAND; ME003035J
Charge 1

Charge Number 557786A 001
Charge Tracking Number 557786A
Agency 9TH DISTRICT COURT PORTLAND; ME003035J
Offense Date 2002-08-01
Charge Description DISORDERLY CONDUCT (Charge Class E)
Statute 17-A MRSA SUBSECTION 501(3)
State Sequence Code 4834
Severity Misdemeanor
Disposition 2002-09-17; GUILTY

Sentencing (Cycle 001)
Sentencing Agency 9TH DISTRICT COURT PORTLAND; ME003035J
Court Case Number PORDCCR200205535
Charge Number 557786A 001
Charge Sequence Number 1
Charge Tracking Number 557786A
Sentence 2002-09-17: FINED \$200.00

Corrections No data supplied

Cycle 002

ATN/Tracking Number 937902A
Earliest Event Date 2012-01-24

Arrest No data supplied

Prosecutor Disposition (Cycle 002)
Prosecutor Agency DISTRICT ATTORNEY'S OFFICE PORTLAND; ME003013A
Charge 1
Charge Number 937902A 001
Charge Tracking Number 937902A
Charge Description CULTIVATING MARIJUANA (Charge Class D)
Statute 17-A MRSA SUBSECTION 1117(1)(B)(3)
State Sequence Code 8589
Severity Misdemeanor
Prosecutor Record ADDED
Modified/Updated

Court Disposition (Cycle 002)
Court Case Number CUMCDCR201201235
Court Agency CUMBERLAND CRIMINAL DOCKET COURT; ME003075J
Charge 1
Charge Number 937902A 001
Charge Tracking Number 937902A
Agency CUMBERLAND CRIMINAL DOCKET COURT; ME003075J
Charge Description CULTIVATING MARIJUANA (Charge Class D)
Statute 17-A MRSA SUBSECTION 1117(1)(B)(3)
State Sequence Code 8589
Severity Misdemeanor
Disposition 2012-07-23; DISMISSED BY DA/AG - PLED OTHER CHARGE

Sentencing No data supplied

Corrections No data supplied

Index of Agencies

Agency 9TH DISTRICT COURT PORTLAND; ME003035J
Agency Telephone 207-822-4200
Address 205 NEWBURY ST
PORTLAND, ME 04101

Agency CUMBERLAND CRIMINAL DOCKET COURT; ME003075J
Agency Telephone 207-822-4113
Address 205 NEWBURY STREET
PORTLAND, ME 04112-0287

Agency DISTRICT ATTORNEY'S OFFICE PORTLAND; ME003013A
Agency Telephone 207-871-8384

Address 142 FEDERAL ST
PORTLAND, ME 04101

Agency PORTLAND PD; ME0030500
Agency Telephone 207-874-8479
Address 109 MIDDLE ST
PORTLAND, ME 04111

Agency SCARBOROUGH PD; ME0030700
Agency Telephone 207-883-6361
Address 246 ROUTE 1
SCARBOROUGH, ME 04074



CITY OF PORTLAND
Permitting and Inspections Department

August 14, 2020

Newsclapes Brewing Inc
163 Washington Ave
Portland ME 04101

Re: Newsclapes Brewing Inc. dba Newsclapes Brewing Inc. Application for a Tavern Class IV with Outside Dining on Private Property at 163 Washington Avenue.

Dear Jeff Curran

This letter shall serve as a reminder of the public hearing before the Portland City Council on **Monday August 31, 2020 at 5:30 p.m.**, for the review of application for a Tavern Class IV with Outside Dining on Private Property at 163 Washington Avenue. The meeting will take place virtually. The link can be found on the Meeting Agenda which will posted on the City Website on August 28th.

You or a representative of the business must be present at this meeting in the event that the city council has questions regarding the license application. If there is no representation and questions arise, the item may be postponed.

Please contact our office directly with questions at (207) 874-8557 or jhanscombe@portlandmaine.gov.

Sincerely,

Jessica Hanscombe
Licensing and Housing Safety Manager

Legal Advertisement

Notice of Public Hearing City of Portland

A Public Hearing will be held on August 31, 2020 at 5:30 P.M., virtually, Newscapes Brewing Inc. dba Newscapes Brewing Inc. Application for a Tavern Class IV with Outside Dining on Private Property at 163 Washington Avenue. Sponsored by Jon P. Jennings, City Manager.

KATE SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
TAE Y. CHONG (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

**Newscapes Brewing Inc. dba Newscapes Brewing Inc. Application for a Tavern Class IV
with Outside Dining on Private Property at 163 Washington Avenue.**

MEMORANDUM

TO: City Council; Mayor Snyder
CC: Jon P. Jennings, City Manager
FROM: Anne Torregrossa, Associate Corporation Counsel
DATE: August 24, 2020
RE: Tavern liquor application for 163 Washington Ave

Jeffrey Curran has submitted an application for a Tavern (Class IV) liquor license for his property at 163 Washington Avenue. That application is before you with a recommendation not to approve by the Zoning Administrator, on the grounds that a tavern is not permitted in the B-1 Zone where the property in question is.

This memo outlines the Council's powers with respect to granting or denying a liquor license and provides the relevant ordinance and statutory provisions. Also attached is an older memo by Gary Wood, former Corporation Counsel, outlining the process for hearing disputed liquor license applications.

COUNCIL POWERS TO GRANT OR DENY A LIQUOR LICENSE

Applicants for a liquor license in Maine have to receive approvals from both the municipal officers (the City Council) and the State. State law provides that, "In granting or denying an application, the municipal officers . . . shall indicate the reasons for their decision and provide a copy to the applicant." It goes on to provide that a license may be denied on various grounds, including, "Noncompliance of the licensed premises or its use with any local zoning ordinance or other land use ordinance not directly related to liquor control." 28-A M.R.S. § 653(2). For a Class IV license, the Council may only grant or deny the license applied for.

BRIEF HISTORY OF THE PROPERTY

163 Washington Avenue (the "Property") is a two-family home in the City's B-1 Zone. The B-1 zone does not allow breweries or drinking establishments, but does allow restaurants.

Despite being incorrectly zoned, Mr. Curran began operating a brewery at the Property in 2018 without any permits. The City learned of this in 2019 when he applied for a tasting room license and told Mr. Curran that he needed to stop his brewery operations, which he says that he has done.¹ Since that time, the City has been attempting to help Mr. Curran find a path to produce² and/or serve his beer at his property.

Mr. Curran's current application is for a Tavern (Class IV) license. A tavern does not have any food service requirements under state law and staff considers a tavern to be a drinking establishment, which

¹ Mr. Curran subsequently sued the City and various staff members in Superior Court. The City prevailed and the court dismissed Mr. Curran's case. That dismissal has been upheld by the Law Court.

² The only way for Mr. Curran to operate a brewery at the Property would be to obtain a zone change. Mr. Curran has submitted a request to rezone his property, which is currently pending with the Planning Board.

is not permitted in the B1 Zone. Although staff has encouraged Mr. Curran to apply for a Restaurant (Class IV) license, which is a permitted use in the B1 Zone, he has declined to do so.

RELEVANT CITY CODE PROVISIONS

The B-1 Zone allows restaurants under limited circumstances. City Code § 14-162(2)(h). However, it does not allow drinking establishments or breweries. *See* City Code § 14-164 (“Uses not enumerated in sections 14-162 and 14-163 as either permitted or conditional uses are prohibited.”); *see also* City Code §§ 14-162, 14-163.

The Zoning Code defines a restaurant as, “Any food service establishment, as defined by section 11-16 of this Code, with indoor seating capacity for ten (10) or more patrons.” City Code § 14-47. However, the Zoning Code also defines a drinking establishment as, “any establishment required to be licensed to sell alcoholic beverages for on-premises consumption, which is not regularly used for the purpose of providing full-course meals, as defined in Title 28-A of the Maine Revised Statutes, on the premises.” City Code § 14-47. Title 28-A defines full course meal as consisting of, “a diversified selection of food that ordinarily cannot be consumed without the use of tableware and that cannot be conveniently consumed while standing or walking.” 28-A M.R.S. § 2(R)(1).

In addition, however, The B1 Zone also places additional restrictions on restaurants. Those restrictions are described in City Code § 14-162(2)(h):

Restaurants are permitted in the B-1 zone and on the ground floor level of buildings in the B-1b zone provided they meet the following additional requirements in addition to the vehicle trips standards of in Sec. 14-162.a.2:

- a. As set forth in the City of Portland Technical Manual, section I, the city traffic engineer shall require a traffic study when it calculates the proposed use will generate in excess of a total of 50 peak hour vehicle trips.
- b. Maximum total floor area for use of the public shall be two thousand (2,000) square feet.
- c. The hours of operation shall be limited to between 6:00 a.m. and 11:00 p.m. each day.
- d. Food service and consumption are the primary function of the restaurant.

(emphasis added).

Therefore, a restaurant – as distinguished from a drinking establishment – in the B-1 zone is a food service establishment, with indoor seating capacity for ten or more patrons, that regularly provides a diversified selection of food that ordinarily cannot be consumed without the use of tableware and that

cannot be conveniently consumed while standing or walking, and that is limited in size and hours of operation, and where food service and consumption is the primary function of the restaurant.³

RELEVANT STATE LAW PROVISIONS

A Class IV liquor license allows a licensee to sell malt liquor for on premises consumption. 28-A M.R.S. § 1005(1). Among the premises eligible for a Class IV license are a restaurant and a tavern. 28-A M.R.S. § 1005(3). For purposes of the liquor statutes, restaurant is defined as, “a reputable place operated by responsible persons of good reputation, which is regularly used for the purpose of providing food for the public, and which has adequate and sanitary kitchen and dining room equipment and capacity for preparing and serving suitable food for the public.” 28-A M.R.S. § 2(Q) (emphasis added). One of the conditions for a liquor license (including a Class IV license) granted to a restaurant is that, “at least 10% of the gross annual income must be from the sale of food.” 28-A M.R.S. § 1062.

In contrast, state law defines a tavern as, “a reputable place operated by responsible persons where food may be sold and malt liquor may be sold at tables, booths and counters.” 28-A M.R.S. § 2(T-1) (emphasis added). For a license granted to a tavern, there is no food requirement at all. 28-A M.R.S. § 1066-A.

Therefore, the restaurant (Class IV) license more closely aligns with the City’s zoning requirements for a restaurant in the B-1 Zone. A tavern (Class IV) license has no food requirements and would permit Mr. Curran to operate a drinking establishment, which is not permitted in his zone.

³ In correspondence with staff, Mr. Curran has repeatedly taken the position that a restaurant is any food service establishment (“FSE”). However, an FSE could include a brewery, tavern, bar, and wide variety of other uses. Mr. Curran’s interpretation entirely ignores the distinction between a restaurant and a drinking establishment in the Zoning Code’s definitions, and also entirely ignores the additional requirements placed on restaurants in the B1 Zone.

CITY OF PORTLAND, MAINE
M E M O R A N D U M

TO: Mayor Cohen and Members of the Portland City Council

FROM: Gary C. Wood, Corporation Counsel
Ext. 8480

DATE: December 19, 2005

RE: Criteria and Process for Denying Liquor Licenses

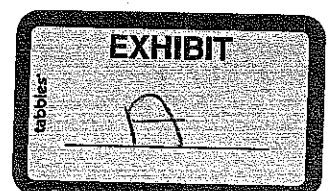
Legal Criteria.

On hearings before the Council for liquor licenses, the Council sits in a quasi-judicial capacity. You are judges not legislators. What that means is that you listen to the evidence presented by both sides and then reach a conclusion that the license should be granted or denied based upon the evidence that you have found convincing. The hearing is structured somewhat like a trial, but it is not as formal. The key is to make it fair by making sure that both sides get every reasonable opportunity to put in evidence and make comments. That does not mean these hearings have to go for hours, but they do take a lot longer than most items. That makes sense because someone's business is at risk.

If you decide to deny the liquor license based upon the evidence presented to you, you do not have to worry about legal technicalities like the Rules of Evidence because I will take your oral decision and put it into a final written form for you to review and approve.

I have attached a copy of the state statutes relevant to the analysis of liquor licenses that come up before you. The key section is Title 28-A M.R.S.A. Section 653(2). That section lists a number of criteria upon which you can base the denial of a liquor license. All of the subparagraphs (A-F) require the City to have some record (written evidence) upon which to base its action, but only subparagraphs (A) and (E) require an actual conviction for a legal violation before you can use those incidents as the basis for denying a license.

In other words, the police records of incidents of breaches of the peace is a sufficient record under subparagraph (D) upon which to base a denial. We do not have to have a conviction for each of the breaches noted in the police record to use it as the basis for a denial. **Subparagraph (D) is the paragraph that you should normally focus on and use in considering these applications.**



In addition to Section 653, the Sharky's decision in 1993, which found in favor of the Council's ruling to deny a liquor license, opened the door to the application of the criteria in Title 28-A Section 654 (also attached) as grounds for denial. That section does not require us to have a written record in order to apply the criteria nor does it require any convictions. Within that section the key subparagraphs to look at are (B), (C), and (D) in subsection (1). Once you determine the location of the business, identify particular problems that relate to that location, and identify the manner in which it has been operated, you can conclude that the combination of those factors makes this location an unsuitable place for a liquor license in the hands of the applicant before you and deny the license.

In making your findings and conclusions it is helpful if one or more of you specifically reference these two sections as you are addressing the standards.

Process.

The following process is what I recommend that the Mayor follow in these cases:

- (1) The applicant is given an opportunity to make an opening statement if they choose to before the Police Department presents its case;
- (2) The Police Department presents its case, usually through the officer who put together the report recommending denial; that report and supporting documents are in your agenda books. Usually the Police Department simply goes through that report and answers questions; the Council can ask questions at this point or any point through the Mayor;
- (3) The applicant presents his case through his attorney and any witnesses that the attorney chooses to call as well as members of the public who support the application; the applicant is also given an opportunity to submit whatever documents he or she chooses to the Council to be included in the record; as part of the presentation of the applicant's case, the applicant or his or her representative should be given an opportunity to pose questions to the Council that it would like the Police Department to answer (this takes the place of direct cross-examination which would occur in a courtroom);
- (4) The Police Department is given a chance to respond to the presentation made by the applicant and any questions raised by that presentation or the applicant;
- (5) Any other members of the public who wish to speak are given their regular opportunity to comment on the matter;

- (6) The applicant is given a final opportunity to make closing remarks or comments;
- (7) The public portion of the hearing is closed; a councilor makes a motion to grant or deny the application and all councilors comment on that motion stating their position; during this process any member of the Council can ask whatever questions they want of either the Police Department or the applicant;
- (8) The Council votes on the motion (roll call recommended);
- (9) If the Council denies the application, its decision goes into effect when the Liquor Bureau receives our written decision;
- (10) Corporation Counsel prepares a formal written decision for review and approval by Council members;
- (11) The written decision is sent to the Liquor Bureau and the applicant;
- (12) The applicant has 15 days to appeal to the Liquor Bureau; the filing of an appeal stays the Council decision;
- (13) The Bureau sets up a de novo hearing before a hearing examiner (usually within 20 days of the filing of the appeal);
- (14) The de novo hearing is held with Corporation Counsel presenting the City's case using the same evidence presented to the Council
- (15) The Bureau issues its decision (usually within 10 days);
- (16) The Bureau's decision can be appealed to Superior Court within 30 days. If the Bureau's decision supports denial, the Bureau normally issues a temporary license until the appeal period expires.
- (17) If the applicant's appeal, they have to get an injunction or the denial goes into effect.

GCW:tlb
Enc.

Maine Revised Statutes
Title 28-A: LIQUORS
Chapter 27: APPLICATION PROCEDURE

§653. HEARINGS; BUREAU REVIEW; APPEAL

1. **Hearings.** The municipal officers or, in the case of unincorporated places, the county commissioners of the county in which the unincorporated place is located, may hold a public hearing for the consideration of applications for new on-premises licenses and applications for transfer of location of existing on-premises licenses. The municipal officers or county commissioners may hold a public hearing for the consideration of requests for renewal of licenses, except that when an applicant has held a license for the prior 5 years and a complaint has not been filed against the applicant within that time, the applicant may request a waiver of the hearing.

A. The bureau shall prepare and supply application forms. [1993, c. 730, §27 (AMD).]

B. The municipal officers or the county commissioners, as the case may be, shall provide public notice of any hearing held under this section by causing a notice, at the applicant's prepaid expense, stating the name and place of hearing, to appear on at least 3 consecutive days before the date of hearing in a daily newspaper having general circulation in the municipality where the premises are located or one week before the date of the hearing in a weekly newspaper having general circulation in the municipality where the premises are located. [1995, c. 140, §4 (AMD).]

C. If the municipal officers or the county commissioners, as the case may be, fail to take final action on an application for a new on-premises license or transfer of the location of an existing on-premises license within 60 days of the filing of an application, the application is deemed approved and ready for action by the bureau. For purposes of this paragraph, the date of filing of the application is the date the application is received by the municipal officers or county commissioners. This paragraph applies to all applications pending before municipal officers or county commissioners as of the effective date of this paragraph as well as all applications filed on or after the effective date of this paragraph. This paragraph applies to an existing on-premises license that has been extended pending renewal. The municipal officers or the county commissioners shall take final action on an on-premises license that has been extended pending renewal within 120 days of the filing of the application. [2003, c. 213, §1 (AMD).]

D. If an application is approved by the municipal officers or the county commissioners but the bureau finds, after inspection of the premises and the records of the applicant, that the applicant does not qualify for the class of license applied for, the bureau shall notify the applicant of that fact in writing. The bureau shall give the applicant 30 days to file an amended application for the appropriate class of license, accompanied by any additional license fee, with the municipal officers or county commissioners, as the case may be. If the applicant fails to file an amended application within 30 days, the original application must be denied by the bureau. The bureau shall notify the applicant in writing of its decision to deny the application including the reasons for the denial and the rights of appeal of the applicant. [1995, c. 140, §5 (NEW).]

[2003, c. 213, §1 (AMD) .]

2. **Findings.** In granting or denying an application, the municipal officers or the county commissioners shall indicate the reasons for their decision and provide a copy to the applicant. A license may be denied on one or more of the following grounds:

A. Conviction of the applicant of any Class A, Class B or Class C crime; [1987, c. 45, Pt. A, §4 (NEW).]

B. Noncompliance of the licensed premises or its use with any local zoning ordinance or other land use ordinance not directly related to liquor control; [1987, c. 45, Pt. A, §4 (NEW).]



C. Conditions of record such as waste disposal violations, health or safety violations or repeated parking or traffic violations on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises or other such conditions caused by persons patronizing or employed by the licensed premises that unreasonably disturb, interfere with or affect the ability of persons or businesses residing or located in the vicinity of the licensed premises to use their property in a reasonable manner; [1993, c. 730, §27 (AMD).]

D. Repeated incidents of record of breaches of the peace, disorderly conduct, vandalism or other violations of law on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises; [1989, c. 592, §3 (AMD).]

E. A violation of any provision of this Title; [2009, c. 81, §1 (AMD).]

F. A determination by the municipal officers or county commissioners that the purpose of the application is to circumvent the provisions of section 601; and [2009, c. 81, §2 (AMD).]

G. After September 1, 2010, server training, in a program certified by the bureau and required by local ordinance, has not been completed by individuals who serve alcoholic beverages. [2009, c. 81, §3 (NEW).]

[2009, c. 81, §§1-3 (AMD) .]

3. Appeal to bureau. Any applicant aggrieved by the decision of the municipal officers or county commissioners under this section may appeal to the bureau within 15 days of the receipt of the written decision of the municipal officers or county commissioners. The bureau shall hold a public hearing in the city, town or unincorporated place where the premises are situated. In acting on such an appeal, the bureau may consider all licensure requirements and findings referred to in subsection 2.

B. If the decision appealed from is an application denial, the bureau may issue the license only if it finds by clear and convincing evidence that the decision was without justifiable cause. [1993, c. 730, §27 (AMD).]

[1995, c. 140, §6 (AMD) .]

4. No license to person who moved to obtain a license.

[1987, c. 342, §32 (RP) .]

5. Appeal to District Court. Any person or governmental entity aggrieved by a bureau decision under this section may appeal the decision to the District Court within 30 days of receipt of the written decision of the bureau.

An applicant who files an appeal or who has an appeal pending shall pay the annual license fee the applicant would otherwise pay. Upon resolution of the appeal, if an applicant's license renewal is denied, the bureau shall refund the applicant the prorated amount of the unused license fee.

[1995, c. 140, §7 (AMD); 1999, c. 547, Pt. B, §78 (AMD); 1999, c. 547, Pt. B, §80 (AFF) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §32 (AMD). 1987, c. 623, §8 (AMD). 1989, c. 592, §§3,4 (AMD). 1993, c. 730, §27 (AMD). 1995, c. 10, §1 (AMD). 1995, c. 140, §§4-7 (AMD). 1999, c. 547, §B78 (AMD). 1999, c. 547, §B80 (AFF). 1999, c. 589, §1 (AMD). 2001, c. 500, §1 (AMD). 2003, c. 213, §1 (AMD). 2009, c. 81, §§1-3 (AMD).

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Maine Revised Statutes
Title 28-A: LIQUORS
Chapter 27: APPLICATION PROCEDURE

§654. ADDITIONAL CONSIDERATIONS FOR LICENSURE

1. Character; location; operation of business. In issuing or renewing licenses, the bureau, the municipal officers or the county commissioners, as the case may be, shall give consideration to:

- A. The character of any applicant; [1987, c. 45, Pt. A, §4 (NEW) .]
- B. The location of the place of business; [1987, c. 45, Pt. A, §4 (NEW) .]
- C. The manner in which the business has been operated; and [1997, c. 373, §63 (AMD) .]
- D. Whether the operation has endangered the safety of persons in or on areas surrounding the place of business. [1987, c. 45, Pt. A, §4 (NEW) .]

[1997, c. 373, §63 (AMD) .]

2. Qualifications of corporations. The bureau, the municipal officers or the county commissioners, as the case may be, may refuse to issue licenses to corporations when any of its officers, directors or stockholders do not possess the qualifications required of unincorporated persons under this section.

[1997, c. 373, §63 (AMD) .]

3. Areas primarily for minors. Without limitation of its other powers, the bureau may not approve as a proper place for the exercise of the license privilege amusement areas primarily for minors, beaches or any other area designed primarily for use by minors.

[1997, c. 373, §63 (AMD) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1997, c. 373, §63 (AMD).

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MEMORANDUM
City Council Agenda Item

FROM:

DATE: August 13, 2020

SUBJECT: Com 3-20/21 Re: Charter Commission Election - Sponsored by Katherine L. Jones, City Clerk

SPONSOR:

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

Can action be taken at a later date: No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

II. AGENDA DESCRIPTION

This Communication from City Clerk Katherine L. Jones gives a brief overview of the costs for the Charter Commission Election and the timeline for Nomination Papers.

As a communication this item requires no public comment or formal Council action.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Communication Charter Commission

Prepared by:

Date: 8/13/2020



Office of the City Clerk
Katherine L Jones, CMC

MEMORANDUM

TO: Mayor Snyder and Members of the Portland City Council
FROM: Katherine Jones, City Clerk
DATE: August 25, 2020
RE: **Communication re: Charter Commission Election Process**

On October 21, 2019 the City Council voted to set the election date for the ballot question regarding the establishment of a Charter Commission as June 9, 2020 in response to a process to consider a Fair Elections Citizens' Initiative. My calculations at that time indicated that a June 2020 election date would have allowed the citizens of Portland who wanted to serve on the Charter Commission the ability to take out nomination papers on June 29, 2020 and for the election of the members to be on the November 3, 2020 ballot.

However, when the Governor issued an Executive Order to delay the Spring 2020 election date from June 9, 2020 to July 14, 2020 (in response to the Covid-19 Pandemic), the timelines adjusted and the election of the Commission members could not be held at the November 2020 election. *See* 30-A M.R.S. 2103(1)(A) and the Portland City Charter Article IV, section 6.

More specifically, section 2103(1) requires that the voter members to the Commission be elected in the same process as City Council members, and so the City Charter (which provides the required process) specifies (among other things) that nomination papers be made available 127 days before an election in order to allow sufficient time for all candidates to circulate their papers and collect signatures (which is needed even more so now in light of the on-going COVID-19 pandemic). *See* Portland City Charter, Article IV, section 6. The return of the nomination papers can be no earlier than 85 days before an election, which also allows the candidate sufficient, if necessary, time to collect additional signatures before the election (in case it is found that they failed to collect enough signatures).

As a result of the requirements and timelines outlined above, the only remaining issue before the City Council regarding the Charter Commission is as follows:

- 1) Designate the already-established June 2021 Election Date as the date for the special election of Charter Commission Members; *or*

- 2) Establish a different Election Date for the special election of Charter Commission Members (which would still allow for ballot availability, signature validation, etc.).

Please note that the costs of conducting a special election at an alternative date (not June 2021) would be as follows:

Ballots – \$ 10,807.50
Shipping Costs for Ballots \$457.25
Programming Voting Machines \$1,456.00
Advertising Election PPH- \$871.20
Programming AVS \$1,456.00
Election Software for RCV \$4,000.00
Hardened P.C. with RCV software and Reporting Function \$12,000.00
Laptop for reporting results (for RCV) \$500.00
Shipping of the Equipment from ES&S \$1,500.00
Election Workers \$27,080.05
City Staff OT \$6,607.09
City Staff Extra Hours - \$2,166.38
Rentals of Polling Locations \$2,200.00
Miscellaneous - Mileage for District Coordinators, Food for City Clerks Staff, Ferry Tickets for Peaks Island Election Clerks - \$400.00

Total Cost: \$71,501.47

If the special election were to be held with the School Budget Validation in June 2021, however, the additional costs would be as follows:

Ballots – \$ 10,807.50
Shipping Costs for Ballots \$457.25
Programming Voting Machines \$1,456.00
Advertising Election PPH- \$871.20
Programming AVS \$1,456.00
Election Software for RCV \$4,000.00
Hardened P.C. with RCV software and Reporting Function \$12,000.00
Laptop for reporting results \$500.00 (Due to RCV)
Shipping of the Equipment from ES&S \$1,500.00

Total Additional Costs: \$33,047.95

Please note that the above cost of \$33,047.95 has been included in the Manager's FY21 Budget Proposal. Therefore, if the Council chooses to add a different Special Election date specifically for the purposes of electing Charter Commission members, it will also need to add \$38,453.52 to the FY21 Budget.

Finally, Corporation Counsel has contacted Maine Municipal Association ("MMA") and (as requested) inquired about whether or not most Maine municipalities elect Charter

Commission members as part of the same ballot/election as the question about whether or not to form a Commission. According to MMA, this happens at some frequency in municipalities that are on a set schedule for reviewing their Charter (i.e. every 10 years) and for municipalities that have planned to review their Charter for specific reasons (i.e. to address one problem therein, etc.).

MEMORANDUM
City Council Agenda Item

FROM:

DATE: August 19, 2020

SUBJECT: Com 4-20/21 Re: Update to City Council Regarding Net Energy Billing Agreements with Solar Developers - Sponsored by Jon P. Jennings

SPONSOR: Jon Jennings, City Manager

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

Can action be taken at a later date: Yes (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

The communication provides the City Council with information about net energy bill credit agreements authorized on February 19, 2020.

II. AGENDA DESCRIPTION

On February 19, 2020 the City Council authorized the City Manager to execute agreements with solar developers participating in a consortium of large electricity users to purchase net energy bill credits from renewable energy projects to be developed following changes to Maine's solar energy legislation. This communication updates the City Council on the outcome

As a Communication this item requires no public comment or formal Council action.

III. BACKGROUND

On February 19, 2020 the City Council authorized the City Manager to execute net energy bill credit agreements with a number of renewable energy developers as part of a consortium of buyers organized by Competitive Energy Services. This communication provides a status update on the agreements and provides information about anticipated financial benefits.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Solar Consortium Update

Prepared by:

Date: 8/19/2020



CITY OF PORTLAND

Sustainability Office

Troy Moon

Sustainability Director

To: Mayor Snyder and Members of the Portland City Council

Re: Update on Solar Consortium

Date: August 17, 2020

On February 19, 2020 the City Council authorized the City Manager to enter into net energy bill credit agreements with a number of developers as part of a consortium of large energy users organized by Competitive Energy Services ("CES"). This opportunity arose because of changes to the State of Maine's net energy billing policy that now allows municipal and other large electricity customers to receive financial compensation for purchasing renewable energy produced by eligible renewable energy projects. The previous policy primarily benefited small, non-municipal customers because it compensated renewable energy purchasers with kilowatt hour credits, which are less attractive to customers who pay large demand charges.

Progress Report

Since February, City staff and the team at CES have worked together to execute agreements with the developers who submitted the most attractive offers to the consortium participants. In most cases, the projects proposed are proceeding through the various approval processes required by state and local agencies, Central Maine Power, and the finance partners involved with each project. One developer who had submitted several projects to the consortium ran into a number of difficulties and has chosen to leave the Maine market. Their projects have been withdrawn. CES approached other developers working in the state to find suitable, cost competitive projects as replacements. They reached agreements with a very successful and well known solar developer, Borrego. Following a review of the terms by Corporation Counsel and outside counsel, the City Manager executed these replacement agreements under the authority granted by the City Council in February. These replacement projects allow the consortium to achieve its goal to save participants a substantial amount of money on their electric bills while accessing renewable energy.

City of Portland participation in the revised Renewable Energy Consortium project

Original Load Offered	Original Annual Bill Savings	New Load Offered	New Annual Bill Savings	Difference
19,815 mWh	\$844,254	20,166 mWh	\$781,761	(\$62,493)

Timing of anticipated savings and revenue

All but two of the projects participating in the Consortium are for solar arrays that will be throughout the Central Maine Power service area. Each individual project must complete local site plan review, receive the necessary DEP permits, as well as complete the interconnection process with the utility. All of this will take time. Consequently, we anticipate our bill savings will phase in over the next several fiscal years as the individual projects come on line and begin producing electricity. Two existing hydroelectric projects that are part of the Consortium have recently begun producing credits for us but they are a very small portion of the overall portfolio.

As staff noted during the presentation to the City Council in February, the agreements we have made as part of the Consortium allow us to retain the renewable energy credits (RECs) associated with the power produced by participating facilities. The City will receive its proportionate share of these RECs as they are produced. Because we offered 20,166 mWh of load, we will receive this number of RECs when the projects are fully completed. The City Council will have the option to monetize these credits by selling them or to retain them. Retaining them would allow the City to claim the energy produced as renewable. Selling them would provide revenue but would transfer the green attributes to the purchaser of the RECs.

We currently expect RECs from the solar projects will have a value of approximately \$30 each. As with the bill credits, the financial benefits of the RECs will phase in over the next few years.

Anticipated savings and potential REC revenues in upcoming Fiscal Years

FY 21	(Hydro only)	FY 22	25% available	FY 23	75% available	FY 24	100% available
Bill Credits	RECs	Bill Credits	RECs	Bill Credits	RECs	Bill Credits	RECs
\$70,715	n/a (low value class 2)	\$195,000	\$151,245	\$586,340	\$453,735	\$781,786	\$604,980

We look forward to keeping the City Council updated regarding progress of the Renewable Energy Consortium as the constituent projects complete their approvals and begin to come on line.

MEMORANDUM
City Council Agenda Item

FROM:

DATE: July 21, 2020

SUBJECT: **Order 11-20/21 of Discontinuance of a Portion of Emery Street - Sponsored by the Economic Development Committee, Councilor Justin Costa, Chair**

SPONSOR: The Economic Development Committee met on May 27, 2020, and voted 3-0 (with Councilor Thibodeau recusing himself due to a conflict) to forward this to the City Council for approval.

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

Can action be taken at a later date: No This discontinuance is contemplated in the land exchange agreement with J.B. Brown & Sons approved by the Council on June 15, 2020. If approved, ownership of the portion of Emery Street that will be discontinued will revert to the abutter, J.B. Brown & Sons, and be incorporated into its development and construction of the Veteran's Administration (VA) facility with parking garage. Time is of the essence with respect to the construction of that project.

PRESENTATION: Greg Mitchell will be available to answer any questions.

I. SUMMARY

The discontinuance of this undeveloped portion of Emery Street was contemplated by the land exchange agreement between J.B. Brown & Sons and the City approved by the Council on June 15, 2020. If approved, ownership of this portion of Emery Street will revert to J.B. Brown & Sons, as the abutting property owner - though, as proposed, the City will retain pedestrian and utility easements. Under the terms of the land exchange agreement, in exchange for the Emery Street parcel, the City will acquire undeveloped industrial property owned by J.B. Brown & Sons located at the end of Quarry Road. The City needs additional property adjacent to the City Canco Road Complex for outside storage. The J.B. Brown & Sons property proposed for the land exchange includes 20,000+/- square feet. J.B. Brown & Sons has allowed the City to use this property, at no cost, for over two (2) years.

II. AGENDA DESCRIPTION

The Economic Development Committee met on May 27, 2020 and voted 3-0 (with Councilor Thibodeau recusing himself due to a conflict) to forward this to the City Council for approval.

The process for discontinuing this portion of Emery Street is dictated by state statute. On July 13, 2020, the Council voted in support of discontinuance, and the Order of Discontinuance was posted in the Clerk's Office and a Notice of Order of Discontinuance was sent to abutter.

A public hearing was held on August 3, 2020 meeting, and a final vote on Order of Discontinuance is now requested.

This discontinuance is contemplated in the land exchange agreement with J.B. Brown & Sons approved by the Council on June 15, 2020. If approved, ownership of the portion of Emery Street that will be discontinued will revert to the abutter, J.B. Brown & Sons, and be incorporated into its development and construction of the Veteran's Administration (VA) facility with parking garage. Time is of the essence with respect to the construction of that project.

No public comment will be taken given that the public hearing required under state statute was held on this item on August 3, 2020. Five affirmative votes are required for passage.

III. BACKGROUND

The vote taken on July 13, 2020 initiates the statutory process for discontinuing a public street. Following that vote the notice of discontinuance must be posted in the Clerk's office and a notice of a public hearing (proposed to take place on August 3, 2020) shall be published and provided to the abutting property owner. A second vote must take place 10 business days after the August 3, 2020 public hearing, and approval would make this order final.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

This land exchange will support new construction of a VA facility with parking garage located on West Commercial Street, as well as to add to City-owned property located on Canco Road which supports municipal Public Works and Parks & Recreation Department services.

V. FINANCIAL IMPACT

None - this portion of Emery Street is currently unimproved. In light of the land exchange agreement, damages payable to the abutter are not contemplated.

VI. STAFF ANALYSIS AND BACKGROUND

VII. RECOMMENDATION

City staff recommends the City Council vote to approve this Order of Discontinuance and complete the statutory process for discontinuing this portion of Emery Street.

VIII. LIST ATTACHMENTS

1. Order of Discontinuance of a Portion of Emery Street 7.13.2020

Prepared by:

Date: 7/21/2020

Order 11-20/21

First vote: 8-0 (Thibodeau recused) on 7/13/2020

Public Hearing held on August 3, 2020 at 5:30

KATE SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
TAE Y. CHONG (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

ORDER OF DISCONTINUANCE OF A PORTION OF EMERY STREET

ORDERED, that the City Council for the City of Portland hereby orders the discontinuance of an unimproved portion of Emery Street, said portion being approximately sixty (60) feet wide beginning at West Commercial Street and running for a distance of approximately one hundred and eighty-four (184) feet in a generally northwesterly direction. This portion of Emery Street containing approximately ten thousand six hundred and eighty-nine (10,689) square feet, as shown more particularly on the City Tax Maps number 60, on file at the Portland Tax Assessor's Office; and

BE IT FURTHER ORDERED, that the Right to enter into this portion of Emery Street for the purposes of installing, maintaining, and repairing public utility infrastructure shall be reserved unto the City of Portland; and

BE IT FURTHER ORDERED, that a public easement will be retained in the discontinued portion of Emery Street upon discontinuance for ingress and egress by pedestrians, bicycles, and similar non-motorized uses.

BE IT FURTHER ORDERED AND ADJUDGED, that the sole abutting owner is J.B. Brown & Sons, which is the petitioner for such discontinuance and no damages shall be paid to said abutter.

BE IT FURTHER ORDERED AND ADJUDGED, that the Mayor and the Portland City Council will hold a public hearing on August 3, 2020 and vote on final approval of the discontinuance on August 31, 2020.

Date of Order: July 13, 2020

SIGNATURES APPEAR ON THE NEXT PAGE

/s/ Kate Snyder

Mayor Kate Snyder

/s/ Belinda Ray

Councilor Belinda S. Ray

(recused)

Councilor Spencer R. Thibodeau

/s/ Tae Chong

Councilor Tae Chong

/s/ Justin Costa

Councilor Justin Costa

/s/ Kimberly M. Cook

Councilor Kimberly M. Cook

/s/ Jill C. Duson

Councilor Jill C. Duson

/s/ Pious Ali

Councilor Pious Ali

/s/ Nicholas M. Mavodones, Jr.

Councilor Nicholas M. Mavodones, Jr.

MEMORANDUM
City Council Agenda Item

FROM: Mary Davis, Division Director

DATE: July 22, 2020

SUBJECT: **Order 21-20/21 Designating the 577 Washington Avenue Affordable Housing District and Tax Increment Financing District and Adopting the Municipal Development Program for the District - Sponsored by the Housing Committee, Councilor Jill C. Duson, Chair, and the Economic Development Committee, Councilor Justin Costa, Chair.**

SPONSOR: Jill C. Duson, Chair of the Housing Committee
Justin Costa, Chair of the Economic Development Committee

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

Can action be taken at a later date: No A Notice of Public Hearing must be published 10 days before the date of the August 3 public hearing.

PRESENTATION: Mary Davis, Housing & Community Development Division Director will be available for questions.

I. SUMMARY

Portland Housing Development Corporation (PHDC) is proposing to rehabilitate 100 units of public housing serving seniors and persons with disabilities at a site located at 577 Washington Avenue. PHDC is requesting financial assistance from the City in the form of an Affordable Housing TIF (AHTIF) to assist with the project. If approved, the AHTIF financing will be provided through a Credit Enhancement Agreement at 75% of the increased taxable value, currently estimated at an average \$190,500 annually over 30 years.

II. AGENDA DESCRIPTION

During a meeting held on May 27, 2020, the Economic Development Committee voted (4-0) to forward this item to the City Council with a recommendation for passage.

Portland Housing Development Corporation (PHCD) is proposing to rehabilitate 100 units of public housing serving seniors and persons with disabilities at 577 Washington Avenue (Washington Gardens) to a project-based voucher funding platform. PHDC is requesting financial assistance from the City in the form of an Affordable Housing Tax Increment Financing District (AHTIF) and Credit Enhancement Agreement (CEA) to assist with the cost of construction of the project.

The development district will include 100 units of low income housing within 15 two-story residential buildings. There are currently sixty (60) studio, thirty-six (36) one-bedroom, and four (4) two-bedroom units. Sixty percent (60%) or sixty (60) of the units will be available to households earning 50% of the area median income. Forty percent (40%) or forty (40) of the units will be available to households earning 60% of the area median income. The units will have affordability restrictions through the Affordable Housing TIF Program.

PHDC has requested three forms of financial assistance including \$400,000 from the Affordable Housing

Development Program, \$184,150 received through the CDBG Program and AHTIF.

If approved, the AHTIF would be provided through a CEA at 75% of the increased taxable value, currently estimated at a 30-year annual average of \$190,500 with an estimated total of \$5,714,987 in captured revenue returned to the developer to off-set project operating costs. The remaining increased taxable value, currently estimated at a 30-year annual average of \$63,500 with an estimated total of \$1,904,996, will be general fund revenue.

The proposed project will be taxable, with an estimated annual assessment of \$7.9 million and estimated annual tax of \$184,149 at the current FY20 millage rate.

This project has received 9% Low Income Housing Tax Credit and tax-exempt debt from MaineHousing.

This item must be read on two separate days. On July 13, 2020, this item was postponed to August 31, 2020 to allow for the review of recent changes to the project proforma. Staff is requesting that this item be postponed to September 9, 2020. Five affirmative votes are required for passage after public comment.

III. BACKGROUND

The City Council must:

- (1) authorize the creation of the AHTIF District; and
- (2) approve the Credit Enhancement Agreement

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

Establish an Affordable Housing TIF District to support the rehabilitation of 100 units of rental housing.

Increase access to rental and ownership housing that is safe and affordable for working and low income families.

V. FINANCIAL IMPACT

577 Washington Avenue is currently under a Payment In Lieu of Taxes (PILOT) agreement with the City of Portland due to PHA's tax-exempt status. The PILOT is a voluntary payment made annually as a substitute for property taxes. The current PILOT amount is small in comparison to its taxable potential. Rehabilitation and creation of AHTIF district would negate this property's PILOT and bring it onto the City Assessor's books.

When completed, this project's new assessed value is estimated at \$7.9 million, which would yield \$184,149 in annual assessed property value at the current FY20 millage rate. Seventy-five (75%) percent of the increased tax revenue (approximately \$5,714,987 over 30 years) will be captured revenue returned to the developer. The remaining 25% (approximately \$1,904,996 over 30 years) will be general fund revenue.

A Credit Enhancement Agreement will return approximately \$5,714,987 in captured revenue to the developer (averaged at \$190,500 annually over thirty years) to off-set project operating costs, and approximately \$1,904,996 in non-captured general fund revenue retained by the City (averaged at \$63,500 annually over thirty years). The proposed project will be taxable.

Total development costs are estimated at \$14.7 million. At full build out, the development is projected to pay an average \$190,500 annually in projected new taxes captured. Non-captured general fund revenues are estimated at an average \$63,500 annually over thirty years. In addition, with the tax sheltering benefits of TIF

Districts, overall savings to the City during the term of the district averages an estimated annual amount of \$50,229+, or \$1,506,875+ over the life of the district.

The Housing and Community Development Division works with an independent consultant who performs third party underwriting reviews of requests for all City funding. Final terms will be determined based on the results of the underwriting.

TIF projections are included in the backup to this memo.

VI. STAFF ANALYSIS AND BACKGROUND

Public Benefits: In reviewing this TIF request, staff notes the public benefit associated with the TIF District of 100 units of rental housing of which one hundred percent (100%) will be affordable to households at or below sixty percent (60%) of the area median income.

Additionally, the TIF will create tax sheltering benefits estimated at an average of \$50,229+ per year, or \$1,506,875+ over the life of the district.

VII. RECOMMENDATION

Staff is requesting the City Council (1) approve the establishment of the 557 Washington Avenue Affordable Housing TIF District, (2) approve a Credit Enhancement Agreement with Community Housing of Maine, Inc. and (3) authorize the City Manager to sign and submit to MaineHousing for approval the documents to establish the district, in substantially the form as enclosed.

VIII. LIST ATTACHMENTS

1. Order Designating Affordable Housing TIF 577 Washington for 7.13.2020
2. Attachments for City Council 7.13.20 577 Washington Ave (1)
3. 577 Washington DEV PROG clean for Council 070620
4. 577 Washington DEC OF COV clean for Council 070620

Prepared by:

Mary Davis, Division Director

Date: 7/22/2020

Order 21-20/21

Motion to postpone to August 31, 2020: 8-0 (Cook absent) on 8/3/2020

KATE SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
TAE Y. CHONG (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER DESIGNATING THE 577 WASHINGTON AVENUE AFFORDABLE
HOUSING DEVELOPMENT DISTRICT AND
TAX INCREMENT FINANCING DISTRICT AND ADOPTING THE
MUNICIPAL DEVELOPMENT PROGRAM FOR THE DISTRICT**

WHEREAS, the City of Portland is authorized pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended, to designate specified areas within the City as an Affordable Housing Development Tax Increment Financing District, and to adopt a Development Program for such District; and

WHEREAS, there is a need for affordable housing in the City of Portland and the surrounding region; and

WHEREAS, Washington Gardens, LP intends to make certain improvements within the 577 Washington Avenue Affordable Housing Development Tax Increment Financing (“TIF”) District, including 100 rental units of affordable housing; and

WHEREAS, the City of Portland will utilize 25% of the tax revenues generated in the District in its General Fund; and

WHEREAS, there is a need to provide continuing affordable housing opportunities for citizens of Portland and the surrounding region; to improve and broaden the tax base of the City of Portland; and to improve the general economy of the City of Portland, the surrounding region and the State of Maine; and

WHEREAS, the 577 Washington Avenue Affordable Housing Development TIF District will help improve and broaden the tax base in the City of Portland; and improve the economy of the City of Portland and the State of Maine; and

WHEREAS, there is a need to provide continuing affordable housing opportunities for the citizens of Portland and the surrounding region; to improve and broaden the tax base of the City of Portland; and to improve the general economy of the City of Portland, the surrounding region and the State of Maine; and

WHEREAS, the City has held a public hearing on the question of establishing the District in accordance with the requirements of 30-A M.R.S.A. § 5223, upon at least ten (10) days prior notice published in a newspaper of general circulation within the City; and

WHEREAS, the City desires to designate the 577 Washington Avenue Affordable Housing Development and Tax Increment Financing District and adopt a Development Program for such District; and

WHEREAS, the City Council has considered the comments provided at the public hearing, both for and against the designation of the 577 Washington Avenue Affordable Housing Development TIF District, if any; and

WHEREAS, it is expected that approval will be sought and obtained from the Maine State Housing Authority, approving the designation of the 577 Washington Avenue Affordable Housing Development TIF District and Development Program for the District;

NOW THEREFORE BE IT HEREBY ORDERED BY THE CITY COUNCIL AS FOLLOWS:

That, under and pursuant to the provisions of Title 30-A, Chapter 206, Subchapter 3 of the Maine Revised Statutes as amended, the development program and financial plan entitled “577 Washington Avenue Affordable Housing Development District” as presented to this meeting and a copy of which is hereby incorporated herein by reference and as part of the minutes of this meeting, is hereby approved in substantially the form as presented as the Development Program for the District and for the reasons set forth therein, the City, after considering whether the District and the Development Program will contribute to the expansion of affordable housing opportunities within the City and to the betterment of the health, welfare or safety of the inhabitants of the City and whether any detriment to any existing property interest in the City, finds and determines that: designation of the District and pursuit of the Development Program will make a contribution to the expansion of affordable housing opportunities within the City and the betterment of the health, welfare or safety of its inhabitants, constituting good and valid public purposes and any adverse economic effect on or detriment to any existing property interests is outweighed by the contribution made by the District and the Development Program to the availability of affordable housing within the City and to the betterment of the health, welfare and safety of its inhabitants, and the City further makes the other findings and determinations as set forth in said Development Program and the Exhibits thereto; and

BE IT FURTHER ORDERED, that the area of the City of Portland entitled “577 Washington Avenue Affordable Housing Development District” as more

particularly described in said Development Program is hereby designated as an affordable housing development district and such designation shall automatically become final and shall take full force and effect upon receipt by the City of approval of the District by the Director of the Maine State Housing Authority, without the requirement of any further action by the City, the Municipal Officers or any party; and

BE IT FURTHER ORDERED, that the percentage of increased assessed value of said District to be retained as captured assessed value in accordance with the Development Program is hereby established as set forth in the Development Program and Financial Plan; and

BE IT FURTHER ORDERED, that the City Manager is hereby authorized and directed, on behalf of the City of Portland, Maine to execute and submit to Director of the Maine State Housing Authority for approval such applications and further documentation as may be necessary or appropriate for final approval and establishment of the “577 Washington Avenue Affordable Housing Development District” and its Development Program and Financial Plan pursuant to 30-A M.R.S.A. Chapter 206, Subchapter 3; and the City Manager be, and hereby is, authorized and empowered, at his discretion, from time to time, to make such technical revisions to the Development Program for the District as he or she deems reasonably necessary or convenient in order to facilitate the process for review and approval of the District by the Director of the Maine State Housing Authority, so long as such revisions are not inconsistent with this Order or the basic structure and intent of the Development Program; and

BE IT FURTHER ORDERED, that the City’s Planning and Urban Development Director is authorized to submit annual reports on the status of the “577 Washington Avenue Affordable Housing Development District” on behalf of the municipal legislative body.

Washington Gardens – Project Summary

PROJECT SUMMARY

Portland Housing Development Corporation (PHDC) proposes the rehabilitation of Washington Gardens, a 100-unit property in East Deering. The community contains 15 two-story, garden-style residential buildings and serves seniors and persons with disabilities. It is currently Public Housing and will convert to a Section 8 Project Based Voucher (PBV) funding platform through HUD's Section 18 Demolition & Disposition program at closing.

After nearly fifty years without a significant renovation, the property is in fair-to-poor condition and most major systems are nearing the end of their useful life. The proposed scope of work will include but is not limited to upgrading building envelopes and insulation, upgrading mechanical systems, adding new accessible units, improving sitework and ramps, renovating unit interiors and finishes, installing new energy- and water-efficient fixtures and appliances, and installing rooftop solar photovoltaic panels.

PHDC requests \$400,000 of funding at 0% interest from the City of Portland to support the rehabilitation of 100 affordable units at Washington Gardens. This request equals \$4,000 per unit. All other rehabilitation funding sources have been secured, including an allocation of competitive 9% Low Income Housing Tax Credit (LIHTC) from MaineHousing. The project is expected to close and begin construction in Fall 2020.

UNIT MIX

Washington Gardens currently contains 100 units, comprised of 60 studio units, 36 one-bedroom units and four (4) two-bedroom units. No change in unit mix or use will occur following rehabilitation.

TENANTS SERVED

Washington Gardens will continue to serve a senior (55+) and disabled population. All units will be restricted to households earning at or below 50% and 60% of AMI. All 100 units will benefit from a PBV.

Following rehabilitation, 17 units will be reconfigured to be accessible to serve persons with a physical disability. Two (2) units will be designed with audio/visual communication features to serve residents who are hearing- and/or sight-impaired.

Washington Gardens will comply with the City of Portland's 10% Homeless Set-Aside requirement, contingent upon a funding award. As a rehabilitation, a Homeless Set-Aside Agreement will need to align with certain HUD requirements, including existing residents' right-to-return, waitlist and leasing requirements, and the Section 8 Project-Based Voucher program, among others. We anticipate future discussions with the City to satisfy the requirements of all parties involved.

SPECIAL FEATURES

Washington Gardens contains a community room, central laundry facilities, an outdoor patio and gazebo, and on-site property management. The property benefits from a part-time, on-site mental health worker from Shalom House.

IMPACT ON NEIGHBORHOOD

The Washington Gardens rehabilitation will further improve East Deering and the City of Portland's stock of quality, affordable housing options for seniors and persons with disabilities. This project will guarantee the buildings' long-term physical and financial sustainability, better serve the needs of its residents, and improve accessibility.

RESPONSE TO SELECTION CRITERION AND PREFERENCE GUIDELINES

PROPOSED USE OF FUNDS TO ACHIEVE CITY OF PORTLAND'S GOALS & ADDRESS DEMONSTRATED NEEDS

- MARKET DEMAND – High demand exists for affordable studio, one-bedroom and two-bedroom rental units in Portland for seniors and persons with disabilities. **This project will meet the market's high demand for affordability with 100 vouchered units in East Deering.**
- ZONING – No zoning amendments or contract or conditional zones are required.
- ECONOMIC DIVERSITY – This project will promote economic diversity in the East Deering neighborhoods. The average family income in the East Deering census tract is \$71,898, or 77% of AMI. The average income has risen in this census tract over the past five years. The rehabilitation will maintain affordable homes for seniors and persons with disabilities earning at or below 60% AMI.
- CITY SUBSIDY – **This application requests \$4,000 of subsidy per unit.**

IMPACT ON SURROUNDING NEIGHBORHOOD, DESIGN COMPATIBILITY & ENVIRONMENTAL ISSUES

- SITE SELECTION – The project is fully appropriate for use as multifamily residential. Washington Gardens is surrounded on all sides by low-rise single- and multi-family properties.
- EXTERIOR DESIGN – Washington Gardens was built in 1973. Its designs is fully consistent with the surrounding neighborhood design characteristics. It's 15 low-rise, wooden-framed buildings blend in with adjacent low-rise properties and enhance the residential atmosphere of the community.
- AMENITIES AND UNIT DESIGN – Washington Gardens offers its residents a suite of amenities, including a community room, central laundry facilities, an outdoor patio and gazebo, and on-site property management. Residents will benefit from a part-time, on-site mental health worker from the Shalom House. The property is, and will continue to be, non-smoking. The rehabilitation will bring units up to like-new status with modern, marketable and durable features and finishes.
- ENVIRONMENTAL – No environmental issues exist at Washington Gardens. The City of Portland completed an Environmental Assessment (EA) of Washington Gardens on 8/15/19 and recommended a Finding Of No Significant Impact (FONSI). HUD approved the EA on 10/1/19.

FINANCIAL FEASIBILITY, INCLUDING COST, DEVELOPMENT BUDGET, PRO FORMA & LEVERAGED FUNDS

- DEVELOPMENT BUDGET & SOURCES AND USES – Every development budget line item complies with applicable City of Portland guidelines. Project budget, sources and uses are reasonable & customary.
- OPERATING PRO FORMA – Every operating pro forma line item complies with applicable City of Portland guidelines. Operating expenses are reasonable and customary.

APPLICANT'S ABILITY TO COMPLETE PROJECT

- READINESS TO PROCEED – **The project is anticipated to begin construction in Fall 2020 and be completed by mid-2022. Except for an award of City HOME/HTF, all other funding sources have been secured, including an allocation of 9% Low Income Housing Tax Credit (LIHTC) from MaineHousing.** All project sources are projected at terms and conditions that are consistent with PHDC's experience and deemed reasonable.
- TRACK RECORD OF DEVELOPMENT TEAM – Every development member has a long and successful track record with projects similar to the Washington Gardens rehab. PHDC (developer), CWS Architects (architect), Carroll & Associates (landscape architect), and Drummond Woodsum (attorney) have extensive experience with multifamily renovation projects in Portland.
- CURRENT CAPACITY OF DEVELOPMENT TEAM – All development team members have exceptional depth of human and financial resources to complete this project. PHDC extensively vets all partners to ensure appropriate staff availability, technical expertise and financial capacity. PHDC selects all development team members through a competitive RFQ or RFP procurement process to ensure that only the most qualified firms work on each of our multifamily projects.

Washington Gardens

577 Washington Avenue, Portland, ME 04103



BUILDING EXTERIORS



ON-SITE PROPERTY MANAGEMENT OFFICE



COMMUNITY CENTER



- 428-B-022 – includes 12 Residential Buildings and Community Center
- 428-C-009 – includes 3 Residential Buildings
- 428-B-018 – includes Property Management Office
- 428-B-019 – includes Maintenance Shed



PROJECT NAME: Valley Street Apartments
LOCATION: 200-210 Valley St, Portland, ME

Date: 04/27/20

DEVELOPMENT ASSUMPTIONS					
Total Units	60	Inflation Adjustments	Yr 1-5	Yr 6-15	Yr 16-30
# @ 30% AMI (Low HOME)	0.0%	Rent	2.00%	2.00%	2.00%
# @ 50% AMI (Low HOME)	0.0%	Operating Expense	3.00%	3.00%	3.00%
# @ 50% AMI (LIHTC)	60.0%	Other Income	2.00%	2.00%	2.00%
# @ 60% AMI (LIHTC)	20.0%	Debt Coverage Ratio	1.15		
# @ Market	20.0%	Vacancy	5.0%		

LIHTC Alloc.	945,149
Equity yield	0.88
Synd. %	99.99%
Equity Raise	8,128,281

Solar Credit FED	0
Equity yield	0.95
Synd. %	99.99%
Equity Raise	0

Total Equity	8,128,281
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PRO FORMA DEVELOPMENT BUDGET				
	Residential	Per Unit	Commercial	Total
Site Improvements	0	0		0
Construction	12,271,000	204,517		12,271,000
General Requirements	0	0		0
Solar	0	0		0
Builder Profit	0	0		0
Bond Premium	0	0		0
Construction Contingency	5.0%	613,550	10,226	613,550
Subtotal Construction Costs	12,884,550	214,743	0	12,884,550
Building Permits and Fees	377,000	6,283		377,000
Off-Site Improvements	0	0		0
On-Site Improvements	0	0		0
Survey & Engineering	36,000	600		36,000
Design & Permitting	520,000	8,667		520,000
Legal	68,000	1,133		68,000
Title & Recording	18,885	315		18,885
Accounting	10,000	167		10,000
Construction Period Tax	15,000	250		15,000
Construction Period Insurance	30,000	500		30,000
Other: FF&E, Security, Soft Contingency	80,000	1,333		80,000
Subtotal Soft Costs	1,154,885	19,248	0	1,154,885
Construction Loan Origination Fees	28,750	479		28,750
Construction Loan Interest	425,000	7,083		425,000
Equity Bridge Loan Costs	0	0		0
Lender Inspection Fees	12,000	200		12,000
Letter of Credit Fee	5,000	83		5,000
Permanent Loan Fees	10,000	167		10,000
Other: Construct Lender Legal, Construct Close Fee; P	15,000	250		15,000
Subtotal Finance Costs	495,750	8,293	0	495,750
Market Survey	5,000	83		5,000
Appraisal	6,500	108		6,500
Environmental Study	4,000	67		4,000
LIHTC Fees - prepaid monitoring	124,386	2,073		124,386
Other: Testing & Special Inspections	25,000	417		25,000
Other:	0	0		0
Subtotal Miscellaneous	164,886	2,748	0	164,886
Acquisition: Buildings	0	0		0
Acquisition: Land	629,500	10,492		629,500
Acquisition: Legal	0	0		0
Subtotal Acquisition	629,500	10,492	0	629,500
Operating Deficit Escrow	409,000	6,817		409,000
Pre-funded Replacements	122,710	2,045		122,710
Tax & Insurance Escrow	87,000	1,450		87,000
Total Syndication Expenses	0	0		0
Consultant Fee	0	0		0
Developer Overhead	750,000	12,500		750,000
Developer Profit	0	0		0
Rent-Up Reserve & Marketing	50,000	833		50,000
Subtotal Fee and Reserves	1,418,710	23,645	0	1,418,710
Total Development Costs	16,748,281	279,138	0	16,748,281

16,214,895 237,665 QAP TDC Index

Total Dev Costs	16,748,281
Less Commercial Construction:	0
Less: Equity Bridge Interest	
Less: Prepaid Monitoring Fees	124,386
Less: ODE	409,000
Scored TDC	16,214,895
Per Unit	270,248

New TDC calculation
[(2 x TDC/unit) + (TDC/bedroom)] / 3
TDC Per Unit \$237,665

Notes	
1.	Proposed funding reflects a 75% TIF for 30 years.
2.	This application contemplates \$595,000 in City HOME/HTF and/or Healthy Neighborhoods Funding. Avesta intends to respond to the Healthy Neighborhoods RFP issued in April and any funds awarded through that process could be used in lieu of an equal amount of City HOME/HTF funds for a total funding level of \$595,000.

MAXIMUM DEVELOPER FEE AVAILABLE	750,000
ACTUAL DEVELOPER FEE	750,000
% OF MAXIMUM DEVELOPER FEE	100.0%
NET DEVELOPER FEE COLLECTED	750,000
% OF MAXIMUM DEVELOPER FEE	100.0%

FLOW OF FUNDS									
Sources	CLC 8/15/2021	11/13/21	During Construction 2/11/22 4/12/22 8/10/22	PLC 10/14/2022	2023	2024	Total		
Beginning Cash	0	331,106	0	0	0	0	0		
Construction Loan	0	2,404,253	3,385,359	5,024,913	726,562		11,541,087		
Capital Contribution	1,219,242	0	0	0	1,019,242	5,689,797	150,000	50,000	8,128,281
-							0		0
MSHA Subsidy	480,000	0				480,000			960,000
MSHA Debt	0	0				5,390,000			5,390,000
City HOME/Healthy Neighborhoods	595,000	0	0			0			595,000
FHLBBoston Loan	0	0	0			1,025,000			1,025,000
FHLBBoston Subsidy		650,000				0			650,000
Conventional loan						0			0
Healthy Neighborhoods	0					0			0
Other	0	0	0			0			0
Development Fee Loan						0			0
TOTAL SOURCES	2,294,242	3,385,359	3,385,359	5,024,913	1,745,804	12,584,797	150,000	50,000	28,289,368
Uses									
Acquisition	629,500								629,500
Construction		3,221,138	3,221,138	4,831,706	1,610,569				12,884,550
Soft Costs	923,000	57,971	57,971	68,957	28,988	0			1,154,885
Financing Costs	70,750	106,250	106,250	106,250	106,250				495,750
Miscellaneous	139,886					75,000			214,886
Dev Fee	200,000					350,000			750,000
Reserves						618,710			618,710
TOTAL DEV. COSTS	1,963,136	3,385,359	3,385,359	5,024,913	1,745,804	1,043,710	150,000	50,000	16,748,281
Repay Equity Bridge Loan						0			0
Repay Construction Loan						11,541,087			11,541,087
Other Syndication Costs	0					0			0
SUBTOTAL OTHER ITEMS	0	0	0	0	0	11,541,087	0	0	11,541,087
TOTAL USES OF FUNDS	1,963,136	3,385,359	3,385,359	5,024,913	1,745,804	12,584,797	150,000	50,000	28,289,368
Ending Cash	331,106	0	0	0	0	0	0	0	0

PROJECT FINANCING									
Source		Amount	Rate	Term	Lien	Annual D/S			
						Yr. 1-5	Yr. 6-15	Yr. 16-30	
Source 1:	MSHA Subsidy	960,000	0.00%	30	First	0	0	0	
Source 2:	MSHA Debt	5,390,000	6.00%	30	First	323,400	323,400	323,400	
Source 3:	City HOME/Healthy Neighborho	595,000	0.00%	0	First	0	0	0	
Source 4:	FHLBBoston Loan	1,025,000	2.50%	30	Second	48,600	48,600	48,600	
Source 5:	FHLBBoston Subsidy	650,000	0.00%	0	Second	0	0	0	
Source 6:	Conventional loan	0	5.50%	30	Second	0	0	0	
Source 7:	Healthy Neighborhoods	0			Third	0	0	0	
Source 8:	Other	0	0.00%	30	Unsecured	0	0	0	
Source 9:	Development Fee Loan	0			Unsecured				
Source 10:	Net Syndication	8,128,281	\$0.85						
Capitalization Gap (Surplus)		(0)							
Total Development Costs		16,748,281							

PROPOSED RENT SCHEDULE									
Type	AMI	# Units	Contract Rent	LIHTC Max Rents	Total Gross Rent*	Market Rent	Utility Allow	Total Rent	
Efficiency	50% LowHOME				0	\$1,300	33	0	
	50% - PBV				0	\$1,300	33	0	
	50% LIHTC	7	878	878	878	\$1,300	33	70,980	
	60% LIHTC	4	1,054	1,054	1,054	\$1,300	33	49,008	
	Market	0			1,100	\$1,300		0	
11R	50% LowHOME		0	0	0	\$1,600	43	0	
	50% - PBV				0	\$1,600	43	0	
	50% LIHTC	10	941	941	941	\$1,600	43	107,760	
	60% LIHTC	3	1,129	1,129	1,129	\$1,600	43	39,086	
	Market	12			1,400	\$1,600		201,600	
25R	50% LowHOME		0	0	0	\$1,800	56	0	
	50% - PBV				0	\$1,800	56	0	
	50% LIHTC	11	1,128	1,128	1,128	\$1,800	56	141,504	
	60% LIHTC	3	1,354	1,354	1,354	\$1,800	56	48,728	
	Market	0			1,600	\$1,800		0	
14R	50% LowHOME		0	0	0	\$2,000	70	0	
	50% - PBV				0	\$2,000	70	0	
	50% LIHTC	8	1,304	1,209	1,304	\$2,000	70	118,464	
	60% LIHTC	2	1,565	1,451	1,565	\$2,000	70	35,880	
	Market				1,700	\$2,000		0	
10R	50% LowHOME							0	
	50% - PBV							0	
	50% LIHTC							0	
	60% LIHTC							0	
	Market							0	
Other:									0
Subtotals									811,020
Total Bedrooms		60							
		94							
					Vacancy Rate	5.00%			
					Other Income	TIF			(40,551)
					Other Income	Laundry			99,000
									2,880
					Effective Gross Income				872,349

AFFORDABLE MORTGAGE CALCULATION			
Effective Gross Income		872,349	
Annual Operating Expense		445,841	
Stabilized NOI		426,508	
DSC	1.15		
\$ Avail for D/S			
Other DS		372,000	
DCR	1.15		
Affordable Mortgage			

BREAKEVEN ANALYSIS		RENT SENSITIVITY		OCCUPANCY	
		Total		Annual	
Operating Expense		445,841	Gross Revenues	912,900	
Debt Service		372,000			
Breakaven Rent		1,136	Breakaven Occupancy	90%	

OPERATING EXPENSES			
Expense	Annual	Annual Per Unit	Monthly Per Unit
Administrative Expenses:			
Management Fees	50,907	848	71
Management Charges	50,907	848	71
Marketing Expenses	500	8	1
Legal Expenses	500	8	1
Auditing Expenses	7,500	125	10
Other Administrative Expenses	0	0	0
Administrative Expenses	110,313	1,839	153
Operating Expenses:			
Janitorial Payroll	0	0	0
Janitorial Supplies and Equipment	0	0	0
Janitorial Contractual Services	10,000	167	14
Natural Gas	30,000	500	42
Electricity	15,000	250	21
Water and Sewer	12,500	208	17
Garbage and Trash Removal	6,500	108	9
Vehicle and Equipment Expenses	0	0	0
Other Operating Expenses	0	0	0
Operating Expenses	74,000	1,233	103
Maintenance Expenses:			
Grounds Maintenance Payroll	0	0	0
Grounds Tools and Supplies	0	0	0
Grounds Contractual Services	10,000	167	14
Miscellaneous Ground Maintenance	0	0	0
Tenant Damage Charges - Grounds	0	0	0
Building Maintenance Payroll	0	0	0
Building Tools and Supplies	0	0	0
Building Contractual Services	20,000	333	28
Building Systems Maintenance	30,000	500	42
Miscellaneous Building Maintenance	0	0	0
Tenant Damage Charges - Building	0	0	0
Maintenance Expenses	60,000	1,000	83
General Expenses:			
Property Taxes	132,000	2,200	183
Property and Liability Insurance	21,000	350	29
Investor Fees	0	0	0
Tenant Service Expenses	21,528	359	30
General Expenses	174,528	2,909	242
Replacement Reserve Funding			
Parking Lease	27,000	450	38
Commercial Expenses (if applicable)	0	0	0
Total	445,841	7,431	619

PROFORMA OPERATING INCOME AND EXPENSE STATEMENT												
	3 Months	Yr 1	Yr 2	Yr 3	Yr 4	Yr 5	Yr 6	Yr 7	Yr 8	Yr 9	Yr 10	
	9/1/2022	12/31/2022	12/31/2023	12/30/2024	12/31/2025	12/31/2026	12/31/2027	12/30/2028	12/31/2029	12/31/2030	12/31/2031	12/30/2032
Effective Gross Income		218,087	872,349	889,796	907,592	925,744	944,259	963,144	982,407	1,002,055	1,022,096	1,042,538
Less Operating Expense		111,460	445,841	459,217	472,993	487,183	501,798	516,852	532,358	548,329	564,779	581,722
Net Operating Income		106,627	426,508	430,579	434,599	438,561	442,460	446,291	450,049	453,726	457,317	460,816
Less RLP Repay		80,850	323,400	323,400	323,400	323,400	323,400	323,400	323,400	323,400	323,400	323,400
Less Other Repay		12,150	48,600	48,600	48,600	48,600	48,600	48,600	48,600	48,600	48,600	48,600
Cash Flow		13,627	54,508	58,579	62,599	66,561	70,460	74,292	78,049	81,726	85,317	88,816
Cash Flow per Unit		909	908	976	1,043	1,109	1,174	1,238	1,301	1,362	1,422	1,480
Debt Coverage Ratio(RLP)		1.15	1.15	1.16	1.17	1.18	1.19	1.20	1.21	1.22	1.23	1.24
Operating Reserve Balance	409,000	429,450	450,923	473,469	497,142	521,989	548,089	575,504	604,279	634,493	666,218	699,529

Total Cash Flow
Projected over 12 Years
922,257

PROFORMA OPERATING INCOME AND EXPENSE STATEMENT, continued											
	Yr 11	Yr 12	Yr 13	Yr 14	Yr 15	Yr 16	Yr 17	Yr 18	Yr 19	Yr 20	
	12/31/2033	12/31/2034	12/31/2035	12/31/2036	12/31/2037	12/31/2038	12/31/2039	12/31/2040	12/31/2041	12/31/2042	
Effective Gross Income	1,063,389	1,084,656	1,106,349	1,128,476	1,151,046	1,174,067	1,197,548	1,221,499	1,245,929	1,270,848	
Less Operating Expense	599,174	617,149	635,663	654,733	674,375	694,606	715,445	736,908	759,015	781,786	
Net Operating Income	464,215	467,508	470,686	473,743	476,671	479,461	482,104	484,591	486,914	489,062	
Less RLP Repay	323,400	323,400	323,400	323,400	323,400	323,400	323,400	323,400	323,400	323,400	
Less Other Repay	48,600	48,600	48,600	48,600	48,600	48,600	48,600	48,600	48,600	48,600	
Cash Flow	92,215	95,508	98,686	101,743	104,671	107,461	110,104	112,591	114,914	117,062	
Cash Flow per Unit	1,537	1,592	1,645	1,696	1,745	1,791	1,835	1,877	1,915	1,951	
Debt Coverage Ratio(RLP)	1.25	1.26	1.27	1.27	1.28	1.29	1.30	1.30	1.31	1.31	
Operating Reserve Balance	699,529	734,505	771,230	809,792	850,282	892,796	937,435	984,307	1,033,523	1,085,199	1,139,459

City of Portland - TIF Model

PHA 577 Washington Ave. Garden Affordable Housing Project

OAV as of 3/31/2019: \$0

Tax Map References:	428-B-022	428-C-009	429-B-018	428-B-019
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City of Portland- TIF Projection Table for 577 Washington Avenue Gardens									
TIF Year	Tax Year- April 1	Increased Assessed Value Real Prop.	% of Value Captured	Captured Valuation	Projected Mill Rate	Total Projected New Taxes Captured	Captured Revenue to Business Project Account	Captured Revenue to Municipal Project Account	City Non- Captured General Fund Revenues
1	2020	\$7,900,000	75.00%	\$5,925,000	23.78	\$140,874	\$140,874	\$0	\$46,958
2	2021	\$7,900,000	75.00%	\$5,925,000	24.25	\$143,691	\$143,691	\$0	\$47,897
3	2022	\$7,900,000	75.00%	\$5,925,000	24.74	\$146,565	\$146,565	\$0	\$48,855
4	2023	\$7,900,000	75.00%	\$5,925,000	25.23	\$149,497	\$149,497	\$0	\$49,832
5	2024	\$7,900,000	75.00%	\$5,925,000	25.74	\$152,487	\$152,487	\$0	\$50,829
6	2025	\$7,900,000	75.00%	\$5,925,000	26.25	\$155,536	\$155,536	\$0	\$51,845
7	2026	\$7,900,000	75.00%	\$5,925,000	26.78	\$158,647	\$158,647	\$0	\$52,882
8	2027	\$7,900,000	75.00%	\$5,925,000	27.31	\$161,820	\$161,820	\$0	\$53,940
9	2028	\$7,900,000	75.00%	\$5,925,000	27.86	\$165,056	\$165,056	\$0	\$55,019
10	2029	\$7,900,000	75.00%	\$5,925,000	28.41	\$168,357	\$168,357	\$0	\$56,119
11	2030	\$7,900,000	75.00%	\$5,925,000	28.98	\$171,725	\$171,725	\$0	\$57,242
12	2031	\$7,900,000	75.00%	\$5,925,000	29.56	\$175,159	\$175,159	\$0	\$58,386
13	2032	\$7,900,000	75.00%	\$5,925,000	30.15	\$178,662	\$178,662	\$0	\$59,554
14	2033	\$7,900,000	75.00%	\$5,925,000	30.76	\$182,236	\$182,236	\$0	\$60,745
15	2034	\$7,900,000	75.00%	\$5,925,000	31.37	\$185,880	\$185,880	\$0	\$61,960
16	2035	\$7,900,000	75.00%	\$5,925,000	32.00	\$189,598	\$189,598	\$0	\$63,199
17	2036	\$7,900,000	75.00%	\$5,925,000	32.64	\$193,390	\$193,390	\$0	\$64,463
18	2037	\$7,900,000	75.00%	\$5,925,000	33.29	\$197,258	\$197,258	\$0	\$65,753
19	2038	\$7,900,000	75.00%	\$5,925,000	33.96	\$201,203	\$201,203	\$0	\$67,068
20	2039	\$7,900,000	75.00%	\$5,925,000	34.64	\$205,227	\$205,227	\$0	\$68,409
21	2040	\$7,900,000	75.00%	\$5,925,000	35.33	\$209,331	\$209,331	\$0	\$69,777
22	2041	\$7,900,000	75.00%	\$5,925,000	36.04	\$213,518	\$213,518	\$0	\$71,173
23	2042	\$7,900,000	75.00%	\$5,925,000	36.76	\$217,788	\$217,788	\$0	\$72,596
24	2043	\$7,900,000	75.00%	\$5,925,000	37.49	\$222,144	\$222,144	\$0	\$74,048
25	2044	\$7,900,000	75.00%	\$5,925,000	38.24	\$226,587	\$226,587	\$0	\$75,529
26	2045	\$7,900,000	75.00%	\$5,925,000	39.01	\$231,119	\$231,119	\$0	\$77,040
27	2046	\$7,900,000	75.00%	\$5,925,000	39.79	\$235,741	\$235,741	\$0	\$78,580
28	2047	\$7,900,000	75.00%	\$5,925,000	40.58	\$240,456	\$240,456	\$0	\$80,152
29	2048	\$7,900,000	75.00%	\$5,925,000	41.39	\$245,265	\$245,265	\$0	\$81,755
30	2049	\$7,900,000	75.00%	\$5,925,000	42.22	\$250,170	\$250,170	\$0	\$83,390
30 Year TIF Total		\$237,000,000		\$177,750,000		\$5,714,987	\$5,714,987	\$0	\$1,904,996
30 Year Average							\$190,500		\$63,500

**Tax Shifts-Avoided Formula Impacts from Sheltering of Valuation: City of Portland- TIF Model
for 577 Washington Avenue Gardens**

75% Sheltered - 30 years - 75% to Developer Project Account - 25% to City General Fund

TIF Year	Tax Year- April 1	Total Added Valuation	Sheltered Valuation	Avoided Formula Impacts from Sheltering of Valuation			
				Avoided Loss of State Aid to for Education	Avoided Loss of State Municipal Revenue Sharing	Avoided Increase in County Tax	Total Avoided Impacts
1	2020	\$7,900,000	\$5,925,000	\$0	\$4,440	\$3,271	\$7,711
2	2021	\$7,900,000	\$5,925,000	\$0	\$4,440	\$3,271	\$7,711
3	2022	\$7,900,000	\$5,925,000	\$0	\$4,440	\$3,271	\$7,711
4	2023	\$7,900,000	\$5,925,000	\$16,353	\$4,440	\$3,271	\$24,064
5	2024	\$7,900,000	\$5,925,000	\$32,706	\$4,440	\$3,271	\$40,417
6	2025	\$7,900,000	\$5,925,000	\$49,059	\$4,440	\$3,271	\$56,770
7	2026	\$7,900,000	\$5,925,000	\$49,059	\$4,440	\$3,271	\$56,770
8	2027	\$7,900,000	\$5,925,000	\$49,059	\$4,440	\$3,271	\$56,770
9	2028	\$7,900,000	\$5,925,000	\$49,059	\$4,440	\$3,271	\$56,770
10	2029	\$7,900,000	\$5,925,000	\$49,059	\$4,440	\$3,271	\$56,770
11	2030	\$7,900,000	\$5,925,000	\$49,059	\$4,440	\$3,271	\$56,770
12	2031	\$7,900,000	\$5,925,000	\$49,059	\$4,440	\$3,271	\$56,770
13	2032	\$7,900,000	\$5,925,000	\$49,059	\$4,440	\$3,271	\$56,770
14	2033	\$7,900,000	\$5,925,000	\$49,059	\$4,440	\$3,271	\$56,770
15	2034	\$7,900,000	\$5,925,000	\$49,059	\$4,440	\$3,271	\$56,770
16	2035	\$7,900,000	\$5,925,000	\$49,059	\$4,440	\$3,271	\$56,770
17	2036	\$7,900,000	\$5,925,000	\$49,059	\$4,440	\$3,271	\$56,770
18	2037	\$7,900,000	\$5,925,000	\$49,059	\$4,440	\$3,271	\$56,770
19	2038	\$7,900,000	\$5,925,000	\$49,059	\$4,440	\$3,271	\$56,770
20	2039	\$7,900,000	\$5,925,000	\$49,059	\$4,440	\$3,271	\$56,770
21	2040	\$7,900,000	\$5,925,000	\$49,059	\$4,440	\$3,271	\$56,770
22	2041	\$7,900,000	\$5,925,000	\$49,059	\$4,440	\$3,271	\$56,770
23	2042	\$7,900,000	\$5,925,000	\$49,059	\$4,440	\$3,271	\$56,770
24	2043	\$7,900,000	\$5,925,000	\$49,059	\$4,440	\$3,271	\$56,770
25	2044	\$7,900,000	\$5,925,000	\$49,059	\$4,440	\$3,271	\$56,770
26	2045	\$7,900,000	\$5,925,000	\$49,059	\$4,440	\$3,271	\$56,770
27	2046	\$7,900,000	\$5,925,000	\$49,059	\$4,440	\$3,271	\$56,770
28	2047	\$7,900,000	\$5,925,000	\$49,059	\$4,440	\$3,271	\$56,770
29	2048	\$7,900,000	\$5,925,000	\$49,059	\$4,440	\$3,271	\$56,770
30	2049	\$7,900,000	\$5,925,000	\$49,059	\$4,440	\$3,271	\$56,770
30 Year TIF Total		\$237,000,000	\$177,750,000	\$1,275,534	\$133,205	\$98,136	\$1,506,875
30 Year Average		\$7,900,000	\$5,925,000	\$42,518	\$4,440	\$3,271	\$50,229



CITY OF PORTLAND
Planning & Urban Development Department
Housing and Community Development Division

TO: Mayor Snyder
Members of the City Council
FROM: Mary Davis, Division Director
Housing and Community Development Division
DATE: July 6, 2020
SUBJECT: Project Underwriting

The underwriting analysis for this project will be made available prior to the August 3rd Council Meeting where the council is expected to take action on the Affordable Housing Development and Affordable Housing TIF requests.

Work is well underway on the financial underwriting analysis. However, as a result of an earlier due date on the Low Income Housing Tax Credit application and delays due to COVID-19, city closure and working remotely, additional time is needed to complete the analysis.

CITY OF PORTLAND
577 WASHINGTON AVENUE
AFFORDABLE HOUSING DEVELOPMENT DISTRICT
DEVELOPMENT PROGRAM
Date: , 2020

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577 Washington Avenue
Affordable Housing Development District Development Program

Article I. Introduction and Summary of Benefits.

A. Affordable Housing Development District. This Development Program provides for the creation of an Affordable Housing Development District located at 577 Washington Avenue in Portland Maine. The area includes approximately 3.6099 acres. By providing for the reinvestment of a portion of the new or incremental tax revenues in the District, the District will provide an impetus for affordable housing development within the District and the development of affordable, livable housing and the containment of the costs of unplanned growth in the City.

B. Benefits of the District.

1. Affordable Housing. This Development Program will provide for the development of affordable housing in the City and the containment of the costs of unplanned growth.

2. No City Bonds or Risks. The District will not involve any borrowings by or the issuance bonds of the City to pay for any of the costs of the Development Program and will not affect existing tax revenues in any way.

3. Additional Tax Revenues. Creation of the District and Development Program will result in additional tax revenues for the City.

4. Shelter of New Tax Base Growth. The captured assessed value of the District will be sheltered from the otherwise negative impacts of new development that result in increased county taxes and loss of State aid to education and revenue sharing when new development occurs without the creation of an Affordable Housing Tax Increment Financing District. The sheltered portion of the tax increment revenues will be used to pay Project Costs.

Article II. Development Program Narrative and Designation of the District.

Section 2.01: Statement of Means and Objectives. The City of Portland (“the City”), like many other Maine municipalities, desires to provide affordable housing in the City and to contain costs of unplanned growth by providing the facilities described in this Development Program.

In order to fulfill these goals, certain property has been proposed as the 577 Washington Avenue Affordable Housing Development District (the “District”). The Development Program described herein will serve the purpose of administering the District as an Affordable Housing Development District pursuant to Chapter 206, subchapter 3 of Title 30-A of the Maine Revised Statutes, as amended (the “Development Program”). Upon approval by the City of Portland designating the District and adoption of this Development Program by the City, the designation of the District and adoption of the Development Program will become final immediately, subject only to approval by the Director of the Maine State Housing Authority. The Development Program provides for affordable housing similar in some respects to the economic development incentives called municipal tax increment financing (“TIF”) similar to that adopted by a number of other Maine municipalities including the City. An Affordable Housing Development District involves the creation of a geographically defined district in the City and the “capture” or reinvestment of some of the new increased or “incremental” tax revenues generated on the increased assessed value of property in the District to pay certain costs of the development.

The District is designed to stimulate development of affordable housing in the City by allocating certain tax revenues generated on the increased assessed value in the District to Project Costs, consisting of allowable operating costs per 30-A M.R.S.A. §5249 and described in Section 2.03 hereof by its successors and assigns (the “Developer”). Under the Development Program, the City will make portions of the tax increment revenues as set forth in Section 3.04 hereof and under the Credit Enhancement Agreement attached hereto as Exhibit E (the “Credit Enhancement Agreement”) from the District available to the Developer pursuant to the Credit Enhancement Agreement. These revenues will be used either to pay or reimburse the Developer for Project Costs per Section 2.03 directly. All additional Project Costs will be the responsibility of the Developer, its successors or assigns. All tax increment revenues following expiration of the term of the Credit Enhancement Agreement will go directly into the City's general fund.

The District will result in significant new tax revenues for the City.

The Development Program thus will provide significant public benefit to the City by providing for the development of affordable housing in the City and for new tax revenues. The means and objectives of the Development Program are to provide: financial assistance towards Project Costs, and the development of affordable housing in the City.

The City, by adopting this Development Program, finds that the Development Program described herein, including the Capital Project, will provide substantial affordable housing in the City, thereby accomplishing an important public purpose.

Section 2.02: Brief Discussion of Financial Plan. The following is a brief summary of the Financial Plan. The Financial Plan is set forth in greater detail in Article III of this Development Program. As described in Section 3.04 hereof and Exhibit A hereof, the property taxes assessed by the City upon the Increased Assessed Value of property in the District (the “Tax Increment”) resulting from the investments by the Developer will be captured or used by the City under the Development Program to pay Project Costs described in Section 2.03 hereof. The development costs and sources and uses of funds associated with the Development Program within the District are described in Article III. The Project Costs and any continuing investment by Developer will be financed by Developer through equity of the Developer, its successors or assigns and the tax increment revenues from the District. As part of the Development Program, the City and Developer will enter into a Credit Enhancement Agreement pursuant to which the City will pay to Developer the percentage of Tax Increment Revenues from the Increased Assessed Value with respect to property in the District, described herein as the Tax Increment Revenues (Developer’s Share) for the term of the District to pay Project Costs related thereto. All tax revenues from the District not payable to Developer under the Credit Enhancement Agreement will be paid to the General Fund of the City. Any tax revenues presently generated on existing property in the District will continue to be paid to the General Fund of the City. The Development Program costs will be paid only from the Tax Increment on assessed value produced by new development in the District occurring after the tax year ending on the March 31st prior to adoption of this Development Program.

Section 2.03: Project Costs Descriptions.

A. Project General Description. The Capital Project at 577 Washington Avenue involves the rehabilitation of approximately 3.6099 acres, into an affordable housing neighborhood. The objective of the project is that 100% of the units in the District will be affordable housing, for a household whose income does not exceed 60% of the median income for the area as defined by the United States Department of Housing and Urban Development. This project consists of one hundred (100) rental units within 15 two-story residential buildings. There are currently sixty (60) studios, thirty-six (36) one-

bedroom units, and four (4) two-bedroom units. Sixty (60) units are affordable to households that income qualify at or below 50% of the area median income, and forty (40) units are affordable to households that income qualify at or below 60% of the area median income. The zoning for the project assures that this number of units and this affordability objective will be met.

The 577 Washington Avenue project is projected to have a total local increased assessed valuation at build out of approximately \$7,900,000 based upon current real estate values and City assessment practices. Based upon the estimated tax rate upon completion, the project will generate approximately a thirty year annual average of \$190,500 in tax increment revenues to the Developer at full build out. A portion of this new revenue would be offset by increased county taxes and reduced state revenue sharing and education funding resulting from the increased state valuation, were it not included in a Development District.

“Project Costs” as defined in Title 30-A, Chapter 206, Section 5249 of the Maine Revised Statutes will include operating costs, including but not limited to property management and administration, utilities, routine repairs and maintenance, insurance, real estate taxes and funding of a projects capital reserve account.

B. Need for the Affordable Housing TIF. Over the 30-year TIF, the estimated average annual payment is \$190,500 (as set forth in Exhibit A). Developer’s Share of the Tax Increment Revenue is designated to pay operating costs for the project at 577 Washington Avenue. The Tax Increment Revenue described in section 3.04 will help pay for operating costs over a period of thirty (30) years. Without the TIF and these other funding sources the project could not go forward.

The Municipal Affordable Housing Development District law enacted by the Maine Legislature in 2003 creates an opportunity to fill this gap in the project financing through the mechanism of the TIF program. The program operates essentially the same way that the traditional commercial TIF program has with a few exceptions. The Affordable Housing TIF program is administered by the Maine State Housing Authority.

Section 2.04: Relocation Plan. Any Portland Housing Authority tenants who reside in covered units will be provided relocation assistance and payments sufficient to cover reasonable relocation expenses. All households will be surveyed by PHA staff to determine need related to housing, supportive services, and relocation counselling.

Section 2.05: Environmental Controls. All environmental controls required by law shall apply to development in the District, including any applicable requirements of the City of Portland Zoning Ordinance and all applicable State and Federal environmental laws and regulations.

Section 2.06: District Operation. The day-to-day operations of the District will require no substantial efforts by the City. The Developer, its successor or assigns, will operate the improvements constructed by Developer and pay all maintenance and operational expenses of its facilities. The City, however, will be responsible for maintenance and operation of any part of the District that may become a public road or other public facility

Section 2.07: Assurance of Compliance. The City hereby determines that the District and this Development Program complies with the provisions of 30-A M.R.S.A. § 4349-A (growth management). The proposed development in the District is consistent with the Comprehensive Plan for the City of Portland which includes the City’s Comprehensive Plan, which calls for additional affordable housing in the City.

Section 2.08: Program Duration. The duration of the District will be thirty (30) years after the tax year in which this Development Program was approved by the Director of the Maine State Housing Authority. The first Tax Year of the Development Program begins April 1, 2020 and the last Tax Year of the Development Program begins April 1, 2049.

Section 2.09: Approval Considerations and Characteristics of the District.

A. Statutory Considerations for Approval. Before designating the District and before establishing this Development Program, the City has considered any evidence presented at such public hearing and has considered whether the District and Development Program will contribute to the expansion of affordable housing opportunities within the City and to the betterment of the health, welfare or safety of the inhabitants of the City. The City hereby determines and finds that the District created hereunder and this Development Program will make a contribution to the expansion of affordable housing opportunities within the City and the betterment of the health, welfare or safety of its inhabitants, constituting good and valid public purposes and that any adverse economic effect on or detriment to any existing property interests is outweighed by the contribution made by the District and the Development Program to the availability of affordable housing within the City and to the betterment of the health, welfare and safety of its inhabitants.

B. Statutory Conditions for Approval; Physical Characteristics. The City hereby finds and determines that the District satisfies the conditions imposed under Chapter 206, subchapter 3 of Title 30-A of the Maine Revised Statutes, as amended, as a prerequisite to designation of the District, including those relating to the physical description of the District and to certain financial and statistical information as follows:

(i) All of the land in the District is suitable for residential uses, is zoned for residential uses, and is in need of rehabilitation or redevelopment and therefore at least 25%, by area, of the real property within the District meets at least one of the following statutory criteria: (1) be suitable for residential use; (2) be a blighted area; or (3) be in need of rehabilitation or redevelopment;

(ii) The total area of the District is approximately 3.6099 acres and thus such area represents less than 2% of the total acreage of the City. The total area of the District and the total area of all development districts, including this proposed district, in the City (which combined total is 698.131 acres) is approximately 5.636% of total acreage in the City. The 698.131 acres includes 451.01 acres in two exempt districts—a transit oriented district and a downtown/transit oriented district—which, when subtracted from the 698.131 acres is 247.121, which is 1.99% of the total acreage of the City and thus does not exceed 5% of the total acreage of the City. The total area of all existing affordable housing development districts in the City and this proposed affordable housing development district is 12.8356 acres, or 0.1036% of the total acreage of the City, which does not exceed 5% of the total acreage of the City;

(iii) The Original Assessed Value of the District is as set forth in Exhibit D hereto and the Original Assessed Value of all existing and this proposed affordable housing development district within the City is \$1,824,610 and such amount of Original Assessed Value does not exceed 5% of the total value of taxable property within the City as of the April 1st preceding the date of the designation of the District.

C. Community Housing Need. The City finds that this Capital Program will meet a community housing need identified in the City's Comprehensive Plan. The Credit Enhancement Agreement provides a mechanism to ensure the ongoing affordability for a period of at least thirty (30) years for rental units,

which mechanism is the Declaration attached hereto as Exhibit I. The District is primarily a residential development in which 100% of the dwelling units will be affordable housing that may be designed to be compact and walkable to include common open space and one or more small-scale nonresidential uses of service to the residents of the development. The Developer and the City shall comply with any rules adopted by the Maine State Housing Authority and with any conditions of approval imposed by the Maine State Housing Authority following designation of the District. The City shall report annually to the Director of the Maine State Housing Authority regarding the status of the District, including the following matters as required by law: (a) certify that the public purpose of the District is being met; (b) account for any sales of property within the District; and (c) certify that rental units within the District remain affordable.

Section 2.10: Designation of the District. The City, by adoption of this Development Program, hereby designates the 577 Washington Avenue Affordable Housing Development District as an Affordable Housing Development District and as an Affordable Housing Tax Increment Financing District. A plan depicting the District is attached hereto as Exhibit C and the District is further described therein.

Article III. Financial Plan.

Section 3.01: Cost Estimates for the Development Program. The estimated expenses of the Project Costs are set forth in Exhibit B.

Section 3.02: Amount of Indebtedness to be Incurred. The City will not incur any indebtedness in connection with the Development Program. The Development Program will be financed through a combination of funds of the Developer, its successors and assigns, various loans and the Tax Increment of the District.

Section 3.03: Sources of Anticipated Revenues. The source of the revenue to be used to pay the Project Costs of this Development Program is a portion of the Tax Increment on the Increased Assessed Value of the District. Tax Increment means all Property Taxes assessed by the City, in excess of any state, county or special district tax, upon the Increased Assessed Value of all property in the District. Increased Assessed Value means the valuation amount by which the Current Assessed Value of the District exceeds the Original Assessed Value of the District. Current Assessed Value means the assessed value of the District certified by the municipal assessor as of April 1st of each year that the District remains in effect. Property Taxes means any and all ad valorem property taxes levied, charged or assessed against property by the City or on its behalf.

Original Assessed Value means the assessed value of the District as of the end of the City's Fiscal Year 2020, which was March 31, 2020. Attached hereto as Exhibit D is the anticipated form of certification of Original Assessed Value by the Assessor of the City of Portland in accordance with the requirements of Title 30-A § 5250-A of the Maine Revised Statutes. All Property Tax on the Original Assessed Value shall continue to be deposited in the general fund of the City.

The City will deposit the Tax Increment Revenues (Developer's Share) as described in Section 2.02 and Section 3.04 hereof and in Exhibit A into the Project Cost Account of the Affordable Housing Development Program Fund and pay such Tax Increment (Developer's Share) to Developer in accordance with the terms of the Credit Enhancement Agreement to be entered between the City and the Developer.

Section 3.04: Estimated Increased Assessed Value; Portion Applied to Development Program. The percentage of the Increased Assessed Value of the District to be retained as Captured Assessed Value in

each year is 75%. Such Captured Tax Increment Revenues will be returned to the Developer each year in the manner described below.

In the event of a revaluation of taxable property within the City, the Captured Assessed Value of this District may be adjusted in proportion to the change in taxable assessed property valued within the District in the year of the revaluation resulting from such revaluation.

The Tax Increment Revenues (Developer's Share) to be paid to the Developer each year during the term of this Development Program will be an amount which shall be captured and retained to reimburse the Developer for Project Costs pursuant to the Credit Enhancement Agreement, which will be the entire amount of the 75% of captured revenue. The percentage determination of the Tax Increment Revenues (Developer's Share) as determined as described above shall apply regardless whether the actual Tax Increment Revenues are more or less than the estimated or projected Tax Increment Revenues set forth in Exhibit A.

"Tax Shift Formulas" mean the formulas utilized by the State of Maine in calculating: (a) the county tax payable in accordance with 30-A M.R.S.A. § 706 and 36 M.R.S.A. §§ 305(1), 381, as amended, and any successor provisions; (b) the municipal revenue sharing distribution of the Local Government Fund in accordance with 30-A M.R.S.A. § 5681, as amended, and any successor provision, provided, however, that distribution of the Disproportionate Tax Burden Fund (the Revenue II fund), if any, shall not be taken into consideration in such calculation since taxes assessed on captured value within a tax increment financing district are included in the amounts of the property assessed in determining allocations of such Disproportionate Tax Burden Fund; and (c) State aid to education, including aid for total operating costs, total program cost allocation (taking into account the maximum local share or circuit breaker) and total debt service cost allocation (taking into account the maximum local share or circuit breaker), but not taking into account any hold harmless or hardship cushion that results in additional State aid to education to the prior year's level even through the calculation would have resulted in a reduction, all as computed in accordance with Maine Department of Education Form ED 261 or any successor form.

The amount of Tax Increment from the total Increased Assessed Value that is to be paid each year to the Developer under Credit Enhancement Agreement to pay or reimburse Project Costs is hereinafter called the "Tax Increment Revenues (Developer's Share)."

The table attached hereto as Exhibit A also sets forth: (i) the annual estimates of the Increased Assessed Value of the District resulting from implementation of the Development Program; (ii) the estimated annual Tax Increment Revenues per year on the Increased Assessed Value following implementation of the Development Program, stated respectively as (a) a total, and (b) the estimated amount of the Tax Increment Revenues (Developer's Share)

Based on the manner in which Tax Increment Revenues (Developer's Shares) are defined, a share of the incremental property tax revenues derived from the increased valuation will be returned to the Developer to cover the Project Costs as described in Section 2.03 hereof.

To comply with the provisions of the State of Maine, the Credit Enhancement Agreement includes a provision for the recapture of certain amounts relating to any affordable rental housing units that are not maintained as affordable for a period of at least thirty years.

Under this program and the Credit Enhancement Agreement, Captured Assessed Value will be 75% of the Increased Assessed Value. Accordingly, seventy-five percent (75%) of the Tax Increment

Revenues for each year during the term of the District shall be paid to the Developer each year pursuant to the Credit Enhancement Agreement.

An Affordable Housing Development Program Fund shall be established by the City consisting of a Project Cost Account. The Project Cost Account will be pledged to and charged with payment of amounts due to Developer under the Credit Enhancement Agreement. Upon receipt of each payment of property tax with respect to property in the District, the City shall deposit into the Project Cost Account according to the terms of the Credit Enhancement Agreement seventy-five percent (75%) of that portion of the payment constituting Tax Increment Revenues. The amounts in the Project Cost Account shall be used and applied solely to fund the payments to Developer under the Credit Enhancement Agreement.

Section 3.05: Description of Terms and Conditions of Agreements. A description of the terms and conditions of the agreements, contracts and obligations to be entered into by the City is set forth in the Credit Enhancement Agreement to be entered into by the City and the Developer which will be substantially in the form attached hereto as Exhibit E. The Credit Enhancement Agreement sets forth the obligations of the City to pay to Developer each year during the term of that Agreement Tax Increment Revenues (Developer's Share) from all Property Tax with respect to all property in the District.

Section 3.06: Calculation of Tax Shifts. In accordance with Maine statutes governing the establishment of affordable housing development districts, Exhibit F identifies the estimated tax shifts which will result during the term of the District from the establishment of the District, using formulas approved by the Director of the Maine State Housing Authority. Exhibit F also contains a summary of the methodology and calculations utilized in calculating such estimated tax shifts.

The 577 Washington Avenue project will pay property taxes to the City based upon the local assessed valuation of the project and the City's annual tax rate. Exhibit A shows the estimated property taxes that will be paid by the project over the next 30 years based upon the estimated local assessed valuation and the estimated tax rate of \$23.78/\$1,000 for the first year of the District. The amount of property taxes paid by owners of property in the District to City will be the same whether the project is included in a TIF district or not.

If the project is not part of a TIF, some of these new tax revenues will be offset by what are commonly called tax shifts. Since the City's total state valuation will be higher as a result of the project, its share of Cumberland County taxes will increase. The increased valuation and population will change the amount the City receives in State Revenue Sharing. The increased valuation and increased school enrollment will change the amount the City receives in state education aid.

Exhibit F thus shows the estimated amount of these tax shifts compared to what they would be if the new valuation is "sheltered" in a TIF and, therefore, does not get counted in the City's state valuation that is used in calculating county tax, revenue sharing and state education aid.

The actual extent and amount of the tax shifts can vary from this estimate since they are controlled by factors outside the City's control such as the rate of increase in the County budget, the amount of state sales and income tax collected, the amount of funding provided by the state for education aid, and the formula used to distribute that aid. So the extent and value of the shifts could be more or less than estimated.

Article IV. Municipal Approvals.

Section 4.01: Public Hearing. Before designating the District, the City legislative body of the City held a public hearing. Notice of the hearing was published on [enter date notice was published in the paper], a date that was at least 10 days before the hearing, in The Portland Press Herald, a newspaper of general circulation within the City. Attached hereto as Exhibit G is a copy of the Notice of Public Hearing. The Public hearing was held in accordance with the requirements of 30-A M.R.S.A. § 5250 on August 3, 2020. At the public hearing, interested parties were given a reasonable opportunity to present testimony concerning the District and the Development Program.

Section 4.02: Authorizing Votes. Attached as Exhibit H is a copy of the Orders proposed for adoption by the City Council of the City of Portland at a meeting thereof duly called and held on August 3, 2020 designating the District and adopting the Development Plan.

The undersigned, being the City Manager of the City of Portland, certifies that all of the information contained herein is true and correct to the best of my knowledge.

Dated: _____

Jon P. Jennings City Manager,
City of Portland

CITY OF PORTLAND
Declaration of Covenants, Conditions and Restrictions for the 577 Washington Avenue
Affordable Housing Tax Increment Financing District

This Declaration of Covenants, Conditions and Restrictions (the “Declaration”) is entered into by and between the **City of Portland**, a public body corporate and politic with its principal place of business at 389 Congress Street, Portland, Maine, 04101 (“City”) and **Washington Gardens, LP**, a Maine limited partnership with a mailing address of 14 Baxter Blvd, Portland, Maine 04101 (“Developer”).

W I T N E S S E T H

WHEREAS, the Developer acknowledges that City is providing Affordable Housing Tax Increment Financing to the Developer (the “AHTIF”) for project operating costs associated with the rehabilitation of one hundred (100) units of rental housing located at 577 Washington Avenue, Portland, Maine (the “Development”); and

WHEREAS the Developer acknowledges City’s resulting beneficial interest in the Development, and Developer acknowledges that its ownership and operation of the Development are in furtherance of discharge of the public trust; and

WHEREAS, City has provided the AHTIF to Developer in consideration of the Developer’s agreement to abide by the provisions of this Declaration.

NOW THEREFORE, City and the Developer agree as follows:

1. **Term.** The term of this Declaration shall be for the period beginning on date of the approval of the District by the Director of the Maine State Housing Authority (the “Effective Date”) and continuing for thirty (30) years from the Effective Date of this Declaration (the “Qualified Project Period”).

2. **Enforceability of Covenants.** The covenants and restrictions of Developer set forth herein are intended to be and shall be considered covenants that run with the real estate described in Exhibit A attached hereto and made a part hereof and shall bind all subsequent owners and holders of any interest in said real estate, except to the extent herein provided. The City may enforce the covenants set forth herein as a contract beneficiary whether or not Developer is or remains indebted to the City. The covenants of Developer set forth herein shall survive a sale, transfer, or other disposition of the Development by Developer, a foreclosure or transfer of title in lieu of foreclosure, but shall cease to apply to the Development in the event of involuntary noncompliance caused by substantial destruction, seizure, requisition, or change in law or an action of a governmental agency that prevents the City from enforcing the covenants, even though compensated by insurance.
3. **Covenants.** Developer hereby covenants and represents to the City as follows:
 - a. **Development.** The Development shall consist of the land described in Exhibit A attached hereto, together with all improvements, which after completion of the work will contain a total of one hundred (100) units of rental housing and related amenities. The units in the Development shall be of comparable quality and have comparable amenities. Developer shall not make any change in the size or number of units in the Development.
 - b. **Use.** The Developer shall rent or make available for rental all of the units in the Development on a continuous and non-transient basis to members of the general public throughout the Qualified Project Period. Developer covenants and agrees that no change of use shall occur without the express written consent of the City.
 - c. **Low Income Units.** For a period of thirty (30) years at least sixty (60) of the units will be occupied by households with incomes at or below fifty percent (50%) of the area median income, and forty (40) of the units will be occupied by households with incomes at or below sixty percent (60%) of the area median income (collectively referred to as the “Low Income Units”).
 - i. Income and area median income shall be as determined in accordance with Section 42 of the Internal Revenue Code of 1986 and associated regulations and guidance, all as may be amended from time to time, (“Section 42”) and income limits shall be adjusted for family size.
 - ii. Prior to initial occupancy and at least annually, the Developer shall verify that the income, based on the then current income, of each household occupying a Low Income Unit in the Development does not exceed the Applicable Income Limit (the “Determination”).
 - iii. A Low Income Unit occupied by a household, who at the commencement of occupancy, met the Applicable Income Limit shall continue to be treated as occupied by a qualified resident even though the household’s income may exceed the Applicable Income Limit, adjusted for family size, at the time of the

most recent Determination, if after such Determination, but before the next Determination, any unit in the Development of comparable size is occupied by a new household whose income does not exceed the Applicable Income Limit.

- iv. After initial occupancy but upon again becoming vacant, a Low Income Unit shall be treated as occupied by a household meeting the Applicable Income Limit until occupied (other than occupancy by another resident for a temporary period not to exceed 31 days), at which time the character of the unit shall be re-determined in light of the new resident's income.
- d. **Rent Restrictions.** For the Qualified Project Period, the Low Income Units shall be rent-restricted. A unit is rent-restricted if the gross monthly rent does not exceed one-twelfth (1/12th) of thirty percent (30%) of the imputed income limitation applicable to the unit. The imputed income limitation is the Applicable Income Limit for the unit, except the adjustment for family size shall be based, not on the actual number of occupants, but by assuming the number of occupants as follows:
- i. For a unit without a separate bedroom, one individual.
 - ii. For a unit with one or more separate bedrooms, one and one-half individuals for each separate bedroom.
- Gross monthly rent shall not include any payment under Section 8 of the United States Housing Act of 1937 and associated regulations and guidance, all as may be amended from time to time ("Section 8") but shall include any utility allowance, where applicable, taking into account such determinations under Section 8.
- e. **Discrimination Prohibited.** Developer shall not segregate or physically isolate the Low Income Units from each other and from other units in the Development and the Developer shall use its best efforts to proportionately distribute the Low Income Units among each unit size in the Development. Developer shall not refuse to rent a unit in the Development to any applicant because the applicant holds a voucher or a certificate of eligibility under Section 8.
4. **Compliance.** Developer agrees to furnish to City such information as City may require in a form acceptable to City, including without limitation certifications and/or verifications of occupancy and resident income, to determine Developer's compliance with the covenants set forth herein. Information deemed acceptable by Maine State Housing Authority shall be acceptable to the City.
5. **Income Certifications/Leases.** Developer shall use residential lease forms acceptable to City and obtain written and signed certifications of residents in a form acceptable to City to determine the qualifications of the residents for occupancy of a Low Income Unit. Such leases or certifications shall contain clauses wherein each resident (a) certifies as to the accuracy of statements made relating to the resident's income, (b) agrees that resident income and other eligibility requirements shall be deemed substantial and material obligations of the tenancy, (c) agrees to comply all requests for information with respect thereto from Developer or City,

and (d) agrees that failure to provide accurate information or refusal to comply with a request for information shall be deemed a violation of a substantial obligation of the tenancy. Developer covenants and agrees to take such action as City deems necessary to comply with the covenants herein or to correct or cure any failure of the Developer to comply with the covenants herein, including, without limitation, the eviction of any tenant in accordance with applicable law. Lease forms which have been approved by Maine State Housing Authority shall be deemed approved by City.

6. **Real Estate Taxes.** Developer agrees that it shall pay all real estate taxes assessed on the Development during its ownership of the Development. Nothing contained in this section shall be deemed a waiver or limitation on Developer's right to seek abatement of property taxes if Developer believes the Development is over-assessed.
7. **Records.** Developer shall maintain and keep current all books, documents, plans and records concerning the Development, including, but not limited to, books and records related to compliance with the covenants contained in this Declaration. Such books, records, documents and plans shall be kept for: (a) a minimum of six (6) years after the expiration of the Qualified Project Period for those books, records, documents and plans pertaining to the rent and occupancy requirements described in Section 3 of this Declaration and the rent roll for all units in the Development; and (b) for a minimum of six (6) years after the end of the fiscal year or calendar year, as applicable, for all other books, records, documents and plans pertaining to the Development. Upon reasonable notice, City may audit and examine these books, records, documents and plans, and may inspect the buildings, grounds, equipment offices of the Development.
8. **Violation.** Developer shall immediately notify the City if Developer anticipates or discovers any noncompliance with any restriction or covenant in this Declaration, including, without limitation, noncompliance with the occupancy restrictions in Section 3 of this Declaration. Developer agrees to take such action as the City deems necessary to prevent noncompliance or to correct or cure any failure to comply with the covenants in this Declaration. In the event the Developer fails to comply with the covenants set forth herein, and fails to cure such non-compliance within any applicable cure period, the City shall be entitled to exercise any of its rights under the documents executed in connection with the AHTIF, maintain an action in law or in equity against the Developer to recover damages incurred by the City from such failure, including, without limitation, reasonable attorneys' fees and costs, and to require the Developer (through injunctive relief or specific performance) to comply with the provisions and covenants set forth herein and to immediately cure any failure to comply with the covenants set forth herein by the Developer.
9. **Indemnification.** Developer shall indemnify and hold City and its agents harmless from and against any and all claims, demands, liability, loss, cost or expense (including, but not limited to reasonable attorney's fees and other costs of litigation) which may be incurred by the City arising out of or in any way related to the Developer's breach of any of its obligations under this Declaration or any action taken by the City to enforce or exercise its rights under this Declaration as a result of such breach, except for claims arising from the gross negligence or

willful acts of the City. The obligations under this section shall survive the termination or expiration of this Declaration as necessary to effectuate its provisions.

10. **Modifications**. This Declaration may be amended or modified, in whole or in part, only by written agreement of Developer and the City clearly expressing the intent to modify this Declaration.
11. **Severability**. The validity of any clause, part or provision of this Declaration shall not affect the validity of the remaining portions thereof.
12. **Successors and Assigns**. This Declaration shall be binding upon Developer's respective heirs, personal representatives, executors, administrators, successors and assigns and shall inure to the benefit of and be enforceable by City, its successors, transferees and assigns.
13. **Governing Law**. This Declaration shall be construed in accordance with and governed by the laws of the State of Maine.
14. **Notices**. Any notice or demand required or provided for in this Declaration shall be in writing and shall be deemed to have been sufficiently given for all purposes when hand-delivered or mailed by certified or registered United States mail, postage prepaid, or sent by overnight United States mail or overnight commercial delivery service to the Developer or the City at their respective addresses set forth herein, or at such other address as either of them may from time to time hereafter designate by notice given to the other as herein provided. The City shall endeavor to provide a copy of any notice to Developer [**simultaneously to _____**] or such other addresses as may from time to time hereafter be designated by notice given to the City as herein provided.
15. **Intercreditor**. This Declaration is subject to the terms and conditions of the Intercreditor and Subordination Agreement by and among Maine State Housing Authority, the City of Portland, _____, and _____ [**construction lender and any other entities providing financing will also be parties**] dated _____, ____ to be recorded in the Cumberland County Registry of Deeds herewith.

Signature page follows.

IN WITNESS WHEREOF, this Declaration has been duly executed by the Developer and City as of _____, 2020.

CITY OF PORTLAND, ME

Witness

By:_____
Jon P. Jennings
Its City Manager

**State of Maine
Cumberland, ss.**

_____, 2020

Personally appeared the above named Jon P. Jennings, City Manager to the City of Portland, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said City of Portland.

Before me,

Notary Public/Attorney-at-Law

(Print or type name)

Signature page follows.

WASHINGTON GARDENS, LP
By: Washington Gardens Development, LLC, its
General Partner

Witness

By: _____
Name: Cheryl Sessions
Its President

State of Maine
Cumberland, ss.

_____, 2020

Personally appeared the above named Cheryl Sessions, President of Washington Gardens, Development, LLC, General Partner of Washington Gardens, LP, and acknowledged the foregoing instrument to be her free act and deed in her said capacity and the free act and deed of said limited liability company and limited partnership.

Before me,

Notary Public/Attorney-at-Law

(Print or type name)

EXHIBIT A

MEMORANDUM
City Council Agenda Item

FROM: Mary Davis, Division Director

DATE: July 22, 2020

SUBJECT: **Order 22-20/21 Approving and Authorizing the City Manager to Enter Into the Credit Enhancement Agreement with Washington Gardens LP RE: 577 Washington Avenue. - Sponsored by the Housing Committee, Councilor Jill C. Duson, Chair and the Economic Development Committee, Councilor Justin Costa, Chair**

SPONSOR: Justin Costa, Chair of the Economic Development Committee
Jill C. Duson, Chair of the Housing Committee

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

Can action be taken at a later date: Yes

PRESENTATION:

I. SUMMARY

This is a companion order to Order -19/20 above.

II. AGENDA DESCRIPTION

During a meeting held on May 27, 2020, the Economic Development Committee (4-0) voted to forward this item to the City Council with a recommendation for passage.

This is a companion order to Order 21-20/21 above.

This item must be read on two separate days. On July 13, 2020, this item was postponed to August 31, 2020 to allow for the review of recent changes to the project proforma. Staff is requesting that this item be postponed to September 9, 2020. Five affirmative votes are required for passage after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

VII. RECOMMENDATION

The Economic Development Committee voted (4-0) to forward this item to the City Council with a recommendation for passage.

VIII. LIST ATTACHMENTS

1. 577 Washington Avenue Affordable Housing Credit Enhancement 7.13.2020
2. 577 Washington CEA clean for Council 070620

Prepared by:

Mary Davis, Division Director

Date: 7/22/2020

Order 22-20/21

Motion to postpone to August 31, 2020: 8-0 (Cook absent) on 8/3/2020

KATE SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
TAE Y. CHONG (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER APPROVING AND AUTHORIZING THE CITY MANAGER TO ENTER INTO
THE 577 WASHINGTON AVENUE AFFORDABLE HOUSING
CREDIT ENHANCEMENT AGREEMENT
WITH WASHINGTON GARDENS, LP**

ORDERED, that the credit enhancement agreement between the City of Portland and Washington Gardens, LP related to the 577 Washington Avenue Affordable Housing Tax Increment Financing District is hereby approved and the City Manager is authorized to sign the agreement in substantially the same form as attached hereto and any other related documents that are necessary or convenient to carry out the intent of said agreement.

CREDIT ENHANCEMENT AGREEMENT

between

THE CITY OF PORTLAND, MAINE

and

WASHINGTON GARDENS, LP

DATED: _____, 2020

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EXHIBITS
Exhibit 1 Copy of District Map

THIS CREDIT ENHANCEMENT AGREEMENT dated as of [Enter Date, 2020], between the City of Portland, Maine, a municipal body corporate and politic and a political subdivision of the State of Maine (the “City”), and Washington Gardens, LP, a Maine limited partnership (the “Developer”).

WITNESSETH THAT

WHEREAS, the City designated the *577 Washington Avenue Municipal Affordable Housing Development and Tax Increment Financing District* (the “District”) pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended, by action of the City Council at a meeting of the City Council held on August 3, 2020 (the “Vote”) and pursuant to the same Vote adopted an affordable housing development program, including a financial plan, for the District (the “Development Program”); and

WHEREAS, the City received the approval of the District and the Development Program by Maine State Housing Authority (“MSHA”) on [Enter Date of District Approval by Maine Housing] and anticipates the approval of the amended District and the Development Program by MSHA; and

WHEREAS, the Development Program contemplates the execution and delivery of a credit enhancement agreement between the City and the Developer, and the City approved the execution and delivery of a credit enhancement agreement as described in the Development Program pursuant to Order [redacted] 19/20 of the City Council, and the City and the Developer desire and intend that this Credit Enhancement Agreement be and constitute the Credit Enhancement Agreement contemplated and described in the Development Program in the name of and on behalf of the City; and

NOW, THEREFORE, in consideration of the foregoing and in consideration of the mutual promises and covenants set forth herein, the parties hereby agree as follows:

ARTICLE I DEFINITIONS

Section 1.1. Definitions.

The terms defined in this Article I shall, for all purposes of this Agreement, have the meanings herein specified, unless the context clearly requires otherwise:

“Act” means chapter 206 of Title 30-A of the Maine Revised Statutes and regulations adopted thereunder, as amended from time to time.

“Agreement” shall mean this Credit Enhancement Agreement between the City and the Developer dated as of the date set forth above, as such may be amended from time to time.

“Authority” means the Maine State Housing Authority.

“Captured Assessed Value” means the amount, stated as a percentage, of the Increased Assessed Value of the District that is retained in each Tax Year during the term of the District, as specified in Section 2.3 hereof, to fund Project costs authorized in the Development Program.

“City” shall have the meaning given such term in the first paragraph hereto.

“Current Assessed Value” means the then-current assessed real property value of the District as determined by the City Tax Assessor as of April 1 of each Tax Year that the District remains in effect.

“Development Program” shall have the meaning given such term in the recitals hereto.

“Development Program Fund” means the Affordable Housing Development Program Fund described in the Development Program and established and maintained pursuant to Article II hereof and 30-A M.R.S.A. § 5250-A(3)(A) consisting of the account further described herein.

“Director” means the Director of the Maine State Housing Authority.

“District” shall mean the lot or parcel of land on which the Project is located. A copy of the District map is attached hereto as Exhibit 1 as well as an informational map showing the Project in the District.

“Effective Date of the Development Program” means the start date identified in Section 2.08 of the Development Program.

“Fiscal Year” means July 1 to June 30 each year or such other fiscal year as the City may from time to time establish.

“Increased Assessed Value” means, for each Fiscal Year during the term of this Agreement, the amount by which the Current Assessed Value for such year exceeds the Original Assessed Value. If the Current Assessed Value is less than or equal to the Original Assessed Value in any given Tax Year, there is no Increased Assessed Value in that year.

“Original Assessed Value” means Zero Dollars (\$0.0), which is the taxable assessed real property value of the District as of March 31, 2020.

“Project” means the planned one-hundred (100) unit housing project named Washington Gardens located in the District.

“Project Cost Account” means the project cost account associated with the Project as described in the Development Program and established and maintained pursuant to Title 30-A M.R.S.A. § 5250-A(3)(A)(1) and Article II hereof.

“Property Taxes” means any and all *ad valorem* property taxes levied, charged or assessed against the Project located in the District by the City, or on its behalf.

“State” means the State of Maine

“Tax Increment Revenues” means that portion of all real property taxes assessed and paid to the City in any Tax Year, in excess of any state, or special district tax, upon the Increased Assessed Value.

“Tax Payment Date” means the later of the date(s) on which property taxes levied by the City are due and payable, in full, from owners of property located within the City, or are actually paid to the City with respect to taxable property located within the District.

“Tax Year” shall have the meaning given such term in 30-A M.R.S.A. § 5246(16), as amended, to wit: April 1 to March 31.

Section 1.2. Interpretation and Construction.

In this Agreement, unless the context otherwise requires:

(a) The terms “hereby,” “hereof,” “hereto,” “herein,” “hereunder” and any similar terms, as used in this Agreement, refer to this Agreement, and the term “hereafter” means after, and the term “heretofore” means before, the date of delivery of this Agreement.

(b) Words importing a particular gender mean and include correlative words of every other gender and words importing the singular number mean and include the plural number and vice versa.

(c) Words importing persons mean and include firms, associations, partnerships (including limited partnerships), trusts, corporations and other legal entities, including public or governmental bodies, as well as any natural persons.

(d) Any headings preceding the texts of the several Articles and Sections of this Agreement, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect.

(e) All approvals, consents and acceptances required to be given or made by any signatory hereto shall not be withheld unreasonably.

(f) All notices to be given hereunder shall be given in writing and, unless a certain number of days is specified, within a reasonable time.

(g) If any clause, provision or Section of this Agreement shall be ruled invalid by any court of competent jurisdiction, the invalidity of such clause, provision or Section shall not affect any of the remaining provisions hereof.

ARTICLE II AFFORDABLE HOUSING DEVELOPMENT PROGRAM FUND AND FUNDING REQUIREMENTS

Section 2.1. Creation of Development Program Fund.

Within sixty (60) days after the Effective Date of the Development Program, the City shall create and establish a segregated fund in the name of the City designated as the “577 Washington Avenue Municipal Affordable Housing Development and Tax Increment Financing District Program Fund” (hereinafter the “Development Program Fund”) pursuant to, and in accordance with the terms and conditions of, the Development Program and 30-A M.R.S.A. § 5250-A(3). The Development Program Fund shall consist of the Project Cost Account, which is pledged to and charged with the payment of Project costs described in the Development Program, as provided in 30-A M.R.S.A. § 5250-A(3)(A)(1). The Project Cost Account is pledged to and charged with the payment of costs in the manner and priority provided in Section 3.1(b) below.

Section 2.2. Liens.

The City shall not create any liens, encumbrances or other interests of any nature whatsoever, nor shall it hypothecate the Project Cost Account described in Section 2.1 hereof or any funds therein, other than the interest in favor of Developer hereunder; provided, however, that nothing herein shall prohibit the creation of property tax, sewer or other liens on property in the District in accordance with and entitled to priority pursuant to Maine law.

Section 2.3. Captured Assessed Value; Deposits into Development Program Fund.

(a) Each year during the term of this Agreement, commencing with the Tax Year beginning April 1, 2020 and continuing thereafter through the Tax Year beginning April 1, 2049 (collectively the “CEA Years”), the City shall retain in the District seventy-five percent (75%) of the Increased Assessed Value as Captured Assessed Value. The remaining 25% of the Increased Assessed Value is referred to herein as the Non-Captured Increased Assessed Value.

In the event of a revaluation of taxable property within the City, the Captured Assessed Value of this District may be adjusted in proportion to the change in taxable assessed property valued within the District in the year of the revaluation resulting from such revaluation.

(b) For each of the CEA Years, the City shall deposit into the Development Program Fund contemporaneously with each payment of Property Taxes during the term of this Agreement an amount equal to seventy-five percent (75%) of that portion of the payment of Property Taxes constituting Tax Increment Revenues. The City shall deposit such 75% portion into the Project Cost Account. The remaining 25% portion of the payment of Property Taxes constituting Tax Increment Revenues, which arise from Non-Captured Increased Assessed Value, shall be deposited into the City’s general fund.

(c) Notwithstanding anything herein to the contrary, if the District property becomes exempt from the obligation to pay property taxes, after application by the owner of the District property to the City for such exemption, then upon the granting of such exemption, this Agreement shall terminate and no further deposit or payment obligations on the part of the City shall exist.

(d) Any and all revenues resulting from investment earnings on deposits in the Development Program Fund shall be retained in the Development Program Fund and applied for Development Program purposes relating to the Development Program Fund as prescribed by 30-A M.R.S.A Section 5250-A(3).

Section 2.4. Use of Monies in Development Program Fund.

All monies in the Development Program Fund that are allocable to and/or deposited in Project Cost Account shall in all cases be used and applied to fund fully the City's payment obligations to Developer as described in Articles II and III hereof. Developer shall be obligated to use such payments for operating costs of the Project and credit enhancement pursuant to the Development Program and Title 30-A M.R.S.A. § 5249.

Section 2.5. Monies Held for Benefit of Developer.

All monies required to be deposited with or paid into Project Cost Account under the provisions hereof and the provisions of the Development Program, exclusive of any investment earnings thereon, shall be held by the City for the benefit of Developer.

ARTICLE III PAYMENT OBLIGATIONS

Section 3.1. Developer Payments.

(a) On an annual basis, the City agrees to pay Developer, within thirty (30) days of the end of each fiscal year (ends June 30 each year), all amounts then on deposit in the Project Cost Account.

(b) Notwithstanding anything to the contrary contained herein, if, with respect to any Tax Payment Date, any portion of the property taxes assessed against real or personal property located in the District remain unpaid, because of a bona fide valuation dispute being pursued by Developer, the property taxes actually paid with respect to such Tax Payment Date shall, first, be applied to taxes due on account of Original Assessed Value and deposited into the City's general fund; and second, shall constitute payment of Property Taxes with respect to Non-Captured Increased Assessed Value and deposited into the City's general fund; and third, shall constitute payment of Property Taxes with respect to Captured Assessed Value, to be applied to payment of Developer's share of the Tax Increment Revenues for the year concerned and deposited into the Project Cost Account.

(c) Notwithstanding anything to the contrary contained herein, if, with respect to any Tax Payment Date, any portion of the property taxes assessed against real or personal property located in the District remain unpaid, for any reason other than a bona fide valuation dispute, or if any portion of any other fee or charge due to the City by Developer including but not limited to sewer or stormwater fees, ambulance fees, or assessments, remain unpaid, no payment of Developer's share of the Tax Increment Revenues for the year concerned will be deposited into the Project Cost Account until such property taxes assessed against real or personal property located in the District, and other fees, charges, and assessments are paid in full.

(d) Annually, Developer will provide statements as back-up documentation of Project Costs for its TIF payments, which documentation will be kept confidential by the City.

(e) Prior to receiving the first payment under this Agreement, Developer shall provide evidence reasonably satisfactory to the City of the Developer's ability to complete the Project in accordance with State law. Reasonably satisfactory evidence shall include documentation that the Developer has closed on complete financing for the Project.

(f) On a bi-weekly basis during the course of construction of the Project, Developer must provide documentation in a form reasonably satisfactory to the City demonstrating that all firms employed in the construction phase of the Project have compensated their employees, at all relevant times, the current wage rates and fringe benefits as required under applicable state prevailing wage law, 26 M.R.S. §1306, or the City's minimum wage requirements set forth in Chapter 33, Sections 1-12 of the Portland City Code, whichever is greater.

(g) Developer must provide evidence reasonably satisfactory to the City

demonstrating that the Project was designed, constructed and rehabilitated in accordance with the City's Green Building Code set forth in Chapter 6, Article VII, of the Portland City Code.

Section 3.2. Failure to Make Payment.

In the event the City should fail to, or be unable to, make any of the payments at the time and in the amount required under the foregoing provisions of this Article III including in the event that the amount deposited into the Project Cost Account is insufficient to reimburse Developer for the full amount due to Developer under this Agreement, the amount or installment so unpaid shall continue as a limited obligation of the City, under the terms and conditions hereinafter set forth, until the amount unpaid shall have been fully paid. Developer shall have the right to initiate and maintain an action to specifically enforce the City's obligations hereunder, including without limitation, the City's obligation to deposit Tax Increment Revenues to the Project Cost Account and its obligation to make payment out of the Project Cost Account to Developer.

Section 3.3. Manner of Payments.

The payments provided for in this Article III shall be paid directly to Developer at the address specified in Section 8.7 hereof in the manner provided hereinabove by check drawn on the City.

Section 3.4. Obligations Unconditional.

Subject to Developer's compliance with the terms and conditions of this Agreement, the obligations of the City to make the payments described in this Agreement in accordance with the terms hereof shall be absolute and unconditional, and the City shall not suspend or discontinue any payment hereunder or terminate this Agreement for any cause, other than pursuant to this Agreement or by court order or by reason of a final judgment by a court of competent jurisdiction that the District is invalid or otherwise illegal.

Section 3.5. Limited Obligation.

The City's obligations of payment hereunder shall be limited obligations of the City payable solely from Tax Increment Revenues pledged therefor under this Agreement. The City's obligations hereunder shall not constitute a general debt or a general obligation or charge against or pledge of the faith and credit or taxing power of the City, the State of Maine, or of any municipality or political subdivision thereof, but shall be payable solely from that portion of Tax Increment Revenues payable to Developer hereunder, whether or not actually deposited into the Project Cost Account in the Development Program Fund. This Agreement shall not directly, indirectly or contingently obligate the City, the State of Maine, or any other City or political subdivision to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment, excepting the pledge of the Tax Increment Revenues established under this Agreement.

ARTICLE IV PLEDGE AND SECURITY INTEREST

Section 4.1. Pledge of and Grant of Security Interest in Project Cost Account.

In consideration of this Agreement and other valuable consideration and for the purpose of securing payment of the amounts provided for hereunder to Developer by the City, according to the terms and conditions contained herein, and in order to secure the performance and observance of all of the City's covenants and agreements contained herein, the City does hereby grant a security interest in and pledge the Project Cost Account described in Section 2.1 hereof and all sums of money and other securities and investments therein to Developer.

Section 4.2. Perfection of Interest.

(a) Upon written request by Developer, the City will establish the Project Cost Account described in Section 2.1 hereof as a segregated fund under the control of an escrow agent, trustee or other fiduciary selected by Developer so as to perfect Developer's interest therein. The cost of establishing and monitoring such a fund (including the cost of counsel to the City with respect thereto) shall be borne exclusively by Developer. In the event such a fund is established under the control of a trustee or fiduciary, the City shall cooperate with Developer in causing appropriate financing statements and continuation statements naming Developer, or its designee, as pledgee of all such amounts from time to time on deposit in the fund to be duly filed and recorded in the appropriate state offices as required by and permitted under the provisions of the Maine Uniform Commercial Code or other similar law as adopted in the State of Maine and any other applicable jurisdiction, as from time to time amended, in order to perfect and maintain the security interests created hereunder.

(b) In the event Developer requires the establishment of a segregated fund in accordance with this Section 4.2, the City's responsibility shall be expressly limited to delivering the amounts required by this Agreement to the escrow agent, trustee or other fiduciary designated by Developer. The City shall have no liability for payment over of the funds concerned to Developer by any such escrow agent, trustee or other fiduciary, or for any misappropriation, investment losses or other losses in the hands of such escrow agent, trustee or other fiduciary. Notwithstanding any change in the identity of Developer's designated escrow agent, trustee or other fiduciary, the City shall have no liability for misdelivery of funds if delivered in accordance with Developer's most recent written designation or instructions actually received by the City.

Section 4.3. Further Instruments.

The City shall, upon the reasonable request of Developer, from time to time execute and deliver such further instruments and take such further action as may be reasonable and as may be required to carry out the provisions of this Agreement; provided, however, that no such instruments or actions shall pledge the credit of the City; and provided further that the cost of executing and delivering such further instruments (including the reasonable and related costs of counsel to the City with respect thereto) shall be borne exclusively by Developer.

Section 4.4. No Disposition of Project Cost Account.

Except as permitted hereunder, the City shall not sell, lease, pledge, assign or otherwise dispose, encumber or hypothecate any interest in the Project Cost Account and will promptly pay

or cause to be discharged or make adequate provision to discharge any lien, charge or encumbrance on any part thereof not permitted hereby.

Section 4.5. Access to Books and Records.

All books, records and documents in the possession of either of the parties to this Agreement relating to the District, the Development Program, this Agreement and the monies, revenues and receipts on deposit or required to be deposited into the Developer Project Cost Subaccount shall at all reasonable times and upon reasonable notice be open to inspection by both parties to this Agreement, and the agents and employees of the parties to this Agreement.

ARTICLE V DEFAULTS AND REMEDIES

Section 5.1. Events of Default.

Each of the following events shall constitute and be referred to in this Agreement as an “Event of Default”:

- (a) Any failure by the City to pay any amounts due to Developer when the same shall become due and payable;
- (b) Any failure by the City to make deposits into the Project Cost Account as and when due;
- (c) Any failure by the City or Developer to observe and perform in all material respects any covenant, condition, agreement or provision contained herein on the part of the City or Developer to be observed or performed, which failure is not cured within thirty (30) days following written notice thereof; and
- (d) If a decree or order of a court or agency or supervisory authority having jurisdiction in the premises of the appointment of a conservator or receiver or liquidator of, any insolvency, readjustment of debt, marshaling of assets and liabilities or similar proceedings, or for the winding up or liquidation of Developer's affairs shall have been entered against the Developer or the Developer shall have consented to the appointment of a conservator or receiver or liquidator in any such proceedings of or relating to the Developer or of or relating to all or substantially all of its property, including without limitation the filing of a voluntary petition in bankruptcy by the Developer or the failure by the Developer to have an involuntary petition in bankruptcy dismissed within a period of ninety (90) consecutive days following its filing or in the event an order for release has been entered under the Bankruptcy Code with respect to the Developer.
- (e) If any secured lender of Developer accelerates the indebtedness owed to it;
- (f) If any written representation or warranty given to the City by Developer is knowingly incorrect or incomplete in any material respect, other than statements made about or in agreements with the City that were later changed by mutual consent;
- (g) If Developer fails to maintain adequate surety bonding during construction at the levels and terms as may be required from time to time by the Developer's secured lenders and/or Developer allows mechanics' liens to encumber the Project for a period of more than sixty (60)

days.

(h) Any discontinuance of the District property as “affordable housing,” pursuant to the definition contained in Title 30-A M.R.S.A. Section 5246.

Section 5.2. Remedies on Default.

Subject to the provisions contained in Section 8.13, whenever any Event of Default described in Section 5.1 hereof shall have occurred and be continuing, the nondefaulting party, following the expiration of any applicable cure period, shall have all rights and remedies available to it at law or in equity, including the rights and remedies available to a secured party under the laws of the State of Maine, and may take whatever action as may be necessary or desirable to collect the amount then due and thereafter to become due, to specifically enforce the performance or observance of any obligations, agreements or covenants of the nondefaulting party under this Agreement and any documents, instruments and agreements contemplated hereby or to enforce any rights or remedies available hereunder. Further, the non-defaulting party may elect to terminate this Agreement upon 30 days’ written notice to the defaulting party.

Section 5.3. Remedies Cumulative.

Subject to the provisions of Section 8.13 below concerning dispute resolution, no remedy herein conferred upon or reserved to any party is intended to be exclusive of any other available remedy or remedies but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law, in equity or by statute. Delay or omission to exercise any right or power accruing upon any Events of Default to insist upon the strict performance of any of the covenants and agreements herein set forth or to exercise any rights or remedies upon the occurrence of an Event of Default shall not impair any such right or power or be considered or taken as a waiver or relinquishment for the future of the right to insist upon and to enforce, from time to time and as often as may be deemed expedient, by injunction or other appropriate legal or equitable remedy, strict compliance by the parties hereto with all of the covenants and conditions hereof, or of the rights to exercise any such rights or remedies, if such Events of Default be continued or repeated.

ARTICLE VI EFFECTIVE DATE, TERM AND TERMINATION

Section 6.1. Effective Date and Term.

Notwithstanding any other provision of this Agreement, this Agreement is conditioned upon receipt of the Director’s unconditional approval of the City’s designation of the District and adoption of the Development Program. Following execution and delivery of this Agreement, the Agreement shall not be or become binding and enforceable until receipt of such unconditional approval. Upon receipt of such approval, this Agreement shall remain in full force from the Effective Date of the Development Program, which is April 1, 2020, and shall expire March 31, 2050 or sooner upon the payment of all amounts due to Developer hereunder and the performance of all obligations on the part of the City hereunder, unless even sooner terminated pursuant to Section 3.4 or any other applicable provision of this Agreement.

The City may terminate this Agreement by delivering written notice of such termination to Developer in the event that Developer does not receive a certificate of occupancy for the Project by June 30, 2023.

Section 6.2. Termination by City.

Notwithstanding anything to the contrary in this Agreement, in the event that the Declaration, as that term is defined below, is terminated by foreclosure of a lien on the Project that has priority over the Declaration, the City shall have the right to terminate this Agreement by providing Developer with 30 days written notice prior to the effective date of termination, except that in the event that the foreclosing lienholder agrees (for itself, its successors, assigns, and transferees) to be bound by the terms of this Agreement and that the Declaration (as described in Section 8.15 hereof) shall remain in full force and effect, then this Agreement shall remain in full force and effect and City shall have no right to terminate this Agreement.

Section 6.3. Cancellation and Expiration of Term.

At the acceleration, termination or other expiration of this Agreement in accordance with the provisions of this Agreement, the City and Developer shall each execute and deliver such documents and take or cause to be taken such actions as may be necessary to evidence the termination of this Agreement.

ARTICLE VII ASSIGNMENT AND PLEDGE OF DEVELOPER'S INTEREST

Section 7.1. Consent to Pledge, Collateral Assignment Or Grant of a Security Interest.

The City hereby acknowledges that Developer may pledge, assign and grant a security interest in its right, title and interest in, to and under this Agreement as collateral for financing by a bank, financial institution or Maine State Housing Authority to Developer for the Project, although no obligation is hereby imposed on Developer to make such assignment or pledge. Recognizing this possibility, the City does hereby consent and agree to the pledge and assignment of and the grant of a security interest in all Developer's right, title and interest in, to and under this Agreement and in, and to the payments to be made to Developer hereunder, to third parties as collateral or security for indebtedness or otherwise, on one or more occasions during the term hereof. The City agrees upon request to execute and deliver any assignments, pledge agreements, consents or other confirmations required by the prospective pledgee or assignee or secured party, including without limitation recognition of the pledgee or assignee or secured party as the holder of all right, title and interest herein and as the payee of amounts due and payable hereunder and any and all such other documentation as shall confirm to such pledgee or assignee or secured party the position of such assignee or pledgee or secured party and the irrevocable and binding nature of this Agreement, and provide to the pledgee or assignee such rights and/or remedies as the parties may reasonably deem necessary for establishing, perfection and protection of its interest herein. Developer shall be responsible for the City's necessary and reasonable costs of counsel with respect to any such pledge or assignment.

Section 7.2. Transfer.

Except as specified in Section 7.1 hereof, Developer shall not transfer or assign any portion of its rights in, to and under this Agreement without the prior written consent of the City, which consent shall not be unreasonably withheld, conditioned or delayed.

ARTICLE VIII MISCELLANEOUS

Section 8.1. Successors.

In the event of the dissolution, merger or consolidation of the City or Developer, the covenants, stipulations, promises and agreements set forth herein, by or on behalf of or for the benefit of such party shall bind or inure to the benefit of the successors and assigns thereof from time to time and any entity, officer, board, commission, agency or instrumentality to whom or to which any power or duty of such party shall be transferred.

Section 8.2. Parties-in-Interest.

Except as herein otherwise specifically provided, nothing in this Agreement expressed or implied is intended or shall be construed to confer upon any person, firm or corporation other than the City and Developer any right, remedy or claim under or by reason of this Agreement, it being intended that this Agreement shall be for the sole and exclusive benefit of the City and Developer.

Section 8.3. Severability.

In case any one or more of the provisions of this Agreement shall, for any reason, be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this Agreement and this Agreement shall be construed and enforced as if such illegal or invalid provision had not been contained herein.

Section 8.4. No Personal Liability of Officials of the City.

(a) No covenant, stipulation, obligation or agreement of the City contained herein shall be deemed to be a covenant, stipulation or obligation of any present or future elected or appointed official, officer, agent, servant or employee of the City in his or her individual capacity, and neither the City Council nor any official, officer, employee or agent of the City shall be liable personally with respect to this Agreement or be subject to any personal liability or accountability by reason hereof.

(b) No covenant, stipulation, obligation or agreement of Developer contained herein shall be deemed to be a covenant, stipulation or obligation of any present or future officer, agent, servant or employee of Developer in his or her individual capacity, and no official, officer, employee or agent of Developer shall be liable personally with respect to this Agreement or be subject to any personal liability or accountability by reason hereof.

Section 8.5. Counterparts.

This Agreement may be executed in any number of counterparts, each of which, when so

executed and delivered, shall be an original, but such counterparts shall together constitute but one and the same Agreement.

Section 8.6. Governing Law.

The laws of the State of Maine shall govern the construction and enforcement of this Agreement.

Section 8.7. Notices.

All notices, certificates, requests, requisitions or other communications by the City or Developer pursuant to this Agreement shall be in writing and shall be sufficiently given and shall be deemed given when mailed by first class mail, postage prepaid, addressed as follows:

If to the City:

City of Portland
Attn. Housing and Community Development Division
389 Congress Street
Portland, ME 04101

With a copy to:

Corporation Counsel's Office
389 Congress Street
Portland, Maine 04101

If to Developer:

Washington Gardens, LP
c/o Portland Housing Development Corporation
14 Baxter Boulevard
Portland, Maine 04101

Either of the parties may, by notice given to the other, designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent hereunder.

Section 8.8. Amendments.

This Agreement may be amended only with the concurring written consent of both of the parties hereto.

Section 8.9. Records.

The City shall maintain records which are adequate in all respects to make the calculation of Increased Assessed Value and Tax Increment Revenues required to calculate the deposits into the Development Program Fund hereunder, and shall provide to Developer, upon request by Developer, a summary of such calculations.

Section 8.10. Reserved.

Section 8.11. Integration.

This Agreement completely and fully supersedes all other prior or contemporaneous understandings or agreements, both written and oral, between the City and Developer relating to the specific subject matter of this Agreement and the transactions contemplated hereby.

Section 8.12. Reserved.

Section 8.13. Dispute Resolution.

In the event of a dispute regarding this Agreement or the transactions contemplated by it, the parties hereto will use all reasonable efforts to resolve the dispute on an amicable basis. If the dispute is not resolved on that basis within sixty (60) days after one party first brings the dispute to the attention of the other party, then either party may refer the dispute for resolution by one arbitrator mutually agreed to by the parties, and judgment on the award rendered by the arbitrator may be entered in any Maine state court having jurisdiction. Any such arbitration will take place in Portland, Maine or such other location as mutually agreed by the parties. The parties acknowledge that arbitration shall be the sole mechanism for dispute resolution under this Agreement. Provided however, that in the event the parties are unable to agree, within a reasonable period, on the selection of an arbitrator, either party may file suit to resolve the dispute in any court having jurisdiction within the State of Maine. This arbitration clause shall not bar the City's assessment or collection of property taxes in accord with law, including by judicial proceedings, including tax lien thereof.

Section 8.14. Tax Laws and Valuation Agreement.

The parties acknowledge that all laws of the State now in effect or hereafter enacted with respect to taxation of property shall be applicable and that the City, by entering into this Agreement, is not excusing any non-payment of taxes by Developer. Without limiting the foregoing, the City and Developer shall always be entitled to exercise all rights and remedies regarding assessment, collection and payment of taxes assessed on Developer's property. In addition, the Development Program makes certain assumptions and estimates regarding valuation, depreciation of assets, tax rates and estimated costs. The City and Developer hereby covenant and agree that the assumptions, estimates, analysis and results set forth in the Development Program shall in no way (a) prejudice the rights of any party or be used, in any way, by any party in either presenting evidence or making argument in any dispute which may arise in connection with valuation of or abatement proceedings relating to Developer's property for purposes of ad valorem property taxation or (b) vary the terms of this Agreement even if the actual results differ substantially from the estimates, assumptions or analysis.

Section 8.15. Affordability Covenants.

The Developer and the City shall, in order to assure the continued affordability of the rental units as required by the Development Program, Maine State Housing Authority and applicable laws, regulations and ordinances, execute a declaration (the "Declaration") which is substantially in the same form as the Declaration of Covenants, Conditions and Restrictions which is attached to the Development Program as Exhibit I.

IN WITNESS WHEREOF, the City and Developer have caused this Agreement to be executed in their respective corporate names and their respective corporate seals to be hereunto affixed and attested by the duly authorized officers, all as of the date first above written.

WITNESS:

CITY OF PORTLAND, ME

By: _____

Name: Jon P. Jennings

Its City Manager, Duly Authorized by the City
Council at its meeting on [Enter meeting date]

[Signatures continue on next page]

WASHINGTON GARDENS, LP
By: Washington Gardens Development, LLC,
its General Partner

WITNESS:

By: _____

By:

Its:

EXHIBIT 1

MEMORANDUM
City Council Agenda Item

FROM: Mary Davis, Division Director

DATE: July 22, 2020

SUBJECT: **Order 25-20/21 Appropriating \$400,000 in HOME Investment Partnership Program Funds to Washington Gardens, LP RE: 577 Washington Avenue - Sponsored by the Housing Committee, Councilor Jill C. Duson, Chair.**

SPONSOR: Sponsored by the Housing Committee, Councilor Jill C. Duson, Chair.

The Housing Committee met on June 10, 2020 and voted (3 - 0) to forward this item to the City Council with a recommendation for passage.

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

Can action be taken at a later date: Yes

PRESENTATION: Mary Davis, Housing & Community Development Division Director will be available for questions.

I. SUMMARY

Portland Housing Development Corporation is requesting \$400,000 from the Affordable Housing Development Program to rehabilitate 100 units of public housing.

II. AGENDA DESCRIPTION

The Housing Committee met on June 10, 2020 and voted unanimously (3 - 0) to forward this item to the City Council with a recommendation for passage.

Portland Housing Development Corporation (PHDC) is proposing to rehabilitate 100 units of public housing serving seniors and persons with disabilities at 577 Washington Avenue (Washington Gardens).

PHDC has requested three forms of financial assistance including \$400,000 from the Affordable Housing Development Program, \$184,150 from the CDBG Program (approved by the City Council in May, 2020) and an Affordable Housing Tax Increment Financing request being considered separately under Orders 21 - 20/21.

Total HOME request of \$400,000/unit = \$4,000

Total HOME request of \$400,000/affordable unit = \$4,000

There are currently 60 studios, 36 one-bedroom, and 4 two-bedroom units. 60% or 60 of the units will be available to households earning 50% of the area median income (AMI). 40% or 40 of the units will be available to households earning 60% AMI.

This project has received 9% Low Income Housing Tax Credit and tax-exempt debt from Maine Housing.

This item must be read on two separate days. On July 13, 2020, this item was postponed to August 31, 2020 to

allow for the review of recent changes to the project proforma. Staff is requesting that this item be postponed to September 9, 2020. Five affirmative votes are required for passage after public comment.

III. BACKGROUND

Portland Housing Development Corporation is proposing to rehabilitate 100 units of public housing serving seniors and persons with disabilities at 577 Washington Avenue (Washington Gardens).

As described by the developer: "The property is in fair-to-poor condition and most major systems are nearing the end of their useful life. The proposed scope of work will include, but is not limited to: upgrading building envelopes and insulation, upgrading mechanical systems, adding new accessible unit, improving sitework and ramps, renovating unit interiors and finishes, and installing new energy- and water-efficient fixtures and appliances."

"Following rehabilitation, five (5) units will be fully accessible to serve persons with a physical disability. An additional twelve (12) accessible units will meet the requirements for a Type A unit. Two (2) units will be designed with audio/visual communication features to serve residents who are hearing- and/or sight-impaired."

"Washington Gardens has a community room, central laundry facilities, an outdoor patio and gazebo, and on-site property management. The property benefits from a part-time, on-site mental health worker from the Shalom House."

The 2020 Affordable Housing Development Application made available a total of \$1,571,245 from the 2020-2021 HOME fund (\$497,545) and Housing Trust Fund (\$1,073,700) for affordable housing development. The City received three applications requesting a total of \$1,495,000 in funding.

The staff recommendation to the Housing Committee was for funding \$400,000 in HOME funding at zero percent interest, with payment deferred for 30 years following underwriting conditions prior to the loan closing.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

To encourage and promote affordable decent, housing opportunities for all Maine citizens

According to Portland's Comprehensive Plan 2030, while Portland has welcomed much needed new housing construction in recent years, both the lack of sufficient housing supply and the affordability of that housing for a healthy socioeconomic cross-section of the population remain urgent challenges.

The City of Portland is actively engaged in efforts to encourage housing preservation and creation for all income levels and household sizes city-wide, both through policy initiatives and through public/nonprofit partnerships with agencies such as Portland Housing Authority, Community Housing of Maine, Avesta Housing, Preble Street, Shalom House, and the Maine Affordable Housing Coalition.

Over time, the population of seniors will continue to grow as the cohort of Baby Boomers, who began to turn 65 in 2011, age into seniors. As of 2014, there were an estimated 8,095 people in Portland aged 65 and over, who comprise 12.2% of the city's population. The vast majority of the city's seniors, 92%, live in households, while 8% live in nursing or assisted living facilities. 59% of the city's seniors own a home, while 41% rent. 60% of seniors, whether renters or owners, live alone. In the future, this growing number of seniors living alone may demand more housing that is smaller and more accessible. Underscoring this demand in Portland is

the fact that a large share of the current Shared Section 8 Housing Voucher Program wait list applicants (3,133) who qualify for Portland Housing Authority's program are seniors or disabled

The Comprehensive Plan supports modernization of existing affordable housing sites.

The Comprehensive Plan has set the following goal: Increase, preserve, and modify the overall supply of housing city-wide to meet the needs, preferences and financial capabilities of all Portland residents.

V. FINANCIAL IMPACT

Recommendation for funding is for \$400,000 in HOME funding. The Housing and Community Development Division works with an independent consultant who performs third party underwriting reviews of requests for all City funding. Final loan terms will be determined based on the results of the City's financial underwriting.

VI. STAFF ANALYSIS AND BACKGROUND

VII. RECOMMENDATION

Approval by the City Council of the Housing Committee's recommendation of HOME Funds in the amount of \$400,000 at zero percent interest with repayment deferred for 30 years pending underwriting conditions.

VIII. LIST ATTACHMENTS

1. Appropriating Home funds for 577 Washington Avenue 7.13.2020
2. Attachments for City Council 7.13.20 577 Washington Ave

Prepared by:

Mary Davis, Division Director

Date: 7/22/2020

Order 25-20/21

Motion to postpone to August 31, 2020: 8-0 (Cook absent) on 8/3/2020

KATE SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
TAE Y. CHONG (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER APPROPRIATING \$400,000 IN
HOME INVESTMENT PARTNERSHIP PROGRAM FUNDS
TO WASHINGTON GARDENS, LP
RE: 577 WASHINGTON AVENUE**

ORDERED, that the amount of \$400,000 in Home Investment Partnerships Program funds is hereby appropriated to Washington Gardens, LP for development costs for the project at 577 Washington Avenue; and

BE IT FURTHER ORDERED, the City Manager or his or her designee is authorized to execute any and all documents necessary to apply for, accept and appropriate the funding, and otherwise carry out the intent of this order.

Washington Gardens – Project Summary

PROJECT SUMMARY

Portland Housing Development Corporation (PHDC) proposes the rehabilitation of Washington Gardens, a 100-unit property in East Deering. The community contains 15 two-story, garden-style residential buildings and serves seniors and persons with disabilities. It is currently Public Housing and will convert to a Section 8 Project Based Voucher (PBV) funding platform through HUD's Section 18 Demolition & Disposition program at closing.

After nearly fifty years without a significant renovation, the property is in fair-to-poor condition and most major systems are nearing the end of their useful life. The proposed scope of work will include but is not limited to upgrading building envelopes and insulation, upgrading mechanical systems, adding new accessible units, improving sitework and ramps, renovating unit interiors and finishes, installing new energy- and water-efficient fixtures and appliances, and installing rooftop solar photovoltaic panels.

PHDC requests \$400,000 of funding at 0% interest from the City of Portland to support the rehabilitation of 100 affordable units at Washington Gardens. This request equals \$4,000 per unit. All other rehabilitation funding sources have been secured, including an allocation of competitive 9% Low Income Housing Tax Credit (LIHTC) from MaineHousing. The project is expected to close and begin construction in Fall 2020.

UNIT MIX

Washington Gardens currently contains 100 units, comprised of 60 studio units, 36 one-bedroom units and four (4) two-bedroom units. No change in unit mix or use will occur following rehabilitation.

TENANTS SERVED

Washington Gardens will continue to serve a senior (55+) and disabled population. All units will be restricted to households earning at or below 50% and 60% of AMI. All 100 units will benefit from a PBV.

Following rehabilitation, 17 units will be reconfigured to be accessible to serve persons with a physical disability. Two (2) units will be designed with audio/visual communication features to serve residents who are hearing- and/or sight-impaired.

Washington Gardens will comply with the City of Portland's 10% Homeless Set-Aside requirement, contingent upon a funding award. As a rehabilitation, a Homeless Set-Aside Agreement will need to align with certain HUD requirements, including existing residents' right-to-return, waitlist and leasing requirements, and the Section 8 Project-Based Voucher program, among others. We anticipate future discussions with the City to satisfy the requirements of all parties involved.

SPECIAL FEATURES

Washington Gardens contains a community room, central laundry facilities, an outdoor patio and gazebo, and on-site property management. The property benefits from a part-time, on-site mental health worker from Shalom House.

IMPACT ON NEIGHBORHOOD

The Washington Gardens rehabilitation will further improve East Deering and the City of Portland's stock of quality, affordable housing options for seniors and persons with disabilities. This project will guarantee the buildings' long-term physical and financial sustainability, better serve the needs of its residents, and improve accessibility.

RESPONSE TO SELECTION CRITERION AND PREFERENCE GUIDELINES

PROPOSED USE OF FUNDS TO ACHIEVE CITY OF PORTLAND'S GOALS & ADDRESS DEMONSTRATED NEEDS

- MARKET DEMAND – High demand exists for affordable studio, one-bedroom and two-bedroom rental units in Portland for seniors and persons with disabilities. **This project will meet the market's high demand for affordability with 100 vouchered units in East Deering.**
- ZONING – No zoning amendments or contract or conditional zones are required.
- ECONOMIC DIVERSITY – This project will promote economic diversity in the East Deering neighborhoods. The average family income in the East Deering census tract is \$71,898, or 77% of AMI. The average income has risen in this census tract over the past five years. The rehabilitation will maintain affordable homes for seniors and persons with disabilities earning at or below 60% AMI.
- CITY SUBSIDY – **This application requests \$4,000 of subsidy per unit.**

IMPACT ON SURROUNDING NEIGHBORHOOD, DESIGN COMPATIBILITY & ENVIRONMENTAL ISSUES

- SITE SELECTION – The project is fully appropriate for use as multifamily residential. Washington Gardens is surrounded on all sides by low-rise single- and multi-family properties.
- EXTERIOR DESIGN – Washington Gardens was built in 1973. Its designs is fully consistent with the surrounding neighborhood design characteristics. It's 15 low-rise, wooden-framed buildings blend in with adjacent low-rise properties and enhance the residential atmosphere of the community.
- AMENITIES AND UNIT DESIGN – Washington Gardens offers its residents a suite of amenities, including a community room, central laundry facilities, an outdoor patio and gazebo, and on-site property management. Residents will benefit from a part-time, on-site mental health worker from the Shalom House. The property is, and will continue to be, non-smoking. The rehabilitation will bring units up to like-new status with modern, marketable and durable features and finishes.
- ENVIRONMENTAL – No environmental issues exist at Washington Gardens. The City of Portland completed an Environmental Assessment (EA) of Washington Gardens on 8/15/19 and recommended a Finding Of No Significant Impact (FONSI). HUD approved the EA on 10/1/19.

FINANCIAL FEASIBILITY, INCLUDING COST, DEVELOPMENT BUDGET, PRO FORMA & LEVERAGED FUNDS

- DEVELOPMENT BUDGET & SOURCES AND USES – Every development budget line item complies with applicable City of Portland guidelines. Project budget, sources and uses are reasonable & customary.
- OPERATING PRO FORMA – Every operating pro forma line item complies with applicable City of Portland guidelines. Operating expenses are reasonable and customary.

APPLICANT'S ABILITY TO COMPLETE PROJECT

- READINESS TO PROCEED – **The project is anticipated to begin construction in Fall 2020 and be completed by mid-2022. Except for an award of City HOME/HTF, all other funding sources have been secured, including an allocation of 9% Low Income Housing Tax Credit (LIHTC) from MaineHousing.** All project sources are projected at terms and conditions that are consistent with PHDC's experience and deemed reasonable.
- TRACK RECORD OF DEVELOPMENT TEAM – Every development member has a long and successful track record with projects similar to the Washington Gardens rehab. PHDC (developer), CWS Architects (architect), Carroll & Associates (landscape architect), and Drummond Woodsum (attorney) have extensive experience with multifamily renovation projects in Portland.
- CURRENT CAPACITY OF DEVELOPMENT TEAM – All development team members have exceptional depth of human and financial resources to complete this project. PHDC extensively vets all partners to ensure appropriate staff availability, technical expertise and financial capacity. PHDC selects all development team members through a competitive RFQ or RFP procurement process to ensure that only the most qualified firms work on each of our multifamily projects.

BUILDING EXTERIORS



ON-SITE PROPERTY MANAGEMENT OFFICE



COMMUNITY CENTER



Washington Gardens

577 Washington Avenue, Portland, ME 04103



Washington Gardens – Parcel Map

Comprised of four parcels:

- 428-B-022 – includes 12 Residential Buildings and Community Center
- 428-C-009 – includes 3 Residential Buildings
- 428-B-018 – includes Property Management Office
- 428-B-019 – includes Maintenance Shed



PROJECT NAME: Valley Street Apartments
LOCATION: 200-210 Valley St, Portland, ME

Date: 04/27/20

DEVELOPMENT ASSUMPTIONS					
Total Units	60	Inflation Adjustments	Yr 1-5	Yr 6-15	Yr 16-30
# @ 30% AMI (Low HOME)	0.0%	Rent	2.00%	2.00%	2.00%
# @ 50% AMI (Low HOME)	0.0%	Operating Expense	3.00%	3.00%	3.00%
# @ 50% AMI (LIHTC)	60.0%	Other Income	2.00%	2.00%	2.00%
# @ 60% AMI (LIHTC)	20.0%	Debt Coverage Ratio	1.15		
# @ Market	20.0%	Vacancy	5.0%		

LIHTC Alloc.	945,149
Equity yield	0.66
Synd. %	99.99%
Equity Raise	8,128,281

Solar Credit FED	0
Equity yield	0.95
Synd. %	99.99%
Equity Raise	0

Total Equity	8,128,281
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PRO FORMA DEVELOPMENT BUDGET				
	Residential	Per Unit	Commercial	Total
Site Improvements	0	0		0
Construction	12,271,000	204,517		12,271,000
General Requirements	0	0		0
Solar	0	0		0
Builder Profit	0	0		0
Bond Premium	0	0		0
Construction Contingency	5.0%	613,550	10,226	613,550
Subtotal Construction Costs	12,884,550	214,743	0	12,884,550
Building Permits and Fees	377,000	6,283		377,000
Off-Site Improvements	0	0		0
On-Site Improvements	0	0		0
Survey & Engineering	36,000	600		36,000
Design & Permitting	520,000	8,667		520,000
Legal	68,000	1,133		68,000
Title & Recording	18,885	315		18,885
Accounting	10,000	167		10,000
Construction Period Tax	15,000	250		15,000
Construction Period Insurance	30,000	500		30,000
Other: FF&E, Security, Soft Contingency	80,000	1,333		80,000
Subtotal Soft Costs	1,154,885	19,248	0	1,154,885
Construction Loan Origination Fees	28,750	479		28,750
Construction Loan Interest	425,000	7,083		425,000
Equity Bridge Loan Costs	0	0		0
Lender Inspection Fees	12,000	200		12,000
Letter of Credit Fee	5,000	83		5,000
Permanent Loan Fees	10,000	167		10,000
Other: Construct Lender Legal, Construct Close Fee; P	15,000	250		15,000
Subtotal Finance Costs	495,750	8,263	0	495,750
Market Survey	5,000	83		5,000
Appraisal	6,500	108		6,500
Environmental Study	4,000	67		4,000
LIHTC Fees - prepaid monitoring	124,386	2,073		124,386
Other: Testing & Special Inspections	25,000	417		25,000
Other:	0	0		0
Subtotal Miscellaneous	164,886	2,748	0	164,886
Acquisition: Buildings	0	0		0
Acquisition: Land	629,500	10,492		629,500
Acquisition: Legal	0	0		0
Subtotal Acquisition	629,500	10,492	0	629,500
Operating Deficit Escrow	409,000	6,817		409,000
Pre-funded Replacements	122,710	2,045		122,710
Tax & Insurance Escrow	87,000	1,450		87,000
Total Syndication Expenses	0	0		0
Consultant Fee	0	0		0
Developer Overhead	750,000	12,500		750,000
Developer Profit	0	0		0
Rent-Up Reserve & Marketing	50,000	833		50,000
Subtotal Fee and Reserves	1,418,710	23,645	0	1,418,710
Total Development Costs	16,748,281	279,138	0	16,748,281

16,214,895 237,665 QAP TDC Index

Total Dev Costs	16,748,281
Less Commercial Construction:	0
Less: Equity Bridge Interest	
Less: Prepaid Monitoring Fees	124,386
Less: ODE	409,000
Scored TDC	16,214,895
Per Unit	270,248

New TDC calculation
[(2 x TDC/unit) + (TDC/bedroom)] / 3
TDC Per Unit \$237,665

Notes	
1. Proposed funding reflects a 75% TIF for 30 years.	
2. This application contemplates \$595,000 in City HOME/HTF and/or Healthy Neighborhoods Funding. Avesta intends to respond to the Healthy Neighborhoods RFP issued in April and any funds awarded through that process could be used in lieu of an equal amount of City HOME/HTF funds for a total funding level of \$595,000.	

MAXIMUM DEVELOPER FEE AVAILABLE	750,000
ACTUAL DEVELOPER FEE	750,000
% OF MAXIMUM DEVELOPER FEE	100.0%
NET DEVELOPER FEE COLLECTED	750,000
% OF MAXIMUM DEVELOPER FEE	100.0%

FLOW OF FUNDS									
Sources	CLC 8/15/2021	11/13/21	During Construction 2/11/22 4/12/22 8/10/22	PLC 10/14/2022	2023	2024	Total		
Beginning Cash	0	331,106	0	0	0	0	0		
Construction Loan	0	2,404,253	3,385,359	5,024,913	726,562		11,541,087		
Capital Contribution	1,219,242	0	0	0	1,019,242	5,689,797	150,000	50,000	8,128,281
MSHA Subsidy	480,000	0			480,000				960,000
MSHA Debt	0	0			5,390,000				5,390,000
City HOME/Healthy Neighborhoods	595,000	0	0		0				595,000
FHLBBoston Loan	0	0	0		1,025,000				1,025,000
FHLBBoston Subsidy	0	650,000			0				650,000
Conventional loan	0	0			0				0
Healthy Neighborhoods	0	0			0				0
Other	0	0			0				0
Development Fee Loan	0	0			0				0
TOTAL SOURCES	2,294,242	3,385,359	3,385,359	5,024,913	1,745,804	12,584,797	150,000	50,000	28,289,368
Acquisition	629,500								629,500
Construction		3,221,138	3,221,138	4,831,706	1,610,569				12,884,550
Soft Costs	923,000	57,971	57,971	68,957	28,988	0			1,154,885
Financing Costs	70,750	106,250	106,250	106,250	106,250				495,750
Miscellaneous	139,886					75,000			214,886
Dev Fee	200,000					350,000			750,000
Reserves						618,710			618,710
TOTAL DEV. COSTS	1,963,136	3,385,359	3,385,359	5,024,913	1,745,804	1,043,710	150,000	50,000	16,748,281
Repay Equity Bridge Loan						0			0
Repay Construction Loan						11,541,087			11,541,087
Other Syndication Costs	0	0	0	0	0	0			0
SUBTOTAL OTHER ITEMS	0	0	0	0	0	11,541,087	0	0	11,541,087
TOTAL USES OF FUNDS	1,963,136	3,385,359	3,385,359	5,024,913	1,745,804	12,584,797	150,000	50,000	28,289,368
Ending Cash	331,106	0	0	0	0	0	0	0	0

PROJECT FINANCING									
Source		Amount	Rate	Term	Lien	Annual D/S			
						Yr. 1-5	Yr. 6-15	Yr. 16-30	
Source 1:	MSHA Subsidy	960,000	0.00%	30	First	0	0	0	
Source 2:	MSHA Debt	5,390,000	6.00%	30	First	323,400	323,400	323,400	
Source 3:	City HOME/Healthy Neighborhoo	595,000	0.00%	0	First	0	0	0	
Source 4:	FHLBBoston Loan	1,025,000	2.50%	30	Second	48,600	48,600	48,600	
Source 5:	FHLBBoston Subsidy	650,000	0.00%	0	Second	0	0	0	
Source 6:	Conventional loan	0	5.50%	30	Second	0	0	0	
Source 7:	Healthy Neighborhoods	0			Third	0	0	0	
Source 8:	Other	0	0.00%	30	Unsecured	0	0	0	
Source 9:	Development Fee Loan	0			Unsecured				
Source 10:	Net Syndication	8,128,281	\$0.85						
Capitalization Gap (Surplus)		(0)							
Total Development Costs		16,748,281							

PROPOSED RENT SCHEDULE									
Type	AMI	# Units	Contract Rent	LIHTC Max Rents	Total Gross Rent*	Market Rent	Utility Allow	Total Rent	
Efficiency	50% LowHOME				0	\$1,300	33	0	
	50% - PBV				0	\$1,300	33	0	
	50% LIHTC	7	878	878	878	\$1,300	33	70,980	
	60% LIHTC	4	1,054	1,054	1,054	\$1,300	33	49,008	
	Market	0			1,100	\$1,300		0	
1BR	50% LowHOME		0	0	0	\$1,600	43	0	
	50% - PBV				0	\$1,600	43	0	
	50% LIHTC	10	941	941	941	\$1,600	43	107,760	
	60% LIHTC	3	1,129	1,129	1,129	\$1,600	43	39,086	
	Market	12			1,400	\$1,600		201,600	
2BR	50% LowHOME		0	0	0	\$1,800	56	0	
	50% - PBV				0	\$1,800	56	0	
	50% LIHTC	11	1,128	1,128	1,128	\$1,800	56	141,504	
	60% LIHTC	3	1,354	1,354	1,354	\$1,800	56	48,728	
	Market	0			1,600	\$1,800		0	
3BR	50% LowHOME				0	\$2,000	70	0	
	50% - PBV				0	\$2,000	70	0	
	50% LIHTC	8	1,304	1,209	1,304	\$2,000	70	118,464	
	60% LIHTC	2	1,565	1,451	1,565	\$2,000	70	35,880	
	Market				1,700	\$2,000		0	
4BR	50% LowHOME							0	
	50% - PBV						0	0	
	50% LIHTC						0	0	
	60% LIHTC						0	0	
	Market							0	
Other:								0	
Subtotals		60						811,020	
Total Bedrooms		94							
			Vacancy Rate		5.00%			(40,551)	
			Other Income		TIF			99,000	
			Other Income		Laundry			2,880	
			Effective Gross Income					872,349	

AFFORDABLE MORTGAGE CALCULATION		
Effective Gross Income		872,349
Annual Operating Expense		445,841
Stabilized NOI		426,508
DSC	1.15	
\$ Avail for D/S		
Other DS		372,000
DCR	1.15	
Affordable Mortgage		

BREAKEVEN ANALYSIS	RENT SENSITIVITY	OCCUPANCY
	Total	Annual
Operating Expense	445,841	Gross Revenues
Debt Service	372,000	912,900
Breakaven Rent	1,136	Breakaven Occupancy
		90%

OPERATING EXPENSES			
Expense	Annual	Annual Per Unit	Monthly Per Unit
Administrative Expenses:			
Management Fees	50,907	848	71
Management Charges	50,907	848	71
Marketing Expenses	500	8	1
Legal Expenses	500	8	1
Auditing Expenses	7,500	125	10
Other Administrative Expenses	0	0	0
Administrative Expenses	110,313	1,839	153
Operating Expenses:			
Janitorial Payroll	0	0	0
Janitorial Supplies and Equipment	0	0	0
Janitorial Contractual Services	10,000	167	14
Natural Gas	30,000	500	42
Electricity	15,000	250	21
Water and Sewer	12,500	208	17
Garbage and Trash Removal	6,500	108	9
Vehicle and Equipment Expenses	0	0	0
Other Operating Expenses	0	0	0
Operating Expenses	74,000	1,233	103
Maintenance Expenses:			
Grounds Maintenance Payroll	0	0	0
Grounds Tools and Supplies	0	0	0
Grounds Contractual Services	10,000	167	14
Miscellaneous Ground Maintenance	0	0	0
Tenant Damage Charges - Grounds	0	0	0
Building Maintenance Payroll	0	0	0
Building Tools and Supplies	0	0	0
Building Contractual Services	20,000	333	28
Building Systems Maintenance	30,000	500	42
Miscellaneous Building Maintenance	0	0	0
Tenant Damage Charges - Building	0	0	0
Maintenance Expenses	60,000	1,000	83
General Expenses:			
Property Taxes	132,000	2,200	183
Property and Liability Insurance	21,000	350	29
Investor Fees	0	0	0
Tenant Service Expenses	21,528	359	30
General Expenses	174,528	2,909	242
Replacement Reserve Funding			
Parking Lease	27,000	450	38
Commercial Expenses (if applicable)	0	0	0
Total	445,841	7,431	619

PROFORMA OPERATING INCOME AND EXPENSE STATEMENT												
	3 Months	Yr 1	Yr 2	Yr 3	Yr 4	Yr 5	Yr 6	Yr 7	Yr 8	Yr 9	Yr 10	
	9/1/2022	12/31/2022	12/31/2023	12/30/2024	12/31/2025	12/31/2026	12/31/2027	12/30/2028	12/31/2029	12/31/2030	12/31/2031	12/30/2032
Effective Gross Income		218,087	872,349	889,796	907,592	925,744	944,259	963,144	982,407	1,002,055	1,022,096	1,042,538
Less Operating Expense		111,460	445,841	459,217	472,993	487,183	501,798	516,852	532,358	548,329	564,779	581,722
Net Operating Income		106,627	426,508	430,579	434,599	438,561	442,460	446,291	450,049	453,726	457,317	460,816
Less RLP Repay		80,850	323,400	323,400	323,400	323,400	323,400	323,400	323,400	323,400	323,400	323,400
Less Other Repay		12,150	48,600	48,600	48,600	48,600	48,600	48,600	48,600	48,600	48,600	48,600
Cash Flow		13,627	54,508	58,579	62,599	66,561	70,460	74,292	78,049	81,726	85,317	88,816
Cash Flow per Unit		909	908	976	1,043	1,109	1,174	1,238	1,301	1,362	1,422	1,480
Debt Coverage Ratio(RLP)		1.15	1.15	1.16	1.17	1.18	1.19	1.20	1.21	1.22	1.23	1.24
Operating Reserve Balance	409,000	429,450	450,923	473,469	497,142	521,989	548,089	575,504	604,279	634,493	666,218	699,529

Total Cash Flow
Projected over 12 Years
922,257

PROFORMA OPERATING INCOME AND EXPENSE STATEMENT, continued											
	Yr 11	Yr 12	Yr 13	Yr 14	Yr 15	Yr 16	Yr 17	Yr 18	Yr 19	Yr 20	
	12/31/2033	12/31/2034	12/31/2035	12/31/2036	12/31/2037	12/31/2038	12/31/2039	12/31/2040	12/31/2041	12/31/2042	
Effective Gross Income	1,063,389	1,084,656	1,106,349	1,128,476	1,151,046	1,174,067	1,197,548	1,221,499	1,245,929	1,270,848	
Less Operating Expense	599,174	617,149	635,663	654,733	674,375	694,606	715,445	736,908	759,015	781,786	
Net Operating Income	464,215	467,508	470,686	473,743	476,671	479,461	482,104	484,591	486,914	489,062	
Less RLP Repay	323,400	323,400	323,400	323,400	323,400	323,400	323,400	323,400	323,400	323,400	
Less Other Repay	48,600	48,600	48,600	48,600	48,600	48,600	48,600	48,600	48,600	48,600	
Cash Flow	92,215	95,508	98,686	101,743	104,671	107,461	110,104	112,591	114,914	117,062	
Cash Flow per Unit	1,537	1,592	1,645	1,696	1,745	1,791	1,835	1,877	1,915	1,951	
Debt Coverage Ratio(RLP)	1.25	1.26	1.27	1.27	1.28	1.29	1.30	1.30	1.31	1.31	
Operating Reserve Balance	699,529	734,505	771,230	809,792	850,282	892,796	937,435	984,307	1,033,523	1,085,199	1,139,459



CITY OF PORTLAND
Planning & Urban Development Department
Housing and Community Development Division

TO: Mayor Snyder
Members of the City Council
FROM: Mary Davis, Division Director
Housing and Community Development Division
DATE: July 6, 2020
SUBJECT: Project Underwriting

The underwriting analysis for this project will be made available prior to the August 3rd Council Meeting where the council is expected to take action on the Affordable Housing Development and Affordable Housing TIF requests.

Work is well underway on the financial underwriting analysis. However, as a result of an earlier due date on the Low Income Housing Tax Credit application and delays due to COVID-19, city closure and working remotely, additional time is needed to complete the analysis.

MEMORANDUM
City Council Agenda Item

FROM:

DATE: August 12, 2020

SUBJECT: Order 37-20/21 Setting an Election Date on Citizen Initiative Amendment to the Portland City Code Chapter 33 Re: An Act to Increase Minimum Wage in Portland - Sponsored by Katherine L. Jones, City Clerk

SPONSOR:

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

Can action be taken at a later date: No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

II. AGENDA DESCRIPTION

This item sets an election date for a Citizen Initiative that increases the Portland minimum wage. It also allows the use of a summary on the ballot, pursuant to Chapter 9 of the Portland City Code Sec. 9-41. Staff is recommending that the summary language be used for the ballot.

This item must be read on two separate days. It was given a first reading on August 3, 2020. Five affirmative votes are required for passage after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Setting Election Date An Act to Increase the Minimum Wage 8.3.2020
2. An Act to Increase Minimum Wage
3. Minimum Wage Certification

Prepared by:

Date: 8/12/2020

KATE SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
TAE Y. CHONG (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER SETTING ELECTION DATE ON
A CITIZEN INITIATIVE AMENDMENT TO THE PORTLAND CITY CODE
CHAPTER 33
RE: AN ACT TO INCREASE THE MINIMUM WAGE**

ORDERED, that the amendment to the Portland City Code called An Act to Increase the Minimum Wage shall be submitted to the voters of the City on November 3, 2020; and

BE IT FURTHER ORDERED, that the Portland City Clerk shall be authorized to place the following on the ballot, as shown below:

Shall the municipality approve the Portland City Code amendment as summarized below?

An Act to Increase the Minimum Wage in Portland will increase the minimum wage in Portland to \$15 an hour over three years. It increases the minimum that tipped employees must be paid by their employer to \$7.50 an hour. It moves the effective date of annual cost-of-living increases to the minimum wage from July 1 to Jan 1 to maintain consistency with state law. It also requires a higher minimum wage for work performed during declared states of emergency.

**AFFIDAVIT FILED PURSUANT TO §9-36 OF PORTLAND CITY CODE
SEEKING PETITIONS FOR INITIATION OF ORDINANCE**

The undersigned hereby depose and say as follow:

- (1) The undersigned are registered voters of the City of Portland, whose respective addresses appear below next to their names;
- (2) The undersigned file this affidavit for the purpose of initiating an ordinance ("the Ordinance"), the text and a summary of which is annexed to this Affidavit as Exhibit A;
- (3) The undersigned will constitute the Petitioners' Committee and circulate the citizen initiative petition;
- (4) All notices to the Committee are to be sent to PSA the following address:

P.O. Box 11345 Portland ME 04104

Dated at Portland, this 14 day of May 2020.

✓ Steven Biel
(Print) Name

43 Spruce St.
Address

[Signature]
Signature

✓ Bree LaCasse
(Print) Name

296 Spring St #
Address

[Signature]
Signature

✓ Emily Egdor
(Print) Name

31 Cushman St #2
Address

[Signature]
Signature

✓ Jann-Marie Keene
(Print) Name

108 Sherman #8
Address

[Signature]
Signature

✓ Kathy Amato
(Print) Name

96 Lincoln #2
Address

[Signature]
Signature

✓ Samira Fdal
(Print) Name

1326 Forest Ave #16
Address

[Signature]
Signature

✓ Wayne Sherman
(Print) Name

655 Congress St. Apt 224
Address

[Signature]
Signature

✓ Tom Hamill
(Print) Name

655 Congress St. #624
Address

[Signature]
Signature

✓ Barbara P. Sherman
(Print) Name

655 Congress St. Apt 224
Address

[Signature]
Signature

✓ Kennedy Johnson
(Print) Name

655 Congress St. Apt. 624
Address

[Signature]
Signature

Subscribed and sworn to before me this 14 day of May, 2020.

[Signature]
Signature of Notary Public/Attorney-at-law

JULY, 2020
Date Commission Expires/Date Entered the Bar

Ethan Smiling
Printed Name

An Act To Increase the Minimum Wage in Portland

An Act to Increase the Minimum Wage in Portland will increase the minimum wage in Portland to \$15 an hour over three years. It increases the minimum that tipped employees must be paid by their employer to \$7.50 an hour. It moves the effective date of annual cost-of-living increases to the minimum wage from July 1 to Jan 1 to maintain consistency with state law. It also requires a higher minimum wage for work performed during declared states of emergency.

1. That Chapter 33, Section 33.7 of the Portland City Code is hereby amended to read as follows:

Section 33.7. Minimum Wage.

...

(b) *Minimum Wage rate:*

(i) Beginning on January 1, ~~2022~~2016, the regular Minimum Wage for all Employees, including, but not limited to, Service Employees, shall be raised to ~~\$13.00~~~~10.10~~ per hour;

(ii) Beginning on January 1, ~~2023~~2017, the regular Minimum Wage for all Employees, including, but not limited to, Service Employees, shall be raised to ~~\$14.00~~~~10.68~~ per hour; and

(iii) Beginning on January 1, 2024, the regular Minimum Wage for all Employees, including, but not limited to, Service Employees, shall be raised to \$15.00 per hour; and Beginning on every first day of July following January 1, 2018, and every first day of July thereafter, the Minimum Wage for all Employees, including, but not limited to, Service Employees, shall be increased according to the Consumer Price Index—All Urban Consumers (CPI-U) percentage increase from the prior year, unless the Minimum Wage equals the State Minimum Wage as set forth below. If there is no increase, the Minimum Wage will be unchanged. The percentage increase in the annual CPI-U for the previous calendar year from the annual CPI-U for the calendar year preceding that shall be the percentage by which the Minimum Wage is increased on the first day of July 2018 and every July 1 thereafter.

(iv) On January 1, 2025 and each January 1st thereafter, the minimum hourly wage then in effect must be increased by the

increase, if any, in the cost of living. The increase in the cost of living must be measured by the percentage increase, if any, as of August of the previous year over the level as of August of the year preceding that year in the Consumer Price Index for All Urban Consumers, CPI-U, for the Northeast Region, or its successor index, as published by the United States Department of Labor, Bureau of Labor Statistics or its successor agency, with the amount of the minimum wage increase rounded to the nearest multiple of 5¢. If the state minimum wage established by 26 M.R.S. § 664 is increased in excess of the minimum wage in effect under this ordinance, the minimum wage under this ordinance is increased to the same amount, effective on the same date as the increase in the state minimum wage, and must be increased in accordance with this ordinance thereafter. If the State Minimum Wage established by 26 M.R.S. § 664 is equal to or greater than the Minimum Wage established herein, the Minimum Wage for all Employees, including, but not limited to, Service Employees, shall be raised to equal the State Minimum Wage.

...

(c) Tip Credit:

(i) An Employer may consider tips as part of the wages of a Service Employee toward satisfaction of the Minimum Wage established by this ordinance, in accordance with 26 M.R.S. §664(2) and until such time as the tip credit is eliminated under state law. Such a tip credit shall be no greater than half the Minimum Wage rate established by this ordinance ~~the amount necessary to reduce the direct wages paid to a Service Employee to an amount equal to the minimum direct wages required to be paid to Service Employees pursuant to 26 M.R.S. §664(2). Minimum direct wages pursuant to 26 M.R.S. §664(2) is the amount required by state law to be paid to a Service Employee after an Employer reduces the state minimum wage by the maximum allowable tip credit as provided in 26 M.R.S. §664(2).~~

...

(g) Effect of Emergency Proclamation. For work performed during a declared emergency, the effective Minimum Wage rate established by this ordinance shall be calculated as 1.5 times the regular minimum wage rate under subsection (b) above. A declared emergency under this ordinance shall include the period of time during which:

(i) A proclamation issued pursuant to Chapter 2, Sec. 2-406, of this code declares an emergency to exist, if such emergency proclamation is geographically applicable to the Employee's workplace; or

(ii) A proclamation issued pursuant to 37-B M.R.S. § 742 declares an emergency to exist, if such emergency proclamation is geographically applicable to the Employee's workplace.

A declared emergency under this ordinance shall not apply to work performed under a teleworking arrangement, as defined under 5. U.S.C. § 6501, allowing the Employee to work from home.

...

Portland, Maine



Yes. Life's good here.

Office of the City Clerk
Katherine L. Jones, CMC

CLERK'S CERTIFICATION OF CITIZEN INITIATIVE AMENDMENT TO

CHAPTER 33, Section 33.7: Minimum Wage

An Act to Increase the Minimum Wage in Portland:

I **HEREBY CERTIFY** that the petition filed on July 13, 2020 in my office regarding amendments to the Portland City Code Chapter 33 Section 33.7, Minimum Wage regarding An Act to Increase the Minimum Wage in Portland contains the signatures of Fifteen Hundred (1,500) voters of the City of Portland. The required number of signatures to put this question on the ballot is Fifteen Hundred (1500). The petition is hereby deemed sufficient.

Dated: 7-17-2020

Signed: Katherine L. Jones

Katherine L. Jones, City Clerk

MEMORANDUM
City Council Agenda Item

FROM:

DATE: August 12, 2020

SUBJECT: Order 38-20/21 Setting Election Date on a Citizen Initiative Amendment to the Portland City Code Chapter 17 Re: An Act to Ban Facial Surveillance by Public Officials in Portland - Sponsored by Katherine L. Jones, City Clerk

SPONSOR:

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

Can action be taken at a later date: No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

II. AGENDA DESCRIPTION

This item sets an election date for a Citizen Initiative called An Act to Ban Facial Surveillance in Portland. It also allows the use of a summary on the ballot, pursuant to Chapter 9 of the Portland City Code Sec. 9-41. Staff is recommending that the summary language be used for the ballot.

This item must be read on two separate days. It was given a first reading on August 3, 2020. Five affirmative votes are required for passage after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Setting Election Date An Act to Ban Facial Surveillance 8.3.2020
2. Ban Facial Recognition
3. Certification for Ban Facial Surveillance Technology

Prepared by:

Date: 8/12/2020

KATE SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
TAE Y. CHONG (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER SETTING ELECTION DATE ON
A CITIZEN INITIATIVE AMENDMENT
TO THE PORTLAND CITY CODE CHAPTER 17
RE: AN ACT TO BAN FACIAL SURVEILLANCE BY PUBLIC OFFICIALS IN
PORTLAND**

ORDERED, that the amendment to the Portland City Code called An Act to Ban Facial Surveillance by Public Officials in Portland shall be submitted to the voters of the City on November 3, 2020; and

BE IT FURTHER ORDERED, that the Portland City Clerk shall be authorized to place the following on the ballot, as shown below:

Shall the municipality approve the Portland City Code amendment as summarized below?

An Act to Ban Facial Surveillance by Public Officials in Portland will ban the city of Portland and its departments and officials from using or authorizing the use of any facial surveillance software on any groups or members of the public, and provides a right to members of the public to sue if facial surveillance data is illegally gathered and/or used.

**AFFIDAVIT FILED PURSUANT TO §9-36 OF PORTLAND CITY CODE
SEEKING PETITIONS FOR INITIATION OF ORDINANCE**

The undersigned hereby depose and say as follow:

- (1) The undersigned are registered voters of the City of Portland, whose respective addresses appear below next to their names;
- (2) The undersigned file this affidavit for the purpose of initiating an ordinance ("the Ordinance"), the text and a summary of which is annexed to this Affidavit as Exhibit A;
- (3) The undersigned will constitute the Petitioners' Committee and circulate the citizen initiative petition;
- (4) All notices to the Committee are to be sent to DSA the following address:

P.O. Box 11345, Portland, ME 04104

Dated at Portland, this 15 day of May 20 20.

✓ <u>Brendan McQuade</u> (Print) Name	<u>4 Candlewick Ter</u> Address	<u>Brendan McQuade</u> Signature
✓ <u>Sydney Avitia-Jacques</u> (Print) Name	<u>180 State St #301</u> <u>Portland 04101</u> Address	<u>Sydney Avitia-Jacques</u> Signature
✓ <u>Jacob Kargisz</u> (Print) Name	<u>123 Sherman St #13</u> Address	<u>Jacob Kargisz</u> Signature
✓ <u>Jessica Faber</u> (Print) Name	<u>9 C St #2</u> Address	<u>Jessica Faber</u> Signature
✓ <u>Alexandria Cleveland</u> (Print) Name	<u>439 Congress St</u> Address	<u>Alexandria Cleveland</u> Signature
✓ <u>MARCELLA MARINO</u> (Print) Name	<u>226 SHERIDAN ST</u> Address	<u>Marcella Marino</u> Signature
✓ <u>Jonathan Distaleri</u> (Print) Name	<u>29 Fessenden St #2</u> Address	<u>Jonathan Distaleri</u> Signature
✓ <u>Elisabeth Ames</u> (Print) Name	<u>29 Fessenden St #2</u> Address	<u>Elisabeth Ames</u> Signature
✓ <u>Glen Galtik</u> (Print) Name	<u>63 Danforth St.</u> Address	<u>Glen Galtik</u> Signature
✓ <u>Kathryn Wilton</u> (Print) Name	<u>814 Congress St #2</u> Address	<u>Kathryn Wilton</u> Signature

Subscribed and sworn to before me this 14 day of May, 2020.

Jonathan Distaleri
Signature of Notary Public/Attorney-at-law

8/19/2026
Date Commission Expires/Date Entered the Bar

JONATHAN DISTALERI
Printed Name

**AFFIDAVIT FILED PURSUANT TO §9-36 OF PORTLAND CITY CODE
SEEKING PETITIONS FOR INITIATION OF ORDINANCE**

The undersigned hereby depose and say as follow:

- (1) The undersigned are registered voters of the City of Portland, whose respective addresses appear below next to their names;
- (2) The undersigned file this affidavit for the purpose of initiating an ordinance ("the Ordinance"), the text and a summary of which is annexed to this Affidavit as Exhibit A;
- (3) The undersigned will constitute the Petitioners' Committee and circulate the citizen initiative petition;
- (4) All notices to the Committee are to be sent to DSA the following address:

P.O. Box 11345, Portland, ME 04104

Dated at Portland, this _____ day of _____ 20____.

<u>Brendan McQuade</u> (Print) Name	<u>4 Cordwryck Ter</u> Address	<u>Brian Melick</u> Signature
<u>Sydney Avitia-Jacques</u> (Print) Name	<u>180 State St #301</u> Address	<u>Sydney-Jacques</u> Signature
<u>Jacob Kyrusisz</u> (Print) Name	<u>123 Sherman St #13</u> Address	<u>Jacob Kyrusisz</u> Signature
<u>Jessica Faber</u> (Print) Name	<u>9 C St #2</u> Address	<u>Jessica Faber</u> Signature
<u>Alexandria Cleveland</u> (Print) Name	<u>439 Congress St</u> Address	<u>Alex Cleveland</u> Signature
<u>MARCELLA MARINO</u> (Print) Name	<u>226 SHERIDAN ST</u> Address	<u>Marcella Marino</u> Signature
<u>Jonathan DiStefano</u> (Print) Name	<u>29 Fessenden St #2</u> Address	<u>Jonathan DiStefano</u> Signature
<u>Elisabeth Ames</u> (Print) Name	<u>29 Fessenden St #2</u> Address	<u>Elisabeth Ames</u> Signature
<u>Glen Galtik</u> (Print) Name	<u>63 Danforth St.</u> Address	<u>Glen Galtik</u> Signature
<u>Kathryn Wilson</u> (Print) Name	<u>814 Congress St #2</u> Address	<u>Kathryn Wilson</u> Signature

Subscribed and sworn to before me this 14 day of May, 2020.

[Signature]
Signature of Notary Public/Attorney-at-law

8/19/2026
Date Commission Expires/Date Entered the Bar

JONATHAN P TORSCH
Printed Name

An Act To Ban Facial Surveillance by Public Officials in Portland

An Act to Ban Facial Surveillance by Public Officials in Portland will ban the city of Portland and its departments and officials from using or authorizing the use of any facial surveillance software on any groups or members of the public, and provides a right to members of the public to sue if facial surveillance data is illegally gathered and/or used.

1. That the Code of Ordinances, City of Portland, Maine, is hereby amended by adding a section to be numbered Chapter 17, Article XI, which said article reads as follows:

ARTICLE XI. FACIAL SURVEILLANCE TECHNOLOGY

Sec. 17-129. Purpose.

The purpose of this Article is to protect the privacy and civil liberties of the residents of Portland.

Sec. 17-130. Definitions.

For the purposes of this Article, the following terms have the following meanings:

Face surveillance means an automated or semi-automated process that assists in identifying or verifying an individual, or captures information about them, based on the physical characteristics of their face.

Face surveillance system means any computer software or application that performs face surveillance.

City of Portland means any department, agency, bureau, and/or subordinate division of the City of Portland.

City of Portland official means any person or entity acting on behalf of the City of Portland, including any officer, employee, agent, contractor, subcontractor, or vendor.

Sec. 17-131. Facial Surveillance Technology Prohibition.

It shall be unlawful for the City of Portland or any City of Portland official to:

- (a) Obtain, retain, store, possess, access, use, or collect:

1. any face surveillance system; or

2. any data or information derived from a face surveillance system or other use of face surveillance;

(b) Enter into a contract or other agreement with any third party for the purpose of obtaining, retaining, storing, possessing, accessing, using, or collecting, by or on behalf of the City of Portland or any City of Portland official:

1. any face surveillance system; or

2. any data or information derived from a face surveillance system or other use of face surveillance; or

(c) Issue any permit or enter into a contract or other agreement that authorizes any third party to obtain, retain, store, possess, access, use, or collect:

1. any face surveillance system; or

2. any data or information derived from a face surveillance system or other use of face surveillance.

Sec. 17-132. Enforcement.

(a) Suppression. No data or information that is obtained, retained, stored, possessed, accessed, used, collected, or derived from any face surveillance system or other use of face surveillance in violation of this article, and no evidence derived therefrom, may be received in evidence in any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority. Any data or information that is obtained, retained, stored, possessed, accessed, used, collected, or derived in violation of this article shall be considered unlawfully obtained, and shall be deleted upon discovery.

(b) Private cause of action.

1. Any violation of this article constitutes an injury and any person so injured may institute proceedings in the Maine Superior Court in a civil action seeking injunctive relief, declaratory relief, damages, and attorney's fees. Any action instituted under this paragraph shall be brought against the City of

Portland. If applicable, such action may also be brought against any third party with whom the City of Portland contracted or entered into an agreement, or to whom the city of Portland issued a permit, in violation of subsections (b) or (c) of Section 17-131 of this article.

2. Any person who has instituted proceedings under the previous paragraph and is found to have been subjected to face surveillance in violation of this article, or about whom data or information is found to have been obtained, retained, stored, possessed, accessed, used, or collected in violation of this article, shall be entitled to recover actual damages not less than the greater of:

a. \$100 for each violation of this article; or

b. \$1,000.

3. Any prevailing plaintiff in any action brought under this subsection shall be entitled to the award of costs and reasonable attorney's fees.

(c) Violation of this ordinance by any official or employee of the city of Portland is grounds for suspension or termination. The violator may also be required to participate in retraining.

Sec. 17-132. Exceptions and Safe Harbors

Nothing in this article shall be construed to:

(a) limit any individual's rights under state or federal law;

(b) prohibit the use of an automated or semiautomated process for the purpose of redacting a recording for release or disclosure to protect the privacy of a subject depicted in the recording;

(c) prohibit the use of facial recognition or similar biometric technique on privately owned consumer devices for personal use or security, or for commercial use or security; or

(d) prohibit the use of facial recognition or similar biometric technique in managing secure entry or access to restricted buildings, rooms, or other secure spaces, devices, or things, provided that:

1. any data or information derived from such a system is only obtained, retained, stored, possessed, accessed, used, or

collected with the knowledge and consent of any person authorized for such entry or access; and

2. no data or information derived from such a system about any persons not authorized for such entry or access may be obtained, retained, stored, possessed, accessed, used, or collected.

Portland, Maine



Yes. Life's good here.

Office of the City Clerk
Katherine L. Jones, CMC

CLERK'S CERTIFICATION OF CITIZEN INITIATIVE AMENDMENT TO
CHAPTER 17, Article XI: Facial Surveillance Technology
An Act to Ban Facial Surveillance by Public Officials in Portland

I **HEREBY CERTIFY** that the petition filed on July 13, 2020 in my office regarding amendments to the Portland City Code Chapter 17 Article XI, Facial Surveillance Technology Re: An Act to Ban Facial Surveillance by Public Officials in Portland contains the signatures of Fifteen Hundred (1,500) voters of the City of Portland. The required number of signatures to put this question on the ballot is Fifteen Hundred (1500). The petition is hereby deemed sufficient.

Dated: 7-20-2020

Signed: Katherine L. Jones

Katherine L. Jones, City Clerk

Portland, Maine



Yes. Life's good here.

Office of the City Clerk
Katherine L. Jones, CMC

CLERK'S CERTIFICATION OF CITIZEN INITIATIVE AMENDMENT TO

CHAPTER 33, Section 33.7: Minimum Wage

An Act to Increase the Minimum Wage in Portland:

I **HEREBY CERTIFY** that the petition filed on July 13, 2020 in my office regarding amendments to the Portland City Code Chapter 33 Section 33.7, Minimum Wage regarding An Act to Increase the Minimum Wage in Portland contains the signatures of Fifteen Hundred (1,500) voters of the City of Portland. The required number of signatures to put this question on the ballot is Fifteen Hundred (1500). The petition is hereby deemed sufficient.

Dated:

7-17-2020

Signed:

Katherine L. Jones

Katherine L. Jones, City Clerk

Portland, Maine



Yes. Life's good here.

Office of the City Clerk
Katherine L. Jones, CMC

CLERK'S CERTIFICATION OF CITIZEN INITIATIVE AMENDMENT TO

CHAPTER 6, Article XII of the Portland City Code Re:

An Act to Protect Tenants

I HEREBY CERTIFY that the petition filed on July 13, 2020 in my office regarding amendments to the Portland City Code Chapter 6 Article XII, of the Portland City Code Re: "An Act to Protect Tenants", of Fifteen Hundred (1,500) voters of the City of Portland. The required number of signatures to put this question on the ballot is Fifteen Hundred (1500). The petition is hereby deemed sufficient.

Dated: 7-22-2020

Signed: Katherine L. Jones

Katherine L. Jones, City Clerk

Portland, Maine



Yes. Life's good here.

Office of the City Clerk
Katherine L Jones, CMC

CLERK'S CERTIFICATION OF CITIZEN INITIATIVE AMENDMENT TO

CHAPTER 2, Section 2-302: Contracts; purchases of the Portland City Code Re:

An Act to Implement a Green New Deal for Portland

I HEREBY CERTIFY that the petition filed on July 13, 2020 in my office regarding amendments to the Portland City Code Chapter 2 Section 2-302, of the Portland City Code Re: "An Act to Implement a Green New Deal for Portland", of Fifteen Hundred (1,500) voters of the City of Portland. The required number of signatures to put this question on the ballot is Fifteen Hundred (1500). The petition is hereby deemed sufficient.

Dated: 7-22-2020

Signed: Katherine L Jones

Katherine L. Jones, City Clerk

MEMORANDUM
City Council Agenda Item

FROM:

DATE: August 12, 2020

SUBJECT: Order 39-20/21 Setting Election Date on a Citizen Initiative Amendment to the Portland City Code Chapter 2 Re: An Act to Implement a Green New Deal for Portland - Sponsored by Katherine L. Jones, City Clerk

SPONSOR: Katherine L. Jones, City Clerk

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

Can action be taken at a later date: No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

II. AGENDA DESCRIPTION

This item sets an election date for a Citizen Initiative called An Act to Implement a Green New Deal in Portland. It also allows the use of a summary on the ballot, pursuant to Chapter 9 of the Portland City Code Sec. 9-41. Staff is recommending that the summary language be used for the ballot.

This item must be read on two separate days. It received its first reading on August 3, 2020. Five affirmative votes are required for passage after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Setting Election Date An Act to Implement a Green New Deal 8.3.2020
2. An Act to a Green New Deal
3. Certification of An Act to Implement a Green New Deal for Portland

Prepared by:

Date: 8/12/2020

KATE SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
TAE Y. CHONG (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER SETTING ELECTION DATE ON
A CITIZEN INITIATIVE AMENDMENT
TO THE PORTLAND CITY CODE CHAPTER 17
RE: AN ACT TO IMPLEMENT A GREEN NEW DEAL IN PORTLAND**

ORDERED, that the amendment to the Portland City Code called An Act to Implement A Green New Deal in Portland shall be submitted to the voters of the City on November 3, 2020; and

BE IT FURTHER ORDERED, that the Portland City Clerk shall be authorized to place the following on the ballot, as shown below:

Shall the municipality approve the Portland City Code amendment as summarized below?

An Act to Implement a Green New Deal for Portland promotes sustainability and sustainable communities by: ensuring that all building projects receiving \$50,000 or more in public funds are built using up-to-date environmental standards, with solar-ready or living roofs, and additional worker pay and training; increasing the numbers of affordable units built in developments of 10 units or more, and the affordability of those units; and asking the Council to annually monitor use of fossil fuel infrastructure in the city and to come up with plans to reduce this infrastructure to meet stated emissions targets.

**AFFIDAVIT FILED PURSUANT TO §9-36 OF PORTLAND CITY CODE
SEEKING PETITIONS FOR INITIATION OF ORDINANCE**

Green New Deal

The undersigned hereby depose and say as follow:

- (1) The undersigned are registered voters of the City of Portland, whose respective addresses appear below next to their names;
- (2) The undersigned file this affidavit for the purpose of initiating an ordinance ("the Ordinance"), the text and a summary of which is annexed to this Affidavit as Exhibit A;
- (3) The undersigned will constitute the Petitioners' Committee and circulate the citizen initiative petition;
- (4) All notices to the Committee are to be sent to DSA the following address:

P O Box 11345 Portland ME 04104

Dated at Portland, this 15 day of May 20 20

✓ Daniel Muller
(Print) Name

48 Fall Brook Street
Portland, ME 04103
Address

✓ Daniel Muller
Signature

✓ Christopher Teret
(Print) Name

73 Anderson St
Portland, ME 04101
Address

✓ Christopher Teret
Signature

✓ Kimberly Teret
(Print) Name

73 Anderson St
Portland, ME 04101
Address

✓ Kimberly Teret
Signature

✓ Charles Shattuck Herdorn
(Print) Name

123 Mabel St
Portland ME 04103
Address

✓ Charles Shattuck Herdorn
Signature

✓ Justin Beth
(Print) Name

26 Congress St. Apt. 6
Address

✓ Justin Beth
Signature

✓ Jonathan Diotallevi
(Print) Name

29 Fessenden St #2
Address

✓ Jonathan Diotallevi
Signature

✓ Elisabeth Ames
(Print) Name

29 Fessenden St #2
Address

✓ Elisabeth Ames
Signature

✓ Kelly Merrill
(Print) Name

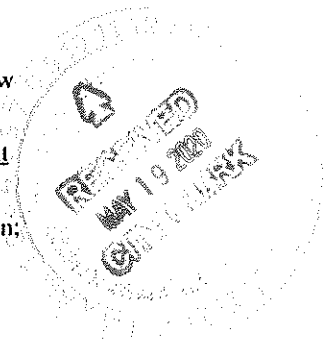
363 St John St #1
Address

✓ Kelly Merrill
Signature

✓ Grayson Lookner
(Print) Name

1235 West Broadway St. #2
Address

✓ Grayson Lookner
Signature



(Print) Name Carlo Macomber Address 41 Eastfield Rd. Signature Carlo Macomber

Subscribed and sworn to before me this 14 day of May, 2020.

[Signature]

Signature of Notary Public/Attorney-at-law

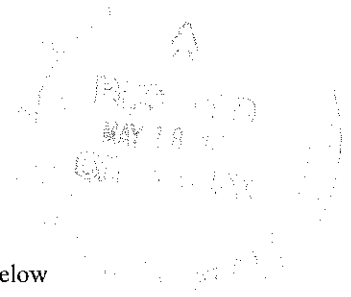
8/19/2026

Date Commission Expires/Date Entered the Bar

JONATHAN D TORSCH

Printed Name

**AFFIDAVIT FILED PURSUANT TO §9-36 OF PORTLAND CITY CODE
SEEKING PETITIONS FOR INITIATION OF ORDINANCE**



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- (2) The undersigned file this affidavit for the purpose of initiating an ordinance ("the Ordinance"), the text and a summary of which is annexed to this Affidavit as Exhibit A;
- (3) The undersigned will constitute the Petitioners' Committee and circulate the citizen initiative petition;
- (4) All notices to the Committee are to be sent to PSA the following address:

P O Box 11345 Portland ME 04104

Dated at Portland, this	day of	20	
<i>Daniel Moller</i>	<i>48 Fall Brook Street</i>	<i>Portland, ME 04103</i>	<i>[Signature]</i>
(Print) Name	Address		Signature
<i>Christopher Teret</i>	<i>73 Anderson St</i>	<i>Portland, ME 04101</i>	<i>[Signature]</i>
(Print) Name	Address		Signature
<i>Kimberly Teret</i>	<i>73 Anderson St</i>	<i>Portland, ME 04101</i>	<i>[Signature]</i>
(Print) Name	Address		Signature
<i>Charles Shattuck Heidom</i>	<i>123 Mabel St</i>	<i>Portland ME 04103</i>	<i>[Signature]</i>
(Print) Name	Address		Signature
<i>Justin Beth</i>	<i>26 Congress St. Apt. 6</i>		<i>[Signature]</i>
(Print) Name	Address		Signature
<i>Jonathan Diotallevi</i>	<i>29 Fessenden St #2</i>		<i>[Signature]</i>
(Print) Name	Address		Signature
<i>Elisabeth Ames</i>	<i>29 Fessenden St #2</i>		<i>[Signature]</i>
(Print) Name	Address		Signature
<i>Kelly Merrill</i>	<i>383 St. John St #1</i>		<i>[Signature]</i>
(Print) Name	Address		Signature
<i>Grayson Lookner</i>	<i>1235 West St Brook St. #2</i>		<i>[Signature]</i>
(Print) Name	Address		Signature

An Act To Implement a Green New Deal for Portland

An Act to Implement a Green New Deal for Portland promotes sustainability and sustainable communities by: ensuring that all building projects receiving \$50,000 or more in public funds are built using up-to-date environmental standards, with solar-ready or living roofs, and additional worker pay and training; increasing the numbers of affordable units built in developments of 10 units or more, and the affordability of those units; and asking the Council to annually monitor use of fossil fuel infrastructure in the city and to come up with plans to reduce this infrastructure to meet stated emissions targets.

1. That Chapter 2, Section 2-302 of the Portland City Code is hereby amended to read as follows:

Sec. 2-302. Contracts; purchases.

...

(b) Supplies, materials and/or services procurement. The City Manager shall have the authority to award any bid and to execute any contract or approve any purchase for and in behalf of the City for supplies and/or materials to be furnished and/or services to be performed for the city, including without limitation professional consulting services, provided that:

(1) The Finance Director certifies that funds are available for such procurement; ~~and~~

(2) The bid is awarded and the contract or purchase executed as the result of a competitive process, which shall mean either by competitive bidding or request for proposals; and

(3) Any firm awarded a city funded contract or contracts aggregating \$50,000 or more, for the construction of any buildings, roads, highways, bridges, streets, alleys, sewers, ditches, sewage disposal plants, demolition, waterworks, airports, public schools, or any other structures upon which construction may be let to contract by the City, the awardee, including all sub-contractors, must:

a. compensate all employees on the project at no less than the wage rates and benefits determined pursuant to 26 M.R.S.A. §1306 or Portland City Ordinance Ch. 33, §33-1 to 33-12, whichever is greater;

b. require all workers employed on the project in construction work to complete, at a minimum, a time-paid 10-hour training

course for safety established and/or approved by the United States Department of Labor, Occupational Safety and Health Administration prior to work on the project, where "construction work" has the same meaning as in 29 C.F.R. § 1926.32(g); and

c. employ on the project the following minimum number of apprentices, to the extent qualified apprentices are determined to be available in accordance with applicable rules adopted by the Maine Department of Labor as provided by Apprenticeship in Energy Facility Construction, 26 M.R.S. § 3501, where "apprentice" has the same meaning as in 26 M.R.S. § 3501, subsection 1:

i. for any contract awarded on or after January 1, 2021 and before January 1, 2023, a number equal to at least 10% of all persons employed on the project;

ii. for any contract awarded on or after January 1, 2023 and before January 1, 2025, a number equal to at least 17.5% of all persons employed on the project;

iii. for any contract awarded on or after January 1, 2025, a number equal to at least 25% of all persons employed on the project.

...

(e) Exceptions to required competitive process. The requirement of a competitive process set forth in subsection (b) above may be waived by the City Manager, in his or her discretion, if one (1) or more of the following conditions are met, provided that all other provisions set forth in subsection (b) above are met, and the Finance Director has certified that funds are available for such procurement:

...

2. That Chapter 6, Sections 6-98, 6-165, 6-166, 6-167, 6-168, 6-169, 6-170, 6-173, 6-174, 6-175, 6-176 and 6-177 of the Portland City Code are hereby amended to read as follows:

Sec. 6-98. Adoption of standardized codes.

(a) The City hereby adopts the following codes by reference, pursuant to 30-A M.R.S. § 3003:

1. The Maine Uniform Building and Energy Code ("MUBEC"), as required by 10 M.R.S. § 9724;~~and~~

2. The appendix to the Maine Uniform Building and Energy Code ("MUBEC") containing optional energy conservation and efficiency requirements, as provided by 10 M.R.S. §9722, sub-§6, ¶0; and

23. The National Electric Code (2014) ("NEC").

(b) MUBEC and the appendix to MUBEC containing optional energy conservation and efficiency requirements shall be enforced by the building authority, which shall be accomplished through inspections performed by the City building official and code enforcement officers, pursuant to 25 M.R.S. § 2373.

(c) To the extent that any standard or provision of MUBEC conflicts with any standard or provisions from the appendix to MUBEC containing optional energy conservation and efficiency requirements, the standard or provision contained in the appendix shall control and be enforced by the building authority, as provided above.

(ed) The NEC shall be enforced by the building authority.

...

Sec. 6-165. Purpose.

The purpose of this article is to establish the energy performance and roofing requirements for constructing and renovating city buildings and certain publicly-funded building projects with the goal of planning, designing, constructing, and managing to maximize energy performance, minimize adverse environmental impacts, provide healthy work places, conserve natural resources, and promote sustainable development in Portland.

...

Sec. 6-166. Definitions.

...

Funded in whole or in part: (a) Receipt of tax increment financing in an amount greater than two-hundred fifty thousand dollars (~~\$200,000~~\$50,000); or (b) receipt of grants by the City, HOME loans, Community Development Block Grant loans or Neighborhood Stabilization Program loans, the sum of which is greater than two-hundred fifty thousand dollars (~~\$200,000.00~~\$50,000); or receipt of other funds, gifts, resources, property, or other thing or things of value from or by the city of Portland, to promote, allow for, contribute to, or

otherwise facilitate the new construction or renovation project, the aggregate dollar value of which, net remuneration to the city of Portland, is greater than fifty thousand dollars (\$50,000).

Hardship: Some verifiable level of difficulty or adversity arising from factors identified in Sec. 6-170 ~~or other circumstances beyond the control of the applicant~~, by which the applicant cannot reasonably comply with the requirements of this ordinance.

Infeasible: The existence of verifiable obstacles arising from the factors identified in Sec. 6-170 ~~or other circumstances beyond the control of the applicant~~ which render the applicant incapable of complying with the requirements of this ordinance.

Leadership in Energy and Environmental Design (LEED) Standards: A third-party rating system developed by the United States Green Building Council (USGBC) where credits are earned for satisfying specified green building criteria.

Living roof: The media for growing plants, as well as the set of related components installed exterior to a facility's roofing membrane for the purpose of increasing renewable energy resources, aiding stormwater management, and promoting biodiversity. Living roofs may include roof gardens, green roofs, landscaped roofs, and other rooftop areas designed to achieve such purposes.

Qualified professional: A person (a) engaged or employed in fields of architecture, building design, construction, energy efficiency, engineering, or related specialty or consultancy; and (b) holding relevant professional licensure or "green building" professional certification, including but not limited to Professional Engineer licensure, LEED Accredited Professional (AP), Well AP, Certified Passive House Consultant (CPHC) or Certified Passive House Designer (CPHD), Green Globes Professional, or similar credential.

Renovation:

(a) At the time of the application, the total construction cost is greater than or equal to the market value of the property as determined by the city's tax assessor; or

(b) A conversion from non-conditioned to conditioned space; or

(c) An addition of building gross square footage greater than or equal to the gross square footage of the existing building; or

(d) Any change to the use category of a structure or property, as defined in chapter 14 of this code.

Solar zone: An allocated space on a new construction or renovation project that is unshaded and free of obstructions, serving as a suitable place where solar panels can be installed at a future date. The solar zone can be located at any of the following locations:

(a) Roof of the building.

(b) Overhang of the building.

(c) Roof of another structure located within 250 feet of the primary building.

(d) Overhang of another structure within 250 feet of the primary building.

(e) Covered parking installed with the building project.

(f) Other structures including, but not limited to, trellises, arbors, patio covers, carports, gazebos, and similar accessory structures.

...

Sec. 6-167. Standards for new buildings and renovation projects.

All new construction and renovation projects to be owned, or occupied by the city of Portland, or to be funded in whole or in part by the City of Portland, that are of 2,000 square feet in floor area or greater shall be certified ~~teat~~ at or above the most recently published and applicable LEED Silver Standard using appropriate LEED Rating System, and shall be certified by a licensed engineer or qualified professional as compliant with the Better Roof Requirements contained in Section 6-175 below, ~~particularly those listed below thereof and whole thereof.~~

~~(a) LEED 2009 for Commercial Interiors.~~

~~(b) LEED 2009 for Existing Buildings, Operations, and Maintenance.~~

~~(c) LEED 2009 for Healthcare.~~

~~(d) LEED 2009 for New Construction and Major Renovations.~~

~~(e) LEED 2009 for Schools.~~

All new construction and renovation projects to be owned or occupied by the city of Portland, or to be funded in whole or in part by the City of Portland, that are of ~~105,000~~ 5,000 square feet in floor area or greater shall demonstrate, under any third-party certification and quality assurance system (e.g. LEED, Passive House, Living Building, or Green Globes) or energy model signed by a licensed engineer or qualified professional, a certain percentage improvement in the proposed energy performance of the building compared to the minimum baseline performance rating per ASHRAE Standard 90.1, being particularly the 2010- most recently published version thereof and the whole thereof, or equivalent standard if the ASHRAE Standard 90.1 is not applicable to the project. Such percentage improvement shall be or exceed thirty percent (30%) for new construction, twenty-five percent (25%) for existing buildings, and twenty percent (20%) for historic buildings. All such new construction and renovation projects to be owned or occupied by the city of Portland, or to be funded in whole or in part by the City of Portland, that are of 5,000 square feet in floor area or greater shall be certified by a licensed engineer or qualified professional as compliant with the Better Roof Requirements contained in Section 6-175 below.

Copies of the most recently published LEED Rating Systems and ASHRAE Standard 90.1 shall be maintained by and keptare on file with the City Clerk.

...

Sec. 6-168. Submissions.

Upon submission of an application for a building permit for new construction or renovation projects that are required to meet the standards set forth in section 6-167, the applicant shall also submit the following, as applicable:

(a) One of the following:

_____ 1. A LEED checklist, and a LEED application number (or other proof of LEED applications status); or

_____ 2. ~~(b)~~ A third-party certification system document of verification from a qualified professional; or

_____ 3. ~~(c)~~ A preliminary energy model, along with a statement of certification from a licensed engineer or qualified professional that the project meets the standard(s); and

(bd) A written explanation of how the building will obtain the applicable standards using design plans to demonstrate compliance where applicable (example: LEED submittal templates or Passive House Pre-Certification report); and

(c) Plans and documentation prepared by a qualified professional demonstrating compliance with the Better Roof Requirements contained in Section 6-175 below, including:

1. Documentation of the as-designed structural loads and plans for interconnecting a photovoltaic (PV) system to the electrical system of the building; or

2. Documentation of the as-designed structural loads and layout plans for the Living Roof system of the building.

...

Sec. 6-169. Certificate of Occupancy.

A copy of the final submission of LEED documentation to the USGBC or final LEED certification decision, or a statement of final certification from a licensed engineer or qualified professional indicating that the project meets the standards along with any amendment to the preliminary energy model shall be submitted to the city's department of planning and urban development prior to the issuance of a certificate of occupancy for new construction or renovation projects that are required to meet the standards set forth in section 6-167. A temporary certificate of occupancy may be issued by the city if necessary prior to the submission of final LEED documentation to the USGBC. Equivalent documentation from a licensed engineer or qualified professional is required if compliance is met with other third-party certification and quality assurance systems.

...

Sec. 6-170. Partial exemption and exceptions.

1. If it is a hardship or infeasible for an applicant to meet the standards set forth in section 6-167, the applicant may request a partial exemption from regulation. The burden is on the applicant to show hardship or infeasibility. Factors to consider in determining whether hardship or infeasibility exists ~~include, but are not~~ shall be limited to:

~~(a) Availability of green building materials and technologies; or~~

(ab) ~~Compatibility~~ A conflict of green building requirements with other government requirements and building standards; or

(be) Required alterations to an historic building that would compromise its historic character as determined by the Historic Preservation Board; or

(cd) Specific circumstances that would defeat the purpose of the standards.

2. Any request for a partial exemption must be made at the time of application as specified in section 6-168 and approved by the director of planning and urban development. In order for a partial exemption to be granted, the applicant must demonstrate all possible effort to maximize building performance according to the standards set forth in section 6-167 and shall indicate the maximum level of standards which are reasonably achievable for the building as follows:

(a) In the case of a LEED standard requirement, the applicant will list the number of credits reasonably achievable and verified by each applicable licensed professionals or qualified professional.

(b) In the case of ASHRAE 90.1 or equivalent standard requirement, the applicant will document the percentage above the standard that is reasonably achievable with a statement of certification from a licensed engineer.

(c) In the case of other third-party "green building" certification and quality assurance systems (example: Passive House), the applicant will submit project performance documentation meeting or exceeding the standards of the certification system prepared by a qualified professional.

If the partial exemption is granted, the applicant shall be required to comply with this ordinance in all other respects. A copy of the final submission of LEED documentation to the USGBC or a statement of final certification from each applicable licensed professionals or licensed engineer indicating that the project meets the level of standard presented at the time of application along with any amendment shall be submitted to the city's department of planning and urban development prior to the issuance of a certificate of occupancy.

3. Any request for an exception to the LEED Certification requirement must be made at the time of application as specified in section 6-168 and approved by the director of planning and urban development. If an applicant submits standardized third-party certification or

documentation signed by a qualified professional, an exception to the LEED Certification requirement may be granted provided that such third-party certification or documentation demonstrates that it meets or exceeds at least one of the following:

- (a) LEED Platinum Certification by the USGBC; or
- (b) Passive House Certification or EnerPHIT Certification by International Passive House Institute (PHI) or PHIUS+ Certification by the Passive House Institute US (PHIUS); or
- (c) Living Building Challenge or Living Community Challenge, Petal Recognition or Net Zero Energy Certification from International Living Future Institute (ILFI); or
- (d) Well v2 or current most stringent standard by International WELL Being Institute; or
- (e) Green Globes Certification by Green Building Initiative; or
- (f) Other equivalent "green building" standards that include published verification and quality assurance procedures when approved on a case-by-case basis by planning director and sustainability director.

Any applicant granted an exception to the LEED Certification requirement as provided above shall be required to comply with the ordinance in all other respects. A copy of any and all papers or documents submitted to the third-party certifying body (example: DOE, PHIUS, ILFI, or PHI) or qualified professional, including any amendment made thereto, and a statement of final certification signed by each applicable qualified professional, licensed engineer, or third-party certifying body shall be submitted to the city's department of planning and urban development prior to the issuance of a certificate of occupancy.

4. Any request for an exception to the Better Roof Requirement under Section 6-175 below must be made at the time of application as specified in section 6-168 and approved by the director of planning and urban development. An exception to the Better Roof Requirement may be granted provided that an applicant submits certification or documentation signed by a qualified professional demonstrating all possible effort to comply with the Better Roof Requirements contained in Section 6-175, and the applicability of at least one of the following specific reasons for an exception:

(a) A new construction or renovation project other than single-family residential buildings may be granted an exception to the Better Roof Requirement if a solar PV system with a power rating of no less than 1 watt per square foot of roof area is permanently installed at the time of construction.

(b) A single-family residential building may be granted an exception to the Better Roof Requirement if a solar PV system rated at 1000 watts or greater is permanently installed at the time of construction.

(c) A new construction or renovation project may be granted an exception to the Better Roof Requirement if the roof is designed as a helicopter landing zone.

(d) A renovation project may be granted an exception to the Better Roof Requirement unless the total roof area is increased by at least 2,000 square feet over the total roof area of the existing building.

(e) A new construction or renovation project may be granted an exception to the Better Roof Requirement reducing the required total area of solar zone by up to 50 percent if the roof is shaded by objects that are not part of the building and are permanent. These objects shall only be adjacent buildings or trees evaluated as healthy by an arborist and documentation must be submitted by a qualified professional.

(f) If the building has a gross floor area of 2,000 square feet or more, and has 10 or fewer occupied floors, a new construction or renovation project may be granted an exception to the Better Roof Requirement to substitute some or all of the required total area of solar zone with area of living roof, such that each square foot of living roof shall count as 0.5 square foot towards the required total area of solar zone, provided that applicants submit such a living roof design for review and approval upon submission of an application for a building permit.

Any applicant granted an exception to the Better Roof Requirement as provided above shall be required to comply with the ordinance in all other respects. A copy of any and all papers or documents submitted to each applicable qualified professional, including any amendment made thereto, and a statement of final certification signed by each applicable qualified professional shall be submitted to the city's department of planning and urban development prior to the issuance of a certificate of occupancy.

5. The director of planning and urban development shall annually, on or before July 1, submit a report to the City Council, containing at a minimum a list of each applicant and project granted a partial exemption or exception under this section during the previous twelve

months, and for each partial exemption or exception granted the reason(s) why it was so was granted.

...

Sec. 6-173. ReservedConditional Expansion of Applicability.

Under the following limited circumstances, Sec. 6-167 and Sec. 6-168 shall apply to all new construction and renovation projects in the City of Portland, regardless of ownership, occupation, or sources of funding:

(a) The Maine Uniform Building and Energy Code, 10 M.R.S. § 9721 et seq., is repealed or amended such that a municipality may, through its municipal home rule authority, enact or enforce codes or standards separate from or exceeding those adopted by the Technical Building Codes and Standards Board pursuant to the Maine Uniform Building and Energy Code; or

(b) The rules, codes, and standards adopted by the Technical Building Codes and Standards Board pursuant the Maine Uniform Building and Energy Code, 10 M.R.S. § 9721 et seq., as the Maine Uniform Building and Energy Code, 16-642 C.M.R. ch. 1-6, are repealed or amended such that a municipality may, through its municipal home rule authority, enact or enforce codes or standards separate from or exceeding such rules, codes, or standards; or

(c) This ordinance, or substantially similar rules, codes, or standards are approved by the Technical Building Codes and Standards Board as amendments to the Maine Uniform Building and Energy Code, 16-642 C.M.R. ch. 1-6, or as amendments to the appendix to the Maine Uniform Building and Energy Code containing optional energy conservation and efficiency requirements, after submission of such proposed amendments under Sec. 174 below; or

(d) The application of this ordinance to all new construction and renovation projects in the city of Portland, through the city's home rule authority is otherwise not prohibited or subject to preemption under state law.

Sec. 6-174. ReservedSubmission of Amendments to the MUBEC.

The Sustainability Office, Permitting and Inspections Department, or other appropriate Office or Department of the city of Portland, on behalf of the city of Portland and to address the health, safety, and welfare needs of the inhabitants of the city of Portland, until such amendments are approved and adopted must annually by May 30 submit

proposed amendments to the Maine Uniform Building and Energy Code, or to the appendix to the Maine Uniform Building and Energy Code containing optional energy conservation and efficiency requirements, as provided for under 16-642 C.M.R. ch. 1, § 13, and the amendment process created pursuant to that section, that would apply, or allow to be applied, the standards and requirements of this ordinance, or substantially similar rules, codes, or standards, to all new construction and renovation projects in the city of Portland.

Sec. 6-175. ReservedBetter Roof Requirements.

Except as provided under Sec. 6-170 above, to be certified by a qualified professional as compliant with the Better Roof Requirements of this section, a new construction or renovation project must demonstrate all of the following:

(a) The project contains a total area of solar zone that is no less than 15 percent of the total roof area after subtracting any area of the roof that is covered by a skylight; and

(b) The total area of solar zone shall be free from any shading or obstruction such as vents, chimneys, architectural features, or roof-mounted equipment, not including any obstructions located north of all points of the solar zone; and

(c) If the solar zone is located on a roof that has ratio of rise to run of greater than 2:12, then the roof must be oriented between 110 degrees and 270 degrees of true north (not magnetic north), in order to ensure a reasonable solar exposure if a solar energy system is installed in the future; and

(d) The main electrical service shall be provided such that capacity is adequate for future solar electric and such reserved space shall be permanently marked in main electrical service panel "For Future Solar Electric".

The total area of the solar zone may be composed of multiple subareas. No dimension of a subarea can be less than 5 feet. If the total roof area is equal to or less than 10,000 square feet, each subarea must be at least 80 square feet. If the total roof area is greater than 10,000 square feet, each subarea must be at least 160 square feet. The solar zone design must comply with other applicable codes and regulations.

Sec. 6-176. ReservedReporting on Fossil Fuel Infrastructure.

The policy of the city of Portland shall be to endeavor by all reasonable and permissible means to reduce reliance upon fossil fuels, and to reduce and discourage the use of natural gas, heating oil, or other fossil fuel based infrastructure both in new construction and renovation projects, and in existing buildings, including but not limited to such projects and buildings to be owned, occupied, or

funded in whole or in part by the city of Portland. In furtherance of this policy, the city manager, or their designee, shall annually, on or before July 1st, publish and present to the city council a report concerning benefits of such policy, and such annual report will, at a minimum, include:

(a) The total number of new buildings built in Portland without fossil fuel-based infrastructure;

(b) A survey of the green building technologies that have been implemented as alternatives to oil or natural gas power, such as solar roofs, green roofs, or sustainable building design and construction consistent with certifications and guidelines such as LEED, PassiveHouse, Living Building or others;

(c) Assessment of the benefits to the City of Portland of the adoption of this policy, including the impact on carbon emissions and increased energy efficiency of public buildings;

(d) A survey of legislation enacted at the municipal and state level to develop a coordinated regional plan to stop the use of fossil fuels to power buildings;

(e) Proposals for any changes to the city code that might further achieve reduction in use of fossil fuels or fossil fuel-based infrastructure in the city of Portland.

Sec. 6-177. ReservedSeverability.

If any provision of this Article shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

...

3. That Chapter 14, Sections 14-485 and 14-487 of the Portland City Code are hereby amended to read as follows:

Sec. 14-485. Definitions

...

Workforce housing unit for rent means a dwelling unit for which:

- (a) The rent is affordable to a household earning ~~100%~~ 80% or less ~~than~~ of AMI; and*
- (b) The unit is rented to a household earning ~~100%~~ 80% or less of AMI; and*

- (c) The requirements of (a) and (b) above are limited by deed restriction or other legally binding agreement for the applicable length of time in this ordinance.

Workforce housing unit for sale means a dwelling unit for which:

- (a) The purchase price is affordable to a household earning ~~120%~~ 80% or less of AMI; and
- (b) The unit is sold to a household earning ~~120%~~ 80% or less of AMI; and
- (c) The requirements of (a) and (b) above are limited by deed restriction or other legally binding agreement for the applicable length of time in this ordinance.

...

Sec. 14-487. Ensuring Workforce Housing.

...

(d) Workforce Housing Minimum. At least ~~ten percent (10%)~~ twenty five percent (25%) of the units in the project shall meet the definition of workforce housing unit for sale or for rent. The project shall have the option of paying a partial fee-in-lieu as per (e)4 below for any fractional value or providing an additional unit on site.

(e) Standards

...

2. Workforce units must ~~are encouraged to be~~ integrated with the rest of the development, must ~~should~~ use a common entrance and must ~~should~~ provide no indications from common areas that these units are workforce housing units.

...

4. As an alternative to providing workforce housing units, projects may pay a fee in lieu of some or all of the units. In-lieu fees shall be paid into the Housing Trust Fund as defined in Sec. 14-489. The fee for affordable units not provided shall be ~~\$106,000~~ \$150,000 per unit, adjusted annually in the same way as the fee under Division 29 for Housing Replacement.

...

7. The term of affordability for the required ~~10-25~~ percent workforce units provided shall be defined as follows:

Percentage of Workforce Units Provided	Minimum Term of Affordability for Required Workforce Units
--	--

10%	Longest term permitted under federal, state and local laws and ordinances
25%	30 years
50%	20 years
100%	10 years

...

Portland, Maine



Yes. Life's good here.

Office of the City Clerk
Katherine L Jones, CMC

CLERK'S CERTIFICATION OF CITIZEN INITIATIVE AMENDMENT TO

CHAPTER 2, Section 2-302: Contracts; purchases of the Portland City Code Re:

An Act to Implement a Green New Deal for Portland

I **HEREBY CERTIFY** that the petition filed on July 13, 2020 in my office regarding amendments to the Portland City Code Chapter 2 Section 2-302, of the Portland City Code Re: "An Act to Implement a Green New Deal for Portland", of Fifteen Hundred (1,500) voters of the City of Portland. The required number of signatures to put this question on the ballot is Fifteen Hundred (1500). The petition is hereby deemed sufficient.

Dated: 7-22-2020

Signed: Katherine L Jones

Katherine L. Jones, City Clerk

MEMORANDUM
City Council Agenda Item

FROM:

DATE: August 12, 2020

SUBJECT: Order 40-20/21 Setting Election Date on a Citizen Initiative Amendment to the Portland City Code Chapter 6 Re: An Act to Protect Tenants - Sponsored by Katherine L. Jones, City Clerk

SPONSOR: Katherine L. Jones, City Clerk

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

Can action be taken at a later date: No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

II. AGENDA DESCRIPTION

This item sets an election date for a Citizen Initiative called An Act to Protect Tenants. It also allows the use of a summary on the ballot, pursuant to Chapter 9 of the Portland City Code Sec. 9-41. Staff is recommending that the summary language be used for the ballot.

This item must be read on two separate days. It received its first reading on August 3, 2020. Five affirmative votes are required for passage after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Setting Election Date An Act to Protect Tenants 8.3.2020
2. An Act to Protect Tenants
3. Certification for An Act to Protect Tenants

Prepared by:

Date: 8/12/2020

KATE SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
TAE Y. CHONG (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER SETTING ELECTION DATE ON
A CITIZEN INITIATIVE AMENDMENT
TO THE PORTLAND CITY CODE CHAPTER 6
RE: AN ACT TO PROTECT TENANTS**

ORDERED, that the amendment to the Portland City Code called An Act to Protect Tenants in Portland shall be submitted to the voters of the City on November 3, 2020; and

BE IT FURTHER ORDERED, that the Portland City Clerk shall be authorized to place the following on the ballot, as shown below:

Shall the municipality approve the Portland City Code amendment as summarized below?

An Act to Protect Tenants will cap most annual rent increases to the rate of inflation, ban discrimination against tenants with public vouchers, incentivize landlords to provide 90-day notice to tenants they are asking to vacate, and create a tenant/landlord board to permit additional rent increases when individual building circumstances warrant, such as major capital improvements.

**AFFIDAVIT FILED PURSUANT TO §9-36 OF PORTLAND CITY CODE
SEEKING PETITIONS FOR INITIATION OF ORDINANCE**

The undersigned hereby depose and say as follow:

- (1) The undersigned are registered voters of the City of Portland, whose respective addresses appear below next to their names;
- (2) The undersigned file this affidavit for the purpose of initiating an ordinance ("the Ordinance"), the text and a summary of which is annexed to this Affidavit as Exhibit A;
- (3) The undersigned will constitute the Petitioners' Committee and circulate the citizen initiative petition;
- (4) All notices to the Committee are to be sent to DSA the following address:

PO Box 11345 Portland Maine 04104

Dated at Portland, this 15 day of May 20 20.

✓ Crow Norlander

(Print) Name

64 Mabel St. #2 Portland ME 04103

Address

Signature

✓ Nicholas Pellenz

(Print) Name

215 St John St

Address

Signature

✓ Jai Kang

(Print) Name

45 Rustic Ln.

Address

Signature

✓ Jeanne Heil

(Print) Name

45 Rustic Ln

Address

Signature

✓ Jessica Falero

(Print) Name

9 C st

Address

Signature

✓ Aaron Berger

(Print) Name

11 Grant st #6

Address

Signature

✓ Sydney Avitia-Jacques

(Print) Name

180 State St. #301 Portland 04101

Address

Signature

✓ Grayson Lookner

(Print) Name

1275 Westbrook St. #2

Address

Signature

✓ KRYSTIAN BIGOSINSKI

(Print) Name

73 ALBA ST

Address

Signature

✓ Ann Laguerre

(Print) Name

139 Park St.

Address

Signature

Subscribed and sworn to before me this 14 day of May, 20 20.

Jonathan D Torsch

Signature of Notary Public/Attorney-at-law

8/19/2026

Date Commission Expires/Date Entered the Bar

JONATHAN D TORSCH

Printed Name

**AFFIDAVIT FILED PURSUANT TO §9-36 OF PORTLAND CITY CODE
SEEKING PETITIONS FOR INITIATION OF ORDINANCE**

The undersigned hereby depose and say as follow:

- (1) The undersigned are registered voters of the City of Portland, whose respective addresses appear below next to their names;
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- (3) The undersigned will constitute the Petitioners' Committee and circulate the citizen initiative petition;
- (4) All notices to the Committee are to be sent to DSA the following address:

PO Box 11345 Portland Maine 04104

Dated at Portland, this _____ day of _____ 20____.

Crow Norlander
(Print) Name

64 Mabel St. #2 Portland ME 04103
Address

[Signature]
Signature

Nicholas Pellenz
(Print) Name

215 St John St
Address

[Signature]
Signature

Jai Keng
(Print) Name

45 Rustic Ln.
Address

[Signature]
Signature

Jeanne Heil
(Print) Name

45 Rustic Ln
Address

[Signature]
Signature

Jessica Falero
(Print) Name

9 C st
Address

[Signature]
Signature

Aaron Berger
(Print) Name

11 Grant st #6
Address

[Signature]
Signature

Sydney Avitia-Jacques
(Print) Name

180 State St. #301 Portland ME 04101
Address

[Signature]
Signature

Grayson Lookner
(Print) Name

1275 Westbrook St. #2
Address

[Signature]
Signature

KRYSZIAN BIGOSINSKI
(Print) Name

73 ALGA ST
Address

[Signature]
Signature

Ann Laguerz
(Print) Name

139 Park St.
Address

[Signature]
Signature

Subscribed and sworn to before me this 14 day of May, 2020.

[Signature]
Signature of Notary Public/Attorney-at-law

8/19/2026
Date Commission Expires/Date Entered the Bar

JONATHAN D TORSCH
Printed Name

An Act To Protect Tenants

An Act to Protect Tenants will cap most annual rent increases to the rate of inflation, ban discrimination against tenants with public vouchers, incentivize landlords to provide 90-day notice to tenants they are asking to vacate, and create a tenant/landlord board to permit additional rent increases when individual building circumstances warrant, such as major capital improvements.

1. That the Code of Ordinances, City of Portland, Maine, is hereby amended by adding a section to be numbered Chapter 6, Article XII, which said article reads as follows:

ARTICLE XII. RENT CONTROL AND TENANT PROTECTIONS

Sec. 6-230. Purpose.

The purpose of this Article is to address increasing rental costs within the City of Portland; to promote neighborhood and community stability; to protect the City's tenant population; to limit arbitrary evictions; and to stabilize and make more predictable future rent increases, all while remaining in conformance with Maine law, and ensuring that Landlords within the City receive a fair return on investment.

Sec. 6-231. Applicability.

This Article shall apply to Rental Units in the City limits of Portland, exempting the following:

- (a) Rental Units owned, operated, or otherwise managed by municipal housing authorities, as defined in 30-A M.R.S. §4721(1), as amended;
- (b) Accommodations provided in a hospital, convent, church, religious facility, or extended care facility;
- (c) Dormitories owned and operated by an institution of higher education, or by Portland Public Schools;
- (d) Rental Units within a building containing only two (2), three (3) or four (4) dwelling units, one of which the Landlord currently occupies as his or her principal residence;
- (e) Accommodations where the amount of rent charged is either controlled or subsidized by a federal, state, or local governmental agency; and
- (f) Accessory dwelling units, as defined and understood in Chapter 14 of this Portland City Code.

Sec. 6-232. Definitions.

Allowable increase percentage means the amount that the rent of a Covered Unit may be raised within a Rental Year, unless a Landlord is entitled to additional increases as laid out in Section 6-233 below. The allowable increase percentage shall be determined on September 1 of each year beginning on September 1, 2021, and shall be equal to 100 percent of the change in the Consumer Price Index for Greater Boston Metro Area, as published by the United States Bureau of Labor Statistics or its designee.

Base rent means the initial amount of rent that a Landlord charges for a Covered Unit, as more specifically defined in Section 6-233 of this Article.

Banked rent means the Base Rent for a Covered Unit, plus any increase in rent to which the Landlord was entitled under Sections 6-233 and 6-234 below, but that was not charged to a Tenant during a particular Rental Year.

Constructed means a Rental Unit that has received its final certificate of occupancy from the City's Permitting and Inspections Department, or its designee.

Covered unit means a Rental Unit within the City of Portland that does not fall within a category exempted from this Article by Section 6-231.

Current covered unit means a Covered Unit that is occupied by a Tenant on January 1, 2021.

Discontinued covered unit means a Covered Unit that is not occupied on January 1, 2021 and has not been registered with the City of Portland under Section 6-151 of this Chapter.

Landlord means an owner, manager, managing agent, sublessor, or other person having the right to rent or sell or manage any housing unit or rental property or any agent of these individuals or entities.

Qualified family member means a spouse, parent, grandparent, brother, sister, child or grandchild related by blood, marriage, or adoption.

Rent means the consideration, including any deposit, bonus, benefit, or gratuity demanded or received for, or in consideration with, the use or occupancy of rental units and housing services. Such consideration includes, but is not limited to, monies and fair value of goods and services rendered to or for the benefit of the

Landlord under the Rental Agreement, or in exchange for a Rental Unit, or housing services of any kind.

Rent board means the set of appointed individuals responsible for the administration of this Article, in accordance with the terms set forth below.

Rent stabilization allowances means collectively the Allowable Increase Percentage, the Tax Rate Rent Adjustment, and any additional rent increase exemptions approved by the Rent Board under Section 6-234 of this Article.

Rent stabilization ordinance means Chapter 6, Article XII of the Code of Ordinances, City of Portland, Maine, as amended.

Rental agreement means a written legal contract between a Landlord and a Tenant for the use and/or occupancy of a Rental Unit.

Rental unit means any dwelling unit that is rented or otherwise made available for rent for residential use or occupancy, together with all additional rights, privileges, or services connected with use or occupancy of such a unit, including but not limited to vehicle parking spaces, storage, and commons areas and/or recreational facilities held out for use by the Tenant.

Rental year means a period of twelve (12) consecutive months beginning on January 1, 2021, or the date on which a Covered Unit enters the rental housing market, whichever is earlier.

Tax rate rent adjustment means the additional amount by which a Landlord may increase the rent of a Covered Unit within a given year. The Tax Rate Rent Adjustment may be added to the Allowable Increase Percentage if and only if the City changes the mil rate as compared to the previous Rental Year. In this case, the tax rate rental adjustment is equal to the actual increase in property taxes attributable to the individual Covered Unit.

Tenancy means the right or entitlement of a Tenant to use or occupy a rental unit.

Tenant-Based Rental Assistance means any and all forms of tenant-based rental assistance and vouchers, including but not limited to:

- (a) Tenant-based rental assistance through the Section 8 Housing Choice Voucher Program, 42 U.S.C § 1437f (o)
- (b) Tenant-based rental assistance through the HOME Investment Partnerships Act at title II of the Cranston-Gonzalez

- National Affordable Housing Act, as amended, 42 U.S.C § 12701 et seq.;
- (c) Tenant-based rental assistance under the HOD-Veterans Affairs Supportive Housing (HUD-VASH), authorized by § 8 (o) (19) of the United States Housing Act of 1937, 42 U.S.C. § 1437f (o) (19);
 - (d) Tenant-based rental assistance through the Shelter Plus Care Program authorized by title IV, subtitle F, of the Stewart B McKinney Homeless Assistance Act, 42 U.S.C. §§ 11403-11407b, as amended;
 - (e) Tenant-based rental assistance through the Supportive Housing Program authorized by title IV, subtitle F, of the Stewart B McKinney Homeless Assistance Act, 42 U.S.C. §§ 11381-11389, as amended;
 - (f) Tenant-based rental assistance through the Section 8 Disaster Voucher Program (DVP);
 - (g) Tenant-based rental assistance through the Housing Opportunities for Persons with AIDS (HOPWA) Program, 42 U.S.C. § 12901 -12912 as amended;
 - (h) Tenant-based rental assistance through the Community Block Grant Program, 42 U.S.C. § 5301 et seq. as amended;
 - (i) Tenant-based rental assistance through the Continuum of Care Program authorized by subtitle C of title IV of the McKinney-Vento Homeless Assistance Act, 42 U.S.C. §§ 11381-11389;
 - (j) Tenant-based rental assistance through the Rural Development Voucher Program authorized through § 542 of the Housing Act of 1949, as amended. See 78 Fed. Reg. 49374 (Aug. 14, 2013) (proposed rule);
 - (k) Tenant-based rental assistance through the Maine Bridging Rental Assistance Program, authorized by M.R.S. Title 34-B § 3011;
 - (l) Tenant-based rental assistance through the Maine State Housing Authority Home To Stay Program, M.R.S. Title 30-A § 4771;
 - (m) Tenant-based rental assistance through the Maine State Housing Authority Stability Through Engagement Program, M.R.S. Title 30-A § 4771;
 - (n) Tenant-based rental assistance through the City of Portland's Tennant Based Rental Assistance Program, M.R.S. Title 30-A § 4771;
 - (o) Tenant-based rental assistance through the City of Portland's General Assistance Program, authorized by M.R.S. Title 22 § 4301 et seq.; and
 - (p) Such other Tenant-based rental assistance or rental vouchers or rental coupons as may be authorized under any federal, state, or local program.

Sec. 6-233. Establishment of base rent.

(a) Base Rent for Current Covered Units. Beginning on January 1, 2021, each Covered Unit shall be registered with the City in accordance with Section 6-151(c). Such registration must include proof of the rent charged by the Landlord for each Covered Unit as of June 1, 2020 (i.e., through presentation of a valid Rental Agreement, rent payment receipt, or other acceptable means within the opinion of the City). This amount shall be the Base Rent for purposes of the Rent Stabilization Ordinance.

(b) Base rent for Discontinued Covered Units.

- (i) If a Covered Unit is not registered with the City as of January 1, 2021, but is registered with the City after such date, the Base Rent shall be set by the Landlord.
- (ii) If a Covered Unit is registered with the City as of January 1, 2021, but is removed from the rental housing market, the Base Rent for such a Covered Unit upon reentry to the rental housing market shall be the Banked Rent, as measured from the Rental Year in which the Covered Unit was removed from the rental housing market.
- (iii) If a Covered Unit is registered with the City as of January 1, 2021, but is subsequently removed from the rental housing market for a period of five (5) or more Rental Years, the Base Rent for such a Covered Unit upon reentry into the rental housing market shall be set by the Landlord.

(c) Base rent following renovation or reconfiguration of Covered Units. Upon the renovation or reconfiguration of a Covered Unit, the Landlord may charge no more than the Banked Rent for that unit, or may apply to the Rent Board for determination of the appropriate increase in rent. When determining the appropriate increase in rent, the Rent Board may consider factors including the increase in floor area, the addition or upgrade of amenities, and any other factor determined relevant in the opinion of the Rent Board.

(d) Base rent following consolidation of Covered Units. When two (2) or more Covered Units are consolidated to create a single Covered Unit, the Base Rent for the resulting Covered Unit shall be equal to the Banked Rent of the larger of the two previously-existing Covered Units, increased by a percentage equal to the increase in square footage of the new Covered Unit.

Sec. 6-234. Rent increase limitations.

(a) Beginning on September 1, 2021, and occurring no later than September 1 of each subsequent year, the Housing Safety Office shall establish and publish the Allowable Increase Percentage and the Tax Rate Rent Adjustment for the following calendar year.

(b) A Landlord may only increase the rent charged for a Covered Unit once within a Rental Year, by an amount that conforms to the following specifications:

- (i) Annual Increase Percentage. Unless a Landlord qualifies for an additional increase as further described below, rent for a Covered Unit may not be increased by more than the Allowable Increase Percentage.
- (ii) Tax Rate Rent Adjustment. If the mil rate within the City of Portland is altered for the subsequent fiscal year a Landlord may, in addition to the Allowable Increase Percentage, increase rent by the Tax Rate Rent Adjustment for the subsequent Rental Year.
- (iii) New Tenancy. A landlord may increase the rent on a Covered Unit by five percent (5%) of the base rent in addition to any other allowable increases when a new tenant occupies a unit. This increase may be applied at most once per year, regardless of the number of new tenancies.
- (iv) Banked Rent. If the Landlord has banked additional rent increases, in accordance with Section 6-235 below, this banked amount, in whole or in part, may be added to the increases permitted by subsections (i) and (ii) above.
- (v) Additional Rent Board Approved Increases. In addition to the above rent adjustments, the Rent Board may approve additional rent increases properly demonstrated by the Landlord, attributable to:
 - i. Capital improvement costs, including financing costs;
 - ii. Uninsured repair costs;
 - iii. Increased housing service costs; and
 - iv. Any additional increase, within the opinion of the Rent Board, required to allow the Landlord to receive a fair rate of return.

(c) Under no circumstances may a Landlord raise the rent of a Covered Unit by more than ten (10) percent within a Rental Year. Any rent increases available to a Landlord in excess of ten (10) percent must be banked for use in a subsequent Rental Year.

(d) Before increasing the rent of a Covered Unit, a Landlord must send a signed document to the Tenant(s) no fewer than seventy-five (75) days before the effective date of the rent increase. This document must include the date on which the Tenancy began, the date on which the rent will be increased, and the appropriate justifications for such a rent increase as defined in Section 6-234(b) above. Failure to provide such documentation shall be considered a violation of this Article.

(e) A Tenant who receives notice of a rent increase that they believe does not conform with this Section may file an appeal of said rent increase with the Rent Board. Upon receipt of the appeal, the Rent Board shall schedule a public hearing to be held no more than twenty-one (21) days after the filing of the completed appeal application. At the public hearing, the Board will consider the rent charged under the existing Rental Agreement, the amount of the proposed new rent, and the factors which may or may not allow such an increase in accordance with this Article. Upon consideration of such evidence, the Board will render a decision as to whether the increased rent is allowable. If such an increase is more than is allowed by this Article, the Board may impose such fines as are allowed by this Article.

Sec. 6-235. Process of banking rent increases.

If a Landlord chooses to not impose any rent increases to which they are entitled pursuant to Section 6-234 above, these increases may be banked, in whole or in part. Banked increases may be used to raise the rent of Covered Units in subsequent Rental Years in addition to the Rent Stabilization Allowances established for that year by the Rent Board, provided that the total increase of such rent shall not exceed ten (10) percent within a single Rental Year.

Sec. 6-236. Termination of Tenancies-At-Will

- (1) In order to be terminated by a Landlord, tenancies-at-will must be terminated by providing a minimum of 90 days' written notice to Tenant except as provided below:
 - a. "For Cause" tenancies terminable on 7 days' notice pursuant to 14 M.R.S. § 6002(1) may be terminated in accordance with Section 6002(1);
 - b. Short-term rentals with a term of fewer than 30 days' are exempt from the 90-day notice period outlined herein;
 - c. Holdover tenancies are exempt from the 90 day notice period outlined herein;
 - d. Where a Landlord provides \$500.00 reimbursement to Tenant for the inconvenience of termination, tenancies-at-will

- may be terminated by notice to the Tenant of sixty (60) to eighty-nine (89) days;
- e. Where a Landlord provides \$1000 reimbursement to Tenant for the inconvenience of termination, tenancies-at-will may be terminated by notice to the Tenant of thirty (30) to fifty-nine (59) days.
- (2) Reimbursement amounts outlined in subsections (c) and (d) above are lump-sum amounts payable in a single installment for the collective benefit of all tenants of a unit. Tenants are responsible for allocating the reimbursement amount among themselves.

Sec. 6-237. Discrimination prohibited in sale or rental of housing units.

- (a) A tenant shall have the right to secure a rental housing unit without being refused that right on the basis of discrimination because of race, color, sex, sexual orientation, physical or mental disability, ancestry, national origin, or family status, pursuant to 5 M.R.S. Section 4581-A, et. seq., as amended from time to time.
- (b) A landlord shall not refuse to rent or impose terms of tenancy on any tenant who is a recipient of federal, state or local public assistance, including medical assistance and housing subsidies primarily because of the individual's status as a recipient as described in 5 M.R.S. §4581-A(4), as amended from time to time.
- (c) It shall be prohibited for a landlord to refuse to rent or negotiate for the rental of, or otherwise make unavailable or deny a dwelling to any tenant because of the tenant's source of income or because of the requirements of any program providing the source of income;
- (d) It shall be prohibited for or a landlord to refuse to participate in or comply with any federal, state, or local requirements of a tenant-based rental assistance program, including, but not limited to the following:
1. Refusing to allow inspections of a dwelling by the public housing authority or other entity administering a tenant-based rental assistance program;
 2. Refusing to make reasonable repairs necessary for the dwelling to meet the housing quality standards of the tenant-based rental assistance program; such repairs will be considered reasonable if they do not substantially alter or change the housing unit or do not require repairs substantially different from those that would be required to bring the rental unit into compliance with the Maine Warranty of Habitability Act or local building or housing codes applicable for new construction.

3. Refusing to complete any necessary paperwork, including but not limited to such documents as the Request for Tenancy Approval form, the Housing Assistance Payments Contract, and the Tenancy Addendum or applicable General Assistance forms; and,
4. Refusing to provide information required by the public housing authority or other entity administering the source of income or tenant-based rental assistance program.

Sec. 6-238. Notice of ordinance to tenants.

(a) The Planning Department or its designee shall create and make available on the City's publicly accessible web site a plain language document that explains the rights, responsibilities, and protections created by this Ordinance.

(b) The document referenced above shall be provided by Landlords to all Tenants in Covered Units at the commencement of the rental of the Covered Unit and shall be provided again upon any update to the document made by the City.

(c) An acknowledgement of receipt of the document described above must be signed by all Tenants, and a copy of the acknowledgement kept on file by the Landlord for at least three (3) years and made available for inspection at the request of the City of Portland.

(d) Landlords of buildings shall post a copy of the document referenced above in at least one (1) conspicuous common area within the building housing the Covered Units.

Sec. 6-239. Non-waiver of rights.

No provision of, or right conferred by, this Article may be waived by a Tenant, by agreement or otherwise, and any such waiver shall be void. Any attempt to require, encourage, or induce a Tenant to waive any provision hereof, or right hereby, shall be a violation of this Article. Nothing herein shall be construed to void any term of a Rental Agreement that offers greater rights than those conferred hereby.

Sec. 6-240. Enforcement and remedies.

Any violation of this Article is considered a civil infraction and shall be enforced pursuant to the Portland City Code Chapter 1, §1-15.

Sec. 6-241. Limitation of Liabilities

(a) Nothing in this Article shall be interpreted to contravene the general laws of the State of Maine; and

(b) Nothing in this Article shall be construed to create additional liabilities greater than those already existing under law or to create new private causes of action.

Sec. 6-242. Severability.

The provisions of this Article are severable. If any of its provisions are held invalid by act of a court of competent jurisdiction, all other provisions of this Article shall continue in full force and effect.

Sec. 6-243. - Sec. 6-249. Reserved.

2. That the Code of Ordinances, City of Portland, Maine, is hereby amended by adding a section to be numbered Chapter 6, Article XIII, which said Article reads as follows:

ARTICLE XIII. RENT BOARD

Sec. 6-250. Creation; composition.

There shall be a Rent Board of seven (7) members. Members of the Rent Board shall be residents of the city and shall not be officers or employees of the city or any of its agencies or departments.

Two (2) members shall be appointed to fill at-large seats, and may reside in any part of the city. The remaining five (5) members shall be comprised of one member from each of the five (5) city council wards. Should the number or location of said city council wards be changed, the districts and number of Rent Board members shall change to mirror such changes.

The City shall take reasonable steps, but is not required, to appoint to the Rent Board with no more than three (3) landlords and at least three (3) tenants.

Sec. 6-251. Appointment; terms.

The members of the Rent Board shall be appointed by the City Council for terms of three (3) years. Such members shall serve until their successors are duly appointed and qualified. Such terms

shall be staggered so that the terms of not more than three (3) members shall expire in any calendar year.

Sec. 6-252. Vacancies.

Permanent vacancies on the Rent Board shall be filled by the City Council, in the same manner as other appointments hereunder, for the unexpired term of the former member.

Sec. 6-253. Removal of members.

Any member of the Rent Board may be removed for cause by the City Council at any time; provided, however, that before any such removal, such member shall be given an opportunity to be heard in his or her own defense at a public hearing.

Sec. 6-254. Compensation.

Members of the Rent Board shall serve without compensation.

Sec. 6-255. Chair and vice-chair.

(a) The members of the Rent Board shall annually elect one (1) of their number as chair to preside at all meetings and hearings and to fulfill the customary functions of that office, and another of their number as vice-chair. The chair may administer oaths. The chair shall have the right, upon request, to designate any person or organization as a specially interested party for purposes of offering evidence and conducting cross-examination at hearings.

(b) In the absence of the chair, the vice-chair shall act as chair and shall have all the powers of the chair. The vice-chair shall have such other powers and duties as may from time to time be provided by the rules of the Rent Board.

Sec. 6-256. Staff secretary; minutes, public records.

The Housing Safety Office shall designate a member of its staff to serve as staff secretary of the Rent Board and attend all its proceedings. The staff secretary shall keep the minutes of the proceedings of the Board, showing the vote of each member on every question, or his or her absence or failure to vote, and shall maintain the permanent records and decisions of all board meetings, hearings and proceedings, and all correspondence of the board, as required by statute. Such records shall be public records open to inspection during working hours upon reasonable notice.

Sec. 6-257. Quorum and necessary vote.

As to any matter requiring a hearing, no business shall be transacted by the Rent Board without a quorum, consisting of four (4) members being present. The concurring vote of at least four (4) members shall be necessary to authorize any action by the Board. If less than a quorum is present, the hearing may be adjourned from time to time for a period not exceeding three (3) weeks at any one time. The staff secretary shall notify in writing all members of the date of the adjourned hearing and shall notify such other interested parties as may be directed in the vote of adjournment.

Sec. 6-258. Meetings, hearings, and procedures.

(a) Regular meetings of the Rent Board shall be held at the call of the chair or as provided by the rules of the board. Special meetings shall be called by the chair at the request of any three (3) members of the Board or at the request of the city council. All meetings and hearings of the board shall be open to the public.

(b) The Rent Board shall adopt its own rules of procedure for the conduct of its business not inconsistent with the statutes of the state and this article. Such rules shall be filed with the staff secretary and with the city clerk. Any rule so adopted which relates solely to the conduct of hearings, and which is not required by the statutes of the state or by this article, may be waived by the board upon good cause being shown.

Sec. 6-259. Public hearings.

Public hearings shall be held as required by the various statutes, codes, and ordinances pursuant to which matters are brought before the Rent Board and shall be conducted in accordance with relevant state law, this code, and the rules of the board.

Sec. 6-260. Record and decisions.

(a) The minutes of the staff secretary, and the transcript if one (1) is made, and all exhibits, papers, applications, and requests filed in any proceeding before the Rent Board, and the decision of the Board shall constitute the records.

(b) Every final decision of the Rent Board shall include written findings of fact, and shall specify the reason or reasons for such decision.

(c) The staff secretary shall mail notice of any decision of the Rent Board to the applicant and any designated interested parties within five (5) days of such decision.

Sec. 6-261. Conflicts.

No member of the Rent Board shall participate in the hearing or disposition of any matter in which they have an interest, as defined by 30-A M.R.S.A. § 2604(4), as amended.

Sec. 6-262. Appeals to Superior Court.

An appeal from any final decision of the Rent Board as to any matter over which it has final authority may be taken by any party or by any authorized officer or agent of the City to the Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure.

Sec. 6-263. Jurisdiction and authority.

In addition to the jurisdiction conferred on it by other ordinances of the City and in accordance therewith, the Rent Board shall have the following jurisdiction and authority:

(a) To hear, review, and approve or deny Landlord applications for rent increases greater than those allowed by the Rent Stabilization Ordinance;

(b) To hear, review, and approve or deny Landlord applications for increases in Base Rent due to the renovation or reconfiguration of existing Covered Units, as provided for in Section 6-234 above.

(c) To hear, review, and grant or deny appeals from Tenants regarding allegations violations of Maine statute regarding the habitability of residential units.

(d) To hear, review, and approve or deny any requests from Landlords for an extension of time in which to reinstate Tenants temporarily displaced due to the Landlord's performance of necessary capital improvements to the Covered Unit and/or the building in which said unit is housed.

(e) To hear, review, and decide the appropriate outcome of all disputes arising between Landlords and Tenants on matters falling within the scope of Article XII of this Chapter, if both parties consent to such mediation and resolution by submitting the landlord/tenant dispute form, as maintained and edited by the Housing Safety Office, signed by both Landlord and Tenant no later than fourteen (14) days before the date on which such a hearing shall be scheduled.

(f) To impose such fines as are necessary and allowed for violations of the provisions of the Rent Stabilization Ordinance.

(g) To prepare and recommend to the City Council changes and amendments to the City's Rent Stabilization Ordinance.

(h) To prepare an annual report on the state of the City's rental unit availability, which shall be presented to the City Council as part of a regularly-scheduled public hearing. This report shall include a summary of rents within each of the five (5) council wards. Such reporting may or may not be done in conjunction with similar reporting required of the City's Rental Housing Advisory Committee, as established by this Chapter.

(i) To initiate changes and amendments to this Article, as well as to the city's Rent Stabilization Ordinance.

3. That Chapter 6, Section 151, of the Code of Ordinances, City of Portland, Maine, is hereby amended as follows:

Sec. 6-151. Registration required.

...

(c) Additional Information Required for Covered Units. A Covered Unit, as defined by Section 6-232 of this Chapter, shall not be considered registered unless and until the registrant has submitted the following additional information:

1. The current rent charged at the time of registration;
2. The increase in rent (if any) when compared to the previous Rental Year's rent;
3. Whether the increase (if any) is attributable to: (1) the Allowable Increase Percentage and Tax Rate Rent Adjustment, as defined in Section 6-232; or (2) also includes Banked Rent, as defined in Section 6-232;
4. The amount of Banked Rent, if any, accumulated in the previous Rental Year;
5. The amount of security deposits or other payments demanded in addition to rent for each Covered Unit; and
6. The number of bedrooms, number of bathrooms, and the presence or absence of a kitchen from each Covered Unit.

(d) Registration data made available. The City's Permitting and Inspections Department or its designee is required to make anonymized data from the registration of Covered Units available to the Rent Board at the Board's request. Such data shall not include the names, or street and unit numbers of any reported units.

4. That Chapter 6, Section 152, of the Code of Ordinances City of Portland, Maine, is hereby amended as follows:

Sec. 6-152. Registration Fees.

...

(b) Long Term Rental Registration Fee. The registrant of a long term rental shall pay fifty dollars (\$50.00) to the City by January 1st of each year. Regardless of any discount a Landlord may be entitled to under subsection (d) below, thirty dollars (\$30) from each registration fee shall be appropriated to Housing Safety Office to cover the administrative expenses of the Rent Board, including the hiring of additional administrative staff if necessary.

Portland, Maine



Yes. Life's good here.

Office of the City Clerk
Katherine L. Jones, CMC

CLERK'S CERTIFICATION OF CITIZEN INITIATIVE AMENDMENT TO

CHAPTER 6, Article XII of the Portland City Code Re:

An Act to Protect Tenants

I **HEREBY CERTIFY** that the petition filed on July 13, 2020 in my office regarding amendments to the Portland City Code Chapter 6 Article XII, of the Portland City Code Re: "An Act to Protect Tenants", of Fifteen Hundred (1,500) voters of the City of Portland. The required number of signatures to put this question on the ballot is Fifteen Hundred (1500). The petition is hereby deemed sufficient.

Dated: 7-22-2020

Signed: Katherine L. Jones

Katherine L. Jones, City Clerk

MEMORANDUM
City Council Agenda Item

FROM:

DATE: August 13, 2020

SUBJECT: Order 41-20/21 Setting Election Date on a Citizen Initiative Amendment to the Portland City Code Chapter 6 Re: An Act to Restrict Short Term Rentals in Portland - Sponsored by Katherine L. Jones, City Clerk

SPONSOR: Katherine L. Jones, City Clerk

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

Can action be taken at a later date: No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

II. AGENDA DESCRIPTION

This item sets an election date for a Citizen Initiative called An Act to Restrict Short Term Rentals in Portland. It also allows the use of a summary on the ballot, pursuant to Chapter 9 of the Portland City Code Sec. 9-41. Staff is recommending that the summary language be used for the ballot.

This item must be read on two separate days. It received its first reading on August 3, 2020. Five affirmative votes are required for passage after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Setting Election Date Restrict Short Term Rentals in Portland 8.3.2020
2. An act to restrict short term rental
3. Clerk's Certification of An Act to Restrict Short Term Rentals.

Prepared by:

Date: 8/13/2020

KATE SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
TAE Y. CHONG (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER SETTING ELECTION DATE ON
A CITIZEN INITIATIVE AMENDMENT
TO THE PORTLAND CITY CODE CHAPTER 6
RE: AN ACT TO RESTRICT SHORT TERM RENTALS IN PORTLAND**

ORDERED, that the amendment to the Portland City Code called An Act to Restrict Short Term Rentals in Portland shall be submitted to the voters of the City on November 3, 2020; and

BE IT FURTHER ORDERED, that the Portland City Clerk shall be authorized to place the following on the ballot, as shown below:

Shall the municipality approve the Portland City Code amendment as summarized below?

An Act to Restrict Short Term Rentals (STRs) in Portland will restrict all mainland STRs to only those that are owner-occupied. It increases the annual fee for all STRs to \$1,000 for mainland and \$400 for island rentals. The initiative also increases penalties for and strengthens enforcement of violations, requires the logging of complaints against STRs, and allows the city to revoke STR licenses for repeated violations.

**AFFIDAVIT FILED PURSUANT TO §9-36 OF PORTLAND CITY CODE
SEEKING PETITIONS FOR INITIATION OF ORDINANCE**

The undersigned hereby depose and say as follow:

- (1) The undersigned are registered voters of the City of Portland, whose respective addresses appear below next to their names;
- (2) The undersigned file this affidavit for the purpose of initiating an ordinance ("the Ordinance"), the text and a summary of which is annexed to this Affidavit as Exhibit A;
- (3) The undersigned will constitute the Petitioners' Committee and circulate the citizen initiative petition;
- (4) All notices to the Committee are to be sent to DSA the following address:

P.O. Box 11345 Portland, ME 04104

Dated at Portland, this 24th day of May 2020.

✓ Cathleen Cassie
(Print) Name

72 Waterville St Apt 2
Address

Cathleen Cassie
Signature

✓ Clare LaVergne
(Print) Name

42 Vesper St. Apt. 2
Address

Clare LaVergne
Signature

✓ Andrew Cooper
(Print) Name

39 Waterville St
Address

Andrew Cooper
Signature

✓ Sandra Flanagan
(Print) Name

13 Waterville St
Address

Sandra Flanagan
Signature

✓ Denver Whisman
(Print) Name

62 Waterville St #6
Address

Denver Whisman
Signature

✓ KEITH LANE
(Print) Name

73 Waterville St #2
Address

Keith Lane
Signature

✓ Kathryn H Sykes
(Print) Name

73 Alba St.
Address

K.H. Sykes
Signature

✓ KRYSZTIAN BLODINSKI
(Print) Name

73 ALBA ST
Address

Krystian Blodinski
Signature

✓ NANCY J. GUIMOND
(Print) Name

13 WATERVILLE ST
Address

Nancy J. Guimond
Signature

✓ Mary K Westcott-Casale
(Print) Name

35 Waterville St
Address

Mary K Westcott-Casale
Signature

Subscribed and sworn to before me this 24th day of May, 2020.

Karen L. Snyder
Signature of Notary Public/Attorney-at-law

7/01/2026
Date Commission Expires/Date Entered the Bar

Karen L. Snyder
Printed Name

An Act To Restrict Short Term Rentals in Portland

An Act to Restrict Short Term Rentals (STRs) in Portland will restrict all mainland STRs to only those that are owner-occupied. It increases the annual fee for all STRs to \$1,000 for mainland and \$400 for island rentals. The initiative also increases penalties for and strengthens enforcement of violations, requires the logging of complaints against STRs, and allows the city to revoke STR licenses for repeated violations.

1. That Chapter 6, Sections 6-150.1, 6-151, 6-152, 6-153, 6-154, 6-156, 6-157 and 6-158 of the Portland City Code are hereby amended to read as follows:

Sec. 6-150.1. Definitions.

...

Island Short Term Rental shall mean a short term rental located on one of the following islands in the City of Portland: Peaks Island, Great Diamond Island, Cushing Island, Little Diamond Island, House Island, and/or Cliff Island. For the purposes of this ordinance, any short term rental located on any of these islands shall be considered an Island Short Term Rental, and not an Owner-Occupied Short Term Rental.

...

Owner-Occupied shall mean a rental unit owned and occupied by the registrant as all or part of the registrant's ~~his or her~~ primary residence. Accessory dwelling units as defined in Chapter 14 of this Code, are not considered owner-occupied units for purposes of short term rental registration and regulation.

...

~~Primary Residence shall mean the dwelling in which a person resides as his or her legal residence for more than one half of a year and registers as his or her address for tax and government identification purposes.~~ shall have the same meaning as "Permanent residence" as defined in the Maine Resident Homestead Property Tax Exemption, 36 M.R.S. § 681 et seq.

Registrant shall mean the owner of a rental unit, ~~or a tenant, with permission from the owner,~~ seeking to register a rental unit.

...

~~Tenant-Occupied shall mean a rental unit in which the registrant is not the record owner of the rental unit, but lawfully occupies the rental unit as his or her primary residence.~~

...

Sec. 6-151. Registration required.

...

(c) *Additional Information Required for Short Term Rentals.* A short term rental shall not be considered registered unless and until the registrant has submitted a complete application together with all information required by this article, paid the fee required by Sec. 6-152, and a registration number has been issued.

In addition to all of the information required in Section 6-151 subsection (b) above, a Short Term Rental registrant must provide at a minimum the following information and any other information requested by the City's Permitting and Inspections Department or their designee:

1. A short term rental application;

2. Whether the rental unit is owner-occupied or is an island short term rental, ~~tenant-occupied, or non-owner-occupied;~~

...

~~b. For Short Term Rental units that are tenant-occupied, the tenant must provide a notarized primary residence affidavit, and a notarized statement of permission by his/her landlord, both on forms supplied by the City. The tenant must also produce for review one of the following demonstrating residency at the tenant-occupied unit:~~

~~i. Valid driver's license or other state-issued identification;~~

~~ii. Valid motor vehicle registration; or~~

~~iii. Other documentation proving primary residence to the satisfaction of the City's Permitting and Inspections Department.~~

...

Sec. 6-152. Registration Fees.

...

(c) *Short Term Rental Registration Fee Structure.* ~~The registrant of a short term rental shall pay the fee specified in the chart below. All fees will be cumulative and will increase based on the number of total units registered by the owner. The fee total will accumulate first by counting any owner-occupied, tenant-occupied, first, and then fees will be attributed at the higher rate for any non-owner-occupied mainland units.~~

~~Owners and tenants may register more than one owner occupied or tenant occupied unit (bedrooms, separate spaces, etc.) within their primary residence.~~

Owner-Occupied Units, Tenant Occupied Units, Island Short Term Rentals	1st Unit -- \$100 2nd Unit -- \$250 3rd Unit -- \$500 4th Unit -- \$1,000 5th Unit -- \$2,000
Non-Owner-Occupied Mainland Units	1st Unit -- \$200 2nd Unit -- \$500 3rd Unit -- \$1,000 4th Unit -- \$2,000 5th Unit -- \$4,000

1. For any Island Short Term Rental, the registrant shall pay a fee of four hundred dollars (\$400) to the city each year at the time of registration or renewal. Subject to the limitations in Sec. 6-153, below, the registrant may register more than one Island Short Term Rental, but for each additional Island Short Term Rental, the registrant must pay an additional fee of four hundred dollars (\$400).

2. For any Owner-Occupied Mainland Short Term Rental, the registrant shall pay a fee of one thousand dollars (\$1,000) to the city each year at the time of registration or renewal. Subject to the limitations in Sec. 6-153, below, the registrant may register more than one Owner-Occupied Mainland Short Term Rental within their primary residence, including but not limited to additional bedrooms and separate spaces, but for each additional Owner-Occupied Mainland Short Term Rental, the registrant must pay an additional fee of one thousand dollars (\$1,000).

...

Sec. 6-153. Limitations on Short Term Rental Units.

(a) *Occupancy Limit.* Overnight short term rental guest occupancy in each rental unit will be limited to two (2) guests per bedroom plus no more than two (2) additional guests.

(b) *Limitation on Total Number of Short Term Rentals.* No more than 400 non-owner occupied mainland short term rental units shall be registered in any one calendar year.

Any mainland ~~short-term~~ rental unit in an owner-occupied multi-unit, where the unit is not the primary residence of the owner, shall not be counted considered as an ~~owner-occupied unit~~ for the purposes of this ordinance, nor shall such unit be eligible for short term rental.

(c) *Limitations on number of Short Term Rentals an Individual or Entity May Register.* ~~An~~ No individual or entity may ~~only~~ register up to more than five (5) short term rental units in the City, including ~~owner-occupied, non-owner-occupied,~~ and island short term rental units, in any one (1) calendar year. For purposes of this section, short term rental units registered by an entity in which the registrant has an ownership interest shall be counted towards this limit.

(d) No individual or entity may register a short term rental in ~~any single family home unless it is owner-occupied; tenant-occupied with permission of the owner;~~ or located on an Island.

(e) ~~The number of short term rental units that may be operated in a multi-unit building are as follows:~~

Total # of Units in a Building	# of Short Term Rental Units Allowed in a Building	
	Owner-Occupied	Non-Owner-Occupied
2	1	1
3	2	2
4	3	2
5	4	2
6-9	5	4
10+	5	5

~~1. Tenant-occupied units, where the tenant is the registrant, shall be counted towards these limits.~~

~~2. Owner-occupied units shall be counted towards these limits.~~

~~(f) Notwithstanding the requirements of subsections (c) and (e)~~ Subject to the limitations contained in this section, owners may register up to five (5) owner-occupied units (bedrooms, separate spaces, etc.) within their primary residence, provided that the number of rental units does not exceed the number of bedrooms.

...

Sec. 6-154. Allocation of Short Term Rentals.

~~(a) Non-owner-occupied mainland short term rental units, which are limited by section 6-153(b), shall be allocated on a first come, first registered basis. Once the total number of units identified in~~

~~section 6-153(b) has been reached, a waitlist will be formed to help gauge market demand.~~

~~— (b) Notwithstanding~~ Subject to the limitations in section 6-153, current registrations of short term rentals may be renewed each year upon application and payment of the registration fee, so long as the renewal is complete by January 1 of that year.

~~1-~~ (b) Failure to renew by January 1 shall result in the forfeiture of the right to renew the registration, and any subsequent application shall be treated as a new application for registration.

~~— 2. — The renewal date for 2019 only shall be February 1, 2019.~~

(c) No registration under this Article shall be transferrable or assignable.

...

Sec. 6-156. Short Term Rental Violations and Penalties.

Notwithstanding the provisions of sections 6-1, 6-155, or 6-157, short term rentals operating in violation of this article shall also be subject to fines set forth below. For the purposes of this section, each day of operating a short term rental in violation of this article shall constitute a separate violation.

(a) For the violation of operating a short term rental without a valid registration, the violator shall be penalized with a fine of \$1,000 per day for the first offense and an additional fine of \$1,500 per day for each additional offense, to be recovered upon complaint to Maine District or Superior Court in Portland, for use of the City.

(b) For any other violation of this Article pertaining to a short term rental, notwithstanding an otherwise valid short term rental registration, the violator shall be penalized with a fine of \$1,000 per day for each such violation, to be recovered upon complaint to Maine District or Superior Court in Portland, for use of the City.

Any such fines may be in addition to any suspension or revocation imposed in accordance with the provisions of section 6-157 of this Article. In any court action, the City may seek injunctive relief in addition to penalties. The City shall be entitled to recover its costs of enforcement, including its reasonable attorney's fees.

Sec. 6-156⁷. Enforcement.

(a) The building authority as defined in section 6-1 or his or her designee is authorized to institute or cause to be instituted by and through the office of the corporation counsel, in the name of the city, any and all actions, legal or equitable, that may be appropriate or necessary for the enforcement of the provisions of this article.

(b) No certificate of occupancy shall be issued for property that is subject to the registration requirements of this article, but is not registered in accordance with this article.

(c) The Permitting and Inspections Department shall decline to grant registration or renewal to any dwelling unit upon failure of the registrant to meet all of the requirements of this chapter.

(d) Complaints.

1. Any member of the public, including persons and organizations, may file complaints regarding any short term rentals operating in violation of this Article with the Permitting and Inspections Department. Public complaints, or copies thereof, regarding any such violation received by any City Department shall immediately be transmitted to and received as filed properly by the Permitting and Inspections Department.

2. The Permitting and Inspections Department shall establish and maintain a log of all complaints received under this subsection for each short-term rental, and shall annually, on or before July 1, publish and present to the City Council a report containing the entire log of complaints from the previous 12 months.

3. The Permitting and Inspections Department shall investigate all complaints as appropriate, and request voluntary correction by the owner and/or registrant responsible for the cause of any substantiated complaint.

4. If the owner and/or registrant fails to remedy the cause for any substantiated complaint within seven days after such a request, the Permitting and Inspections Department shall pursue appropriate enforcement action under this section, including referral to the building authority for enforcement under subsection (a) above.

5. Nothing in this subsection shall be construed to alter, apply to, or restrict the activities, policies, or procedures of the Portland Police Department, nor to prohibit or restrict any otherwise appropriate response by the Portland Police Department or any of its Officers, provided that copies of all complaints received by the Portland Police Department regarding any short term rentals operating in violation of this Article shall be transmitted to the Permitting and Inspections Department as provided in paragraph 1, above.

(e) Any registration under this article may be revoked or suspended for violation of any of the provisions of this Chapter. If a violation is found to exist by the Permitting and Inspections

Department, in addition to the suspension or revocation of the then-current registration, the Permitting and Inspections Department may also prohibit the Owner not only from registering that unit under this Article, but also from registering any other dwelling unit under this Article, for 12 months following the current registration expiration date.

(ef) Any short term rental at a property that is designated by the City as a disorderly house and fails to remedy the disorderly house as required by section 6-202, shall, ~~at the discretion of the City Manager or his or her designee,~~ have its registration revoked and be ineligible for registration for a period of twelve (12) months. Any registration after revocation shall be considered a new registration and not a renewal. Upon the second designation of the short term rental property as a disorderly house, the City shall, ~~at the discretion of the City Manager or his or her designee,~~ prohibit the registered owner from operating the property as a short term rental or post the property against occupancy pursuant to section 6-201.

(eg) Fines ~~may~~ shall be attributed to Property Management firms found operating short term rental units in violation of this article. These fines ~~may~~ shall be in addition to fines levied against owners of property.

(fh) Violations of the provisions of this article shall be grounds to deny an application or renewal application for a short term rental registration.

...

Sec. 6-1578. Revenue Allocation.

...

~~Sec. 6-158. Reserved.~~

Portland, Maine



Yes. Life's good here.

Office of the City Clerk
Katherine L. Jones, CMC

CLERK'S CERTIFICATION OF CITIZEN INITIATIVE AMENDMENT TO

CHAPTER 6, Section 6-150, 6-151, 6-152, 6-153, 6-154, 6-156, and 6-158 of the Portland City Code Re:

An Act to Restrict short Term Rentals in Portland

I HEREBY CERTIFY that the petition filed on July 13, 2020 in my office regarding amendments to the Portland City Code Chapter 6, 6-150.1, 6-151, 6-152, 6-153, 6-154, 6-156 and 6-158, of Fifteen Hundred (1,500) voters of the City of Portland. The required number of signatures to put this question on the ballot is Fifteen Hundred (1500). The petition is hereby deemed sufficient.

Dated:

7-23-2020

Signed:

Katherine L. Jones

Katherine L. Jones, City Clerk

MEMORANDUM
City Council Agenda Item

FROM:

DATE: August 13, 2020

SUBJECT: Order 42-20/21 Setting Election Date on Citizen Initiative Amendment to the Portland City Code Chapter 35 Re: No Cannabis Cap Campaign - Sponsored by Katherine L. Jones, City Clerk

SPONSOR:

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

Can action be taken at a later date: No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

II. AGENDA DESCRIPTION

This item sets an election date for a Citizen Initiative called No Cannabis Cap Campaign. It also allows the use of a summary on the ballot, pursuant to Chapter 9 of the Portland City Code Sec. 9-41. Staff is recommending that the summary language be used for the ballot.

This item must be read on two separate days. It received its first reading on August 3, 2020. Five affirmative votes are required for passage after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Setting Election Date No Cannabis Cap Campaign 8.3.2020
2. Cannabis Campaign
3. certification for Cannabis Cap Campaign

Prepared by:

Date: 8/13/2020

KATE SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
TAE Y. CHONG (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER SETTING ELECTION DATE ON
A CITIZEN INITIATIVE AMENDMENT
TO THE PORTLAND CITY CODE CHAPTER 35
RE: NO CANNABIS CAP CAMPAIGN**

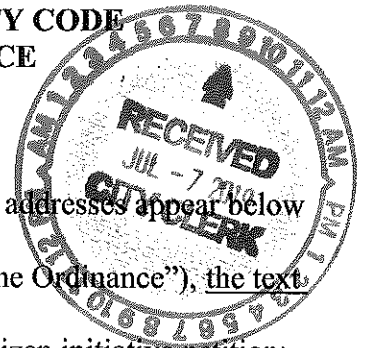
ORDERED, that the amendment to the Portland City Code called No Cannabis Cap Campaign in Portland shall be submitted to the voters of the City on November 3, 2020; and

BE IT FURTHER ORDERED, that the Portland City Clerk shall be authorized to place the following on the ballot, as shown below:

Shall the municipality approve the Portland City Code amendment as summarized below?

This initiative proposes to modify Chapter 35 of the Portland City Code, Governing the Regulation of Marijuana Businesses, in two ways: (1) a reduction from 250' to 100' in the required distance between marijuana retail facilities and dispensaries; and (2) removing the cap on the number of marijuana retail stores and dispensaries in the City.

**AFFIDAVIT FILED PURSUANT TO §9-36 OF PORTLAND CITY CODE
SEEKING PETITIONS FOR INITIATION OF ORDINANCE**



The undersigned hereby depose and say as follow:

- (1) The undersigned are registered voters of the City of Portland, whose respective addresses appear below next to their names;
- (2) The undersigned file this affidavit for the purpose of initiating an ordinance ("the Ordinance"), the text and a summary of which is annexed to this Affidavit as Exhibit A;
- (3) The undersigned will constitute the Petitioners' Committee and circulate the citizen initiative petition;
- (4) All notices to the Committee are to be sent to David Boyer the following address:

476 Saint John St Portland ME 04103

Dated at Portland, this 7 day of July 2020.

✓ David Boyer
(Print) Name

476 Saint John St
Address

[Signature]
Signature

✓ Sara M McKee
(Print) Name

476 Saint John Street
Address

[Signature]
Signature

✓ Mark N Dion
(Print) Name

45 Ellison Ave
Address

[Signature]
Signature

✓ Diane Russell
(Print) Name

32 Grant ST
Address

[Signature]
Signature

✓ Bob Montzinger
(Print) Name

23 Cypress St.
Address

[Signature]
Signature

✓ Shaun Bowen
(Print) Name

250 Burnside Ave
Address

[Signature]
Signature

✓ Elizabeth Boyson
(Print) Name

27 Clifton St.
Address

[Signature]
Signature

✓ Raige Clifton
(Print) Name

228 Brighton Ave.
Address

[Signature]
Signature

✓ Garin Baner
(Print) Name

22 Fleetwood St.
Address

[Signature]
Signature

✓ IAN MARQUIS
(Print) Name

480 SAINT JOHN ST.
Address

[Signature]
Signature

Subscribed and sworn to before me this 7th day of JULY, 20 20.

[Signature]
Signature of Notary Public/Attorney-at-law

07-23-2021
Date Commission Expires/Date Entered the Bar

DEBRA L. RANCOURT
Notary Public, Maine

My Commission Expires:

Printed Name

EXHIBIT A:

City of Portland
Citizen Initiative to Chapter 35 the Portland City Code
re: No Cannabis Cap Campaign

1. That Section 35-14(f) of Chapter 35 of the Portland City Code is amended to read as follows:

35-14. Licensing Procedure.

Retail licenses shall be considered as follows:

...

(f)(4) Applicants with the highest point totals shall be chosen first for tentative approval for a license.

Where two or more applicants ~~have the same number of points, some or all of the applicants cannot~~ be awarded tentative approval due to either the 250' 100' dispersal requirement, ~~the cap imposed by~~ ~~Sec. 35-43~~, or other limitations in this ordinance, tentative approval will be awarded, as between those two or more applicants, based on a lottery.

2. That Section 35-43(h) of Chapter 35 of the Portland City Code is amended to read as follows:

35-43. Additional Retail Store and Dispensary Requirements.

Retail stores and dispensaries licensed pursuant to this Article must also meet the following performance standards:

...

h. Dispersal requirement. A marijuana retail facility or dispensary may not be located within 250' 100' of any other marijuana retail facility or marijuana dispensary, as measured along or across public ways, in a straight line, from any entrance that is accessible to the public.

This distance restriction shall not apply to one adult use and one medical marijuana retail facility or dispensary that 1) share the same or immediately adjoining space; 2) have common ownership; 3) have consistent naming and branding; and 4) are permitted by the state to share such space.

The distance restriction shall also not apply to an existing dispensary or medical marijuana retail store operating with a City business license, a change of use permit,

certificate of occupancy, and/or a site plan approval prior to September 1, 2019, so long as that dispensary or medical marijuana retail store does not apply to convert to an adult use retail store. that qualifies pursuant to Sec. 35-43(i)(1).

3. That Section 35-43(i) of Chapter 35 of the Portland City Code is hereby repealed.

SUMMARY

This initiative proposes to modify Chapter 35 of the Portland City Code, Governing the Regulation of Marijuana Businesses, in two ways: (1) a reduction from 250' to 100' in the required distance between marijuana retail facilities and dispensaries; and (2) removing the cap on the number of marijuana retail stores and dispensaries in the City.

Portland, Maine



Yes. Life's good here.

Office of the City Clerk
Katherine L. Jones, CMC

CLERK'S CERTIFICATION OF CITIZEN INITIATIVE AMENDMENT TO

Chapter 35 of the Portland City Code Re:

No Cannabis Cap Campaign

I **HEREBY CERTIFY** that the petition filed on July 17, 2020 in my office regarding amendments to the Portland City Code Chapter 35 Re: No Cannabis Cap Campaign of Fifteen Hundred (1,500) voters of the City of Portland. The required number of signatures to put this question on the ballot is Fifteen Hundred (1500). The petition is hereby deemed sufficient.

Dated: 7/23/2020

Signed: Katherine L. Jones
Katherine L. Jones, City Clerk

MEMORANDUM
City Council Agenda Item

FROM: Melissa Graffam

DATE: August 13, 2020

SUBJECT: **Order 43-20/21 Accepting and Appropriating up to \$50,000 in Donations for the Andrews Square Realignment Project - Sponsored by Jon P. Jennings, City Manager**

SPONSOR: Jon P. Jennings, City Manager
(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading **Final Action**

Can action be taken at a later date: No (If no why not?)

PRESENTATION: Jon P. Jennings, City Manager, brief oral presentation

I. SUMMARY

The Council item would allow the City to accept private funding through various residents of the Andrews Square neighborhood and members of the West End Neighborhood Association for the city led intersection realignment project at Andrews Square.

II. AGENDA DESCRIPTION

This item accepts and appropriates donations of up to \$50,000 for Andrews Square realignment project. The Department of Public Works (DPW) has received Capital Improvement Plan (CIP) funding for an intersection realignment project at Andrews Square (intersection of Clark Street, Pine Street, West Street). Various residents of the Andrews Square neighborhood and members of the West End Neighborhood Association are donating private funds to incorporate various landscaping/hardscaping features into the project. This funding would supplement city CIP funding, as well as a \$20,000 Caring Community Grant from Maine Medical Center, for these landscaping and hardscaping improvements (plantings, landscape lighting, benches, hardscape material for crosswalks). The private funding group has been working in concert with staff in the Department of Public Works.

This item must be read on two separate days. It received its first reading on August 3, 2020. Five affirmative votes are required for passage after public comment.

III. BACKGROUND

DPW is acting as the lead entity for the Andrew's Square project and has received CIP funds to redesign and construct the intersection at Clark Street, Pine Street and West Street. Various residents of the neighborhood would like to donate funds in order to bring additional landscaping and hardscape features into the project. This includes, but may not be limited to, raised planting beds, up-lighting at the monument and within the raised planting beds, benches, and crosswalks material different from the City's standard white paint markings.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

The private funding will facilitate implementation of the DPW led project. The private funding directly relates to goals around the City's capital improvement planning.

V. FINANCIAL IMPACT

The private funding group will provide up to \$50,000 of additional funds with which to make capital improvements to Andrews Square.

VI. STAFF ANALYSIS AND BACKGROUND

Staff has reviewed this item and recommends approval.

VII. RECOMMENDATION

Staff recommends that the Council vote to approve the order as presented.

VIII. LIST ATTACHMENTS

1. AndrewsSquare

Prepared by:

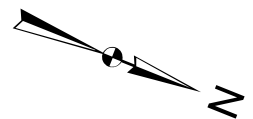
Melissa Graffam

Date: 8/13/2020



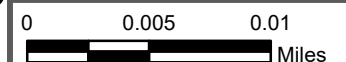
CITY OF PORTLAND, MAINE
DEPT. OF PUBLIC WORKS
212 CANCO RD, PORTLAND, MAINE 04103
PHONE (207) 874-8846 FAX (207) 874-8852

Project Location ANDREWS SQUARE INTERSECTION IMPROVEMENTS



July 2020

DESIGN BY: TSY



KATE SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
TAE Y. CHONG (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**AMENDMENT TO PORTLAND CITY CODE CHAPTER 14
RE: ZONING ADDITION TO THE B-7 MIXED DEVELOPMENT DISTRICT**

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

That Chapter 14, Section 14-295 is hereby amended to read as follows:

Sec. 14-295. Permitted uses.

The following uses are permitted in the B-7 zone:

(a) *Commercial:*

1. Professional, business, and general offices;

...

28. Marijuana retail store; ~~and~~

29. Small-scale marijuana caregiver~~s~~; and

30. Veterinary hospitals and clinics provided
there is no outdoor kennel.

...

Sec. 14-295. Permitted uses.

The following uses are permitted in the B-7 zone:

(a) *Commercial*:

1. Professional, business, and general offices;
2. Restaurants and other eating and drinking establishments;
3. Hotels, inns, and bed and breakfasts;
4. Craft and specialty shops, including the on-premises production of handcrafted goods;
5. Retail and retail service establishments, excluding those with fuel pumps;
6. Theaters, concert halls, dance halls, meeting facilities, and exhibition halls;
7. Banking services, excluding vehicular drive-up services (see also conditional use section, [c][3];
8. Cabinetry and carpentry and mill working shops;
9. Indoor amusement and recreation centers;
10. Personal services;
11. Business services;
12. Billiard parlors;
13. Offices of business trades-people;
14. Miscellaneous repair services, excluding all types of automotive repair.
15. Telecommunication and broadcast and receiving facilities, except as prohibited in section 14-297 (prohibited uses);

In addition, building mounted telecommunications antennae, discs, transmitting and receiving equipment

and the like shall adhere to the following criteria.
Such roof-mounted equipment shall be:

- a. No taller than fifteen (15) feet above the highest structural steel of the building roof; and
 - b. Set back no less than fifteen (15) feet from the building perimeter; and
 - c. Integrated into the architecture of the building as described in the City of Portland Design Manual;
16. Brew pubs and microbreweries without associated bottling facilities, and brewpubs and microbreweries with associated bottling facilities limited to five-thousand (5,000) bottles per year output;
17. Studios for performance or training in dance, music, or similar pursuits;
18. Electronic data storage;
19. Research and development including laboratories;
20. Studios for artists, photographers and craftspeople including but not limited to, painters, sculptors, cabinet makers, dancers, graphic artists, and silk screeners and musicians;
21. Health clubs, martial arts personal health and wellness facilities;
22. Registered dispensary;
23. Hostels, provided the applicant submits a site plan and operations plan demonstrating compliance with the following conditions:
 - a. All applicable provisions of Article V of this chapter shall be met;
 - b. Parking shall be provided in compliance with

Division 20 of this Article;

- c. No unaccompanied minors under the age of eighteen (18) shall be permitted in the facility;
 - d. The length of stay for transient guests shall not exceed fifteen (15) days out of any sixty-day period; and
 - e. The building shall meet the applicable occupant load requirements as defined by the International Building Code and the NFPA Life Safety Code, as such codes are amended or adopted by the city;
24. Surface parking existing as of March 9, 2005 and in continuous existence thereafter, including the reorganization of parking spaces and maneuvering aisles. This section shall apply to surface parking accessory to a principle use and a parking lot as a principal use. Existing surface parking that does not comply with the standards of Sec. 14-299(f) may continue, provided that any modifications to the site layout, development constituting a site plan, or building renovations exceeding a value of thirty (30) percent of the assessed value of the building on file at the City of Portland Assessor's Office, shall require the parking to be upgraded to meet the standards of Sec. 14-299(f) to the extent practicable;
25. Surface parking created after March 9, 2005, provided that the spaces (and newly created maneuvering aisles) are thirty-five (35) feet or greater from a street and further that the standards below (a to c) are also met. This section shall apply to surface parking accessory to a principal use or a parking lot as principle use. The thirty-five (35) foot setback need not apply in the case of a property in which eighty percent (80%) of the property frontage has a building within ten (10) feet of the property frontage and or a driveway located perpendicular to the site. The parking area shall meet the standards of Sec. 14-299 (f):

- a. No surface parking shall be encumbered by lease or other use commitment to an off-site use exceeding a twenty-four month term;
 - b. For surface parking areas of twenty-thousand (20,000) square feet or greater in area, lease or other use agreements for surface parking shall not preclude the relocation of such parking for more than twenty-four (24) month terms; and
 - c. Any such parking shall in its lease stipulate that developer/owner reserves the right to relocate said parking or convert surface parking to structured parking as long as the replacement parking is located a reasonable distance from the associated use;
26. Notwithstanding Sections 14-295(a)(24) and (25) above, surface parking that does not meet the 35-foot parking setback, provided that:
- a. All or a portion of the 35-foot setback area had a gravel surface on September 29, 2015;
 - b. The total gravel surface area on the lot and any contiguous lots did not exceed 15,000 square feet on September 29, 2015;
 - c. The parking spaces provide parking to a principle building on the same lot and or a principle building on a contiguous lot;
 - d. One of the buildings described in paragraph c above meets the minimum height requirements of the Bayside Height Overlay Map and/or a building on the site has a floor area of 25,000 square feet or greater;
 - e. The total number of spaces within 35-foot setback in combination with other spaces on the lot does not exceed the minimum parking spaces required in Sec. 14-526(a)(4)(a)(1);

- f. The proposed parking spaces meet the landscape and buffer requirements of 14-299(f); and
- g. Parking spaces within the 35-foot setback shall provide stormwater quality treatment if required by the City of Portland Stormwater Management Standards and the Maine DEP Chapter 500 Stormwater Management Standards. If not required, an alternative low impact development treatment system approved by the Planning Board shall be provided;

27. Bakeries, coffee roasters and commercial kitchens provided such uses include retail sales or a tasting room within the principle building;

28. Marijuana retail store; ~~and~~

29. Small-scale marijuana caregiver-~~r~~; and

30. Veterinary hospitals and clinics provided there is no outdoor kennel.

(b) *Residential:*

- 1. Attached housing including row houses, condominiums, two-family and multifamily dwellings but not planned residential unit developments;
- 2. Handicapped family units;
- 3. Lodging houses;
- 4. Combined living/working spaces, including but not limited to artist residences with studio space;

(c) *Public:*

- 1. Utility substations, including wastewater collection and pumping stations, transformer stations, telephone electronic equipment enclosures, electric transmission and distribution substations and other similar

structures, provided such facilities occupies up to one-hundred (100) square feet (see also conditional use section);

2. Museums, art galleries, and educational exhibition space;
3. Landscaped pedestrian parks, plazas and other similar outdoor pedestrian spaces;
4. Pedestrian and multi-use trails;
5. Emergency or safety facilities;
6. Municipal offices;
7. Active recreation parks and facilities, including but not limited to ball fields, skateboard parks, and basketball courts.

(d) *Institutional*:

1. Public or private schools;
2. Medical and mental health clinics but not methadone or other controlled substance addiction treatment centers;
3. Places of assembly;
4. Colleges, universities, or trade schools;
5. Governmental buildings and uses;
6. Nursery and pre-schools, kindergartens, and child day care facilities or home babysitting services;
7. Educational, research, and laboratory facilities;
8. Adult day care center.

(e) *Other*:

1. Accessory uses customarily incidental and subordinate to the location, function and operation of permitted uses. All drive-up

services for all retail or drive-up repair facilities are prohibited except that bank drive-up services, where permitted, area conditional use.

2. Intermodal transportation facilities.

3. Wind energy systems, as defined and allowed in Article X, Alternative Energy.

(Ord. No. 201-05/06, 4-19-06; Ord. No. 283-09/10, 7-19-10 emergency passage; Ord. No. 278-09/10, 7-19-10; Ord. No. 149-10/11, 3-7-11; Ord. No. 240-10/11, 6-6-11; Ord. No. 279-09/10, 6-6-11; Ord. No. 33-11/12, 1-18-12; Ord. No. 113-11/12, 2-22-12; Ord. 100-15/16, 11/16/2015; 140-18/19, 2-20-2019)



PLANNING BOARD REPORT TO CITY COUNCIL PORTLAND, MAINE

Zoning Text Amendment to B-7 Mixed Development District Zone

191 Marginal Way

Earle W. Noyes & Son, Inc., Applicant

Submitted to: Mayor Snyder & the City Council From: Chair Mazer & the Portland Planning Board Council Meeting Date: August 3, 2020	Prepared by: Christian Roadman, Planner Date: July 18, 2020
--	--



Context of the B-7 zone. 191 Marginal Way is highlighted in teal

I. Introduction and Project Summary

Earle W. Noyes & Son, Inc., seeks a zoning text amendment to allow a prospective tenant to site their veterinary practice at 191 Marginal Way, which is zoned B-7 mixed development district. The proposed text amendment would add veterinary hospitals and clinics (provided there is no outdoor kennel) as permitted uses to the B-7 zone.

The review of this proposed text amendment does not include site plan considerations. It is intended to determine if the Planning Board, and now the City Council, find the addition of veterinary facilities consistent with the purpose statement of the B-7 zone, consistent with the comprehensive plan, and worthy of recommendation to the City Council. The proposed additional permitted use would allow a prospective tenant of the applicant to use existing commercial space at 191 Marginal Way for a “veterinary clinic that provides after-hour, weekend and holiday veterinary services.”

II. ZONING ANALYSIS

Neither veterinary hospitals nor clinics are defined in the zoning code, though the B-2, B-2b, and B-2c community business zones include them as permitted uses “provided there is no outdoor kennel.” Veterinary hospitals are permitted in the B-4 Commercial Corridor Zone.

The following is included in the B-7 zone’s purpose statement:

“The purpose of the B-7, mixed development district zone is to establish a zoning district for urban areas in which the city has adopted master plans for redevelopment. Certain districts, including but not limited to bayside, lie at the perimeter of the established downtown and contain significant redevelopment opportunities. The B-7 zone encourages these districts to acquire a distinctly urban form through dense development featuring a mix of uses such as housing, retail, offices, research and development, and artisan studios and that emphasizes a quality pedestrian experience, promotes public transit, and demonstrates exemplary urban design. Utilization of transportation, other than the automobile is strongly encouraged and is advanced by the installation of bicycle amenities, such as bicycle racks and storage areas. The zone promotes a wide range of uses in high quality structures and public open spaces to achieve twenty-four (24) hour urban vitality and shared parking infrastructure.”

“Twenty four hour urban vitality” and “dense development featuring a mix of uses” could be cited as supporting the consistency of emergency veterinary clinics with the purpose statement for the B-7 mixed development zone. It is worth noting that “medical and mental health clinics” are already permitted uses in the zone. An urgent care clinic is located within a different unit of the same commercial property which the applicant hopes to make available to a veterinary clinic. In the applicant’s cover letter, the proposed veterinary clinic is explicitly linked to the “urgent care model.”

Many other uses are currently permitted in the B-7 mixed development district zone, including:

Residential:

- Attached housing including row houses, condominiums, two-family, and multifamily dwellings
- Handicapped family units
- Lodging houses
- Combined living / working spaces

Commercial:

- | | |
|---|--|
| • Professional, business, & general offices | • Business services |
| • Restaurants | • Billiard parlors |
| • Hotels & inns | • Offices of business trades-people |
| • Craft & specialty shops | • Non-automotive repair services |
| • Retail establishments | • Telecommunication and broadcast facilities |
| • Theaters & concert, & exhibition halls | • Brew pubs & microbreweries |
| • Banking services | • Performance & training studios |
| • Woodworking shops | • Electronic data storage |
| • Indoor amusement & recreation centers | • Studios for artists and craftspeople |
| • Personal services | • Health clubs & wellness facilities |

- Registered dispensary
- Hostels
- Bakeries, coffee roasters, commercial kitchens

- Marijuana retail store
- Small-scale marijuana caregiver

Institutional:

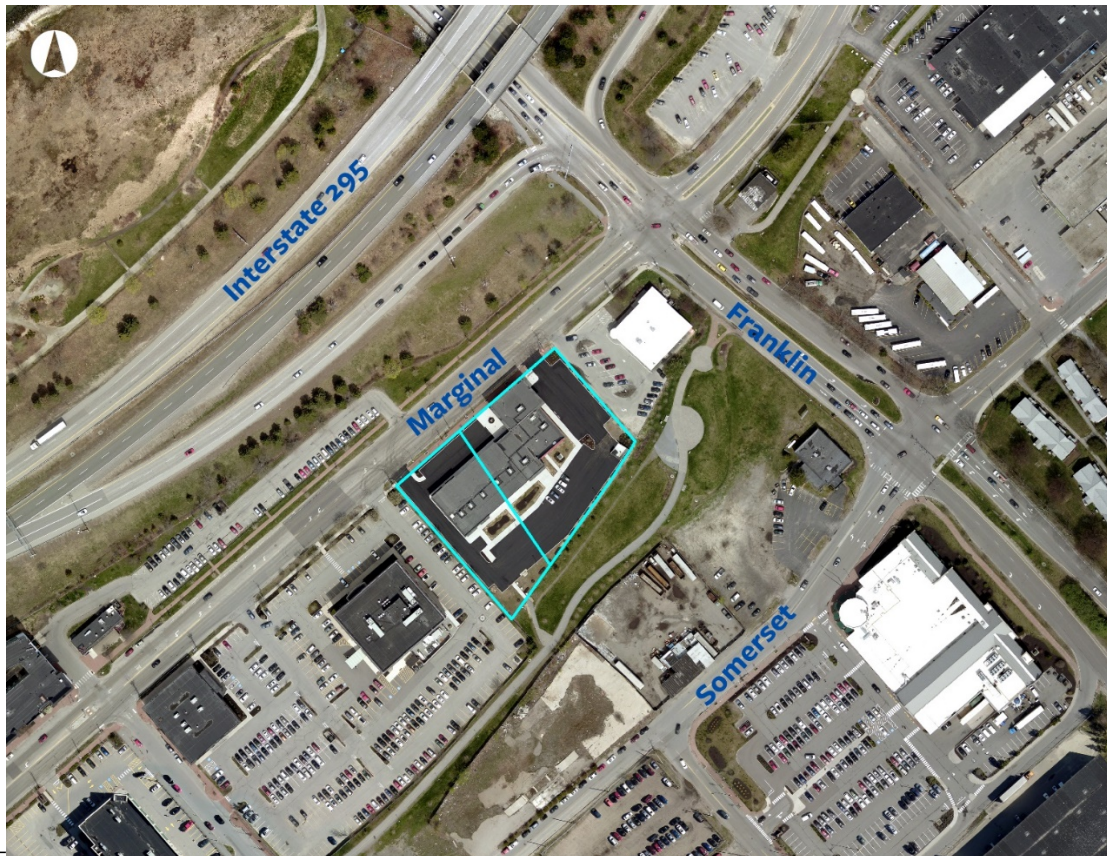
- Schools
- Medical & mental health clinics
- Places of assembly
- Colleges, universities, & trade schools
- Nursery schools & day care facilities
- Government buildings & uses
- Educational, research, & lab facilities
- Adult day care center

Public:

- *Utility substations*
- *Museums & art galleries*
- *Landscaped pedestrian parks*
- *Pedestrian & multi-use trails*
- *Emergency & safety facilities*
- *Municipal offices*
- *Active recreation parks & facilities*

Other:

- Accessory uses incidental & subordinate to permitted uses
- Intermodal transportation facilities
- Wind energy systems



Context of 191 Marginal Way, which is outlined in teal

III. CONSISTENCY WITH CITY COMPREHENSIVE PLAN

[Portland's Plan 2030](#) identifies a vision statement, policy goals for the City, and principles of future land use. Several of these are relevant to the proposed text amendment's proposal to allow emergency veterinary services in the Bayside neighborhood area.

Vision statements:

Equitable:

"We will incorporate the needs of our residents in planning for our future."

Dynamic:

"Portland will plan for a built environment that encourages an active citizenry."

Connected:

"We will foster accessible linkages between where we live, work, shop, and play."

Policy goals:

Environment: *"Adopt sustainable land use and transportation policies that support connectivity, walkable neighborhoods, and multi-modal transportation."*

Transportation: *"Support sustainability by reducing energy consumption, greenhouse gas emissions, and stormwater impacts."*

"Support economic vitality by ensuring the efficient movement of goods, services, and people."

Economy: *"Create economic prosperity by growing Portland's tax and employment base."*

Future Land Use:

Reinforce the Center: *"Though Portland's commercial and entrepreneurial activity takes place throughout the city, downtown Portland remains at the center of the region's arts and cultural, economic, and civic health, and Portland's Plan embraces the principle that downtown should continue to be a predominant locus of activity for the broader region."*

The applicant provided additional analysis of consistency with the comprehensive plan (**attachment 3**).

PUBLIC COMMENT

The Planning Board received no written public comment in advance of their public hearing on May 12. One member of the public offered comment during the meeting: opposing the zone change "on principal" and felt that the comprehensive plan does not support the style of development at the site for which the change is particularly proposed.

PLANNING BOARD DISCUSSION

Planning Board discussion was supportive of the proposed text amendment. The Board noted that the proposed service would be helpful to peninsula residents and compatible with the intent of the comprehensive plan and the B-7 zone.

the downtown area is a good one for seniors (citing existing accommodations on State Street) and acknowledged appreciation for the inclusion of memory care in the applicant's intended development.

PLANNING BOARD RECOMMENDATION

At a public hearing on June 9 2020, the Planning Board unanimously found (7-0) that a proposed zoning text amendment to Division 17 Section 14-295 of the City's Land Use Code (adding veterinary hospitals and clinics without outdoor kennels as permitted uses within the B-7 zone) is consistent with the Comprehensive Plan for the City of Portland. The Planning Board recommended this action to the City Council.



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Sawyer & Nelson, P.A.**
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Mary E. Costigan
(207) 228-7147 direct
mcostigan@bernsteinshur.com

April 10, 2020

James Rather
Development Review Services Manager
City of Portland
389 Congress Street
Portland, ME 04101

RE: Application for B-7 Text Amendment

Dear James:

I am writing on behalf of my client, Earle W. Noyes & Son, Inc., to apply for a text amendment to the B-7 Mixed Development District Zone. As explained in more detail below, we are seeking to amend the B-7 zone by adding Veterinary Hospitals and Clinics as a permitted use.

My client owns the commercial property located at 191 Marginal Way. The property contains five commercial units, one of which is occupied by ConvenientMD. They have an interested tenant for one of the available spaces. The prospective tenant is a veterinary clinic that provides after-hour, weekend and holiday veterinary services. They provide a much-needed service of veterinary care in the urgent care model, which provides an after-hours care option that is more cost effective and convenient for non-emergency treatment compared to an emergency hospital visit. Although the B-7 zone is a mixed-use zone with a wide variety of uses, veterinary hospitals and clinics are not listed as permitted uses, and therefore would be prohibited in the zone.

The proposed veterinary clinic is consistent with other permitted uses in the zone and is also consistent with the Comprehensive Plan. As set forth in more detail in the attached Comprehensive Plan Analysis, permitting veterinary clinics in the B-7 aligns directly with many of the Plan's goals; notably, the economic and transportation goals. It provides a much-needed service to pet owners in Portland, particularly those who live on the peninsula.

April 10, 2020
Page 2

Enclosed with this letter are the above-referenced Comprehensive Plan Analysis, evidence of Right, Title and Interest and the Proposed Text Amendment. Thank you for your consideration. Please contact me directly if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Mary E. Costigan", enclosed within a faint, light blue circular stamp or seal.

Mary E. Costigan

cc: Peter Noyes
Brent Noyes

KATE SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
TAE Y. CHONG (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

AMENDMENT TO PORTLAND CITY CODE CHAPTER 5
RE: RESTRICTING OFF-LEASH DOGS IN BAXTER WOODS

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

*1. That Section 5-15.1 of Chapter 5 of the Portland City Code
is hereby amended to read as follows:*

DIVISION 1. GENERALLY

Sec. 5-15.1. Definitions.

The following words when used in this article shall have
the meaning given herein:

At large shall mean and include any of the following:

- (a) On the public street or publicly owned property unless
controlled by a leash of not more than eight (8) feet
in length, except as provided below;

...

- (e) Within the following city-owned property unless (1) on
a leash or other tether of not more than twenty-
five(25) feet in length; or (2) the owner is physically
present within fifty (50) feet of the dog and at all
times has a leash and has the dog under voice control.
Voice control shall mean that the dog returns
immediately to and remains by the side of the owner in
response to the owner's verbal command. At no time
shall one owner have more than three (3) dogs under
voice control:

- 1. Baxter Woods, pursuant to the following schedule
and additional requirements regarding leash

length:÷

- From August 1 to March 31: Dogs are permitted under voice control at the following times: From 5 a.m. to 9 a.m. and from 3 p.m. to 10 p.m. From 9 a.m. to 3 p.m. all dogs must be on an eight (8) foot leash.
- From April 1 to July 31, all dogs must be on an eight (8) foot leash at all times.
- Additionally, dogs must be on an 8-foot leash at all times on the Northern Carriage Path and in all areas of Baxter Woods north of the Northern Carriage Path.

2. Capisic Pond Park;

...

14. Valley Street Park; and

15. Presumpscot River Preserve;

16. Canco Woods; and

17. Any city owned island park areas and open space; unless such property is posted by the parks authority with signs stating that "Maximum Eight-Foot Canine Leash is Required" to accommodate mass gatherings or public events; and



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Parks, Recreation & Facilities Department
Sally DeLuca, Director

CITY OF PORTLAND
Parks, Recreation & Facilities Department
Ethan Hipple, Deputy Director

March 2020

To Portland City Councilors,

The Department of Parks, Recreation and Facilities is recommending changes to the current off-leash dog policy in Baxter Woods (Chapter 5 of City Code). Specific code revisions are attached to this memo. The proposed changes represent a compromise that was arrived at after multiple public meetings of the Parks Commission, consultation with Maine Audubon, and conversations with community and dog-owner groups. The proposal has been informed by both the 2018 Baxter Woods Management Plan, as well as the 2019 Bird Surveys Report (attached to this memo). On February 26, 2020, the Sustainability and Transportation Committee voted unanimously to forward this proposal to the City Council.

Department Proposal, as recommended by **Parks Commission 7/18/19** (10 in favor, 1 opposed) and **Sustainability and Transportation Committee 2/26/20** (unanimous):

- **April 1 through July 31, annually:** Dogs on 8-foot leash at all times (to coincide with migratory bird nesting season).
- **August 1 through March 31, annually:** Dogs permitted off-leash and under voice control from 5am to 9am, and from 3pm to 10pm. From 9am to 3pm, dogs must be on 8-foot leash.
- **Habitat Restoration Area:** In addition to the off-leash schedule, staff would work with various conservation, school and community groups to create a habitat restoration area where restoration efforts would contribute to creating habitat that can support migratory bird reproduction. The habitat restoration area would be roughly 5.5 acres (out of 32.5 acres total) and would be off limits to off-leash dogs year round. This is similar to efforts on the Eastern Promenade where there are designated off-leash areas, as well as wildlife habitat meadow areas. The habitat restoration area would be delineated by designating the Northern Carriage Path and areas north of it on-leash only. We have heard from dog owners who prefer to keep their dogs on leash for various reasons, or who have dogs that don't socialize well with off-leash dogs. This on-leash path would simultaneously create a border for the habitat restoration area and give those people and pets a place to enjoy the woods as well.

Background Information

Baxter Woods was donated to the City of Portland by Governor Percival Baxter in 1946. Among the many conditions in the deed are the following:

- *"shall forever be retained and used by said City in trust for the benefit of the people of Portland as a Municipal Forest and Park and for public recreational and educational purposes..."*
- *"shall forever be kept in its natural wild state and as a bird sanctuary for wild birds...."*

Chapter 5 of Portland City code currently allows for dogs to run off-leash in Baxter Woods, but within voice-command of the owner. Baxter Woods is used heavily by dog-owners and staff have received verbal and written comments from the public about the current policy. Before a policy change was first publicly proposed



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Ethan Hipple, Deputy Director

in March of 2019, the majority of the public comments have been opposed to the current permissive off-leash policy. Following changes proposed by staff, the majority of public comments have been in favor of retaining the existing policy, with a smaller number supporting changes to the policy to restrict some or all off-leash dogs.

Many of the comments opposed to the current off-leash policy list safety as a primary concern. Numerous dog owners have told us that they do not bring their dog to Baxter Woods for fear of their dog being harassed or attacked by other unruly dogs, and some parents have told us that they prefer not to bring their children there for the same reason. Many of the written comments are attached to this memo.

Staff have had many conversations with teachers and daycare operators who have tried to use Baxter Woods for outdoor classroom space and exercise space, only to be turned back due to the high number of unruly off-leash dogs. Teachers reported that recently arrived immigrant children in particular sometimes felt threatened by the presence of off-leash dogs. This proposal attempts to balance the hours of off-leash activity so that the park is welcoming to all.

Management Plan, 2018

In 2018, staff contracted with Forest Ecologist Rob Ryan to conduct an ecological assessment of Baxter Woods. The study looked at current conditions, soil and water quality protection, forest health, and wildlife conservation (attached to this memo).

One finding of the Management Plan Report was that the off-leash dog activity was having a negative impact on ground-nesting and ground-feeding birds. Baxter Woods in its present day condition with dogs running off leash at all hours would not qualify as a “sanctuary for wild birds”. The report recommends enforcing an on-leash dog policy at Baxter Woods.

Bird Surveys, 2019 and 2020

Staff contracted with Biodiversity Research Institute to conduct surveys of all birds in Baxter Woods so that we have baseline data to compare to future years when potential policy changes will take effect. The surveys were conducted in the Summer and Fall of 2019. Additional surveys will take place in Spring of 2020. The findings of the surveys to date showed that Baxter Woods has a lower number of nesting and reproducing birds than other comparable areas in the City of Portland, and that off leash dog activity has likely had a negative effect on breeding bird populations. The report is attached to this memo.

Nearby Off Leash Areas

There are many parks and open spaces in Portland that allow off leash dogs. Within 1 mile of Baxter Woods, there are 4 public properties that allow off-leash dogs (Evergreen Cemetery, Capisic Pond Park, University Park, and Canco Woods). We also have dedicated dog parks that also allow off leash dogs (Quarry Run, Valley Street). Staff believe that the public will still have ample access to high-quality, conveniently-located open spaces for their dogs to run free in a more appropriate location.



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Portland currently has 813 acres of parks and open spaces. 495 of the total 813 acres are designated by ordinance as off-leash areas. Baxter Woods represents 32.5 acres of the current off-leash area. With the proposed changes, there would be 462.5 acres of off-leash area in Portland, out of a total of 813 acres of parks and open spaces (57% off leash).

Process Timeline

April 2019: Parks Commission Public Meeting to discuss potential changes. The meeting and agenda were publicly posted on the City website, and staff put up posters at entrances to Baxter Woods two weeks prior to the meeting. Email invitations were also sent to the “Responsible Dog Owners of Baxter Woods” facebook group admin, as well as the Deering Center Neighborhood Association.

At the April 4, 2019 meeting, staff presented a proposal to require dog owners to use 25 foot leashes year-round in Baxter Woods. Staff recommended that the Parks Commission take public comment on this issue and then take an advisory vote on the proposal. The Parks Commission heard much public comment on the issue, with many off leash dog owners opposed to the proposal and asking if a compromise was possible. The Parks Commission took no action at this meeting, and asked staff to research whether a compromise proposal was possible.

July 2019:

On July 18, 2019, staff presented a compromise proposal to the Parks Commission. The compromise proposal was crafted after careful consideration of public comments at the April 4, 2019 meeting and further consultation with Maine Audubon, Forest Ecologist Rob Bryan, and members of the community group Responsible Dog Owners of Baxter Woods. Specifically, staff met with Dawn Leland (Responsible Dog Owners of Baxter Woods) and resident Marc Lesperance, both of whom had taken on a leadership role in opposing changes to the proposed leash law. Staff sought out feedback from a wide variety of experts and users of the park to come up with a compromise proposal that would allow for some off-leash dog use in Baxter Woods, but that would also enable the City to fulfill its role as the steward of the property and to maintain the property as described in the deed.

The City recognizes the value and sense of community that comes from the many daily users of the park who are there specifically to let their dogs run off-leash. Our overall goal is to balance the many needs of *all* kinds of park users, so a compromise policy was developed that would consist of the following:

- **April 1 through July 31, annually:** Dogs on 8-foot leash at all times (to coincide with migratory bird nesting season).
- **August 1 through March 31, annually:** Dogs permitted off-leash and under voice control from 5am to 9am, and from 5pm to 10pm. From 9am to 5pm, dogs must be on 8-foot leash. *During the July 18, 2019 meeting, the evening start time for off leash hours was amended from 5pm to 3pm.*
- **Habitat Restoration Area:** In addition to the off-leash schedule, staff would work with various conservation, school and community groups to create a habitat restoration area where restoration



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efforts would contribute to creating habitat that can support migratory bird reproduction. The habitat restoration area would be roughly 5.5 acres (out of 32.5 acres total) and would be off limits to off-leash dogs year round. This is similar to efforts on the Eastern Promenade where there are designated off-leash areas, as well as wildlife habitat meadow areas. The habitat restoration area would be delineated by designating the Northern Carriage Path and areas north of it on-leash only. We have heard from dog owners who prefer to keep their dogs on leash for various reasons, or who have dogs that don't socialize well with off-leash dogs. This on-leash path would simultaneously create a border for the habitat restoration area and give those people and pets a place to enjoy the woods as well.

The compromise proposal offers access to dogs on-leash 12 months a year, and for 8 of those 12 months, dogs off-leash and under voice control would still be welcome. The compromise proposal also mirrors hours of off-leash use that are used at East End Beach so that dog owners have a simple, easy to remember schedule that will be easy to follow and enforce.

The compromise proposal also changes the leash requirement from a 25 foot leash to an 8 foot leash. This was primarily due to public comment at the April 4, 2019 meeting. Many dog owners stated that a 25 foot leash in a tightly wooded area would result in tangles and potential aggression, so the recommendation was changed from 25 feet to 8 feet. An 8 foot leash will also enable dog owners to keep their dogs out of sensitive habitat restoration areas.

During the season when dogs would be allowed off leash (August through March), staff are proposing limited hours for off leash activity (only from 5am to 9am, and again from 3pm to 10pm) In effect, this would require that dogs are required to be on leash from 9am to 3pm. This is scheduled so that during the school day, school groups, daycares and others can use the woods without off-leash activity. We have a wide variety of park visitors in Portland, many of whom love the presence of off leash dogs, some who are indifferent, and some who feel threatened by off-leash dogs. This proposal seeks to find a balance so that everyone can feel comfortable visiting Baxter Woods.

The Parks Commission voted in favor of the amended staff proposal (10 in favor, 1 opposed). The Parks Commission vote is advisory only.

January 15, 2020: Sustainability and Transportation Committee Workshop

The Sustainability and Transportation Committee held a workshop on Baxter Woods Leash rules that included presentations from Parks, Recreation and Facilities Staff, as well as Friends of Baxter Woods.

February 26, 2020: Sustainability and Transportation Committee Recommendation

The Sustainability and Transportation Committee heard presentations from the Friends of Baxter Woods and City staff, and took public comment. The Committee voted unanimously to forward the proposal to City Council.



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Ethan Hipple, Deputy Director

Peer Land Management Policies

Most conservation areas in the region that are managed as bird or wildlife sanctuaries simply ban dogs altogether due to their well-documented negative impact on wildlife. A select few areas have more relaxed rules allow dogs, but on-leash only.

We know of no areas managed as wildlife sanctuaries in Maine that allow for any off-leash dog activity.

- Bangor City Forest, Bangor: Dogs on Leash only
- Fore River Sanctuary, Portland (Owned by Portland Trails): Dogs on Leash only
- Robinson Woods, Cape Elizabeth: Dogs on Leash only (limited hours)
- Gilsland Farm Audubon Center, Falmouth: No Dogs at all
- Wolfe's Neck Center: Dogs on Leash only
- River Point Conservation Area, Falmouth: No Dogs at all

With the compromise proposal, Baxter Woods would stand alone in continuing to allow for a limited amount of off-leash use (outside of prime nesting season) and could serve as an innovative test case in managing for wildlife and off-leash dog use simultaneously.

After numerous conversations with Maine Audubon, their staff affirmed that this compromise policy would have some positive benefits for birds and wildlife, especially if combined with a habitat restoration area. Audubon experts state that with proper restoration and enforcement, we could see up to a dozen ground-nesting bird species in Baxter Woods. Likely species include, but are not limited to, ground sparrows, woodcock, oven birds and wood thrush.

Enforcement:

Staff do currently enforce leash laws at Baxter Woods, but ticketing is rare as we try to take a more educational approach. We are working on funding strategies to bring on additional Rangers to patrol and enforce leash laws throughout the City.

History of Off Leash Dog Ordinance in Baxter Woods

During the April 4, 2019 meeting, some Commissioners raised the question of "When did the City start to allow off leash dogs at Baxter Woods?" Staff researched the various versions of Chapter 5 of the City Code and discovered that Baxter Woods was added to the list of off-leash voice control parks (along with 13 other parks) during December of 1983. At the time, the city was debating whether to allow dogs and off-leash dogs in Western Cemetery, and as part of those deliberations, a list was created of parks where off-leash activity was permitted. Baxter Woods was included on that list for unknown reasons.

Conclusion

We hope that the Council will consider this proposal that would allow the City to serve as a better steward of this property and to abide by the conditions set forth in the Baxter Woods deed. Through working with various stakeholders and experts, we believe we have arrived at a good-faith compromise proposal that would



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Ethan Hipple, Deputy Director

continue to allow off-leash activity for 8 months of the year, while restricting off leash activity only during the 4 months of the year when bird breeding is most likely.

Sincerely,
Ethan Hipple

Ethan Hipple
Deputy Director
Parks, Recreation and Facilities Department
City of Portland
212 Canco Rd, Suite A
Portland, Maine 04103
207-808-5400
ehipple@portlandmaine.gov

Attachments:

Proposed Chapter 5 Code Revisions
Baxter Woods Management Plan (2018)
Baxter Woods Bird Surveys (2019)
Written public comment
2/10/20 Memo from Corporation Counsel concerning Baxter Woods Deed

Chapter 5 ANIMALS AND FOWL*

*Cross reference(s)--Unleashed animals prohibited in cemeteries, § 7-135; feeding of animals so as to control rodents and vermin, § 22-15; storing of feed for animals so as to control rodents and vermin, § 22-16.

Art. I. In General, §§ 5-1--5-15

Art. II. Dogs, §§ 5-15.1--5-75

Div. 1. Generally, §§ 5-15.1--5-30

Div. 2. Impoundment, §§ 5-31--5-70

Div. 3. Canine Waste, §§ 5-71--5-75

Art. III. Feeding of Wildlife Prohibited, §§ 5-110--5-111

Art. IV. Keeping of Domesticated Chickens, §§ 5-400--5-499

Art. V. Restrictions on the Sale of Dogs and Cats.

§§5-500--5-505

Art. VI. Prohibition on Display of Wild and Exotic Animals.

§§5-506--5-509

ARTICLE I. IN GENERAL

Sec. 5-1. Reserved.

Sec. 5-2. Reserved.

Sec. 5-3. Reserved.

Sec. 5-4. Reserved.

Sec. 5-5. Reserved.

Sec. 5-6. Reserved.

Sec. 5-7. Reserved.

Sec. 5-8. Reserved.

Sec. 5-9. Reserved.

Sec. 5-10. Reserved.

Sec. 5-11. Reserved.

Sec. 5-12. Reserved.

Sec. 5-13. Reserved.

Sec. 5-14. Reserved.

Sec. 5-15. Reserved.

ARTICLE II. DOGS*

*State law reference(s)--Dogs, 7 M.R.S.A. § 3401 et seq.

DIVISION 1. GENERALLY

Sec. 5-15.1. Definitions.

The following words when used in this article shall have the meaning given herein:

At large shall mean and include any of the following:

- (a) On the public street or publicly owned property unless controlled by a leash of not more than eight (8) feet in length, except as provided below;
- (b) In a motor vehicle parked and not restrained from projecting its head from the vehicle;
- (c) Within the following city-owned parks unless on a leash or other tether of not more than twenty-five (25) feet in length: Bayside Park; Baxter Pines; Deering Oaks; Dougherty Field; Eastern Promenade, except as provided in subsection (e)(5) below; Longfellow Park; Payson Park; Quaker Park; Stroudwater Park; Western Promenade; unless such park is posted with signs stating that "Maximum Eight-Foot Canine Leash is Required" by the parks authority to accommodate mass gatherings or public events;
- (d) Except as provided in subsection (e)(5) below for the wooded portion of Evergreen Cemetery, and subsection (h) below for the Western Cemetery, within all city-owned cemeteries unless on a leash or other tether of not more than twenty-five (25) feet in length; provided, however, dogs shall be allowed on the roadways and walkways of the cemeteries only and not on the cemetery lots;
- (e) Within the following city-owned property unless (1) on a leash or other tether of not more than twenty-five (25) feet in length; or (2) the owner is physically present within fifty (50) feet of the dog and at all times has a leash and has the dog under voice control. Voice control shall mean that the dog returns

immediately to and remains by the side of the owner in response to the owner's verbal command. At no time shall one owner have more than three (3) dogs under voice control:

1. Baxter Woods, pursuant to the following schedule and additional requirements regarding leash length: ~~s;~~

- From August 1 to March 31: Dogs are permitted under voice control at the following times: From 5am to 9am and from 3pm to 10pm. From 9am to 3pm all dogs must be on an eight (8) foot leash.
- From April 1 to July 31, all dogs must be on an eight (8) foot leash at all times.
- ~~1.~~• Additionally, dogs must be on an 8-foot leash at all times on the Northern Carriage Path and in all areas of Baxter Woods north of the Northern Carriage Path.

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2. Capisic Pond Park;
3. The portion of Evergreen Cemetery to the north and west of Northern Avenue, in the wooded area only;
4. East End Beach, from the day after Labor Day through the day before Memorial Day;
5. Eastern Promenade park within (1) the area bounded by the following: Cutter Street to the lower sidewalk to the exit side of the Fort Allen roadway and back to Cutter Street; and (2) the mid-slope nature path. Said areas of Eastern Promenade park to be open to dogs under voice control from Memorial Day through Labor Day from 5:00 a.m. to 9:00 a.m. and 5:00 p.m. to 10:00 p.m. of each day, and from Labor Day through Memorial Day from 5:00 a.m. to 10:00 p.m. of each day;
6. Hall School Woods;
7. At North Street/Washington Avenue across from East End Community School;
8. Letson Purchase;
9. Ocean Avenue Dog Park;

10. Woods located behind Portland Arts and Technical High School;
11. Pine Grove Park;
12. Riverton Park;
13. University Park;
14. Valley Street Park; ~~and~~

15. Presumpscot River Preserve;

~~14.~~ 16. Canco Woods; and

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~~15-~~ 17. Any city owned island park areas and open space; unless such property is posted by the parks authority with signs stating that "Maximum Eight-Foot Canine Leash is Required" to accommodate mass gatherings or public events;

- (f) On the East End Beach beginning on Memorial Day through Labor Day of each year between the hours of 9:00 a.m. and 5:00 p.m., whether leashed or not;
- (g) Within any playfields, school yards and playgrounds whether leashed or not;
- (h) Within the Western or Eastern Cemeteries whether leashed or not;
- (i) All areas referred to in subsections (c), (d), (e), (f) and (g) above are more particularly defined on maps on file in the office of the Department of Public Works.

Dangerous dog shall mean:

- (a) any dog, that, without provocation, or, upon being incited by its owner or any other person in control of the dog, assaults an individual or domesticated animal, or public or private property; or
- (b) any dog that, by attacking or threatening to attack an individual or an individual's domesticated animal, causes a reasonably prudent person, acting in a reasonable and non-aggressive manner, to fear bodily harm.

Owner shall mean and include any person owning, keeping, possessing, or harboring a dog.

Public street shall mean and include any street, whether accepted or unaccepted, and include sidewalks, turnarounds, and other portions thereof.

Publicly owned property shall mean and include all property owned by the city, including without limitation any park or cemetery of the city, and all property owned by any other public or governmental entity unless such entity has established different regulations.

(Ord. No. 31-83, § 1, 11-7-83; Ord. No. 356-83, 12-19-83; Ord. No. 176-96, § 1, 3-4-96; Ord. No. 224-97, § 1, 3-17-97; Ord. No. 60-98, 8-3-98; Ord. No. 75-99, 10-4-99; Ord. No. 143-01, 1-3-01; Substitute Ord. No. 185, 2-21-01;

Ord. 108-15/16, 11-16-2015)

Editor's Note: Original should read under (b) dangerous dog "on public or private property"

Sec. 5-16. License required.

No dog shall be kept within the limits of the city unless such dog shall have been licensed and such license displayed by its owner in accordance with the statutes of the state. The provisions of this section shall not apply to any dog belonging to an out-of-state resident visiting within the city without the intention of becoming a resident, but the owner of such a dog shall comply with the remaining provisions of this article.

(Code 1968, § 421.1; Ord. No. 31-83, § 2, 11-7-83)

State law reference(s)--Licenses for dogs, 7 M.R.S.A. § 3451 et seq.

Sec. 5-17. Running at large prohibited.

(a) No dog shall be permitted to be at large within the city. Anyone whose dog, while at large and without provocation, assaults any person, animal or property shall be subject to a penalty of double the otherwise applicable penalty unless the dog owner is cited under Sec. 5-21 in which case that section shall control the applicable fine.

(b) The minimum penalty for violations of this section shall be as follows:

- 1st violation: \$75.00
- 2nd violation: \$100.00
- 3rd violation: \$150.00
- 4th or more violations: \$500.00

These penalties shall be calculated and assessed on an owner regardless of whether the dog running-at-large is the same dog in each violation.

(Code 1968, § 421.2; Ord. No. 31-83, § 3, 11-7-83; Ord. No. 68-87, § 1, 8-17-87; Ord. No. 176-96, § 2, 3-4-96; Ord. No. 75-99, 10-04-99; Ord. No. 143-01, 01-03-01)

Cross reference(s)--Streets, sidewalks and other public places, Ch. 25.

Sec. 5-18. Disturbing the peace.

No person shall own, possess, or harbor any dog which by loud, frequent, or habitual barking, howling, or yelping, disturbs the peace of any person. Any person who shall violate the provisions of this section shall, upon the first occasion

thereof, be given a warning and shall, upon conviction of any subsequent violations within a period of six (6) months from such warning, be subject to a fine of not less than ten dollars (\$10.00) and not more than one hundred dollars (\$100.00).

(Code 1968, § 421.9; Ord. No. 279-77, § 1, 7-6-77; Ord. No. 31-83, § 4, 11-7-83)

Cross reference(s)--Offenses against the public peace, § 17-16 et seq.

Sec. 5-19. Interference with animal control officer prohibited.

No person shall interfere with, hinder or molest any animal control officer or other person authorized to enforce such laws in the performance of any duty of such officers, or seek to release any dog in the custody of an animal control officer, except as provided in this article.

(Code 1968, § 421.6; Ord. No. 176-96, § 3, 3-4-96)

Sec. 5-20. Records to be kept.

It shall be the duty of an animal control officer to keep, or cause to be kept, an accurate and detailed record of the licensing, impoundment and disposition of all dogs coming into his or her custody and of the name of the owner.

(Code 1968, § 421.7; Ord. No. 176-96, § 4, 3-4-96; Ord. No 143-01, 1-3-01)

Sec. 5-21. Dangerous Dog.

(a) It shall be a violation of this Ordinance to own, keep, possess or harbor a dangerous dog;

(b) The minimum financial penalty for a violation of this section is five hundred dollars (\$500.00) for the first offense, seven hundred and fifty dollars (\$750.00) for the second offense, and one thousand dollars (\$1,000.00) for the third offense. This penalty shall not be waived nor shall any portion of it be suspended by the court. These penalties shall be calculated and assessed on an owner regardless of whether the dangerous dog is the same dog in each violation.

(c) In addition to the financial penalty imposed by subsection (b), after hearing a court of competent jurisdiction shall order:

1. that the dangerous dog be muzzled, restrained, confined to the premises of its owner in a secure enclosure or any other reasonable measure to be

imposed to protect the safety, health and welfare of the City's inhabitants; or

2. that the dog be euthanized if it has injured a person or domesticated animal or if it has a history of a prior assault. The cost of seizure and euthanasia of the dog shall be assessed to the owner of the dangerous dog.

(d) Owner to pay restitution. Where the victim of a dangerous dog has incurred medical expenses, veterinary expenses or any other direct financial loss, the owner of said dangerous dog shall be ordered to pay restitution to the victim in accordance with the criteria set forth in 17-A M.R.S.A. §1325.

(e) Dogs presenting immediate threat to public. After issuing a summons and before hearing, if the dog poses an immediate or continuing threat to the public, a sheriff, local law enforcement officer or animal control officer shall order the owner or keeper of the dog to muzzle, restrain or confine the dog to the owner's premises or to have the dog confined at the owner's expense at a place determined by the sheriff, local law enforcement officer or animal control officer. If the owner or keeper fails to comply, the sheriff, local law enforcement officer or animal control officer may apply to District Court, Superior Court or a justice of the peace for an ex parte order for authorization to take possession of the dog that poses an immediate or continuing threat to the public and turn the dog over to the applicant or other suitable person.

(f) Ex parte. An order may be entered ex parte upon findings by the court or justice of the peace when:

- (1) The dog has inflicted a serious bodily injury as defined in title 17-A, section 2, subsection 23; or
- (2) There is a reasonable likelihood that the dog is dangerous or vicious and:
 - a. Its owner has failed to muzzle, restrain or confine the dog; and
 - b. That failure poses an immediate threat of harm to the public.

- (g) Modify order. An order may be modified by the court.

- (1) Upon two (2) days' notice or a shorter period the court may prescribe, the owner whose animal has been possessed pursuant to an ex parte order may appear in the District Court or Superior Court and move the dissolution or modification of the ex parte order.
- (2) The Court shall hear and determine the motion as expeditiously as possible.
- (3) The owner shall submit an affidavit setting forth specific facts to substantiate the modification or dissolution of the order. The applicant has the burden of presenting evidence to substantiate the original findings.

(h) Recovery of Costs/Liens. The owner of the dog shall be assessed any costs incurred by the City under this section. The City or any person taking possession of a dog as provided in this section has a lien on that dog in accordance with Title 17, section 1021, subsection 6. In addition, costs assessed by the City shall be enforceable by lien for the benefit of the City pursuant to Section 1-16 of this code in addition to any penalties provided in this section.

(i) Treble damages. If a dog whose owner or keeper refuses or neglects to comply with the order, wounds any person by a sudden assault or wounds or kills any domestic animal, the owner or keeper shall pay the person injured treble damages and costs to be recovered by a civil action.

(Ord. No. 75-99, 10-04-99; Ord. No. 143-01, 1-3-01)

Sec. 5-22. Enforcement

The provisions of this division may be enforced by any designated representative of the Chief of Police or by the canine control officer.

(Ord. No. 75-99, 10-04-99)

Sec. 5-23. Reserved.

Sec. 5-24. Reserved.

Sec. 5-25. Reserved.

Sec. 5-26. Reserved.

Sec. 5-27. Reserved.

Sec. 5-28. Reserved.

Sec. 5-29. Reserved.

Sec. 5-30. Reserved.

DIVISION 2. IMPOUNDMENT

Sec. 5-31. Causes; confinement period.

Unlicensed dogs, whether or not at large, and dogs found running at large, whether or not licensed, shall be taken and impounded by an animal control officer in a shelter designated by the city as the city animal shelter and there confined for a period of not more than six days.

(Code 1968, § 421.3; Ord. No. 328-75, § 1, 5-19-75; Ord. No. 255-90, 2-21-90; Ord. No. 176-96, § 5, 3-4-96; Substitute Ord. No. 44-00, 7-31-00)

Sec. 5-32. Notice to owner if possible.

Where the ownership of any dog impounded under section 5-31 is known or can be reasonably ascertained by an animal control officer, such officer shall, if possible, notify the owner within three (3) days of such impoundment, but failure to give such notice shall in no way impose any liability upon the city for the destruction or transfer to another of any dog so impounded and not reclaimed within a period of six (6) days.

(Code 1968, § 421.4; Ord. No. 328-75, § 1, 5-19-75; Ord. No. 255-90, 2-21-90; Ord. No. 176-96, § 6, 3-4-96; Substitute Ord. No. 44-00, 7-31-00)

Sec. 5-33. Redemption by owner.

Any owner may regain possession of an impounded dog upon presentation of a valid certificate of vaccination against rabies, a license for the current year and the receipt evidencing payment of the municipal impoundment and accrued shelter boarding fees.

(Code 1968, § 421.4; Ord. No. 255-90, 2-21-90; Substitute Ord. No. 44-00, 7-31-00)

Sec. 5-34. Disposition of unclaimed dogs.

Any dog impounded under the provisions of this division and not reclaimed by the owner within the six (6) days shall be considered to be abandoned by the owner and the property of the city and may, after consultation with the designated shelter, be humanely destroyed or given to the designated shelter or any person deemed to be responsible and a suitable owner who will agree to comply with the provisions of this article.

(Code 1968, § 421.4; Ord. No. 255-90, 2-21-90; Substitute Ord. No. 44-00, 7-31-00)

Sec. 5-35. Fees.

(a) Any dog impounded under this division may be reclaimed upon payment of the municipal impoundment charge and the accrued boarding charges at the rate established pursuant to Title 7, M.R.S.A., Part 9. In addition, any unlicensed dog shall be given a temporary license by the shelter upon proof of rabies vaccination, and notice of such temporary license shall be provided to the city clerk by the shelter.

(b) The municipal impoundment charge is hereby established as twenty dollars (\$20.00) per dog for the first impoundment, forty dollars (\$40.00) per dog for the second impoundment, and fifty-five dollars (\$55.00) per dog for each impoundment thereafter. The designated shelter or the city shall collect such charge prior to release of the dog to any person. If the shelter collects the fee, the shelter shall forward it to the city or credit the City's account in a manner and on a schedule approved by the City's Finance Director. If the designated shelter waives all or a portion of its own fees and charges, the shelter may waive the municipal impoundment fee to the same extent but not to a greater extent.

(Code 1968, §§ 421.5, 421.8; Ord. No. 160-75, 2-19-75; Ord. No. 329-75, § 1, 5-19-75; Ord. No. 258-76, §§ 1, 2, 5-17-76; Ord. No. 122-79, § 1, 2-22-79; Ord. No. 550-86, 5-12-86; Ord. No. 255-90, 2-21-90; Substitute Ord. No. 44-00, 7-31-00; Ord. No. 268-08/09, 5-18-09)

Sec. 5-36. Reserved.
Sec. 5-37. Reserved.
Sec. 5-38. Reserved.
Sec. 5-39. Reserved.
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Sec. 5-68. Reserved.
Sec. 5-69. Reserved.
Sec. 5-70. Reserved.

DIVISION 3. CANINE WASTE

Sec. 5-71. Duty to dispose.

It shall be a violation of this division for any person who owns, possesses or controls a dog to fail to remove and dispose of any feces left by his/her dog on any sidewalk, street or publicly owned property.

(Ord. No. 468-83, 6-8-83)

Sec. 5-72. Reserved.

Editor's note--Ord. No. 236-83, adopted Oct. 17, 1983, repealed § 5-72. Said former section, relative to duty of dog owners to possess means of removing canine waste, derived from Ord. No. 468-83, adopted June 8, 1983.

Sec. 5-73. Enforcement.

The provisions of this division may be enforced by any designated representative of the director of parks and recreation or, the chief of police, or by the canine control officer.

(Ord. No. 468-83, 6-8-83; Ord No. 75-99, 10-04-99)

Sec. 5-74. Penalties for violation.

Violation of this division shall be punished by a minimum penalty of two hundred and fifty dollars (\$250.00) for each violation. The minimum penalty for a third offense under this section shall be five hundred dollars (\$500.00). Where financial hardship is demonstrated, a violator of this division may perform community service in lieu of the financial penalty, if such a program is available through the city. Such community service shall consist of removing canine waste within the city at a rate of 25 hours per offense and 50 hours for the third (or more) offense. (Ord. No. 468-83, 6-8-83; Ord. No. 176-96, § 7, 3-4-96; Ord. No. 75-99, 10-04-99)

Sec. 5-75. Exemption.

This regulation shall not apply to a dog accompanying any handicapped person who, by reason of his/her handicap, is physically unable to comply with the requirements of this division. (Ord. No. 468-83, 6-8-83)

Sec. 5-76. Reserved.
Sec. 5-77. Reserved.
Sec. 5-78. Reserved.
Sec. 5-79. Reserved.
Sec. 5-80. Reserved.
Sec. 5-81. Reserved.
Sec. 5-82. Reserved.
Sec. 5-83. Reserved.
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Sec. 5-98. Reserved.
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Sec. 5-102. Reserved.
Sec. 5-103. Reserved.
Sec. 5-104. Reserved.
Sec. 5-105. Reserved.
Sec. 5-106. Reserved.
Sec. 5-107. Reserved.
Sec. 5-108. Reserved.
Sec. 5-109. Reserved.

ARTICLE III. FEEDING OF WILDLIFE PROHIBITED

Sec. 5-110. Prohibition against feeding wildlife on specified public property.

(a) Within the Portland Downtown District, as established and defined by order of the City Council, Order #306, (3/16/1992), amended by Council Order #185 (2/22/95), no person shall intentionally dispense any type of food, substance or seeds to feed any species of wildlife upon the public ways or upon property owned or controlled by the city.

(b) "Wildlife" as used in this Article means any undomesticated or untamed bird or animal without a known or identifiable owner and includes, but is not limited to, wildlife such as pigeons and squirrels. The definition does not include dogs or deer.

(c) This section shall not apply within the boundaries of Lincoln Park.
(Ord. No. 12-02/03, 8-5-02)

Sec. 5-111. Warning required before prosecution.

Prior to issuing a citation for a violation of this section, a police officer or any law enforcement or code enforcement officer shall issue one verbal or written warning to an individual and if the individual ceases the activity, then no citation shall issue. Once an individual has been given one

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warning, the requirement in this subparagraph has been met and
no subsequent warnings are required.
(Ord. No. 12-02/03, 8-5-02)

ARTICLE IV. KEEPING OF DOMESTICATED CHICKENS

Sec. 5-400. Purpose.

The purpose of this article is to provide standards for the keeping of domesticated chickens. It is intended to enable residents to keep a small number of female chickens on a non-commercial basis while creating standards and requirements that ensure that domesticated chickens do not adversely impact the neighborhood surrounding the property on which the chickens are kept.

(Ord. No. 152-08/09, 2-18-09)

Sec. 5-401. Reserved.

(Ord. No. 152-08/09, 2-18-09; Ord. 244-14/15, 6-24-2015; Ord. 18-17/18, 8-21-2017, Chicken permit repealed.)

Sec. 5-402. Number and type of chickens allowed.

(a) The maximum number of chickens allowed is six (6) per lot regardless of how many dwelling units are on the lot.

(b) Only female chickens are allowed. There is no restriction on chicken species.

(Ord. No. 152-08/09, 2-18-09)

Sec. 5-403. Non-commercial use only.

Chickens shall be kept as pets and for personal use only; no person shall sell eggs or engage in chicken breeding or fertilizer production for commercial purposes. The slaughtering of chickens is prohibited.

(Ord. No. 152-08/09, 2-18-09)

Sec. 5-404. Enclosures.

(a) Chickens must be kept in an enclosure or fenced area (chicken pen) at all times during daylight hours. Enclosures must be clean, dry, and odor-free, kept in a neat and sanitary condition at all times, in a manner that will not disturb the use or enjoyment of neighboring lots due to noise, odor or other adverse impact. The chicken pen must provide adequate sun and shade and must be impermeable to rodents, wild birds, and predators, including dogs and cats. It shall be constructed with sturdy wire fencing buried at least 12" in the ground. The pen must be covered with wire,

aviary netting, or solid roofing. The use of chicken wire is not permitted.

- (b) Chickens shall be secured within a henhouse during non-daylight hours.
- (1) Any henhouse shall be at least ten (10') feet from any residential structure or any other structure on any adjacent lots. The henhouse shall be enclosed on all sides and shall have a roof and doors. Access doors must be able to be shut and locked at night. Opening windows and vents must be covered with predator and bird-proof wire of less than one (1) inch openings. The use of scrap, waste board, sheet metal, or similar materials is prohibited. The henhouse must be well-maintained.
- (2) Henhouses shall only be located in rear yards, and shall meet zoning setbacks applicable to detached accessory structures. For a corner lot or other property where no rear yard exists, a side yard may be used as long as the setbacks for structures generally applicable in the zoning district are met. In no case may a henhouse be placed in the front yard. Henhouses are not allowed to be located in any part of a home.

(Ord. No. 152-08/09, 2-18-09; Ord. No. 42-11/12, 10/3/11)

Sec. 5-405. Odor and noise impacts.

(a) Odors from chickens, chicken manure, or other chicken-related substances shall not be perceptible at the property boundaries.

(b) Perceptible noise from chickens shall not be loud enough at the property boundaries to disturb persons of reasonable sensitivity.

(Ord. No. 152-08/09, 2-18-09)

Sec. 406. Lighting.

Only motion-activated lighting may be used to light the exterior of the henhouse.

(Ord. No. 152-08/09, 2-18-09)

Sec. 407. Predators, rodents, insects, and parasites.

The property owner and/or chicken owner shall take all necessary action to reduce the attraction of predators and rodents and the potential infestation of insects and parasites that may result in unhealthy conditions to human habitation may be removed by the City, through the animal control officer, or any other designee, and the cost of the same shall be borne by the property owner and/or chicken owner.
(Ord. No. 152-08/09, 2-18-09)

Sec. 408. Feed and water.

Chickens must be provided with access to feed and clean water at all times; such feed and water shall be unavailable to rodents, wild birds and predators.
(Ord. No. 152-08/09, 2-18-09)

Sec. 409. Waste storage and removal.

Provision must be made for the storage and removal of chicken manure. All stored manure shall be covered by a fully enclosed container. No more than one, twenty gallon container of manure shall be stored on any one property housing chickens. All other manure shall be removed. In addition, the henhouse, chicken pen and surrounding area must be kept free from trash and accumulated droppings. Uneaten feed shall be removed in a timely manner.
(Ord. No. 152-08/09, 2-18-09)

Sec. 410. Fees for reinspections.

Following the city's issuance of a notice of violation of the requirements hereunder and an order to correct violations, the city will reinspect at the expense of seventy five dollars (\$75.00) to the property owner and/or chicken owner to determine whether the violations have been fixed in compliance with this article. Failure to correct the violation shall result in a penalty imposed pursuant to sec. 4-411 below in addition to the reinspection fee. If the violations have not been fixed in compliance with this chapter, the violator shall be assessed a reinspection fee of one hundred and fifty dollars (\$150.00) for each subsequent reinspection. Failure to pay the assessment for reinspection shall create a lien on the property of the violator and the assessment and lien shall be collected and enforced pursuant to section 1-16.
(Ord. No. 152-08/09, 2-18-09)

Sec. 411. Penalty.

In addition to any other enforcement action which the city may take, violation of any provision of this article shall be a civil violation and a fine of one-hundred dollars (\$100.00) may be imposed. Each day that a violation continues will be treated as a separate offense. This penalty is in addition to any expense for reinspection of the property.
(Ord. No. 152-08/09, 2-18-09)

Sec. 412. Revocation of permit.

A permit to keep chickens may be revoked where there is a risk to public health or safety or for any violation of or failure to comply with any of the provisions of any other applicable ordinance or law.
(Ord. No. 152-08/09, 2-18-09)

Sec. 413. Removal of chickens.

In addition to the penalty stated in §4-411, any violation of the provisions of this article shall be grounds for an order from the city to remove the chickens and the chicken-related structures.

The health inspector, health officer, or animal control officer may order the removal of the chickens upon a determination that the chickens pose a health risk.

If a chicken dies, it must be disposed of promptly in a sanitary manner.
(Ord. No. 152-08/09, 2-18-09)

Sec. 414. Separability.

In the event that any section, subsection or portion of this article shall be declared by any competent court to be invalid for any reason, such decision shall not be deemed to affect the validity of any other section, subsection or portion of this article.
(Ord. No. 152-08/09, 2-18-09)

Sec. 5-415. to 5-499 Reserved.

ARTICLE V. RESTRICTIONS ON THE SALE OF DOGS AND CATS

Sec. 5-500. Definitions.

The following words when used in this article shall have the following meanings:

Animal care facility shall mean an animal control center or animal shelter, maintained by or under contract with any state, county, or municipality, whose mission or practice is, in whole or significant part, protecting the welfare of animals and placing animals in permanent homes or with animal rescue organizations.

Animal rescue organization shall mean any not-for-profit organization which has tax-exempt status under Section 501(c)(3) of the United States Internal Revenue Code, whose mission and practice is, in whole or in significant part, the rescue of animals and the placement of those animals in permanent homes, and which does not obtain dogs or cats from a breeder or broker for payment or compensation.

Breeder shall mean a person who maintains dogs or cats for the purpose of breeding and selling their offspring.

Broker shall mean a person who transfers dogs or cats at wholesale for resale by another.

Cat shall mean a member of the *Felis catus* family.

Dog shall mean a member of the *Canis familiaris* family, or resultant hybrid.

Offer for sale shall mean to sell, offer for sale or adoption, barter, auction, give away or otherwise dispose of a dog or cat.

Pet shop shall mean any place, business, establishment or vehicle required to be licensed under 7 M.R.S. § 3933. Such definition shall not include an animal care facility or animal rescue organization, as defined.
(Ord. No. 40-16/17, 9-7-2016)

Sec. 5-501. Prohibition on Pet Shop Sales.

(a) A pet shop shall offer for sale only those dogs and cats that:

(i) Are older than eight (8) weeks; and

(ii) Have been obtained from or are displayed in cooperation with:

- (1) An animal care facility; or
- (2) An animal rescue organization; and

(b) A pet shop shall not offer for sale a dog or cat that is younger than eight (8) weeks old;

(c) Each pet shop shall maintain records sufficient to document the source of each dog or cat the pet shop acquires, for at least one (1) year following the date of acquisition. Such records shall be made available, immediately upon request, to any designated representative of the City including, but not limited to, the Chief of Police or his or her designee, any animal control officer, any designated representative of the Animal Welfare Program or any state humane agent as defined in 17 M.R.S. §1011.

(d) Each pet shop offering dogs or cats for sale shall post, in a conspicuous location on the cage or enclosure of each animal, a sign listing the name of the animal care facility or animal rescue organization from which each dog or cat in the cage or enclosure was acquired.

(Ord. No. 40-16/17, 9-7-2016)

Sec. 5-502. Prohibition on Sales in Public Places.

(a) It shall be unlawful for any person to sell, exchange, trade, barter, lease or display any dog or cat on any roadside, public right-of-way, parkway, median, park, other recreation area, flea market or other outdoor market, or commercial or retail parking lot regardless of whether such access is authorized.

(b) This section shall not apply to the following:

- (i) The display or adoption of dogs or cats by an animal care facility or an animal rescue organization; or
- (ii) The display of dogs or cats as part of a state or county fair exhibition, 4-H program, or other similar exhibitions or educational programs.

(Ord. No. 40-16/17, 9-7-2016)

Sec. 5-503. Enforcement.

The provisions of this Article may be enforced by the City Manager or his or her designee.

(Ord. No. 40-16/17, 9-7-2016)

Sec. 5-504. Penalties for Violation.

(a) A violation of this Article shall be punished by a minimum penalty of two hundred and fifty dollars (\$250.00) Each instance of a dog or cat offered for sale and displayed or obtained in violation of this Article is considered a separate violation under this provision.

(b) This Article may also be enforced pursuant to Portland City Code Chapter 1, §§1-1 to 1-15.

(Ord. No. 40-16/17, 9-7-2016)

Sec. 5-505. Severability.

In the event that any section, subsection or portion of this article, or the application of such section, subsection or portion of this article to any person or circumstance, shall be declared by any competent Court to be invalid for any reason, such decision shall not be deemed to affect the validity of any other section, subsection or portion of this article, or the applicability of such section, subsection or portion of this article to other persons or circumstances.

(Ord. No. 40-16/17, 9-7-2016)

ARTICLE VI. Prohibition on Display of Wild and Exotic Animals.

Sec. 5-506. Definitions.

The following words and phrases have the following meanings:

Director means the City Manager or his or her designee, which is the party responsible for enforcement of this Article.

Display means any exhibition, fair, act, circus, ride, or similar undertaking in which wild and/or exotic animals are required to perform tricks, give rides, or participate as accompaniments for the entertainment, amusement, or benefit of a live audience, whether or not a fee is charged.

Mobile or traveling housing facility means a transporting vehicle such as a truck, trailer or railway car, used to transport or house wild and/or exotic animals while traveling for exhibition or other performance of those wild and exotic animals.

Traveling animal act means any display of wild and/or exotic animals where such animals are transported to, from, or between locations for the purpose of such display, in a mobile or traveling housing facility.

Wild and/or exotic animal means any live animal from any of the following scientific classifications:

- a) Artiodactyla (including hippopotamuses, giraffes, camels, and llamas, but excepting cattle, swine, sheep, and goats);
- b) Crocodilia (including alligators and crocodiles);
- c) Elephantidae (elephants);
- d) Felidae (including tigers, lions, jaguars, leopards, cheetahs, and cougars, or any hybrid thereof, but excluding domestic cats);
- e) Marsupialia (including kangaroos);
- f) Non-human primates (including apes, monkeys, and lemurs);
- g) Perissodactyla (including rhinoceroses, tapirs, and zebras);
- h) Pinnipedia (including seals, sea lions, and walruses);
- i) Ursidae (bears); or
- j) Elasmobranchii (including nurse sharks and lemon sharks).

This definition does not include or apply to horses.
(Ord. No. 30-17/18, 9-18-2017)

Sec. 5-507. Prohibited Acts.

(a) It shall be a violation of this Article for any person, business, entity, corporation, limited liability company or other similar organization to allow for the participation of a wild and/or exotic animal in a traveling animal act in the City of Portland;

(b) The penalty for violations of this Article shall be \$500.00 per offense. Each and every wild and/or exotic animal exhibited and each day exhibition occurs shall constitute a separate offense; and

(c) This Article may also be enforced pursuant to Chapter 1, section 1-15 of the Portland City Code.
(Ord. No. 30-17/18, 9-18-2017)

Sec. 5-508. Administration and Enforcement.

The Director shall be responsible for the administration and enforcement of the provisions of this Article.
(Ord. No. 30-17/18, 9-18-2017)

Sec. 5-509. Effective Date.

This Article shall be effective on October 18, 2017.
(Ord. No. 30-17/18, 9-18-2017)

Baxter
to
Port-
land
City of
Deed

KNOW ALL MEN BY THESE PRESENTS, That I, Percival Proctor Baxter of Portland, County of Cumberland, State of Maine, in consideration of one (\$1.00) dollar and other valuable considerations paid by the CITY OF PORTLAND, a Municipal Corporation incorporated under the laws of the State of Maine and a body politic located in said County of Cumberland, the receipt whereof I do hereby acknowledge, and in furtherance of my desire to convey and donate to the CITY OF PORTLAND an area of land in the Deering District of said Portland, to be held forever by said CITY as TRUSTEE IN TRUST for the benefit of the people of Portland do hereby remise, release, sell, convey and forever quit-claim unto the said CITY OF PORTLAND and its successors to be forever held in trust the following described land located in said CITY, bounded and described as follows -

All my right title and interest in and to a certain tract or parcel of land with the buildings thereon situated between Forest and Stevens Avenues, Hartley Street and Baxter Road, so called in the City of Portland, State of Maine and located and described as follows:

Beginning on the westerly side of Forest Avenue at the northeast corner of the lot of land conveyed by Francis O. J. Smith to Owen Durgin by deed dated August 1875 and recorded in Cumberland County Registry of Deeds in Book 418, Page 501; thence northerly by the westerly side of Forest Avenue 523.0 feet more or less to the southeast corner of the lot of land conveyed by James P. Baxter to Saint Elizabeth's Roman Catholic Asylum by deed dated March 10, 1908, and recorded in said Registry in Book 821, Page 58; thence westerly by land of said Saint Elizabeth's Roman Catholic Asylum and by the lot of land conveyed by James P. Baxter to Roman Catholic Bishop Corporation Sole by deed dated March 10, 1908, and recorded in said Registry in Book 821, Page 59, a distance of 1850.81 feet to the easterly side of Stevens Avenue; thence southerly by the easterly side of Stevens Avenue 253.15 feet to a stone monument marking an angle in said easterly side of Stevens Avenue; thence southerly by said easterly side of Stevens Avenue 290.84 feet to the lot of land conveyed by James P. Baxter to John H. Fogg by deed dated June 14, 1899, and recorded in said Registry in Book 680, Page 31; thence easterly by land formerly of said Fogg 125 feet to a point; thence southerly by land formerly of said Fogg 10 feet to the lot of land conveyed by James P. Baxter to Charles Rich by deed dated July 7, 1879, and recorded in said Registry in Book 461, Page 117; thence easterly by land formerly of said Rich 2.0 feet to the northeasterly corner of said Rich lot; thence southerly by the land formerly owned by said Rich 39.7 feet more or less to the lot of land conveyed by James P. Baxter to Mark F. Fogg by deed dated June 13, 1900, and recorded in said Registry in Book 692, Page 53; thence easterly by land formerly of said Fogg and by the lot of land conveyed by James P. Baxter to Arthur D. Parkhurst by deed dated July 20, 1914, and recorded in said Registry in Book 934, Page 287, a distance of 99.44 feet to the northeast corner of said Parkhurst lot; thence southerly by the easterly line of land now or formerly of said Parkhurst and its continuation across the easterly end of Percival Street and its continuation southerly by other land of said

Grantor a distance of 250 feet to the northerly line of the lot of land conveyed by James P. Baxter to Alvin E. Plummer by deed dated April 13, 1885 and recorded in said Registry in Book 517, Page 372, said point being distant 100 feet from the northerly side of Hartley Street; thence easterly on a line parallel with and distant 100 feet from said northerly line of Hartley Street and by the rear line of lot formerly owned by said Plummer and by the lot of land conveyed by James P. Baxter to Charles E. Spear on October 27, 1899, recorded in said Registry in Book 682, Page 153, and by the lot of land conveyed by James P. Baxter to Fred P. Freeman and William L. Turner by deed dated May 18, 1885, recorded in said Registry in Book 517, Page 479, and by other land of said Grantor and by the lot of land conveyed by James P. Baxter to Alvin E. Plummer by deed dated June 15, 1885, and recorded in said Registry in Book 520, Page 117 a distance of 235.14 feet to the northeasterly corner of the lot formerly owned by said Plummer; thence southerly by the easterly line of land formerly owned by said Plummer 100 feet to the northerly side of Hartley Street; thence easterly by said northerly side of Hartley Street 878.23 feet to the southwesterly corner of the lot of land conveyed by Percival P. Baxter to George I. Geer by deed dated August 19, 1944, and recorded in said Registry in Book 1757, Page 109; thence northerly by the westerly line of land of said Geer 100 feet to the northwest corner of said Geer lot; thence easterly on a line parallel with said northerly side of Hartley Street and by land of said Geer and by the lot of land conveyed by James P. Baxter to Albert F. Mann by deed dated May 10, 1888, recorded in said Registry in Book 546, Page 141, and by the lot of land conveyed by James P. Baxter to Abram H. Milliken and George A. Lovell by deed dated December 7, 1897, recorded in said Registry in Book 660, Page 10 and by the lot of land conveyed by James P. Baxter to Ebenezer M. Gay and John Archibald by deed dated August 6, 1894, recorded in said Registry in Book 613, Page 456, and by the lot of land conveyed by James P. Baxter to the Delano Planing Mill Company by deed dated August 21, 1895, recorded in said Registry in Book 629, Page 117 a distance of 245.4 feet to the northeast corner of said Delano Planing Mill Company lot; thence southerly by land formerly of said Delano Planing Mill Company 8.15 feet to the lot of land conveyed by Martha A. Gray to Mary E. Gray by deed dated July 19, 1894 and recorded in said Registry in Book 615, Page 280; thence easterly by land formerly of said Mary E. Gray and by the lot of land conveyed by Martha A. Gray to Mary E. Gray by deed dated August 31, 1900, recorded in said Registry in Book 692, Page 423, and by the lot of land conveyed by Martha A. Gray to Margaret O'Connor by deed dated April 8, 1903, and recorded in said Registry in Book 733, Page 31 and by the lot of land conveyed by Martha A. Gray to Lillie B. Rowe by deed dated December 16, 1892 recorded in said Registry in Book 604, Page 217 and by the lot of land conveyed by Martha A. Gray to Lillie B. Rowe by deed dated June 30, 1891 recorded in said Registry in Book 582, Page 15 and by the lot of land conveyed by Martha A. Gray to Alvah E. Plummer by deed dated April 30, 1885 recorded in said Registry in Book 517, Page 464 a distance of 387.85 feet to the southwesterly corner of the Owen Durgin lot above mentioned; thence northerly by

the westerly line of the lot formerly owned by said Durgin 75 feet to an iron stake; thence easterly by land formerly owned by said Durgin 86.78 feet to said westerly side of Forest Avenue and the point of beginning.

Together with a right of way 33 feet in width in common with others from Forest Avenue to Stevens Avenue over land of said Saint Elizabeth's Roman Catholic Asylum and land of Roman Catholic Bishop Corporation Sole adjoining the northerly line of the lot above described lot and subject however to a right of way 33 feet in width from Forest Avenue to Stevens Avenue over said above described lot and adjoining the northerly side line of the above described lot.

Said above two strips each 33 feet in width are to be used together for street purposes and were conveyed and reserved in the deeds from James P. Baxter to Saint Elizabeth's Roman Catholic Asylum and to Roman Catholic Bishop Corporation Sole dated March 10, 1908, and recorded in said Registry in Book 821, Pages 58 and 59.

TO HAVE AND TO HOLD the above described premises with all the privileges and appurtenances thereto to said CITY OF PORTLAND as TRUSTEE as aforesaid and its successors in trust and the same shall not be conveyed or encumbered by said City but shall be held forever for the benefit of the people of said Portland

subject to the following terms, restrictions, reservations and conditions

- 1 - shall forever be retained and used by said City in trust for the benefit of the people of Portland as a Municipal Forest and Park and for public recreational and educational purposes the same forever to be known as "MAYOR BAXTER WOODS";
- 2 - shall forever be kept in its natural wild state and as a sanctuary for wild birds, with no streets for public conveyances and no cement walks therein and with only paths and trails for pedestrians, and any trees that shall fall or that may become a menace to life may be removed, but no other trees therein shall be taken down;
- 3 - shall forever be maintained for the sole use of pedestrians; and horses, automobiles and all motor vehicles, except those of the City used solely in caring for said woods, shall forever be excluded therefrom;
- 4 - that the heavy ornamental iron gates now in possession of said City shall be erected by said City either at the Forest Avenue or Stevens Avenue entrance within one year after the date of this deed;
- 5 - that said City shall erect within one (1) year after the date of this deed and shall forever maintain on the land hereby conveyed a suitable bronze marker the said marker to recite the conditions of this gift, the same to be attached to a granite boulder located on said land and provided by said City;

This conveyance is made subject to all of the above mentioned terms, restrictions, reservations and conditions, and I the said PERCIVAL PROCTOR BAXTER COVENANT with the said CITY OF PORTLAND as such Trustee and its successors in trust that I will WARRANT and DEFEND the said premises to the said City and its successors in trust against the lawful claims and demands of all persons claiming by through or under me.

IN WITNESS WHEREOF, I the said PERCIVAL PROCTOR BAXTER being unmarried hereby set my hand and seal this eighth day of April in the year of our Lord one thousand nine hundred and forty-six.

Signed and Sealed in the Presence of

Alice M. Gurney .

Percival Proctor Baxter Seal

STATE OF MAINE :
SS.
CUMBERLAND. :

Portland, April 8, 1946

Personally appeared the above named PERCIVAL PROCTOR BAXTER and acknowledged the above instrument to be his free act and deed.

Before me, Alice M. Gurney

Notary Public Notarial Seal

Received April 17, 1946, at 10h 25m A. M., and recorded according to the original

MAINE
FULL DISCHARGE
FORM 21-117
Me. 10-206

Federal
Ld.Bk.
of
Spf'g.
to
Larrabee
&
Disch.

KNOW ALL MEN BY THESE PRESENTS, That THE FEDERAL LAND BANK OF SPRINGFIELD, 310 State Street, Springfield, Massachusetts, owner of a certain mortgage given by Joseph S. Larrabee and Susan E. Larrabee to the said THE FEDERAL LAND BANK OF SPRINGFIELD, dated December 31, 1925, and recorded in Cumberland County Registry of Deeds, in Book 1220 at Page 105, does hereby acknowledge that it has received full payment and satisfaction of the same and of the debt thereby secured, and in consideration thereof it does hereby cancel and discharge said mortgage and releases unto the said Joseph S. Larrabee and Susan E. Larrabee and their heirs and assigns forever the premises therein described.

IN WITNESS WHEREOF the said THE FEDERAL LAND BANK OF SPRINGFIELD has caused its corporate seal to be hereto affixed and these presents to be signed, acknowledged and delivered in its name and behalf by Edward M. Whitaker, its Assistant Treasurer, this 3rd day of April 1946.

THE FEDERAL LAND BANK OF SPRINGFIELD CORPORATE
SEAL
By Edward M. Whitaker

Assistant Treasurer

Signed and Sealed in Presence of

I. B. Welch

COMMONWEALTH OF MASSACHUSETTS COUNTY OF HAMPDEN, SS.

On this 3rd day of April 1946, before me personally appeared Edward M. Whitaker to me personally known, who, being by me duly sworn, did say that he is the Assistant Treasurer of THE FEDERAL LAND BANK OF SPRINGFIELD and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that the said instrument was signed and sealed in behalf of said corporation by authority of its board of directors, and the said Edward M. Whitaker acknowledged said instrument to be the free act and deed of said corporation and his own free act and deed.

dms Before me, Allyn K. Talmadge Notary Public Notarial Seal

Received April 17, 1946, at 11h 50m A. M., and recorded according to the original

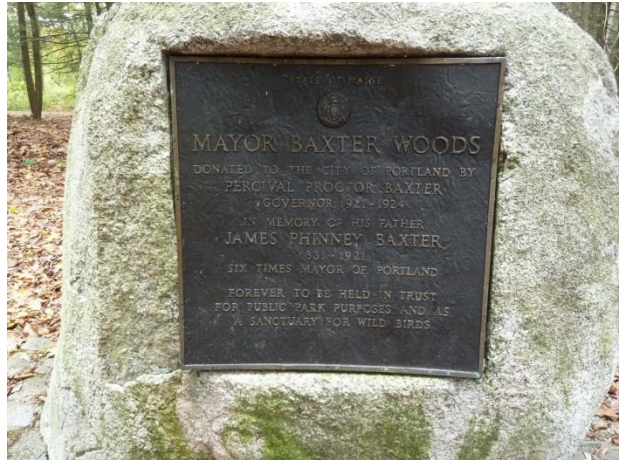
Forest and Wildlife Habitat Management Plan

for

Mayor Baxter Woods

Portland, Maine

Plan Date: May 18, 2018



Robert R. Bryan, LF# 907
Forest Synthesis LLC
271 Harpswell Neck Road
Harpswell, ME
rbryan@forestsynthesis.com

Forest Synthesis LLC

*Forest Management, Ecology, and
Certification*

www.forestsynthesis.com

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Introduction

Mayor Baxter Woods is a unique late successional forest located in the heart of the City of Portland that was donated to the City by Governor Percival Baxter in 1946 “...for the benefit of the people of Portland public recreational and educational purposes...” that “ shall forever be kept in its natural wild state and as a sanctuary for wild birds...”

At the request of the City of Portland Parks and Recreation Department, Forest Synthesis, LLC has prepared an ecological assessment and management plan based on the principles laid out in Governor Baxter’s deed. Key components of this project include assessment, mapping, of and recommendations for:

1. Natural ecosystems, including wildlife habitats based on forest type, age, structure, as well as non-forest habitats,
2. Other natural features, including wetlands, streams, vernal pools,
3. Forest health concerns, including invasive plants, insects, and disease,
4. Cultural features and human use, including historic features, trails, and a qualitative assessment of impacts associated with recreational use,
5. Protection, restoration and enhancement forest ecosystems and wildlife habitats, and
6. Ecological monitoring.

Management Goals and Objectives

Goals Based on Deed Restrictions

Based on Governor Baxter’s deed to the City¹, management goals for Mayor Baxter Woods (referred to hereafter in this report as MBW) include:

1. Use for public recreational and educational purposes, and
2. Keep the property in its natural and wild state and as a sanctuary for wild birds.

Restrictions associated with the deed that affect use and management include:

1. No streets for public conveyances and no cement walks, with only paths and trails for pedestrians,
2. Any trees that shall fall or that may become a menace to life may be removed, but no other trees therein shall be taken down;
3. Use solely by pedestrians; horses, automobiles and other motor vehicles are excluded, except those of the City used solely in caring for the woods.

Reconciling Current Uses and Deed Conflicts

In attempting to identify specific management actions that are compatible with the deed requirements, several issues have been identified.

- The deed requires that MBW be “used by said City in trust for the benefit of the people of Portland as a Municipal Forest and Park and for public recreation and educational purposes” and

¹ See Appendices for a summary of key deed restrictions

“shall forever be maintained for the sole use of pedestrians.” However, recreational uses conflict with the requirement that the forest be maintained as a “sanctuary for wild birds.” In particular, off-leash dogs are likely having a significant negative impact on ground-nesting and ground-feeding birds as well as those associated shrubs and small trees. A related concern is that the high density of trails and foot traffic adds to wildlife disturbance whether or not dogs are leashed. (see maps).

- Exotic (non-native) plant species identified as “invasive” by the Maine Natural Areas Program (MNAP) are altering the natural character in many places within MBW. The MNAP notes that because these plants can out-compete native species they are a direct threat to Maine’s natural and working landscapes. In addition, some exotic species not formally classified as “invasive” by MNAP are becoming well established in MBW. Because some of the invasive and exotic species are trees, the deed creates an internal conflict between the goal of maintaining the property in a “wild and natural state,” which implies that exotic species should be removed, and the restriction that trees that are a “menace to life may be removed, but no other trees therein shall be taken down.”
- Two species of exotic insect pests are found in the forest, notably elongate hemlock scale and hemlock wooly adelgid. Both insects kill hemlocks. While research into using predatory insects to control hemlock wooly adelgid shows some long-term promise, currently insecticides are the only effective control method to control with hemlock pest. Because of the widespread abundance of hemlock in MBW and in particular the dense hemlock midstory that characterizes much of the forest, maintaining all hemlocks may be impossible without repeated and widespread pesticide use. While tree mortality associated with native insects is a natural forest process, allowing widespread mortality of native tree from an exotic insect is not a “natural.....state” of the forest. Harvesting some of the midstory hemlocks threatened by these exotic insects would allow more light to reach the forest floor and encourage the establishment of other native tree seedlings. In the long run this would result in a more resilient forest of native species, but removing any hemlocks would conflict with the restriction on cutting of trees other than those that are hazardous.

Integrated Goals and Objectives

Clearly identified management goals and objectives are essential to guide management and to provide a framework for evaluating whether or not management outcomes are successful. The plan utilizes the following framework:

Goals: Broad generalizations about the future resource conditions that management is designed to culture. Goals are often long-term in nature and may also encompass values of interest to the landowner.

Objectives: Detailed descriptions, pertaining to a specific goal, of what the resource will look like or the management approaches necessary to achieve that goal. Objectives are often measureable and often are more short-term in nature than goals.

The goals and objectives below attempt to balance the internal conflicts within the deed by considering the long-term dynamics of the forest and its context within the surrounding cityscape. In addition, forest management goals that are not specifically mentioned in the deed but are considered to be a core

component of ecosystem management consistent with deed requirement that the forest be maintained “in a natural wild state and as a sanctuary for wild birds” are included.

1. Goal: Promote recreational uses that are consistent with maintaining the property in a wild and natural state and as sanctuary for wild birds

Objective:

- Reduce disturbance to forest birds from recreational use

Monitoring:

- Number and type of ground-nesting and understory birds using the forest

2. Goal: Maintain a natural ecosystem based on native plant and wildlife species and natural ecosystem processes

Objectives:

- Develop and implement a plan to control invasive plants and other non-native plants
- Develop and implement a plan to control non-native insects that currently or could in the foreseeable future threaten forest health (e.g. hemlock wooly adelgid, hemlock scale, browntail moth, winter moth)
- Allow late successional forest conditions, including large trees, canopy gaps, and understory regeneration, to develop naturally over time
- Maintain and enhance shrub and old-field habitat
- Restore degraded areas near property lines and along trails

Monitoring:

- Extent and density of invasive and other exotic plants
- Extent and density of non-native insects that threaten forest health
- Forest species composition, density, and tree size by major vegetation layer
- Extent and condition of shrub and old-field habitat
- Condition of restored areas

3. Goal: Protect soils and water quality

Objectives:

- Manage trails to minimize the area of soil compaction from pedestrians
- Minimize concentrated runoff from trails and associated impacts within MBW and lower in the watershed
- Ensure that ditches, culverts, and other components of the drainage system are designed to accommodate the increasingly intense rainfall events associated with climate change

Monitoring

- Condition of ground-layer vegetation adjacent to trails
- Condition and size of drainage structures relative to needs for large storm events
- Erosion and overflow within the drainage system

4. Protect City property from encroachment and inappropriate use

Objectives:

- Clearly mark all boundary lines with fencing or other means
- Restore areas where abutters are encroaching on City property
- Discourage unauthorized dumping of brush with appropriate signage

Monitoring:

- Condition of boundary lines
- Evidence of encroachment and unauthorized dumping

5. Goal: Promote educational uses consistent with the MBW deed

Objective:

- Develop educational programs and materials that emphasize the natural ecosystem and wildlife values of MBW

Monitoring:

- Number and type of educational programs and number of different audiences

Management Plan Summary

Table of Cover Types and Land Uses

The following table summarizes major cover types (forest/non-forest) and land uses. More detailed cover type information and descriptions are included in later sections of the report.

Cover Type/Land Use	Area (acres)
Deciduous forest	5.57
Coniferous forest	1.03
Mixed forest	22.98
Meadow/shrub	0.87
Shade tree/mown grass	1.47
Pond	0.22
Parking	0.10
Abutter encroachment	0.22
Total	32.46

Summary of Past management

Dates	Management Activity
1947-48	Individual risk tree removal to reduce per direction of Percival Baxter
49-50	Red pine planted with help of Deering High School students near Forest Avenue
1989-90	Some individual tree work (risk tree removal, etc.)
2004	Red pine thinning per direction of Maine Forest Service District Forester Dennis

Late 1990's to early 2000's	Brennan
2000-present	Removal of large Norway maple along Stevens Ave and near old home site
	Removal of Norway maple along Hartley Ave and control of Japanese barberry, multiflora rose, and Japanese knotweed.

Summary of Management Recommendations - 2016-2025

Following is a summary of activities included in the later sections of the report. Please refer to the Individual Stand Descriptions and Recommendations and other referenced sections for additional details on implementing the recommendations. Management recommendations included in this plan represents the opinion of Forest Synthesis based on the forest ecosystem assessment, restrictions spelled out in the MBW deed, and consultations with City and outside experts.

- Final decisions on which management actions to take and when to implement them will require further consideration by the City.
- Detailed plans for most of the recommended activities should be prepared before implementation, and the results of management should be monitored as needed.
- Recommendations below are prioritized. Priority 1 items are considered to be most important and should be undertaken first.

Stand or Area	Priority/Timing	Recommendations (This is a summary only - see applicable management plan sections for details.)	Management Plan Sections
All	1	Develop and implement a plan to control and monitor invasive plants as well as other aggressive non-native plants.	<i>Invasive Plants</i>
All	1	Develop and implement a plan to protect hemlock, red pine, and oaks from exotic insects and diseases that threaten these species in Maine. Highest short-term priority should be focused on mapping and protecting the old hemlock legacy trees in found throughout the forest.	<i>Insects and Disease; Stand Descriptions and Management Recommendations</i>
11, F4	1	Many properties on Hartley Street are encroaching onto City property. Where MBW abuts residential properties the City should clearly mark the boundary with fencing or multiple posts and signs and work with abutters to restore degraded city property to a natural condition. Signs should be placed a various points along other boundaries and access points.	<i>Boundary Lines</i>
All	1	Recreational uses, and in particular unleashed dogs, are likely having and adverse impact on ground-nesting and ground-feeding birds. Because the Baxter deed requires that the City maintain Baxter woods for recreational use and as a sanctuary for wild birds, the city should require that dogs be leashed. The city could consider closing some minor trails to create wider spaces between trails and thus minimize disturbance of wildlife.	<i>Recreational Use</i>
F1-F4	1	Develop and implement a site planting and maintenance plan that includes a) planting shrubs and wildflowers for wildlife food and cover as described in the <i>Stand Descriptions and Management Recommendations</i> for each area, and b) maintaining the wildlife habitat provided by these existing open/shrub areas by periodic	<i>Distribution of Habitat Types and Development Stages; Stand Descriptions and Management</i>

		brush mowing; cutting encroaching trees would also be beneficial but apparently is not allowed per deed restrictions.	<i>Recommendations</i>
All	1	The City should have a legal and policy review to decide under what circumstances trees may be cut in MBW.	<i>Reconciling Current Uses and Deed Conflicts</i>
All	1	Monitor the results of management actions and make corrective actions as needed. Annually monitor breeding birds, vernal pools, insects and diseases, invasive plants, condition of trails, boundary lines, and recreation use.	<i>Monitoring</i>
1	2	Thin the red pine plantation and allow natural regeneration to develop. The goal is to promote the best trees, develop understory wildlife habitat, and reduce risk from insect and disease.	<i>Stand Descriptions and Management Recommendations</i>
10	2	Remove all Norway maple and plant native species in conjunction with drainage improvements near Forest Avenue	<i>Stand Descriptions and Management Recommendations</i>
Trails	2	Review all trails and develop and implement a trail management and maintenance plan to minimize erosion, runoff and soil compaction, restore a more natural character, and restore historic landscaping.	<i>Trails</i>
All	2	Allow dead, dying trees, and downed trees and limbs to remain in place unless they represent a threat to trail users, and scatter downed limbs that fall on trails within the forest rather than chipping them.	<i>Wildlife Trees, Dead and Downed Wood, and Retention Patches</i>
1-10	2	The City has limited options to enhance habitat for birds and other wildlife due to the deed restrictions that do not allow tree cutting. In forest areas, allow late successional forest conditions, including large trees, canopy gaps, and understory regeneration, to develop naturally over time.	<i>Distribution of Habitat Types and Development Stages</i>
VP1, VP2	3	Consider enhancing the vernal pools to create more natural contours or a longer period when water is present, as described in the recommendations.	<i>Vernal Pools</i>
n/a	3	Compile historical and archaeological information from the Buttrick study and other sources to create a more complete and accurate history and maps of land use at MBW. These could be used for educational purposes and as a record for long-term management.	<i>Historical, Cultural, and Archaeological Sites</i>
5a	4	Removing some of the midstory hemlock in other parts of this stand would proactively reduce risk of hemlock loss while enhancing wildlife habitat by promoting understory and ground cover plant layers. However, this does not appear to be allowable under the deed restrictions.	<i>Distribution of Habitat Types and Development Stages ; Stand Descriptions and Management</i>

Maps



Notes:

Base map: Google Terrain

Forest Synthesis LLC

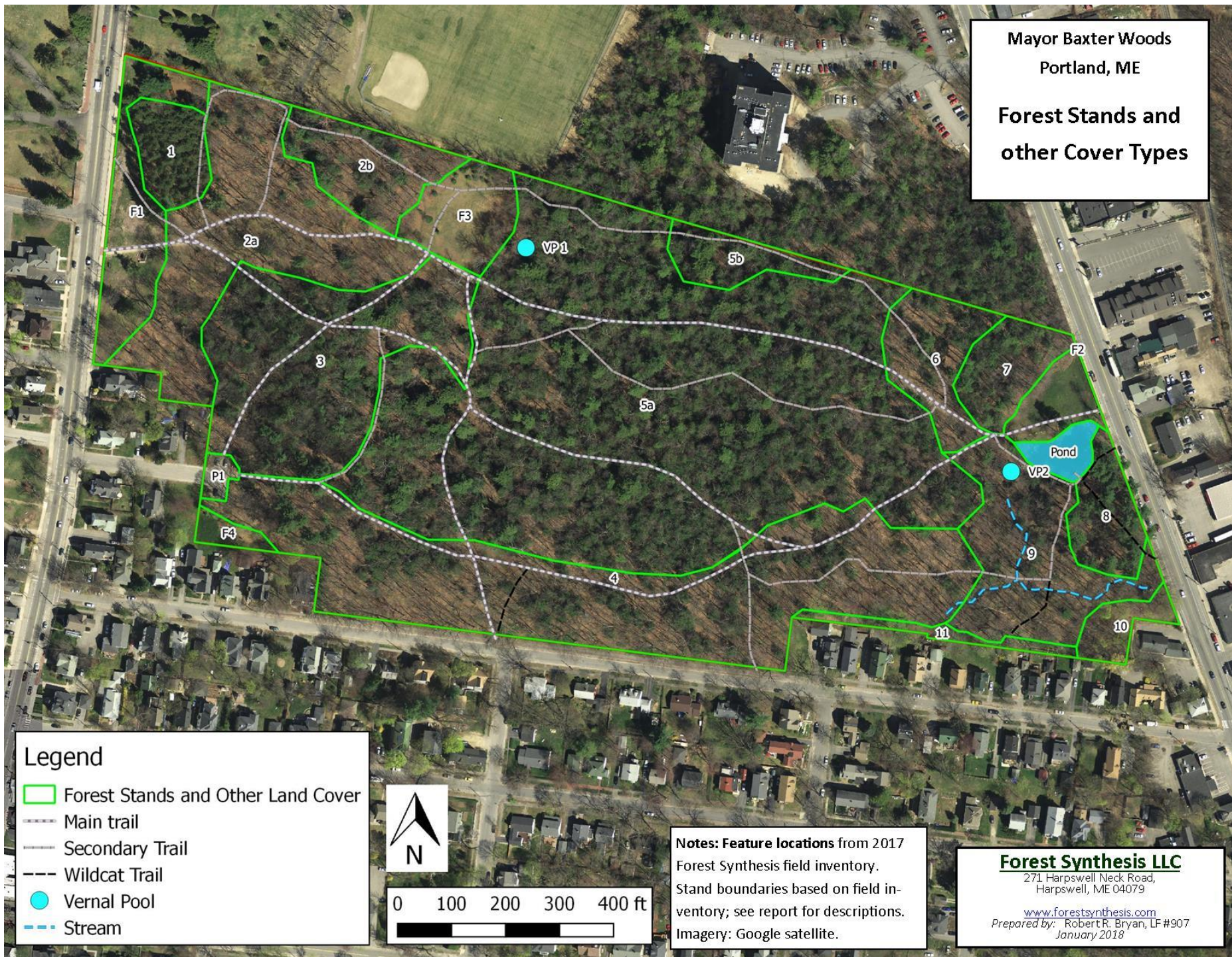
271 Harpswell Neck Road,
Harpswell, ME 04079

www.forestsynthesis.com

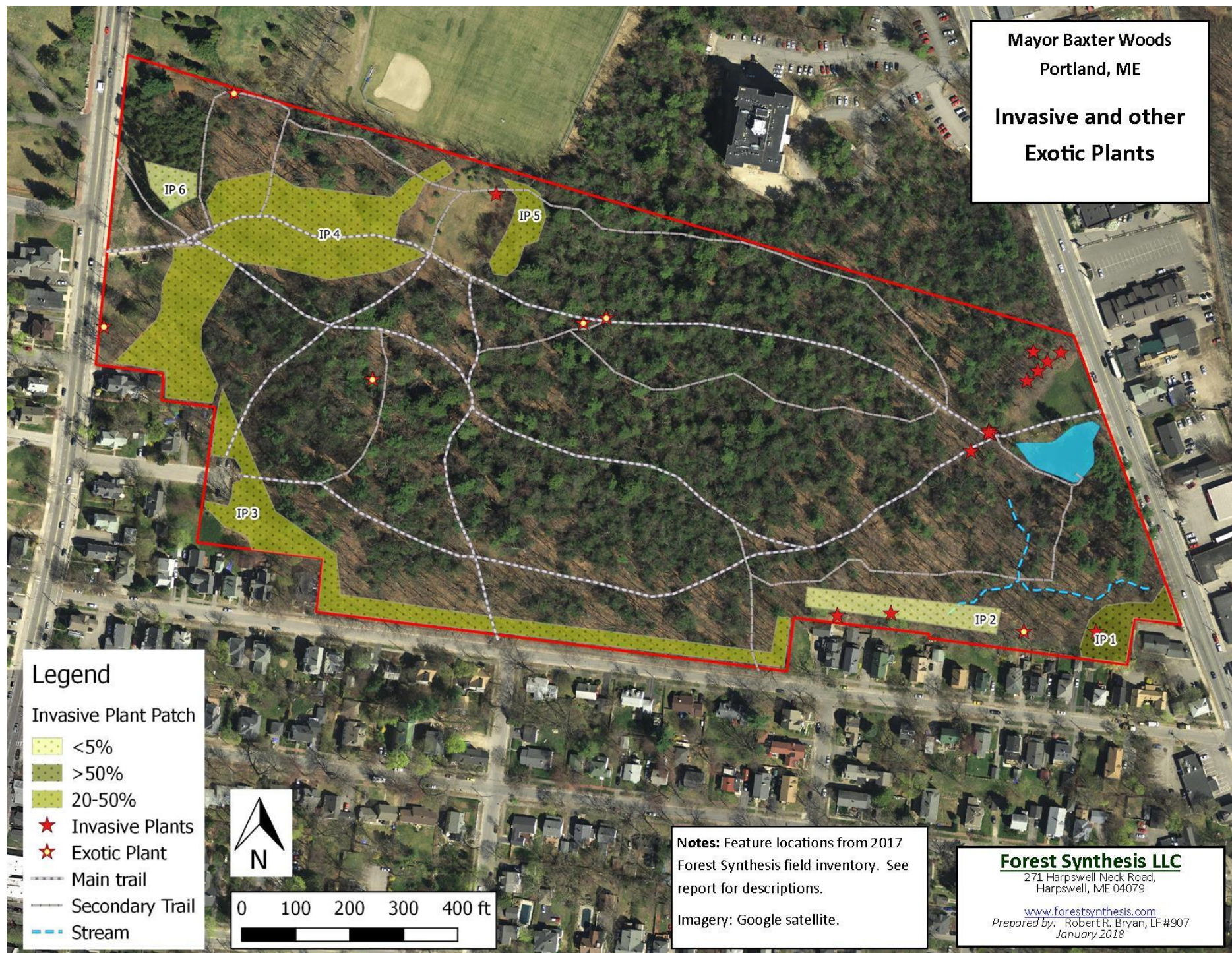
Prepared by: Robert R. Bryan, LF #907
January 2018

Mayor Baxter Woods
Portland, ME

Forest Stands and other Cover Types

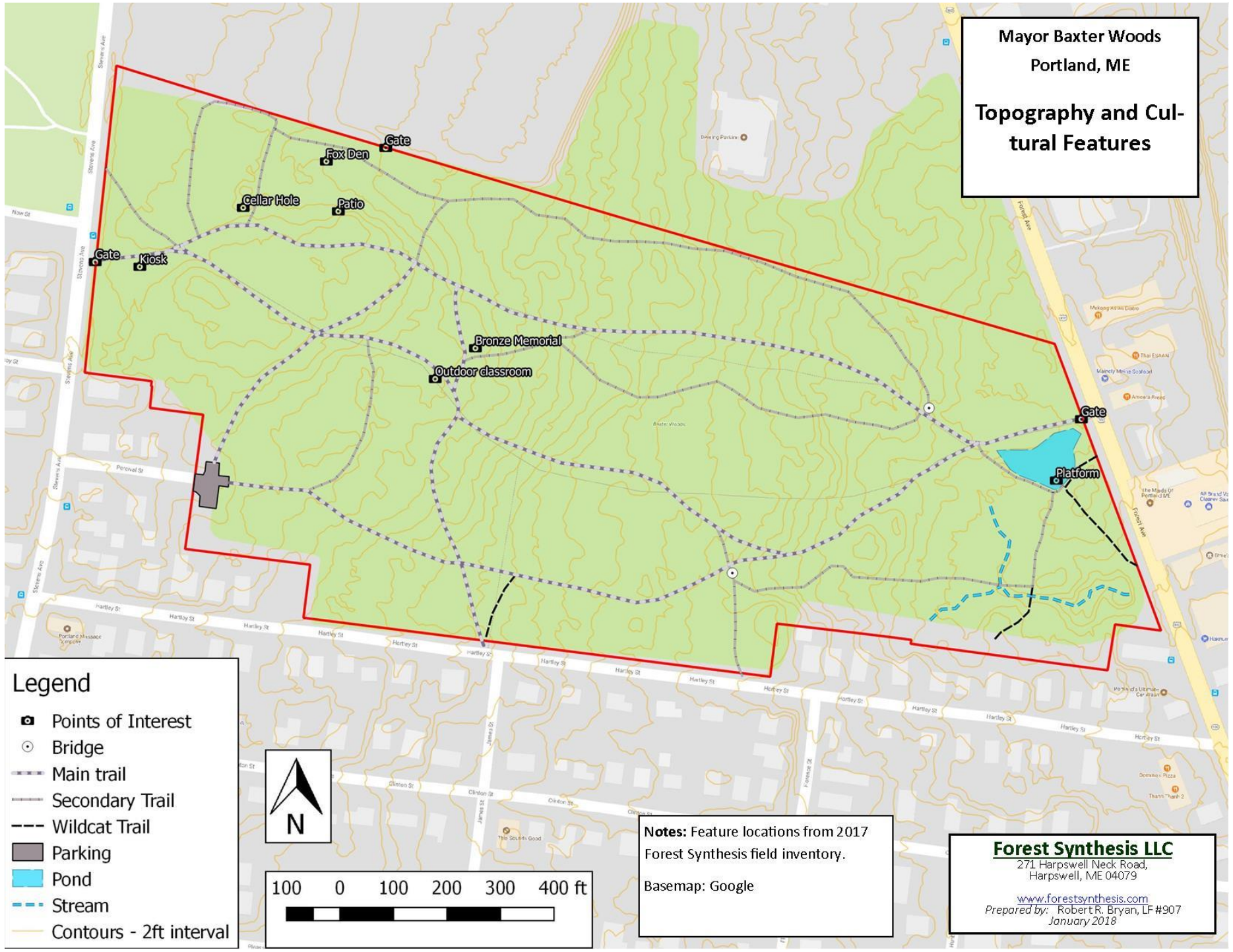


Mayor Baxter Woods
Portland, ME
Invasive and other
Exotic Plants



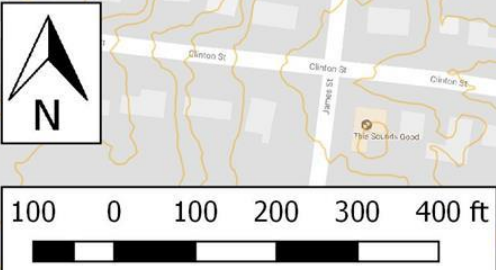
Mayor Baxter Woods
Portland, ME

Topography and Cul-
tural Features



Legend

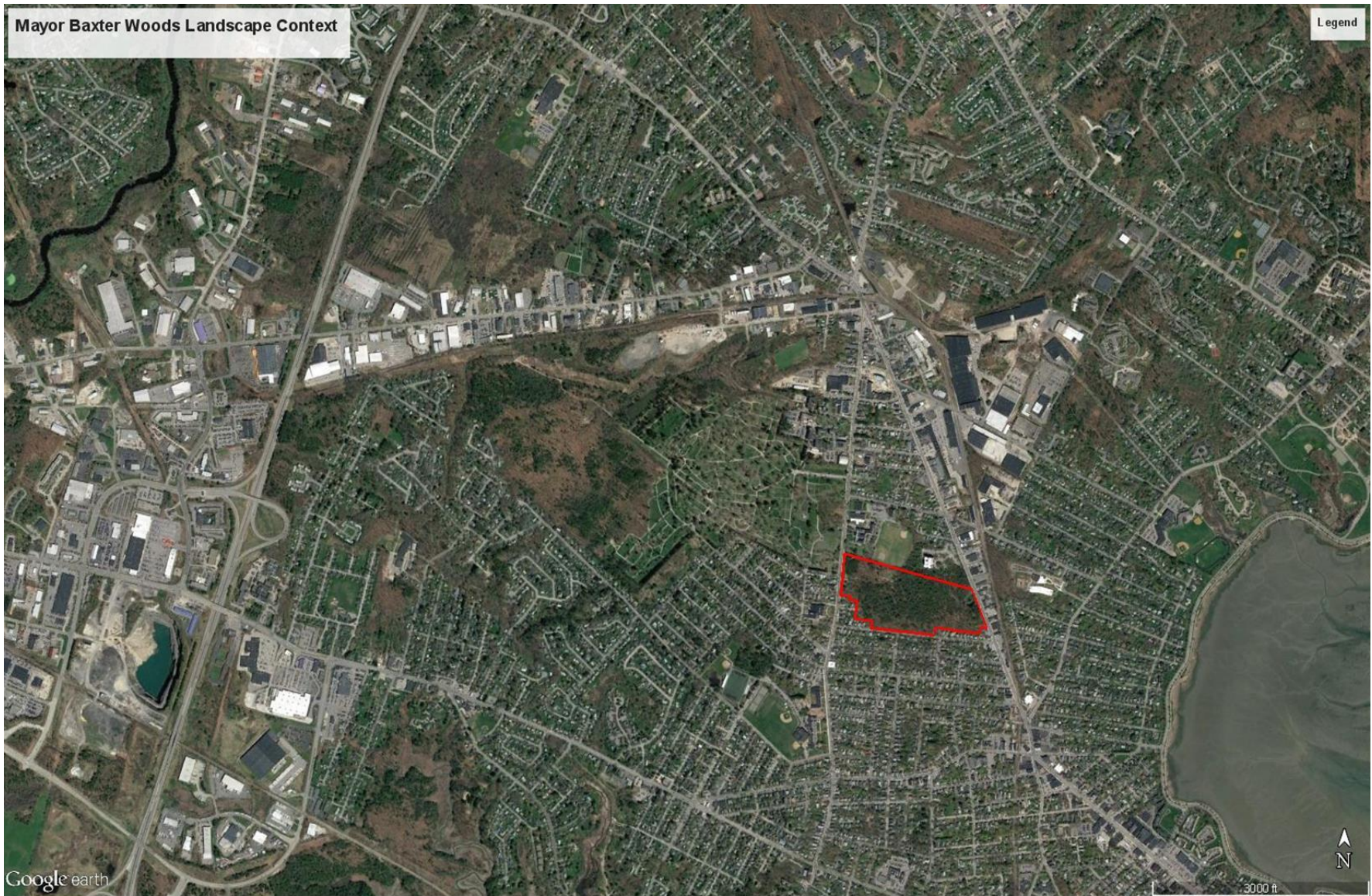
- Points of Interest
- Bridge
- Main trail
- Secondary Trail
- Wildcat Trail
- Parking
- Pond
- Stream
- Contours - 2ft interval



Notes: Feature locations from 2017 Forest Synthesis field inventory.

Basemap: Google

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Harpswell, ME 04079
www.forestsynthesis.com
Prepared by: Robert R. Bryan, LF #907
January 2018



Notes:

Imagery source: Google Earth

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Harpswell, ME 04079

www.forestsynthesis.com

Prepared by: Robert R. Bryan, LF #907
January 2018

Property Description

General Forest Description

Mayor Baxter Woods is located between Forest Avenue and Stevens Avenue in the Deering section of Portland (see Locus Map). The property is predominantly forested and characterized by old stands of red oak, white oak, white pine, hemlock and other species. With dominant canopy trees 180-200 years in age and untouched in over 100 years of age, the average size and age of the trees is extremely rare. As an example of old oak-pine-hemlock forest Baxter Woods may be without par anywhere in Maine.

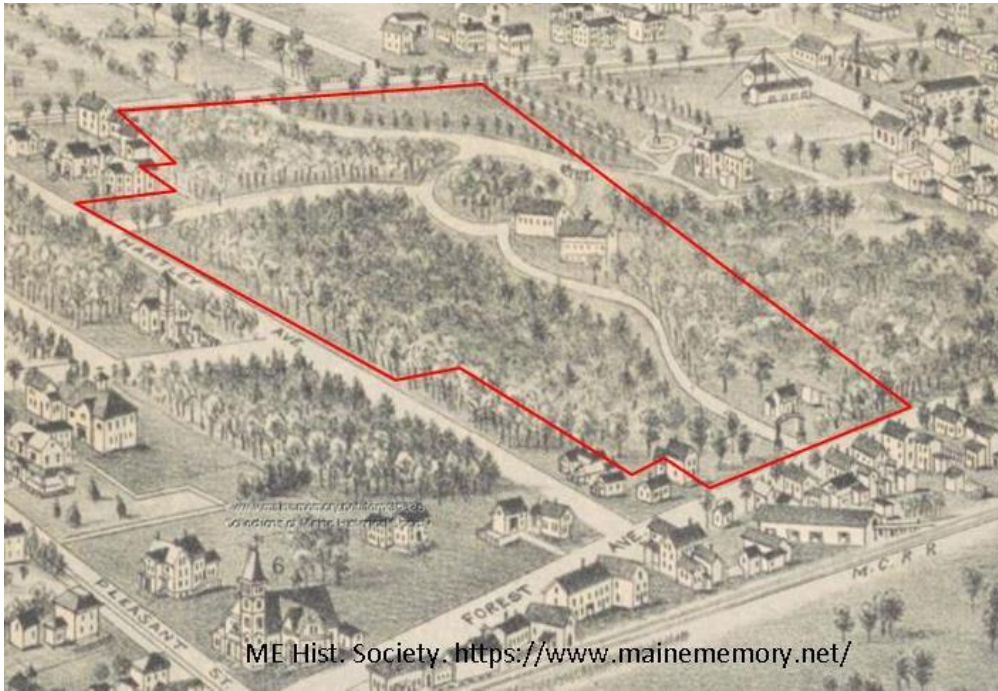
The terrain slopes gently in an easterly direction from Stevens Avenue to Forest Avenue. The soils originated as sandy outwash from glacial streams during the last ice age and range from excessively well-drained sands in the west to moderately well drained with a few somewhat poorly drained and poorly-drained pockets to the east. Intermittent seasonal water coursed and small streams drain to the east.

MBF is located in the Casco Bay watershed and drains to Back Cove, which is located short distance to the east.

Property History

Woodlands in this region were cleared for farming beginning in the late 1700's after the Revolution and into the 19th century, with abandonment of marginal farmland beginning in the latter half of the 19th century. Most of what we see as forest today in southern and central Maine was formerly farm field and pasture.

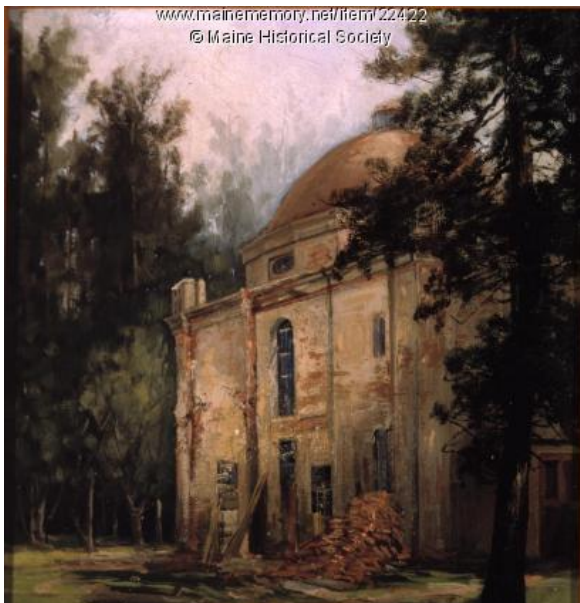
At MBW, smooth soil surfaces in the western third of the woods (Stand Map areas 1, 2a, 2b, 3, F1 and F3) and near Forest Avenue (areas 7, 8, 9 and F2) indicate that these areas were plowed at one time. Pit-and-mound soil topography is found on the remainder of the property. Pit-and-mound (or "pillow-and-cradle") topography develops over hundreds of years as forest trees tip over with age or wind and the root mass decays, leaving a mound where the root mass and uprooted soil were deposited and a shallow depression where the root mass once anchored the tree. Because pit-and-mound topography is smoothed out when former forest soils are plowed, its presence indicates that most of the central part of the property (Stand Map areas 4, 5a, 5b, and 6) was ever plowed, but it could have been partly cleared for pasture and or have been part of a farm woodlot. The presence of very old hemlock in the middle of the property is another sign that this area has always been wooded.



Baxter Woods was once part of the estate of F.O.J Smith, whose mansion “Forest Home” occupied the area near Stand F3 (see Stand Map)² from 1836 until the late 1800’s or early 1900’s. The mansion was surrounded by large trees at the time that Harrison Bird Brown painted the scene in 1880-1881³. While it is likely that Mr. Smith may have cut some trees for forest health and aesthetics, the size and apparent age of some of the overstory trees suggest that the forested areas were largely undisturbed during his tenure. This is confirmed by

1843 aerial map of Deering with current boundary of Mayor Baxter Woods outlined. “Forest Home” is located approximately where Stand Map area F3 is located today.

the 1886 Birds-eye View of Deering (Maine Historical Society, www.mainememory.net), which depicts mature forest in the eastern two-thirds of MBW (see image). The same map shows young forest and/or planted trees near Stevens Avenue, which confirms the likelihood that that the western third of the property was cleared and plowed at one time.



This painting of the Forest Home library c. 1839 also confirms that Baxter Woods had many mature trees at that time.

The same hands-off management continued after the estate was sold to James Phinney Baxter in 1878. The Stevens Avenue kiosk notes that oldest tree in Mayor Baxter Woods dates from 1807. One white oak stump observed in 2017 and estimated to have been cut about 5 years previously had approximately 185 annual rings (rough field count), suggesting the tree was established sometime around the 1830’s.

The red pine grove (Stand Map, area 1) was estimated to be planted in 1949 according to a resident who remembered both Baxter Pines and Baxter Woods planted with seedlings that involved Deering High School students and State of Maine plant stock. The stand was thinned in 2004 with advice from Dennis Brennon, the Maine Forest Service District Forester at the time.

² See the brochure *Welcome to Baxter Woods* for a more extensive ownership history beginning with F.O.J. Smith.

³ The estate was sold to James Phinney Baxter in 1878, so presumably the painting was commissioned by the former mayor Baxter as it is owned by the City.

Access

MBW has excellent access from Forest Avenue, Stevens Avenue, and Hartley Street for public recreation and for any management that might occur. The main trails provide a network of interior access. There is currently only one small fence opening on the north boundary, but a new gate is proposed for that area

Interaction with Surrounding Properties

Single family residential homes are located adjacent to the south and southwest. Multi-unit residential properties and playing fields are located to the north, commercial properties across Forest Avenue to the east and Evergreen Cemetery across Stevens Avenue to the west.

Legal Obligations

The principal legal obligations are the Baxter deed described in the introduction. Maine's laws applicable to timber harvesting and water quality protection, pesticide use, as well as municipal ordinances also apply. Because the City has an active urban forestry program and is familiar with legal requirements these will not be described in greater detail in this plan. Prior to any site disturbing activities, check with the City planning department, Maine Forest Service, and Maine DEP, or other applicable agencies (e.g. Maine Board of Pesticide Control) for the most recent applicable regulations.

Forest Ecosystem Planning and Management

The following sections describe ecological resources of importance and include recommendations to protect their values, Soil and Water Quality Protection, Management for Fish, Wildlife, and other Biodiversity, and Planning for Climate Change. Other management recommendations to achieve specific management objectives are included in later sections of this plan.

Soil and Water Quality Protection

Soils

Identification and Significance

Soils are critical to the long-term ecological health of the forest and a key factor in determining the species of trees and other plants that may be present. Most soils can be readily damaged by heavy equipment when soils are wet after rains and during the spring and fall mud seasons. Wetter sites may have very short windows for forest management activities and may be limited to either winter operations on frozen ground conditions or to dry periods at other times of the year.

A Natural Resource Conservation Service (NRCS) “Web Soil Survey” report for Baxter Woods was prepared for MBW (see Attachments). The field reconnaissance confirmed that NRCS mapping showing excessively well-drained sands in the west to moderately well drained with a few somewhat poorly drained fine sandy loams and poorly-drained pockets to the east. These soils are excellent for pine, oak and hemlock and are important factor in why these species are so prevalent today.

Trails

Current Conditions

The location of trails is shown several of the maps. Trails were classified into three major for the purposes of this plan:

Main trails: Gravel base, 10-15 foot width with culverts and ditching as needed, suitable for vehicular use.

Secondary trails: Footpaths 3-5 feet in width, natural soil base, not suitable for vehicular uses

Wildcat trails: Non-maintained trails established by customary pedestrian use

Some areas of slight surface erosion were noted on some the main trails, especially in Stand 4. The riprap ditch along the main trail in the eastern half of Stand 4 has been identified by the City as a possible area of improvement to restore a more natural character to the trail. Several of the main trail intersections have become very wide as result of walkers who cut the corner when going from one trail to the next.

Recommendations

Review all trails and develop and implement a trail management and maintenance plan with the following components:

- Ensure that the crown on main trails is sufficient to effectively and rapidly shed surface runoff;

- Minimize ditching by using changes in slope, ditch turnouts, and cross-drain culverts as needed to direct water into adjacent forest areas where it will infiltrate into the soil rather than be concentrated in an artificial drainage system;
- Replace and upgrade culverts as needed to ensure that they are capable of handling more intense rainfall occurring as a result of climate change (e.g., historically “50-100 year” storm events);
- Apply other applicable guidelines for roads and trail in **Best Management Practices for Forestry: Protecting Maine’s Water Quality** (“BMPs”; see *References* section) to protect soil and water quality;
- Use appropriate landscaping to minimize soil compaction and widening of the main trail junctions;
- Restore the historic stone work along the main trails;
- Manage secondary trails using the guidelines in the **Recreational Trail** section of the Appendices;
- Close most wildcat trails by placing brush and/or signage as needed;
- Refer to the *Recreation Use* section later in this report for recommendations related to trail management and related impacts on plant and wildlife habitat.



Lack of defined trail edges is leading to soil compaction and loss of vegetation at main trail junctions

Water Quality

- Always apply Maine’s **Best Management Practices** for water quality protection when disturbing soils or cutting trees.
- See *Aquatic Habitats and Riparian Zones* for other fish and wildlife habitat protection measures.

Management for Wildlife, Fish and Other Biodiversity

Introduction

This plan includes an assessment of current wildlife habitat conditions to use as a baseline against which to measure progress towards its long-term wildlife management goals. The habitat assessment methodology is based on and Maine Audubon's **Foresters for Maine Birds** (publication pending) and information on non-avian species from **Focus Species Forestry, a Guide to Integrating Timber and Biodiversity Management in Maine** (Bryan 2007). While both of these documents are geared towards landowners and managers with an interest in active forest management programs, the assessment methodologies are well suited to MBW's goal to maintain the forest in natural conditions as a sanctuary for wild birds.

Forest Classification

The basic building block used for forest wildlife habitat assessments and management planning is the forest stand, which is an area that is generally similar in terms of vegetation cover type (species mix of dominant vegetation), age-class distribution, and site quality. Some stands may be very uniform in size and species composition (for example a stand of even-aged white pine) while others may be composed of patches of different species and ages (for example, an uneven-aged hemlock-hardwood forest). Stands may vary from a few acres to over 100 acres in size. For this property, aerial photography and field data were used to divide the forest into stands and to create the *Stand Map*.



Forest age, structure and type are key determinants of wildlife habitat. The young forest of shrubs and saplings above at Baxter Woods area F3 may be used by birds such as eastern towhee and chestnut-sided warbler, while older forest areas like this oak-hemlock forest type (Stand 5b) will attract birds such as Blackburnian warbler and black-throated blue warbler.

Forest Habitat Types

For habitat assessment purposes, common forest types found on the property have been grouped into Forest Habitat Associations, which generally share a common suite of wildlife species in any given region. The **Foresters for Maine Birds** habitat associations are described in the following table.

Forest Habitat Classification

Map Symbol	Forest Habitat Association <i>(comments in italics)</i>	Common Forest Types	Baxter Woods
NHW	Northern Hardwoods¹ <i>May include up to 25% softwoods</i>	Northern Hardwoods (beech-birch-maple and variants) Aspen-Birch (early successional variant)	No
NMW	Northern Mixedwoods² <i>Neither hardwoods nor softwoods exceed 75% of stocking</i>	Northern Hardwood/Hemlock Northern Hardwood/Spruce-Fir Hemlock (in patches) Aspen-Birch (early successional)	No
NSW	Northern Softwoods³ <i>May include up to 25% hardwoods</i>	Spruce-Fir Spruce-Hemlock White Pine-Mixed Conifer Northern White Cedar Aspen-Birch (early successional)	No
OP	Oak-Pine⁴ <i>May range from pure oak-dominated hardwoods to mixed hardwood and softwood stands</i>	Northern Red Oak Red Oak-Mixed Hardwoods Red Oak-White Pine-Red Maple White Pine Hemlock and Hemlock-Oak-Pine	Yes
MHW	Mixed Hardwoods	Oak-Northern Hardwoods Oak-Aspen-Birch	Yes

Habitat Age Class, Stand Structure Class, and Canopy Cover

Many wildlife species are closely linked to specific forest ages and structures, including tree size, canopy density, and vertical structure (i.e., canopy layering), and timber management options are also age and size related. Stands are classified in terms of general size and combinations of stand structure class (which is related to maturity) and canopy cover as described in the following tables. **Stand Structure Class** is an indication of ecological development, wildlife habitat condition, and commercial forestry potential. **Habitat Age Class** is used to summarize the stand structure classes into broad habitat conditions for assessment and planning.

Forest Habitat Age and Structure Classes			
Habitat Age Class	Stand Structure Class ¹		Description ²
Young	1	Regeneration	1-10 years old, <1" DBH ⁴
	2	Sapling	2-5" DBH, 10-30', <30% overstory ³ cover
Intermediate	3a	Intermediate - Single-aged (Poletimber)	Overstory 5-10" DBH, total canopy cover > 60-70% with midstory component <30%
	3b	Intermediate - Two-aged (Poletimber)	Overstory 5-10" DBH and <60% cover, development of midstory and understory variable depending on time since last harvest or other canopy disturbance
Older	4	Maturing (Small Sawtimber)	Overstory trees 10-16" DBH dominant, total canopy cover typically >60-70%
	5	Older Complex (Large Sawtimber)	Overstory trees >16" DBH dominant. Multiple canopy layers common with total canopy cover typically >60-70%

¹Equivalent forest product classes in parentheses.

²These are general descriptions; diameter and canopy cover may vary by species and site. Percent cover of any layer may be less than indicated if there has been recent harvesting (typically within 10-15 years)

³See Vegetation Layer table

⁴DBH: diameter at breast height (4.5 ft.)

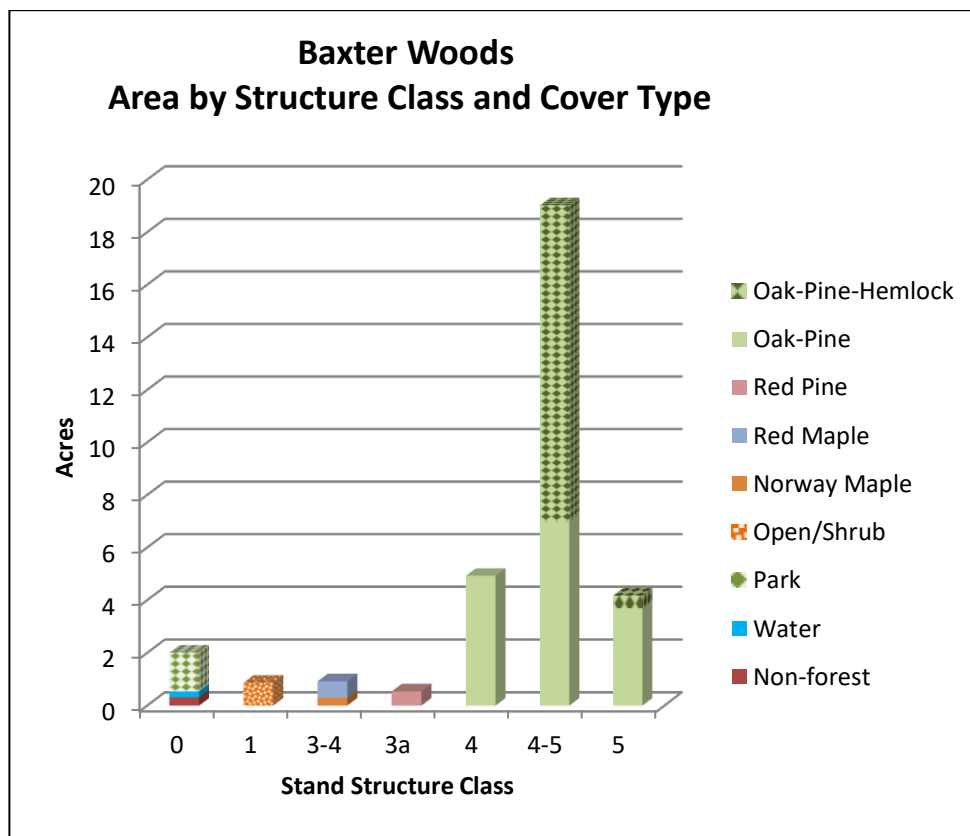
Vegetation Layer		Height (ft.)	Bird Habitat Notes
Canopy	Overstory	>30	Canopy heights of >50-60' are important for many mature forest species, including Black-throated Green Warbler and Blackburnian warbler.
	Midstory	6-30	Important nesting and foraging stratum for species like Canada Warbler that prefer dense midstory. Other species, such as Eastern Wood-Pewee, prefer a more open midstory.
Understory		1-6	Important feeding and nesting cover for mature-forest species such as Black-throated Blue Warbler and Veery.

Canopy Cover Classes

Cover Class	% Canopy Cover
A	>80
B	60-80
C	30-60
D	5-30
E	<5

Distribution of Habitat Types and Development Stages

The distribution of forest habitat type and associated development classes as well as other cover types on the property are summarized in the following chart.



Stand Class	Area (acres)	Percent
0	2.01	6.2%
1	0.87	2.7%
3-4	0.92	2.8%
3a	0.54	1.7%
4	4.92	15.2%
4-5	19.02	58.6%
5	4.18	12.9%
TOTAL	32.46	100.0%

Forest Canopy Layers					
Stand Number	Type	Stand Structure Class and % Cover			Acres
		Overstory	Midstory	Understory	
1	Red Pine	3a/B	0	1E	0.54
2a	Oak-Pine	5B	2-3D	1B	2.85
2b	Oak-Pine	4-5B	2C-	1-2C	0.92
3	Oak-Pine	3-5B	3C	1E	3.12
4	Oak-Pine	5A	2C	1D, C	5.47
5a	Oak-Pine-Hemlock	5B	2-3B	1D,C	12.04
5b	Oak-Pine-Hemlock	5C	2-3C	1D	0.49
6	Oak-Pine	4-5A	2-3C	1D	0.84
7	Red Maple	3-4A	2D	1C	0.62
8	Oak-Pine	4-5A	2C	1B	0.59
9	Oak-Pine	4-5B	2C	1C	1.80
10	Norway Maple	3-4A	2D	1C	0.30

11	Non-forest				0.22
F1	Park	2-4C	0	0	1.06
F2	Park	2D	0	0	0.41
F3	Open/Shrub	n/a	n/a	n/a	0.72
F4	Open/Shrub	n/a	n/a	n/a	0.15
Pond	Water	n/a	n/a	n/a	0.22
P1	Non-forest	n/a	n/a	n/a	0.10
					32.46

Current Conditions

The preceding chart and table show that older stands (Classes 4 and 5) account for over 81% of the forest area, and exceptionally large proportion for any forest in Maine. Nearly all stands have moderate to full canopy cover of mature trees. Midstory is generally moderate, and understory is moderate to low. Extensive area with limited to no understory can be easily observed while walking the trails, especially in the middle third of MBW. To a large extent this is caused by the very dense hemlock midstory in these stands, which limits the light available for forest regeneration. While attractive from a visual perspective, the lack of understory cover limits the habitat for species that nest and forage in the lower canopy layers. Old field, shrub, and young saplings, and important habitat type for some species, represent less than 3% of the area.

Recommendations

Specific to forest age and structure, the City has limited options to enhance habitat for birds and other wildlife due to the deed restrictions that do not allow tree cutting.

- In all stands except open/shrub areas, allow late successional forest conditions, including large trees, canopy gaps, and understory regeneration, to develop naturally over time. Tree mortality from wind events, ice storms, and native insects and diseases will result in canopy gaps that will allow establishment and development of the understory and ground cover plants and habitat for birds that use these areas. While a systematic plan should be developed and implemented to protect a significant portion of the oldest hemlocks from the exotic hemlock wooly adelgid (HWA) and outbreaks of hemlock scale (see *Insects and Disease* section later in this report), allowing these pests to go untreated in some patches will result in an increase the light reaching the forest floor in those areas and stimulate growth in the understory.

Rare, Threatened, and Endangered Species, Natural Communities, and Significant Wildlife Habitat

Information on known locations of rare, threatened and endangered species, Significant Wildlife Habitats, and rare or exemplary plant communities was provided by the Maine Natural Areas Program (MNAP). Beginning with Habitat (BWH) maps prepared by the Maine Department of Inland Fisheries and Wildlife (MDIFW) in cooperation with the Maine Natural Areas Program (MNAP) were also reviewed.

Current Conditions

The Beginning with Habitat maps and MNAP report do not show any high-value plant and wildlife habitats in or near Baxter Woods. The nearest mapped features are in Back Cove and on the Fore River.

- The Forest Synthesis field assessment did not identify any areas that would be classified as Significant Wildlife Habitats by MDIFW.
- A systematic survey for rare, threatened, or endangered plants and animals was not part of the Forest Synthesis assessment, but given the location and type of habitats present the presence of these species is highly unlikely.
- Forest stands 2, 3, 4, 5, and 6 have dominant canopy trees 180-200 years in age have not been harvested in well over 100 years. However, because Baxter Woods is less than 100 acres in size MNAP reports that none of the forest communities there qualify a “natural community of statewide significance.” Nonetheless, as an example of old-growth oak-pine-hemlock forest Baxter Woods may be without par anywhere in Maine.

Recommendations

- Management of the forest consistent with the MBW deed restrictions would also be consistent with the MNAP guidelines for natural communities and help protect its significance.

Vernal Pools

Identification and Ecological Significance

Vernal pools are small, fishless water bodies that provide breeding habitat for a unique group of amphibians and invertebrates, including (yellow) spotted and blue-spotted salamander, four-toed salamander, wood frog, and fairy shrimp. During most of the year, adult spotted salamanders and wood frogs are found in the nearby forest; spotted salamanders may be found up to several hundred feet from the pools and wood frogs are found up to a quarter mile or more from pools. Vernal pools are best identified in spring when breeding adults and/or eggs are present. By mid or late summer they are frequently dry. Typically, vernal pool species breed in small isolated pools and ponds, but other areas such as forested wetlands and stream floodplain channels are also often used. See ***Focus Species Forestry*** guidebook for more information. More detailed information may be found in **Forestry Habitat Management Guidelines for Vernal Pool Wildlife in Maine** (Calhoun and deMaynadier 2004).

Current Conditions

Two areas with some vernal pool characteristics were observed in MBW (see Stand Map). Informal observations were recorded during an April, 2016 field visit and again in October 2017.

- **VP1.** This is ephemeral pool formed by a small seep near the Forest Home site. A short stone wall at one end of the pool, its location adjacent to the Forest Home site, and the overall configuration suggest that some evidence that this pool may have been enhanced during the Smith estate period of the property to be part of the estate landscaping. The pool is currently 6-8" deep at spring high water and was dry when observed in October 2017. No spotted salamander or wood frog eggs were observed in April 2016 when eggs were found elsewhere in MBW.



Vernal Pool 1 was probably a landscape feature of the Forest Home Estate and could be enhanced by increasing its depth.

- **VP2.** VP2 is a small excavated pool in Stand 9, but with water over 12" in depth in April 2016. At that time 12 spotted salamander egg masses and 1 wood frog egg mass were observed in the pool. In October 2017 this pool was dry, but the number of egg masses observed suggests that the pool has a sufficiently long hydroperiod in some years to maintain small population of obligate vernal pool amphibians.
- **Pond.** In April 2016 both spotted salamander and wood frog egg masses were observed in the pond.

Recommendations

- VP1 could be enhanced to deepening the pool to a depth of 12"-16" to improve its potential value as vernal pool habitat. A short section of PVC pipe extending 2 ft. below the pool bottom could be installed to serve as a water table monitoring well. Water table depth data from this well could then be used to decide whether or not excavating the pool would be effective.
- VP2. This pool was clearly excavated and has steep sides and a small berm of excavated material around the edges. The pool could be visually enhanced by contouring the edges to create a more natural appearance.

Aquatic Habitats and Riparian Zones

Identification and Ecological Significance

Aquatic habitats at Baxter Woods include the pond near Forest Avenue and the ephemeral stream. Riparian areas are areas that are influenced by, and that influence, aquatic habitats. Species that benefit from aquatic habitats vary greatly with size, depth, vegetation, bottom structure, current, and other factors. Over 60 wildlife species in Maine are dependent on the adjacent riparian habitats for part of their life cycle, and many other species are frequently found in riparian habitats.



Pond. Despite its small size and urban location the pond attracts great blue herons, mallards, black ducks, amphibians, and many other species.

Ephemeral stream. A small, seasonally intermittent stream and tributary are located in the southeast corner of the property. The stream ends in a storm drain near Forest Avenue. Stream surveys were not part of assessment in this plan, but values presumably include habitat for some insects and other invertebrates, and as a source of naturally filtered water that drains into the Back Cove estuary.

Recommendations

- Maintain a border of native vegetation around the pond and landscaping as necessary to direct foot traffic to targeted areas where soil compaction and vegetation disturbance would be minimal.
- Maintain the forest adjacent to the stream in a natural condition. Keep the number of trail crossings to minimum. Where crossings cannot be avoided orient trail perpendicular to the stream. Avoid trails that closely parallel the stream (e.g., within 25 feet).

Wildlife Trees, Dead and Downed Wood, and Retention Patches

Identification and Ecological Significance

Wildlife trees include:

- **Snags:** Dead standing trees.
- **Cavity or den trees:** Live trees with nesting cavities or mammal dens.
- **Recruitment trees:** Large live trees that will be permanently retained (i.e., will never be harvested) and will eventually contribute to the snag, cavity tree, and downed woody material for wildlife and other biodiversity benefits. Typically these are large trees with significant decay or other cull defect, or beech with evidence of bear use

Downed Woody Material: Fallen tree trunks, branches and leaves.

Retention Patches: Areas of live vegetation roughly $\frac{1}{4}$ acre or more that are retained within larger harvest openings (e.g., >5 acres).

Wildlife trees and downed woody material are recognized for their value to vertebrate wildlife (e.g., woodpeckers, marten, wood ducks, and salamanders), insects, and fungi and for their role in the cycling of nutrients and organic matter in the forest. Standing dead wood and woody debris also provide nesting and hibernation habitat for native bee species. All sizes provide value, but large cavity trees (> 16 inches) are required by species such as barred owl and wood duck. The value of downed woody material also increases with size.

Retention patches are used when harvesting (for certain silvicultural or wildlife habitat management objectives) removes most of the overstory. In these cases retained patches of trees and other vegetation serve as a habitat “lifeboat” for species with low mobility (e.g., understory herbs, lichens, mosses and liverworts) whose habitat would be eliminated by even-aged management practices that clear most vegetation when regenerating the forest. Retention patches over one acre in size have the best temperature, humidity, and light conditions for retaining understory plants.



Decaying trees provide feeding and nesting habitat for woodpeckers. Excavated nest cavities in turn provide habitat for other species.

Observations

- Snags, cavity trees, and large and small woody material are moderately abundant in Baxter Woods.

Recommendations

- Allow dead, dying trees, and downed trees and limbs to remain in place unless they represent a threat to trail users.
- Scatter downed limbs that fall on trails within the forest rather than chipping them.

Forest Health

Invasive Plants

Identification and Ecological Significance

The Maine Natural Areas Program defines an invasive plant as “a plant that is not native to a particular ecosystem, whose introduction does or is likely to cause economic or environmental harm or harm to human health.” MANP describes invasive plants as “a direct threat to what we value about Maine's natural and working landscapes [and the] second-greatest threat to global biodiversity after loss of habitat. Invading plants out compete native species by hogging sunlight, nutrients, and space. They change animal habitat by eliminating native foods, altering cover, and destroying nesting opportunities” ([MNAP website, 2017](#)). A list of some of the most problematic invasive species commonly found in Maine forests is included in the Appendices.

Current Conditions

The location of invasive plants is shown on the Invasive and other Exotic Plants map. Norway maple (classified as “probably invasive” by the Maine Natural Areas Program) is the most abundant exotic species. It dominates one stand (Stand 1) and is exhibiting invasive behavior in many areas of the MBW. Other species observed in mixed patches or as scattered clumps include Asiatic bittersweet, bush honeysuckle, common buckthorn, Japanese barberry, Japanese knotweed, Bishop’s weed (also “probably invasive”). Linden is an exotic species that is not classified as invasive but it is becoming well established in the understory and mid-canopy in many places. Lemon balm, another exotic not “invasive,” was observed in a large patch in Stand 11. Lists of invasive plants are included in the Individual Stand Descriptions and Recommendations.



Bishop’s weed (goutweed) is an example of an invasive exotic plant that is preventing the growth of native species in Mayor Baxter Woods

Some invasive plant control has occurred. Larger Norway maples in the vicinity of Hartley street were cut to eliminate seed sources, but where small Norway maples were cut and not treated with chemicals aggressive re-sprouting has occurred.

Recommendations

- The City should develop a plan and implement a plan to control and monitor invasive plants and other aggressive non-native plants throughout the MBW.
- To prevent introduction of other invasive plants, equipment used in the forest should be pressure-washed before being used on site.
- If mulch is needed, only use weed-free mulch, such as straw or wood chips that do not have any invasive plant seeds.

General approaches. Early detection and control is the key to managing invasive species. Small vines and shrubs may be pulled by hand, but treatment with a safe herbicide is the most effective means of controlling larger plants or large areas. Treatment methods are summarized in the Appendices.

Mechanical Control. Cutting is not an effective control measure as invasive plants will re-sprout vigorously. With diligence both barberry and smaller honeysuckle plants may be effectively controlled by hand pulling. During the spring when soils are moist is generally the best time. Pull all plants that are not too large. An “Extratigator” or similar brush puller (e.g. “Weed Wrench”) may be used to pull larger plants. To limit the chance of re-sprouting, care should be taken to ensure that as much root material as possible is removed. Any plants that are too large for pulling should be marked with flagging and GPS for follow-up control with chemicals.

Chemical Control. Where hand pulling is not effective or feasible, herbicides are generally the only effective treatment option. When properly handled and applied the herbicides glyphosate and triclopyr have been shown to have very low risk for organisms other than plants and they have minimal soil movement and break down rapidly. Other chemicals may be more effective in certain situations. Treatment methods are localized (individual plants and/or cut plant stems) and designed to minimize the amount of chemical use and damage to non-target plants. These chemicals and methods are recommended by The Nature Conservancy and other conservation groups for management of natural areas.

Follow-up monitoring and control 2-3 years after the initial treatment is necessary, regardless of whether mechanical or chemical controls are used.

Herbicide use is regulated by the Maine Board of Pesticide Control and all legal requirements must be followed.

Insects and Diseases

Current Conditions

Elongate hemlock scale (*Fiorina externa*) is a serious exotic pest of eastern hemlock. It also can be found on fir, spruce and other conifers. EHS attacks the surface of the hemlock needle and sucks out the fluid. This process causes the needles to turn yellow and drop prematurely ([Maine Forest Service webpage](#))

accessed 2/8/18). EHS was observed on several plots during the field assessment and is the likely cause of hemlock mortality in Stand 5b.

Hemlock wooly adelgid is an invasive aphid-like insect that feeds on hemlocks that has devastated hemlock stands in southern New England and in the Appalachians. HWA has spread north through the Midcoast region of Maine and is causing hemlock decline and mortality throughout this region. In northern New England decline can be slow, and cold winters tend to kill many of the insects. No evidence of hemlock decline caused by HWA – typically a thin, pale-green crown – was observed at MBW during the field reconnaissance, but it has been observed by City Forester Jeff Trarling.

Red pine in Maine is threatened by several pests and diseases, including the exotic red pine scale, and *Siroccocus* shoot blight, which is devastating red pine plantations in Maine. There is no evidence that the MBW red pine plantation (Stand 1) is affected yet, but this stand as well as the mature red pine scattered throughout Baxter Woods are at risk.

Beech-bark disease, which results from the combined action of exotic insect and an exotic fungus, has devastated American beech stands throughout its range. Beech bark disease was observed at MBW, but the trees are very healthy compared with most areas in Maine. There is no known control for beech bark disease. Dead and dying trees can be removed, but because beech regenerates through root, suckers and mature trees are often connected by root systems, it is impossible to eliminate or slow the disease by cutting.

Browntail moth, winter moth, and gypsy moth are exotic insects are serious threats to oak forests, and will also affect some other tree species. None have been observed at MBW to date, but browntail moth and winter moth are common in the Casco Bay region. Personal observations are that the oldest trees are most at risk during winter moth outbreak. Browntail moth seems to result in less tree mortality, but the toxic hairs shed by the developing caterpillars cause significant rashes on most people.

Recommendations

Hemlock Wooly Adelgid and Elongate Hemlock Scale

- Develop a comprehensive plan to monitor and control hemlock wooly adelgid and elongate hemlock scale.
- Consult with the Maine Forest Service and other experts as needed. Management references are included on the [Maine Forest Service HWA web page](#), and Forest Synthesis can provide contacts at the Nature Conservancy, which has an active program and recommendations to control HWA in key ecological areas.
- Chemical pesticides are generally the only consistent method to control HWA and EHS. However, the Maine Forest Service and US Forest Service are experimenting with biological controls, and the City should ask MFS if they would use Baxter Woods as an experimental site.
- Even if biological controls are used, the city should map and protect individual, old hemlocks with chemical methods. Ground injections of systemic pesticides (e.g., imidacloprid) can provide long lasting control of individual trees (up to 10 years), and studies have shown there is no evidence of chemical movement beyond the treated tree.

Red Pine Pests and Diseases

- To reduce the risk of major loss of red pine from red pine scale, *Sirrococcus*, and other diseases, monitor for these threats and manage the red pine plantation to allow a mixed stand of red pine and other native trees and shrubs to develop over time. See Stand 1 recommendations for details.

Browntail Moth, Winter moth, and Gypsy Moth

- Develop a contingency control plan for browntail moth, winter moth, and gypsy moth and monitor the forest on a regular basis for the presence of these exotic insect pests.

Planning for Climate Change

Researchers have estimated that Maine's average temperatures will increase at least by 3.5° F by 2100 if climate-warming emissions are significantly reduced and by as much as 12.5° F if emissions are not reduced. By 2100, the optimum climate for spruce and fir is predicted to shift to north of the Canadian border, while the optimum climate for northern hardwoods such as sugar maple and yellow birch is predicted to retreat to the western mountains and northwestern highlands of Maine. The northern limit of optimum climate for oak, which is now best adapted to southwestern Maine, is predicted to shift north to the Canadian border. Trees that are outside of their optimum climate are likely to become stressed, with potential for increased rates of health decline and mortality due to insects and diseases. Disturbances, including harvests and other management actions, can be used to facilitate the response of vegetation types to climate change.

Examples of species that are tolerant of warmer temperatures include white pine, red oak, and red maple. The general recommendations below have been developed by the author for consideration when developing plans for forest management.

Recommendations

- Landowners and managers can help mitigate climate change by sequestering carbon in soils, the forest floor, and in the canopy. Forest soil carbon loss can be minimized by avoiding clearcutting and other practices that heat the forest floor and increase decay and oxidization of organic matter. Managing for older and larger trees will store more carbon on the stump. Some studies have shown that carbon is also sequestered in long-lived forest products after trees are harvested.
- Consider planting species that are currently at the northern limit of their range and that can tolerate warmer temperatures.
- Increase culvert sizes over those included in BMP guides and otherwise modify water management and stream crossing practices to accommodate increases in storm severity



Cool-climate species such as sugar maple and yellow birch (shown here) as well as red spruce and other species may decline as the climate warms. Red oak, white pine, and red maple are well adapted to a warming climate.

Other Management Considerations

Historical, Cultural, and Archaeological Sites

Mayor Baxter Woods is well known as the site of the “Forest Home” estate of Francis Ormond Smith. Evidence of the estate remains in the form of cut granite blocks and landscape alteration near the small field in the northwestern part of property (Stand Map, areas 2B and F3). Archaeological studies in 2014 by Norm Buttrick and students from Catherine McCauley High School identified evidence of the estate.

Recommendations

- Compile information from the Buttrick study and other sources to create a more complete and accurate history and maps of land use at MBW. These could be used for educational purposes and as a record for long-term management.
- Consult with Maine Office of Historic Preservation about possible location of other historical and archeological sites.

Societal Considerations

Public forest management should include opportunities for members of the public to ask questions about and provide comments on draft plans before they are finalized.

Boundary Lines

Clearly marked boundaries are necessary to prevent timber trespass and other damage to property, including both protection from abutters and to ensure that you do not encroach on the lands of others. Boundary lines are delineated by roads, stone walls, and shorelines.

Current Conditions

- Boundaries formed by Forest Avenue, Hartley Street, and Stevens Avenue are clear.
- A chain link fence marks the north boundary.
- The boundary north of residences on Hartley Street (vicinity of Stand Map, area 11) has a few survey pins, but is not marked between the widespread pins. Most residential properties on Hartley Street have encroached onto City property (Stand Map, areas 11 and F4). Examples of encroachment include fencing, paved driveways, lawns, and gardens and brush dumping.
- Cedar post and rail fencing marks most of the boundary behind residences on Steven’s Avenue. However, sheds and equipment from two abutting properties at the south edge Stand 2a encroach several feet onto City property where there is no fence.

Recommendations

- Where MBW abuts residential properties on Hartley Street and Stevens avenue the City should clearly mark the boundary with fencing or other means (e.g., multiple posts and signs) and work with abutters to restore degraded city property to a natural condition. City Forester Jeff Tarling that surveyors will be working on this line in 2018.
- Signs should be placed at various points along other boundaries and access points



Example of unmarked property line and encroachment behind residences on Hartley Street.

Recreational Use

Current Conditions

- Walking, bike riding, and dog walking are common recreational activities in MBW. See maps for trail locations.

Recommendations

- As noted elsewhere in this report, recreational uses and in particular unleashed dogs are likely having an adverse impact on ground-nesting and ground-feeding birds. Because the Baxter deed requires that the City maintain Baxter woods for recreational use and as a sanctuary for wild birds, the city should require that dogs be leashed.
- The city could consider closing some minor trails to create wider spaces between trails and thus minimize disturbance of wildlife.

Forest Fire Protection

The property does not present any unusual vulnerability to fire compared with other wooded properties in the region. Forest fire risk is generally low due to Maine's climate. In the unlikely event that fire did occur, the current trail network provides good access to the interior of the forest for fighting fires.

Monitoring

Periodic monitoring is important to identify trend and issues that may develop and to help provide information for future management decisions. Many monitoring activities could be conducted by qualified volunteers. Recommended monitoring activities are included below.

Vernal Pools. Annually monitor depth, hydroperiod, and use by vernal pool species and other wildlife in April-May. See *The Maine Municipal Guide to Mapping and Conserving Vernal Pools* (Morgan and Calhoun 2012).

Breeding birds. Annually coordinate a post-migration breeding bird survey with Maine Audubon volunteers (June). Divide the forest into four to six monitoring blocks and identify singing males in each block. Compile data by species and the canopy layer where they are known to nest (see *Forestry for Maine Birds*). Ideally compare results with Evergreen Woods. Bird data from the spring migration period (May) would also be of interest.

Insects and Diseases. Monitor hemlock wooly adelgid, elongate hemlocks scale and other insects (see *Insect and Disease* section of this report). Contact the MFS District Forester or the MFS Division of Forest Health Monitoring (207-287-2431) if any concerns arise.

Invasive Plants. Monitor results if invasive plant controls and periodically check for new occurrences. Take appropriate action if any are found. See *Invasive Plants* section and Appendices for more information.

Condition of roads and trails. Check roads and trails for blocked ditches, culverts, and erosion problems.

Boundary lines. Periodically inspect boundary lines to be sure evidence is clearly visible and to check for unwanted encroachment from abutting properties.

Recreation use. Use trail cameras or other monitoring methods for fixed periods of time to quantify and describe recreation use and evaluate the potential impact of unleashed dogs on wildlife.

References and Resources

Literature Cited

Bryan, R.R. 2007. **Focus Species Forestry: A Guide to Integrating Timber and Biodiversity Management in Maine.** Maine Audubon, Falmouth, ME. Download: <http://www.forestsynthesis.com/resources.html>.

Maine Audubon. 2017. **Forestry for Maine Birds.** Maine Audubon, Falmouth, ME

Maine Department of Conservation. **Best Management Practices for Forestry: Protecting Maine's Water Quality.** Maine Forest Service, Augusta, ME. 1-800-367-0223.

Morgan, D.E., and A.J.K. Calhoun. 2012. **The Maine Municipal Guide to Mapping and Conserving Vernal Pools.** University of Maine, Sustainability Solutions Initiative, Orono, ME.

Mayor Baxter Woods Resources

2014 Archaeological Survey. <https://dcna.me/forest-home-of-francis-oj-smith/> (accessed 1/2/2018)

Appendices

Mayor Baxter Woods Deed Restrictions

As quoted in the City's **Welcome to Mayor Baxter Woods** brochure, restrictions in the 1946 deed from Governor Percival P. Baxter to the City include:

"...the above described premises with all the privileges and appurtenances thereto to said City of Portland as trustee as foresaid and its successors in trust and the same shall not be conveyed or encumbered by said City but shall be held forever for the benefit of the people of said Portland subject to the following terms, restriction, reservations and conditions:

- 1. shall forever be retained and used by said City in trust for the benefit of the people of Portland as a Municipal Forest and Park for public recreational and educational purposes the same forever to be known as "MAYOR BAXTER WOODS";*
- 2. shall forever be kept in its natural wild state and as a sanctuary for wild birds, with no streets for public conveyances and no cement walks therein and with only paths and trails for pedestrians, and any trees that shall fall or that may become a menace to life may be removed, but no other trees therein shall be taken down;*
- 3. shall forever be maintained for the sole use of pedestrians; and horses, automobiles and all motor vehicles, except those of the City used solely in caring for said woods, shall forever be excluded therefrom;*
- 4. that the heavy ornamental gates now in possession of said City shall be erected by said City either at the Forest Avenue or Stevens Avenue entrance within one year of the date of this deed;*
- 5. that said City shall erect within one (1) year after the date of this deed and shall forever maintain on the land hereby conveyed a suitable bronze marker the said marker to recite the conditions of this gift, the same to be attached to a granite boulder located on said land and provided by said City."*

Assessment Methods

Aerial photography, published maps, and field reconnaissance were used to map the extent of wetlands and the location of streams. Field map data were collected on a hand-held Global Positioning System (GPS) receiver. Base map information was prepared on a Geographic Information System (GIS) using data from the Maine Office of GIS and the field data.

The on-site visit occurred on March 26, 2016. Observations recorded in each forest stand included species composition, canopy closure, understory density, average tree size classes and quality, tree health, forest regeneration, soils and site conditions. There was no systematic timber inventory. Field data collected provides a basis for management recommendations and satisfies the requirements of the Tree Growth Tax Law.

Each stand has a number of the Forest Stand and Cover Type Map. To avoid repetitive text, where appropriate stands that are similar in character have been grouped in the descriptive tables below.

Individual Stand Descriptions and Recommendations

The following descriptions are based on an analysis of aerial imagery and the field assessment undertaken during October-December 2017. After discussions with the City it was agreed that quantitative, statistically valid forest inventory was not needed to gather the information needed to describe baseline conditions and develop recommendations designed to meet the City's objectives.

Notes on the stand descriptions and recommendations:

- **Wildlife Habitat Values.** Wildlife values are primarily based on the forest type and structure. The small size of the forest and setting in a developed landscape will limit habitat potential for many species, as will the high density of trails and number of unleashed dogs. These issues are discussed elsewhere in the report and are generally not addressed in the individual stand tables below.
- **Management recommendations.** Management recommendations in the stand tables below are generally limited to vegetation management options. Other recommendations, such as those for trails and strategies for multi-stand issues such as control of exotic insects, are addressed elsewhere in the report.

Stand 1			Map Unit	Acres
			1	0.54
CURRENT CONDITIONS				
Cover Type	Red (Norway) Pine	Overall Structure Class & % Cover		3B
Principle canopy species:	Red Pine	Overstory Class & % Cover		3a/B
		Midstory Class and % Cover		0
		Understory Class & % Cover		0
Stand description, age and history:	This stand was planted in 1949 and has a single canopy layer 6-10" in DBH (diameter at breast height, or 4.5 ft.) and 30-50 ft. in height. The southern and western sides were thinned in 2004 and have a layer of lowbush blueberry, asters, and grasses as well as seedlings and sprouts of red oak and black cherry. Seedlings near the edges have been mown periodically. The smooth soil surface topography in this and nearby stands suggest that the western third Baxter Woods was a field at one point in time.			
Wildlife Habitat Values	Wildlife habitat is essentially limited to the overstory canopy layer provides wildlife cover and feed (seed from cone crops) for species that tolerate high levels of human activity.			
Stand stocking:	The area that was thinned is well stocked but is nearing the time when another thinning would promote continued growth. The unthinned area is overstocked with trees of small crowns, which severely limits growth potential. Thinning the entire stand would promote the most vigorous trees as well as allowing native species to develop in the under understory, thereby improving			
Soils, Slopes, Site Quality, and Growth Rate	Soils are nearly level and well drained with good site quality. Growth rates estimated to be average.			
Forest Health	No forest health issues were noted, but the exotic red pine scale insect and <i>Siroccocus</i> shoot blight are devastating red pine plantations in Maine and this stand is at risk.			
Invasive and Exotic Plants	Bittersweet and Norway maple, <5% cover			
Cultural Features	This is a planted stand. A trail passes through the east side of the stand and along the west edge.			
Management Objectives and Recommendations				
Desired Future Condition	Older, mixed species pine-oak forest with multiple canopy layers			
Management Recommendations	Thin the stand to approximately 60% canopy closure to promote regeneration of native trees, which will be aided by jays, squirrels, and other wildlife moving seeds from nearby stands. This will improve wildlife habitat and promote transition to a more natural species mix while reducing impacts should red pine scale or <i>Sirroccus</i> become established.			

	- Control invasive plants. - In approximately 10 year the stand should be thinned again to less than 50% canopy cover of red pine. - Stand edges should not be mowed.
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Stand 2a		Map Unit	Acres
		2a	2.85
CURRENT CONDITIONS			Structure Class and % Cover
Cover Type	Red Oak		5B
Overstory	Red oak (80%), white oak		5B
Midstory	Red oak, black cherry, hemlock, red maple, linden		2-3D
Understory:	Black cherry, red maple.		70%
Stand description, age and history:	Overstory of mature red oak 16-30” DBH and 60-80’ in height overtops a low-density midstory of hardwood saplings and small poles with a minor hemlock component. The smooth soil surface topography in this and nearby stands suggests that the western third Baxter Woods was a field at one point in time.		
Wildlife Habitat Values	The overstory and midstory provide good nesting and bird foraging habitat and acorns are a valuable food for many species, but species characteristic of larger forest blocks are unlikely to nest here. Large snag and/or canopy trees and downed logs were observed.		
Stand stocking:	Well stocked with large trees.		
Soils, Slopes, Site Quality, and Growth Rate	Soils are gently sloping and well drained with good site quality. Growth rates estimated to be average to above average.		
Forest Health	No issues were noted		
Invasive and Exotic Plants	Norway maple, Asiatic bittersweet common buckthorn, and bush honeysuckle, 20-50% cover in patches, found throughout most of the stand.		
Cultural Features	A large rectangular pit reminiscent of a cellar hole but with no evidence of a foundation is located north of the main carriage trail. Sheds and equipment from tow abutting properties at the south edge of this stand encroach several feet onto City property where there is no fence.		
Management Objectives and Recommendations			
Desired Future Condition	Older, mixed species deciduous forest with multiple canopy layers		
Management Recommendations	- Control invasive plants - Refer to general recommendations for trails - Research history of “cellar hole” (see cultural features) - No other active management recommended at this time.		

Stand 2b		Map Unit	Acres
		2b	0.92
CURRENT CONDITIONS			Structure Class and % Cover
Cover Type	Red Oak –White Pine		5B
Overstory	Red oak & white oak (80%), plus white pine and red pine		4-5B
Midstory	Red oak, black cherry, red maple		2C-
Understory:	Black cherry, alternate-leaved viburnum.		1-2C
Stand description, age and history:	Mature hardwoods with a mixed conifer component. The overstory ranges from 12-24" DBH and 50-70' in height. Ground cover species noted include lowbush blueberry, black cherry seedlings, and asters. The smooth soil surface topography in this and nearby stands suggests that the western third		

	Baxter Woods was a field at one point in time.
Wildlife Habitat Values	In addition to species favoring mature hardwoods, pine warblers may nest in this stand, but species characteristic of larger forest blocks are unlikely to nest here.
Stand stocking:	Well stocked with mature trees
Soils, Slopes, Site Quality, and Growth Rate	Soils are gently sloping and well drained with good site quality. Growth rates estimated to be average to above average.
Forest Health	No issues were noted
Invasive and Exotic Plants	Norway maple, Asiatic bittersweet common buckthorn, and bush honeysuckle, 20-50% cover in patches, found throughout most of the stand.
Cultural Features	A level feature reminiscent of a landscape patio bordered by large cut stones is located in the southeast corner of this stand north of the carriage trail.
Management Objectives and Recommendations	
Desired Future Condition	Older, mixed species pine-oak forest with multiple canopy layers
Management Recommendations	- Control invasive plants - Refer to general recommendations for trails - Research and decide on management of the “patio” area described above - No other active management recommended at this time.

Stand 3		Map Unit	Acres
		3	3.12
CURRENT CONDITIONS			Structure Class and % Cover
Cover Type	White Oak-Red Oak-White Pine		4B
Overstory	White oak, red oak, white pine, plus lesser amounts of hemlock and white ash		3-5B
Midstory	Hemlock, red maple		3C
Understory:	Hemlock, red maple		<5%
Stand description, age and history:	Mature hardwoods with a mixed conifer component. The largest oaks range from 20-40” DBH, with other species in the 12-20” diameter range. Ground cover species noted include lowbush blueberry, black cherry seedlings, and asters. The smooth soil surface topography in this and nearby stands suggests that the western third Baxter Woods was a field at one point in time.		
Wildlife Habitat Values	In addition to species favoring mature hardwoods, pine warblers may nest in this stand, but species characteristic of larger forest blocks are unlikely to nest here.		
Stand stocking:	Well stocked with mature trees.		
Soils, Slopes, Site Quality, and Growth	Soils are gently sloping and well drained with good site quality. Growth rates estimated to be average to above average.		
Forest Health	No issues noted. Hemlock wooly adelgid may be present but it was not observed in the understory.		
Invasive and Exotic Plants	Norway maple, Asiatic bittersweet common buckthorn, and bush honeysuckle, 20-50% cover in patches, found throughout most of the stand.		
Cultural Features	None noted except trails		
Management Objectives and Recommendations			
Desired Future Condition	Older, mixed species forest with multiple canopy layers		
Management Recommendations	- Refer to general recommendations for trails - No other active management recommended at this time		

Stand 4		Map Unit	Acres
		4	5.47
CURRENT CONDITIONS		Structure Class and % Cover	
Cover Type	Red Oak		4-5A
Overstory	Red oak, plus minor component of beech, white oak, white ash, sugar maple, yellow birch and hemlock		5A
Midstory	Hemlock, beech, red maple, red oak		2C
Understory:	Beech, witch hazel, black cherry, balsam fir		5-70%
Stand description, age and history:	This is primarily a hardwood stand with hemlock in small patches. Structure is multi-aged but a mature canopy is dominant, ranging from 12-30" DBH and 60-80' in height.		
Wildlife Habitat Values	This stand provides habitat values of mature deciduous mixed forest, but species characteristic of larger forest blocks are unlikely to nest here. Scattered snags and cavity trees 12-18" observed.		
Stand stocking:	This stand is well stocked with mature trees.		
Soils, Slopes, Site Quality, and Growth	Soils are gently sloping and well drained with good site quality. Growth rates estimated to be average to above average.		
Forest Health	No issues were noted		
Invasive and Exotic Plants	Norway maple, Asiatic bittersweet common buckthorn, and bush honeysuckle, 20-50% cover in patches, found throughout most of the stand.		
Cultural Features	Carriage trail and footpaths		
Management Objectives and Recommendations			
Desired Future Condition	Older, mixed species forest with multiple canopy layers		
Management Recommendations	- Control invasive plants - Refer to general recommendations for trails - No other active management recommended at this time.		

Stand 5a		Map Unit	Acres
		5a	12.04
CURRENT CONDITIONS			Structure Class and % Cover
Cover Type	Red Oak-White Pine-Hemlock		4-5A
Overstory	White oak, red oak, white pine; associated include hemlock, red pine, red maple, white ash, beech, and yellow birch		5B
Midstory	Hemlock, plus lesser amounts of red maple, white ash and yellow birch		2-3B
Understory:	Hemlock		0-30% (average <10%)
Stand description, age and history:	This is a distinctly two-aged stand with a mature hardwood-dominated canopy 16-30" DBH and 60-80' in height over an intermediate conifer layer dominated by hemlock. The presence of scattered large, old (probably over 150 years) hemlock in the overstory suggests that this area may never have been completely cleared. In contrast to the stands nearer to Stevens Avenue, the hummocky soil surface topography indicates that this area was never plowed.		
Wildlife Habitat Values	This stand provides habitat values of mature mixed hardwood-conifer forest, but has a minimal understory and ground cover layers favored by some species, and species characteristic of larger		

	forest blocks are unlikely to nest here.
Stand stocking:	Well stocked with mature trees.
Soils, Slopes, Site Quality, and Growth	Soils are gently sloping, moderately well drained on the west to somewhat-poorly drained in lower-lying drainages and seeps downslope to the east. Growth rates estimated to be average.
Forest Health	Hemlock scale was observed on two plots; hemlock wooly adelgid (HWA) may be present in small amounts but was not observed. Due to the large amount of hemlock in this stand complete control of HWA may not be feasible and cultural practices to promote species diversity should be considered. No other issues were noted.
Invasive and Exotic Plants	A patch dominated by bittersweet is located near the west end of the stand adjacent. Linden, an exotic not technically classified as “invasive” is becoming established in the understory (see map).
Cultural Features	A shallow seasonal pool that appears to have been a landscape feature of the Forest Home estate is located near the western end of this stand (see map VP1). Carriage trails and footpaths cross the stand in a generally east-west direction.
Management Objectives and Recommendations	
Desired Future Condition	Older, mixed species forest with multiple canopy layers
Management Recommendations	- Control invasive plants - Consider excavating the seasonal pool (VP1) to a high-water depth of 18-28” to enhance habitat values for amphibians - Closing the two footpaths within the stand interior would reduce disturbance to wildlife. - Refer to general recommendations for trails - Removing some of the midstory hemlock in other parts of the stand would proactively reduce risk of hemlock loss while enhancing wildlife habitat by promoting understory and ground cover plant layers. However, this does not appear to be allowable under the deed restrictions.

Stand 5b		Map Unit	Acres
		5b	0.49
CURRENT CONDITIONS		Structure Class and % Cover	
Cover Type	Hemlock		5B
Overstory	Hemlock, plus white pine, red oak, and yellow birch		5C
Midstory	Hemlock, red oak		2-3C
Understory:	Hemlock beech		20%
Stand description, age and history:	This is a legacy patch of very old (probably over 150 years) hemlock and other species. There is no evidence of cutting.		
Wildlife Habitat Values	This stand is an inclusion within the larger Stand 5a. Refer to that stand description for details		
Stand stocking:	Moderate density due to some loss of overstory hemlock.		
Soils, Slopes, Site Quality, and Growth Rate	Soils are gently sloping, moderately well drained on the west to somewhat-poorly drained in lower-lying drainages and seeps downslope to the east. Growth rates estimated to be average.		
Forest Health	Several large hemlocks have died within the past 10 years, possible from hemlock scale.		
Invasive and Exotic Plants	None noted		
Cultural Features	Footpath		
Management Objectives and Recommendations			
Desired Future	Older, mixed species forest with multiple canopy layers		

Condition	
Management Recommendations	- Control elongate hemlock scale and hemlock wooly adelgid (see <i>Insect and Disease</i> section) - Refer to general recommendations for trails

Stand 6		Map Unit	Acres
		6	0.84
CURRENT CONDITIONS		Structure Class and % Cover	
Cover Type	Red Oak – White Pine		4-5A
Overstory	Red oak, white pine, plus beech and red pine		4-5A
Midstory	Hemlock, beech; associates include red maple and yellow birch		2-3C
Understory:	Hemlock, beech		<30%
Stand description, age and history:	Mature hardwood-conifer mix with a dense, mature overstory 12-24" DBH and 60-80' in height over a moderate density understory and midstory. This stand is very similar to Stand 4 and has a lower hemlock component than Stand 5. An old fire scar was observed on a white pine stump.		
Wildlife Habitat Values	Typical of a mature oak-pine forest, but species characteristic of larger forest blocks are unlikely to live here.		
Stand stocking:	Well stocked with mature trees.		
Soils, Slopes, Site Quality, and Growth	Soils are gently sloping and moderately well drained with apparently average growth rates.		
Forest Health	Hemlock scale and beech-bark disease (<i>Nectria</i> canker) observed		
Invasive and Exotic Plants	None observed		
Cultural Features	Footpath and carriage trail		
Management Objectives and Recommendations			
Desired Future Condition	Older, mixed species oak-pine forest with multiple canopy layers		
Management Recommendations	- Refer to general recommendations for trails - No other management activities recommended at this time		

Stand 7		Map Unit	Acres
		7	0.62
CURRENT CONDITIONS			Structure Class and % Cover
Cover Type	Red Maple		3-4A
Overstory	Red maple, plus minor component of red oak and white ash		3-4A
Midstory	Red oak, hemlock, red maple		2D
Understory:	Winterberry, arrow-wood viburnum, balsam fir, hemlock, yellow birch, white pine		+/- 50%
Stand description, age and history:	This is younger, even-aged stand that developed on what was likely an old field. The overstory is 8-12" DBH and 50-70' in height. The smooth soil surface topography in this area was likely a field at one point in time.		
Wildlife Habitat Values	The dense understory provides cover not generally found elsewhere in Baxter Woods.		
Stand stocking:	Well stocked with intermediate-sized trees.		
Soils, Slopes, Site Quality, and Growth	Mostly level, somewhat poorly drained with poorly drained patches. Growth rates estimated to be average to below average where wet.		

Forest Health	No issues were noted
Invasive and Exotic Plants	Japanese knotweed, barberry, burning bush
Cultural Features	None observed
Management Objectives and Recommendations	
Desired Future Condition	Older, mixed species pine-oak forest with multiple canopy layers
Management Recommendations	- Control invasive plants - Allow this stand to develop - no other management activities recommended at this time.

Stand 8		Map Unit	Acres
		8	0.59
CURRENT CONDITIONS		Structure Class and % Cover	
Cover Type	White Pine – Red Oak – Red Maple		4-5A
Overstory	White pine (60%), plus red oak, white oak, and red pine		4-5A
Midstory	Red oak, white oak, yellow birch , beech, white ash		2C
Understory:	Red oak, balsam fir, maple-leaved viburnum, hazelnut, huckleberry, lowbush blueberry		60-70%
Stand description, age and history:	The overstory is 12-24” DBH and 60-80’ in height. This essentially an even-aged stand but with a developing understory. The smooth soil surface topography in this was likely a field at one point in time.		
Wildlife Habitat Values	This stand buffers one side of the pond and has better understory habitat that is more robust than in most other parts of the forest. General habitat values are characteristic of older forests but species characteristic of larger forest blocks are unlikely to nest here. Large (>18”) and mid-sized snags and/or cavity trees were observed here.		
Stand stocking:	Well stocked with mature trees.		
Soils, Slopes, Site Quality, and Growth Rate	Soils are gently sloping and appear to be moderately well drained. Growth rates are estimated to be average.		
Forest Health	No issues were noted.		
Invasive and Exotic Plants	A single Japanese barberry plant was observed.		
Cultural Features	Two short “wildcat” trails (unauthorized footpaths) lead from the pond area to Forest Avenue		
Management Objectives and Recommendations			
Desired Future Condition	Older, mixed species pine-oak forest with multiple canopy layers		
Management Recommendations	- Control invasive plants - Consider blocking the wildcat trails - No other management activities recommended at this time.		

Stand 9		Map Unit	Acres
		9	1.8
CURRENT CONDITIONS			Structure Class and % Cover
Cover Type	Red Maple-Red Oak		4-5B
Overstory	Red maple, red oak, white ash, beech		4-5B

Midstory	White ash, yellow birch, hemlock, red maple	2C
Understory:	Balsam fir, beech, hemlock, yellow birch, winterberry	+/- 40%
Stand description, age and history:	This is maturing hardwood stand in a low-lying area with stream channels. The overstory is 10-18" DBH and 60-80' in height over a low-density midstory with trees 2-4" DBH.	
Wildlife Habitat Values	A moderately dense understory in the north half of the stand provides good wildlife cover. Several snags and downed trees were observed. A small excavate pool (VP2) was observed in this stand. Twelve spotted salamander egg masses and one wood frog egg mass were observed here in April 2016.	
Stand stocking:	Well stocked with mixed hardwoods	
Soils, Slopes, Site Quality, and Growth	Soils are nearly level with steeper slopes immediately adjacent to the lower section of the stream. Soils vary from moderately well drained to somewhat poorly drained in lower lying areas. Growth appears to be average for the site.	
Forest Health	No issues were noted.	
Invasive and Exotic Plants	One Japanese barberry was observed near the carriage trail.	
Cultural Features	Footpaths and storm drain	
Management Objectives and Recommendations		
Desired Future Condition	Older, mixed species forest with multiple canopy layers	
Management Recommendations	• Control invasive plants • No other management activities recommended at this time.	

Stand 10		Map Unit	Acres
		10	0.3
CURRENT CONDITIONS			Structure Class and % Cover
Cover Type	Norway Maple		3-4A
Overstory	Norway maple (75%), white ash (25%)		3-4A
Midstory	Red oak, hemlock, red maple		2D
Understory:	Winterberry, balsam fir, hemlock, yellow birch, arrow-wood viburnum		+/- 50%
Stand description, age and history:	This intermediate-aged stand has developed on a site that was a field at one point in time. The dominant Norway maple overstory 1-16” DBH and 60-80’ in height developed from seed sources in nearby residential areas.		
Wildlife Habitat Values	A moderately dense provides good wildlife cover in parts of the stand, but other areas are very open. There snags or cavity trees and little downed wood.		
Stand stocking:	Well stocked		
Soils, Slopes, Site Quality, and Growth	Soils are moderately well drained to somewhat poorly drained and slope toward the stream and storm drain near Forest Avenue. Overall site quality and growth rates are good.		
Forest Health	No insect or disease issues were noted.		
Invasive and Exotic Plants	Norway maple dominates the stand. One burning bush plant was also observed.		
Cultural Features	None		
Management Objectives and Recommendations			
Desired Future Condition	Restored forest dominated by native species		

Management Recommendations	Remove all Norway maple and plant native species in conjunction with drainage improvements near Forest Avenue
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Area 11. Encroachment Zone 0.22 acres

Description

This narrow strip along the property boundary north of Hartley Street has been encroached upon by the back yards of residences in that area. Small lawns, gardens, and furniture are found on the Baxter Woods property in this area. A slackline has been attached two trees on city property in the woods behind one of the homes. Brush dumping is also evident. Invasive plants include bush honeysuckle, Japanese barberry, Bishop's weed, and Lemon balm.

Recommendations.

- Clearly establish the property line with a fence or other permanent markers with signage.
- Restore the area to more natural conditions by removing all landscaping features, controlling invasive plants, and planting native trees and shrubs.

Area F1 Stevens Avenue Entrance - 1.06 acres

Description

This area is being managed like a typical city park with scattered trees and mown grass. Overstory trees 10-18" DBH and 60-60 ft. in height cover approximately 15% of the area; species included linden, Norway spruce, sugar maple, and white pine . A patch of recently planted sugar maple 2-3" DBH and 10-20 ft. in height accounts another 15%. Shrubs and understory trees are absent. Wildlife use would be primarily limited canopy species tolerant of edges and human activity. This area provides a transition from the urban environment to the natural forest that characterizes most of Baxter Woods.

Recommendations

- Plant patches of native shrubs with wildlife food and cover value away from the areas of greatest human activity.
- After the City has adopted an action plan for the forest the kiosk could be updated with additional information on the unique ecological values of Baxter Woods and goals for management.

Area F2 Forest Avenue Entrance - 0.41 acres

Description

This area is being managed like a typical city park with scattered planted trees (larch, paper birch, tupelo) and a large white pine and red maple. The entire area between and under the trees is mowed. Wildlife use would be primarily limited canopy species tolerant open-scattered trees and human activity. This area provides a transition from the urban environment to the natural forest that characterizes most of Baxter Woods.

Recommendations

- Plant a border of native shrubs with wildlife food and cover value along the north edge of the mown area and along the pond edge, leaving one or two openings for vistas and pond access.

Area F3 North Meadow 0.72 acres

Description

This area has a diversity of open/edge habitat, including mown grass, old field edges with grasses, goldenrods, raspberries, staghorn sumac, and apple that is unique in Baxter Woods. Invasive plants include common buckthorn along the west edge and bittersweet on the east.

Recommendations

- Control invasive plants.
- Develop a site planting and mowing plan to include:
 - a) Increasing the area in old field habitat by allowing encroachment into the frequently mown area, or purposefully planting patches to native wildflowers that will benefit butterflies and other insect pollinators.
 - b) Planting patches of natives shrubs that provide wildlife food and cover.
 - c) Maintaining the habitat type by mowing old field areas on a 3-5-year cycle so that both old field and shrub patches will always be present, and cut trees that are encroaching on this area if allowed by deed.

F4 Lawn and Shrub - 0.15 acres

Description

Residences near the West end of Hartley Street are encroaching onto City property. The MBW south boundary is unmarked and encroachment appears to extends 20 ft. to 50 ft. past the property line, including includes mown lawn, raised-bed garden, and leaf dumping. The remaining area includes a mix of goldenrods, asters, raspberries and planted white pine and white spruce saplings. Invasive plants include Norway maple and Japanese knotweed.

Recommendations

- Control invasive plants.
- Fence or otherwise clearly mark the entire boundary line and work with abutters to maintain the area in a natural condition. Maintaining a mix of shrubs and old-field herbaceous plants would provide habitat conditions that are under-represented on the MBW.

Maine Audubon Priority Forest Birds

Species, Region ¹ and Habitat Age Class	Preferred Stand Condition	Habitat Preference 1: Preferred; 2: Utilized; 0: Not used			
		Oak Pine	Northern Hardwood	Northern Mixedwoods	Northern Softwoods
Young Forest					
American Woodcock	Young forest and shrub patches with clearings for singing grounds and roosting	2	2	2	0
Chestnut-sided Warbler	Young forest patches typically 5-15 years old	0	1	2	0
Mourning Warbler (N/C)	Young forest with dense understory 2-10 years after harvest	2	1	2	2
Magnolia Warbler	Young of multi-aged forest with dense young conifers	0	0	1	1
Intermediate & Older Forests					
Black-throated Blue Warbler	Intermediate and older forests with dense understory and saplings, large forest blocks	2	1	1	0
Yellow-bellied Sapsucker	Intermediate and older forests with snags or decaying trees and shade-intolerant tree species	2	1	2	0
Eastern Wood-Pewee	Intermediate or older forest with gaps	2	2	2	0
Black-throated Green Warbler	Intermediate to older forest with hemlock or other conifers, large forest blocks	0	0	2	1
Older Forests					
Bay-breasted Warbler	Older – multi story	0	0	2	1
Blackburnian Warbler	Older conifer and mixed interior forest	2	0	1	1
Northern Parula	Older conifer or mixed moist forests, large patches	0	2	2	1
Scarlet Tanager	Older forest with oak, large forest blocks	1	1	2	
Ovenbird	Older forest, large forest blocks	1	1	1	2
Wood Thrush	Older forest, larger forest blocks	1	1	2	
Young to Older Forests					
Veery	Riparian forest and other moist forests with dense understory	2	1	2	2
Black-backed Woodpecker (N)	Variable aged forests with abundant dead/dying conifers	0	0	0	1
Boreal Chickadee	Variable aged forests with cavity or decaying trees	0	0	0	1
Canada Warbler	Variable aged, moist forests with dense understory; riparian areas, swamps	0	2	1	2
Northern Flicker	Variable forest ages, snags or decay trees >12" preferred for nesting	1	1	2	2
Olive-sided Flycatcher	Variable, peatlands, riparian areas, young forest, and gaps with snags	0	0	0	1

¹ Region: N – North, C – Central, S – South. No letter indicates statewide occurrence

Source: **Forestry for Maine Birds: A Forester's Guide.** Maine Audubon, Falmouth, ME. Publication pending 2016

Maine Audubon Priority Species known to breed at HRF or nearby:

Source: noted by J. Witham 2016

Breeding Birds

American Woodcock – breed here on a couple of occasions

Chestnut-sided Warbler – was one male around for a couple of years post-harvest, gaps just not big enough for them

Black-throated Blue Warbler – present in most years, most prevalent when red maple stump sprouts were at their peak

Eastern Wood-Pewee – increased following harvest, numbers down now

Black-throated Green Warbler – most common breeder with Ovenbird

Blackburnian Warbler – third most common

Northern Parula – one or two males every year

Scarlet Tanager – consistent breeder in low numbers

Ovenbird - most common breeder with BTG

Veery – numbers have dwindled to 0-1

Canada Warbler – one male for many years in red maple swamp

Northern Flicker – always around, few observations every year, never found a nest

Migration only

Magnolia Warbler

Yellow-bellied Sapsucker

Olive-sided Flycatcher

Mourning Warbler

Other species never observed at HRF

Harvest Guidelines for Retaining Wildlife Trees and Woody Biomass

General Guidelines for all Managed Stands

Dead Snags	- All dead snags should be considered for retention. - Under conditions where hand crews are operating, snags that represent a hazard should be felled at the logging contractor's discretion as needed to comply with safety guidelines. - Felled snags should be left in place.
Live Cavity Trees and Recruitment Trees	- The general guideline is: Four trees per acre >12" dbh, including one >18" dbh. - Select cavity trees first, if present, and then use recruitment trees to meet the guideline as needed. Retain a mix of species characteristic of the stand. - All live cavity trees with evidence of advanced decay and signs of use by wildlife should be considered for retention. However, cavity trees (<12" dbh) may be removed from the stand for silvicultural purposes unless there are not enough larger trees to meet the objective. - Trees suitable for consideration as recruitment trees include live pulpwood-quality trees of large diameter (>14" dbh) with evidence of interior defect and decay. Yellow birch and aspen with broken tops and maples with dead limbs in the lower crown are good candidates for consideration. Larger is better. - When possible, avoid timber harvesting from April through mid July to avoid disrupting nesting birds and denning animals.
Downed and Dead Woody Debris	- Avoid damaging existing downed woody material during harvesting, especially large (12"+) logs and stumps. - Attempt to leave large (>12 inch dbh and > 6 feet long) cull logs on site. Culls bucked out at the landing should be hauled back in the woods. - If whole-tree harvesting, retain and scatter tops, limbs and smaller trees from 20% of the trees harvested.

Retention of Live Trees in Even-aged Regeneration Harvests

Harvest block <10 ac.	- Leave the amount specified in the <i>General Guidelines for All Managed Stands</i> - Additional overstory retention may not be needed if adjacent stands are in long-term uneven-aged management. - Retain understory vegetation on ≥20% of the area.
Harvest block >10 ac.	- Leave the amount specified in the <i>General Guidelines for All Managed Stands</i>. - Leave representative uncut overstory in patches on ≥5% of the area. Larger patches (≥1 ac.) are preferred to protect forest understory vegetation. Identify retention patches prior to initial shelterwood cuts. - Retain understory vegetation on ≥20% of the area.

Notes:

- Diameter targets for standing trees and downed logs will vary with forest type and site.
- Where trees of sufficient diameter to meeting the targets are not present, retain the largest trees present and attempt to achieve a similar basal area in retained trees.
- Not all stands can meet targets for numbers of wildlife trees at all times, and small scale variability (e.g., on any given acre) may be significant. Therefore, it may be appropriate to attempt to meet targets across several stands.
- Avoid or minimize biomass harvests in riparian zones, rare plant and wildlife habitats, and on low productivity sites and other sensitive areas. Avoid repeated biomass harvests on the same site.
- CAUTION! Dead and decaying trees are very dangerous, and loggers may need to fell them to comply with safety policies. If so, they should be left on the ground to provide habitat.**

Source: Developed by Maine Audubon (May 2008) based on *Biodiversity in the Forests of Maine* (C.A. Elliott, ed., U. Maine Coop. Extension 1999), other wildlife tree recommendations from multiple northeastern wildlife authors and researchers, and *Biomass Harvesting Guidelines for Forestlands, Brushlands, and Open Lands* (Minnesota Forest Resources Council, December 2007). The 20% understory retention guidelines for even-aged harvest is not included in the above but is recommended by Maine Audubon to help ensure that understory plant species and structure will become a significant part of the future stand.

Recreational Trail Planning Considerations

Well used recreation trails have the potential to disturb some wildlife species. Disturbance will vary with species, usage level and type, and season. Following are some general considerations for ecologically friendly trails that may be used by a wide range of public and private ownerships. Not all the uses discussed below are applicable to all landowners or appropriate in all situations.

Considerations for Recreation Trail Design and Use	
Trail Design and Layout	
✓ Well used recreation trails have the potential to disturb some wildlife species. Disturbance will vary with species, the usage level, type, and season. ✓ To minimize disturbance to wildlife, create wildlife security areas consisting of large patches of habitat without trails, rather than crossing all sections of a woodlot with trails. ✓ To minimize disturbance to aquatic wildlife, trails should not run parallel with the shore of water bodies and open wetlands for any distance. Rather, approach water bodies with spur trails to a screened viewpoint or have loop trails only approach the shoreline for short distances. See Maine Audubon's Conserving Wildlife in Maine's Shoreland Habitats. ✓ Poorly designed and built hiking trails can cause soil compaction, erosion, and degradation of water quality. American Trails has a number of excellent on-line resources on trail building and design (download: http://www.americantrails.org/resources/trailbuilding/index.html). The US Forest Service Trail Construction and Maintenance Handbook is also a helpful resource (download: http://www.fhwa.dot.gov/environment/fspubs/07232806/index.htm).	
Mechanized Use	
✓ Mountain bikes increase the potential for permanent soil damage, off-trail use, and conflicts with other users. However, studies have generally shown that mountain bikes have no more impact on wildlife than pedestrians. ✓ ATV use can cause severe soil damage, impact water quality, and affect forest values for other users of the area. Where ATV use is an objective, trails should follow the general design and layout principles above and use appropriate techniques to minimize damage to soils and water quality. Stream crossings and associated approaches, wet sites, and erosion on steep trails should be primary considerations. ✓ Trails should avoid sensitive winter habitats such as deer wintering areas and be planned to minimize conflicts with non-mechanized users. ✓ Consult trail design guidelines applicable to the type and amount of use anticipated.	
Pets	
✓ Dogs should be leashed during the nesting season of ground-nesting birds (April to end of July). Examples of ground nesting birds that might be disturbed by dogs include woodcock, hermit thrush, and ovenbird. Dogs should also be leashed during winter when snow restricts animal movement and cold temperatures require energy conservation for survival.	

Widespread Invasive Forest Plants in Maine

The following table lists some of the most frequently encountered invasive plants in Maine forests. This is not intended to be a complete list – forest owners and managers should consult sources of information such as the Maine Natural Areas Program for more complete information.

Widespread Invasive Forest Plants in Maine		
Common Name	Scientific Name	Habitat
Barberry, Japanese	<i>Berberis thunbergii</i>	Forest understory
Buckthorn, common	<i>Rhamnus cathartica</i>	Forest understory
Buckthorn, glossy	<i>Frangula alnus</i>	Forest understory
Honeysuckle, bush	<i>Lonicera morrowii</i>	Forest understory
Honeysuckle, Japanese	<i>Lonicera japonica</i>	Forest understory
Honeysuckle, Tatarian	<i>Lonicera tatarica</i>	Forest understory
Japanese knotweed	<i>Fallopia japonica</i>	Edges
Bittersweet, Asiatic	<i>Celastris orbiculata</i>	Edges, forest canopy vine
Loosestrife, purple	<i>Lythrum salicaria</i>	Wetlands
Rose, multiflora	<i>Rosa multiflora</i>	Old field, edges
Source: Maine Natural Areas Program 2006		

Control of Invasive Terrestrial Plants in Maine

Common Name	Scientific Name	Habitat	Control
Autumn Olive & Russian Olive	<i>Eleagnus umbellata</i> , <i>Eleagnus angustifolia</i>	Edges and open areas	Mechanical: Pull smaller plants, followed by mowing or pulling sprouts as needed. Chemical: Glyphosate on cut stumps. (1)
Barberry, Japanese	<i>Berberis thunbergii</i>	Forest understory	Mechanical: Pull shrubs, followed by mowing or pulling sprouts. Flame torch to lower stem may also be effective. Chemical: Glyphosate or triclopyr on cut stumps. (1, 2)
Bittersweet, Asiatic	<i>Celastris orbiculata</i>	Edges, forest canopy vine	Mechanical: Repeated cutting or pulling plants. Chemical: Glyphosate or triclopyr on cut stems. Seed bank may necessitate treatments repeated for several years. The flowers and fruit of Asiatic bittersweet grow from the joints where leaves join the vine, whereas American bittersweet's flowers are in terminal clusters. (1)
Buckthorn, common & glossy	<i>Rhamnus cathartica</i> <i>Frangula alnus</i>	Forest understory	Mechanical: Flame torch stems <42 inches diameter. If cutting, repeated treatment is required. Chemical: Glyphosate or triclopyr cut stem or foliar treatment. Treat in fall when green leaves persist after native trees and shrubs have lost their leaves. Resprouting may occur and seed bank may last 3 years. (1, 2)
Honeysuckle, bush Honeysuckle, Tartarian	<i>Lonicera morrowii</i> <i>Lonicera tatarica</i>	Forest understory	Mechanical: Cutting, burning. Repeated treatments may be required. Chemical: Glyphosate or triclopyr on leaves or cut stumps. (1, 2) Note: all non-native shrub honeysuckles have a hollow pith that is usually brown.
Honeysuckle, Japanese	<i>Lonicera japonica</i>	Forest understory	Mechanical: Pull shrubs and roots when soil is moist (repeated treatment likely required). Chemical: Glyphosate or triclopyr on leaves or stems. A vine that is distinguished from Maine's rare native vine honeysuckles by the separate leaves at the tip of the stem (on natives, a single fused terminal leaf wraps around the stem). (1)
Knotweed, Japanese	<i>Fallopia japonica</i>	Edges	Mechanical: Repeated cutting (3 or more times/season). Chemical: Cutting followed by glyphosate (repeat may be necessary). (1)
Mustard, garlic	<i>Alliaria petiolata</i>	Forest understory, esp. moist/rich soils	Mechanical: Hand pulling in early season. Chemical: Glyphosate foliar or dormant season basal spray. (1)
Loosestrife, purple	<i>Lythrum salicaria</i>	Wetlands	Mechanical: Pulling individual plants. Chemical: Glyphosate foliar spray or cut stem treatments. Biological: Release of beetles that feed exclusively on loosestrife has been effective on large infestations. (1)
Rose, multiflora	<i>Rosa multiflora</i>	Old field, edges	Mechanical: Repeated mowing (up to six time per year for 2 years). Chemical: Glyphosate or triclopyr on cut stems. (1, 2)

Notes:

- This table is intended to provide a broad overview of problematic forest invasive species and methods to control them. Consult the sources below and other experts (e.g., an ecologist and/or forester and a licensed herbicide applicator) to develop and implement an invasive species control plan.
- Herbicides used on areas open to the public must be applied under the supervision of a licensed applicator, or for terrestrial application only if applied by an employee or volunteer and the area is closed for 7 days. Other legal requirement of the Maine Board of Pesticide Control apply but are not included in this overview.
- Both glyphosate ("Roundup," Rodeo," "Accord" etc.) and triclopyr ("Garlon," "Pathfinder," "Remedy," "Renovate," "Tahoe," etc.) may be used on forests certified by the Forest Stewardship Council if the [FSC Pesticide Policy](#) is followed (as of 2007).

References:

- [University of Maine Invasive Plant Fact Sheets](#)
- [Wisconsin Manual For the Control of Ecologically Invasive Plants](#)

Other Sources of Information:

[Weed Control Methods Handbook: Tools and Techniques for Use in Natural Areas](#) (The Nature Conservancy; mechanical and chemical control methods)
[The Nature Conservancy - Wildlands Invasive Species Program](#) (information, links, workshops, on-line forums, etc)
[Weeds Gone Wild: Alien Plant Invaders of Natural Areas](#) (lists, species fact sheets, and other information)

Glossary of Forestry Terms

The following glossary was adapted from the Massachusetts Department of Conservation Forest Stewardship guidelines.

Acceptable Growing Stock (AGS) - See **Management Potential**.

Aesthetics - forest value rooted in beauty and visual appreciation

Allowable Harvest - the calculation of the amount of forest products that may be harvested, annually or periodically, from a specified area over a stated period, in accordance with the objectives of management.

Aspect - the orientation of a slope with respect to the compass; the direction toward which a slope faces. North facing slopes are generally cooler than south facing slopes, which often results in different plant communities.

Basal area - a measurement of the cross-sectional area of a tree trunk, in square feet, at breast height. Basal area (BA) of a forest stand is the sum of the basal areas of the individual trees, and is reported as BA per acre. Basal area is used as an indicator of total stand stocking (occupancy of a site).

Biological diversity - the variety of plants and animals, the communities they form, and the ecological functions they perform at the genetic, stand, landscape, and regional levels.

Biological legacy - an organism, a reproductive portion of an organism, or a biologically derived structure or pattern inherited from a previous ecosystem—Note: biological legacies often include large trees, snags, and down logs left after harvesting to provide refuge and to structurally enrich the new stand.

Biological maturity - the point in the life cycle of a tree at which there is no net biomass accumulation; the stage before decline when annual growth is offset by breakage and decay. See **Financial Maturity**

Biomass – 1) the total weight of all organisms in a particular population, sample, or area; biomass production may be used as an expression of site quality; 2) tree tops or entire trees that are harvested and chipped as a source of fuel.

BMP - Abbrev. *Best Management Practices*.

Board foot - See **Volume, tree**

Bole - the main trunk of a tree.

Broad-based dip - an erosion control structure similar to and having the same purpose as a waterbar. Structurally, broad-based dips differ in that they are generally longer, less abrupt, often are paved with stone and are more appropriately used on truck roads. See **Waterbar**.

Browse - portions of woody plants including twigs, shoots, and leaves used as food by such animals as deer.

Buffer Strip - a forest area of light cutting used to protect sensitive sites or vistas.

Canopy - the upper level of a forest, consisting of branches and leaves of taller trees.

Catastrophic Disturbance – Natural disturbances that result in substantial tree mortality, such as wildfire, hurricanes, tornadoes, or major insect outbreaks

Cleaning - See **Intermediate Cuttings**.

Coarse Woody Debris (CWD) - Dead and down woody material that is generally greater than 3” in diameter. Also referred to as Downed Woody Material (DWM). See **Biological Legacy**

Cord - See **Volume, tree**.

Compartment - a subdivision of a forest property for administrative convenience and record keeping purposes

Community - a collection of living organisms in a defined area that function together in an organized system through which energy, nutrients, and water cycle.

Conservation - the wise use and management of natural resources.

Coppice Cutting - See **Regeneration Cutting**.

-Corridor - a strip of wildlife habitat unique from the landscape on either side of it that links one isolated ecosystem “island” (e.g., forest fragment) to another. Corridors allow certain species access to isolated habitat areas, which consequently contributes to the genetic health of the populations involved.

Critical habitat - Uncommon habitat of great value to wildlife such as abandoned fields, orchards, aspen stands, blueberry barrens, cliffs, talus, caves, etc.

Crop tree - a term traditionally reserved to describe a tree of a commercially desirable species, with the potential to grow straight, tall, and vigorously. However, a crop tree can be one selected for non-timber purposes (varying with landowner objectives), such as mast production or den tree potential. See **Management Potential**

Crown class - an evaluation of an individual tree’s crown in relation to its position in the canopy and the amount of full sunlight it receives. The four recognized categories are: dominant (D), codominant (C), intermediate (I), and overtopped or suppressed (S).

Cull Tree - a live tree of commercial species that contains less than 50% usable material.

Rough cull: a tree whose primary cause of cull is crook, sweep, etc.

Rotten cull: a tree whose primary cause of cull is rot.

Danger tree - A standing tree that presents a hazard to employees due to conditions such as, but not limited to, deterioration or physical damage to the root system, trunk, stems or limbs, and the direction and lean of the tree. OSHA 1910.266, Logging Operations

Daylight - verb; to cut vegetation adjacent to a road or other open area to increase solar insulation to its surface. Daylighting is often used to speed the time for roads to dry after a period of wet weather.

DBH - abbrev. *diameter at breast height*; the diameter at breast height of a standing tree measured at 4.5' above the ground.

Den Tree-living hollow trees that are used for shelter by mammals or birds. Syn.; cavity tree.

Diameter-limit cut - a timber harvesting treatment in which all trees over a specified diameter may be cut. See **High Grading**.

Disturbance - a natural or human-induced environmental change that alters one or more of the floral, faunal, and microbial communities within an ecosystem. Timber harvesting is the most common human disturbance. Windstorms and fire are examples of natural disturbance.

Ecology - the study of interactions between living organisms and their environment.

Economic Maturity - See **Financial Maturity**

Ecosystem - a natural unit comprised of living organisms and their interactions with their environment, including the circulation, transformation, and accumulation of energy and matter.

Ecosystem management - Forest management that is applied with emphases on 1.) maintaining biodiversity, 2.) addressing societal or social needs, and 3.) being adaptive. See **Forest Management**.

Ecotype - a genetic subdivision of a species resulting from the selective action of a particular environment and showing adaptation to that environment. Ecotypes may be geographic, climatic, elevational, or soil-related.

Edge - the boundary between open land and woodland or between any two distinct ecological communities. This transition area between environments provides valuable wildlife habitat for some species, but can be problematic for some species, due to increased predation and parasitism. Syn.: ecotone

Endangered species - See **Rare Species**

Even-aged stand - See **Stand Structure**.

Featured Resource - the resource that is the primary focus of management activities.

Financial maturity - the point in the life cycle of a tree or stand when harvesting can be most profitable, i.e., when the rate of value increase of an individual tree or stand falls below a desired alternative rate of return. Syn.: Economic Maturity

Forest land - Land that is at least 10% stocked with trees.

Forest interior dependent species - animal species that depend upon extensive areas of continuous, unbroken forest habitat to live and reproduce, and are susceptible to higher rates of predation and population decline when interior forest habitat is fragmented or disturbed. See **Fragmentation**.

Forest management - the practical application of biological, physical, quantitative, managerial, economic, social and policy principles to the regeneration, management, utilization and conservation of forests to meet specified goals and objectives while maintaining the productivity of the forest.

Forest Road - A road owned by and under the jurisdiction of the Department of Conservation and Recreation, Division of Parks and Recreation.

Forest type - aggregations of tree species that commonly occur because of similar ecological requirements. Examples of major northeastern forest types include northern hardwoods, white pine, oak-pine, and spruce-fir. Syn. forest association.

Filter Strip - an area of forest land, adjoining the bank of a water body, where forest vegetation and undisturbed soils are retained to filter surface runoff..

Fragmentation, forest - the segmentation of a large tract or contiguous tracts of forest to smaller patches, often isolated from each other by non-forest habitat. Results from the collective impact of residential and commercial development, highway and utility construction, and other piecemeal land use changes. Indiscriminant heavy forest harvesting may also result in fragmentation of mature forest habitat.

Ford - a stream crossing using a stable stream bottom as the roadbed.

Fuel management - the act or practice of controlling flammability and resistance to control of wildland fuels through mechanical, chemical, biological or manual means, or by fire in support of land management objectives.

Girdling - a method of killing unwanted trees by cutting through the living tissues around the bole. Can be used instead of cutting to prevent felling damage to nearby trees. Girdled trees can provide cavities and dead wood for wildlife and insects.

GIS - Geographic Information System. A computer-based system for collecting, storing, updating, manipulating, displaying and analyzing geographically referenced data.

GPS - Global Positioning System. A satellite-based navigation system.

Grade - the angle of an inclined surface as expressed in terms of percent slope: vertical rise per 100' of horizontal run.

Grade, tree - A classification system for standing trees that is based on their potential for yielding high value lumber.

Growing Stock - For inventory purposes, all live trees that are between 5.0" dbh to 10.9" dbh and are greater than 50% sound. See **Management Potential**

Growth, net - The average annual net increase in the volume of trees expressed either as a per acre value or total value for a given unit of land. Mathematically it is expressed as follows: {[growth of the existing trees at the beginning of the period]+[ingrowth the volume of trees that have reached merchantability during the period]} – {(the volume of trees that have died during the period) + (the volume of trees that have become cull during the period).

Habitat - the geographically defined area where environmental conditions (e.g., climate, topography, etc.) meet the life needs (e.g., food, shelter, etc.) of an organism, population, or community.

High-grading - a type of timber harvesting in which larger trees of commercially valuable species are removed with little regard for the quality, quantity, or distribution of trees and regeneration left on the site; often results when a diameter limit harvest is imposed. See **Diameter Limit Cutting**.

Herbaceous - A class of vegetation dominated by non-woody plants known as herbs; [graminoids (grass), forbs and ferns].

Incidental taking - the taking of a rare species that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity.

Intermediate Cuttings - Operations conducted in a stand during its development from regeneration stage to maturity. These are carried out to improve the quality of the existing stand, increase its growth and provide for earlier financial returns, without any effort directed at regeneration.

Cleaning: a cutting made in a stand, not past the sapling stage, to free the best trees from undesirable individuals of the same age that overtop them or are likely to do so. See *weeding*.

Thinning: a cutting whose purpose is to control the growth of stands by adjusting stand density.

Salvage Cutting: a harvest whose primary purpose is to remove trees that have been or are in imminent danger of being killed or damaged by injurious agencies.

Weeding: a cutting made in a stand not past the sapling stage that eliminates or suppresses undesirable vegetation regardless of crown position. See *Cleaning*.

Landing - any place where round timber is assembled for further transport, commonly with a change in method. Generally, a cleared area where log trucks are loaded.

Legacy tree - a tree, usually mature or old-growth, that is retained on a site after harvesting or naturally disturbance to provide a biological legacy. See **Biological Legacy**

Management plan - a document prepared by natural resource professionals to guide and direct the use and management of a forest property. It consists of inventory data and prescribed activities designed to meet ownership objectives.

Management potential - For forest inventory purposes, a classification method in which a tree is rated based on the likelihood that it will develop into a tree that will be structurally sound, vigorous and yield products of high value. The three classes are as follows:

Preferred Crop Tree: the highest class; a tree with a dominant crown and no or minimal sweep or crook and no or few limbs in the butt 16' log.

Acceptable Growing Stock: a tree of codominant or greater crown class with moderate sweep or crook and a moderate number of limbs in the butt 16' log.

Unacceptable Growing Stock: Any tree not meeting the above criteria.

Also, see **Growing stock**

Mast - Seed produced by woody-stemmed, perennial plants, generally referring to soft (fruit) or hard (nut) mast.

Matrix, forest - The most extensive and connected landscape element that plays the dominant role in landscape functioning.

MBF - Abbrev. Thousands of board feet. See **Tree Volume**

Merchantable - of trees, crops or stands, of a size, quality and condition suitable for marketing under given economic conditions even if so situated as not to be immediately accessible for logging. See **Operable**.

Multiple use and value - a conceptual basis for managing a forest area to yield more than one use or value simultaneously. Common uses and values include aesthetics, water, wildlife, recreation, and timber.

Niche - the physical and functional location of an organism within an ecosystem; where a living thing is found and what it does there.

Old growth stand - A stand that has been formally designated as an old growth stand. These areas must meet a preponderance of the following four criteria: 1.) Be of a size that is large enough to be self sustaining. 2.) Show no evidence of significant post-European disturbance. 3.) Should have a component of trees that are greater than 50% of the maximum longevity for that species. 4.) Shall be a makeup that is self-perpetuating.

Old growth attributes - attributes often associated with old growth forests such as large amounts of coarse woody debris, large trees, etc. that are achieved through deliberate actions in a managed forest. See **Biological legacy**

Operable - trees, crops or stands that are both merchantable and accessible for harvesting. See **Merchantable**.

Patch - a small area of a particular ecological community surrounded by distinctly different ecological communities, such as a forest stand surrounded by agricultural lands or a small opening surrounded by forestland.

Poletimber - See **Size Class**.

Population - a group of individuals of one plant or animal taxon (species, subspecies, or variety).

Preservation - a management philosophy or goal which seeks to protect indigenous ecosystem structure, function, and integrity from human impacts. Management activities are generally excluded from "preserved" forests.

Raptor - A bird of prey.

Rare species - A collective term used to describe species that are uncommon, including

Endangered: native species which are in danger of extinction throughout all or part of their range (e.g., within state), or which are in danger of extirpation from Massachusetts, as documented by biological research and inventory.

Threatened: native species which are likely to become endangered in the foreseeable future, or which are declining or rare as determined by biological research and inventory.

Special concern: native species which have been documented by biological research or inventory to have suffered a decline that could threaten the species if allowed to continue unchecked, or which occur in such small numbers or with such restricted distribution or specialized habitat requirements that they could easily become threatened.

These definitions may vary depending on jurisdiction (e.g federal or state definitions).

Regeneration - the renewal of a tree crop, whether by natural or artificial means - may be broken down into those treatments that produce stands originating from seed (high forest) or from vegetative regeneration (coppice or sprouts) and create even-aged or uneven-aged stands. Syn. reproduction.

Regeneration Cutting - Any removal of trees intended to assist regeneration already present or to make regeneration possible. The operation creates either an even-aged stand or an uneven-aged stand. See **Even-aged stand** and **Uneven-aged stand**

Clearcutting; (even-aged) removal of the entire stand in one cutting with reproduction obtained artificially or by natural seeding from adjacent stands or from trees cut in the clearing operation.

Seed-tree: (even-aged) removal of the old stand in one cutting, except for a small number of seed trees left singly or in groups.

Shelterwood: (even-aged) removal of the old stand in a series of cuttings, which extend over a relatively short portion of the rotation, by means of which the establishment of essentially even-aged reproduction under the partial shelter of seed trees is encouraged.

Selection: (uneven-aged) removal of trees, throughout all size classes, either as single scattered individuals or in small groups at relatively short intervals, repeated indefinitely, by means of which the continuous establishment of reproduction is encouraged and an uneven-aged stand is maintained.

Coppice: (even-aged or uneven-aged) any type of cutting in which dependence is placed mainly on vegetative reproduction.

Release - removal of overtopping trees to allow understory or overtopped trees to grow in response to increased light.

Reserve tree - a tree, pole-sized or larger, retained in either a dispersed or aggregated manner after the regeneration period under the clearcutting, seed tree, shelterwood, group selection or coppice methods. Syn. Standard, legacy tree

Residual stand - trees remaining following any silvicultural operation.

Riparian Area - an area in close proximity to a watercourse, lake, swamp or spring.

Rotation - the planned number of years between the formation or regeneration of a crop or stand and its final harvest at a specified stage of maturity.

Rotation, extended - a rotation longer than necessary to grown timber crops to financial maturity or size and generally used to provide habitat or nontimber values.

Salvage Cutting - See **Intermediate cutting**

Sapling - See **Size Class**

Sawtimber - See **Size Class**.

Seed Tree Cutting - See **Regeneration Cutting**.

Seedling - See **Size Class**.

Seep (Seepage) - Groundwater (as opposed to surface flow) escaping through or emerging from the ground along an extensive line or surface, as contrasted with a spring where water emerges from a localized spot..

Selection cutting - See **Regeneration Cutting**.

Selective cutting - a cutting that removes only a portion of trees in a stand. Note: selective cutting is a loose term that should not be confused with cutting done in accordance with the selection method, is not a recognized silvicultural system and is often synonymous with or associated with High Grading.

Shelterwood Cutting - See **Regeneration Cutting**.

Silviculture - the theory and practice of controlling forest establishment, composition, structure and growth.

Silvicultural prescription - a detailed, quantitative plan, at the stand level of resolution, for conducting a silvicultural operation.

Silvicultural System - a program for the treatment of a stand throughout a rotation. An even-aged system deals with stands in which the trees have no or relatively little difference in age. An uneven-aged system deals with stands in which the trees differ markedly in age.

Site - the combination of biotic, climatic, topographic, and soil conditions of an area; the environment at a location.

Site index – See **Site Quality**.

Site preparation - Hand or mechanized manipulation of a site designed to enhance the success of regeneration.

Site quality - the inherent productive capacity of a specific location (site) in the forest affected by available growth factors (light, heat, water, nutrients, anchorage); often expressed as site index – the height of the average tree in an even-aged stand at a given age. In New England 50 years is generally used as the base age.

Size Class:

Seedling: a young tree, less than sapling size of seed origin.

Sapling: a tree greater than 1" dbh and less than 4.9" dbh.

Poletimber: a tree greater than 4.9" dbh and less than sawtimber size.

Sawtimber: a tree greater than 11.0" dbh having at least 8' of usable length and less than 50% cull.

Slash - tops, branches, slabs, sawdust or debris resulting from logging or land clearing operations.

Slope, steep - An area where the average, sustained slope is greater than 50%. See **Grade**.

Snag - a standing dead tree, greater than 20' tall, which has decayed to the point where most of its limbs have fallen; if less than 20' tall it is referred to as a *stub*. A hard snag is composed primarily of sound wood, generally merchantable and a soft snag is composed primarily of wood in advanced stages of decay and deterioration. See **Biological legacy**.

Special concern, Species of - see **Rare species**

Stand - a community of trees possessing sufficient uniformity as regards composition, constitution, age, spatial arrangement or condition to be distinguishable from adjacent communities, so forming a silvicultural or management entity.

Stand Structure - A description of the distribution and representation of tree age and size classes within a stand.

Even-aged, single-storied: Theoretically, stands in which all trees are one age. In actual practice, these stands are marked by an even canopy of uniform height characterized by intimate competition between trees of approximately the same size. The greatest number of stems are in a diameter class represented by the average of the stand. The ages of the trees usually do not differ by more than 20 years.

Even-aged, two-storied: Stands composed of two distinct canopy layers, such as, an overstory and understory sapling layer possibly from seed tree and shelterwood operations. This may also be true in older plantations where tolerant hardwoods may become established as management intensity decreases (burning and other means of understory control). Two relatively even canopy levels can be recognized in the stand. Both canopy levels tend to be uniformly distributed across the stand. The average age of each level differs significantly from the other.

Uneven-aged (sized): Theoretically, these stands contain trees of every age on a continuum from seedlings to mature canopy trees. In practice, uneven-aged stands are characterized by a broken or uneven canopy layer. The largest number of trees is in the smaller diameter classes. As trees increase in diameter, their numbers diminish throughout the stand. Generally, a stand with 3 or more structural layers may be considered as uneven-aged.

Mosaic: At least two distinct size classes are represented and these are not uniformly distributed, but are grouped in small repeating aggregations, or occur as stringers less than 120 feet wide, throughout the stand. Each size class aggregation is too small to be recognized and mapped as an individual stand. The aggregations may or may not be even-aged.

Stocking - the degree of occupancy of an area by trees. In even-aged stands, stocking levels are expressed as different levels (A, B and C) based upon stocking guides that use tree diameter, basal area and number of trees per acre. The A level represents the density of undisturbed even-aged stands. The B level represents the minimum density for maximum basal area and cubic foot growth. The C level represents both the minimum stocking of acceptable growing stock to make a stand suitable for management for timber products and represents 10 years growth below the B level.

Overstocked: stands above the "A" level of stocking for their forest type, tree density and size class.

Fully stocked: stands between the "A" and "C" levels of stocking for their forest type, tree density and size class.

Understocked: stands below the "C" level of stocking for their forest type, tree density and size class.

In uneven-aged stands, stocking is based on residual basal area, maximum tree size and a ratio known as "Q" which is a mathematical expression of the desired diameter distribution.

Structure, horizontal - the spatial arrangement of plant communities; a complex horizontal structure is characterized by diverse plant communities within a given geographic unit.

Structure, vertical - the arrangement of plants in a given community from the ground (herbaceous and woody shrubs) into the main forest canopy; a complex vertical structure is characterized by lush undergrowth and successive layers of woody vegetation extending into the crowns of dominant and co-dominant trees. (See *crown class*.)

Stumpage value - the commercial value of standing trees.

Succession - the natural series of replacements of one plant community (and the associated fauna) by another over time and in the absence of disturbance.

Sustained yield - historically, a timber management concept in which the volume of wood removed is equal to growth within the total forest. The concept is applicable to nontimber forest values as well.

Thinning - See **Intermediate cuttings**.

Threatened species - See **Rare species**.

Tolerance - a characteristic of trees that describes the relative ability to thrive with respect to the growth factors (light, heat, water nutrients, anchorage). Usually used to describe shade tolerance: the ability of a species to thrive at low light levels.

T.S.I. - timber stand improvement; a loose term comprising all intermediate cuttings made to improve the composition, constitution, condition and increment of a timber stand. The practice may be commercial; yielding net revenues or precommercial or noncommercial; where the cost of accomplishing the work exceeds the value of the products removed.

Unacceptable Growing Stock (UGS) - See **Management Potential**.

Understory - the smaller vegetation (shrubs, seedlings, saplings, small trees) within a forest stand, occupying the vertical area between the overstory and the herbaceous plants of the forest floor.

Uneven-aged stand - See **Stand Structure**

Vernal or autumnal ponds - a class of wetland characterized by small, shallow, temporary pools of fresh water present in spring and fall, which typically do not support fish but are very important breeding grounds for many species of amphibians. Some species are totally dependent upon such ponds; examples are spring peepers and mole salamanders.

Volume, tree - the contents of the merchantable portion of a tree, expressed either as 1.) Board foot volume, where a board foot is equivalent to a piece of wood 12" x 12" x 1" thick, excluding the waste inherent in processing; 2.) Cubic foot volume with no waste attributed to processing; 3.) Cord volume, where 80 cubic feet of solid wood are equivalent to one cord. One cord of wood contains 128 cubic feet of air, bark and wood or 4.) Tons of oven-dry wood.

Water Bar - a shallow depression, 12" to 36" wide, cut across a dirt road or skid trail at approximately a 30 degree angle to its alignment, for the purpose of diverting the overland flow of water from the surface of the road. See **Broad-based dip**.

Wildlife tree - a live or dead tree designated for wildlife habitat or retained to become future wildlife habitat.

Attachments

The following components of the management plan are included as separate documents:

Baxter Woods Soil Report, Natural Resource Conservation Service.

**Maine Natural Areas Program & Department of Inland Fisheries and Wildlife
Report**

November 1, 2019

This report provides results from transect bird surveys conducted at Baxter Woods Park during the nesting season and fall migration 2019

Inquiries about this work and report may be directed to **Patrick Keenan** at:
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Biodiversity Research Institute

276 Canco Road

Portland, ME 04106

Introduction

Biodiversity Research Institute conducted bird surveys at the Mayor Baxter Woods Park in Portland, ME. This property was donated by Governor Percival Baxter in 1946 for the purpose to “Forever to be held in trust for public purposes and as a sanctuary for wild birds.” At the request of the City of Portland Biodiversity Research Institute conducted bird surveys:

- Determine nesting or breeding bird species present
- Survey of migratory birds (fall)
- Provide recommendations for bird habitat improvements

Surveys occurred in the summer and fall of 2019 but not during spring migration or the winter.

The “Forest and Wildlife Habitat Management Plan for Mayor Baxter Woods” (18 May 2018 from Forest Synthesis LLC) (hereafter, ‘Management Plan’) provides an excellent description of the property and its habitats and outlines various goals and objectives to guide management activities for the property. Our focus is to provide information about birds on the property and align general goals with input specific to activities that will promote bird diversity and abundance on the property.

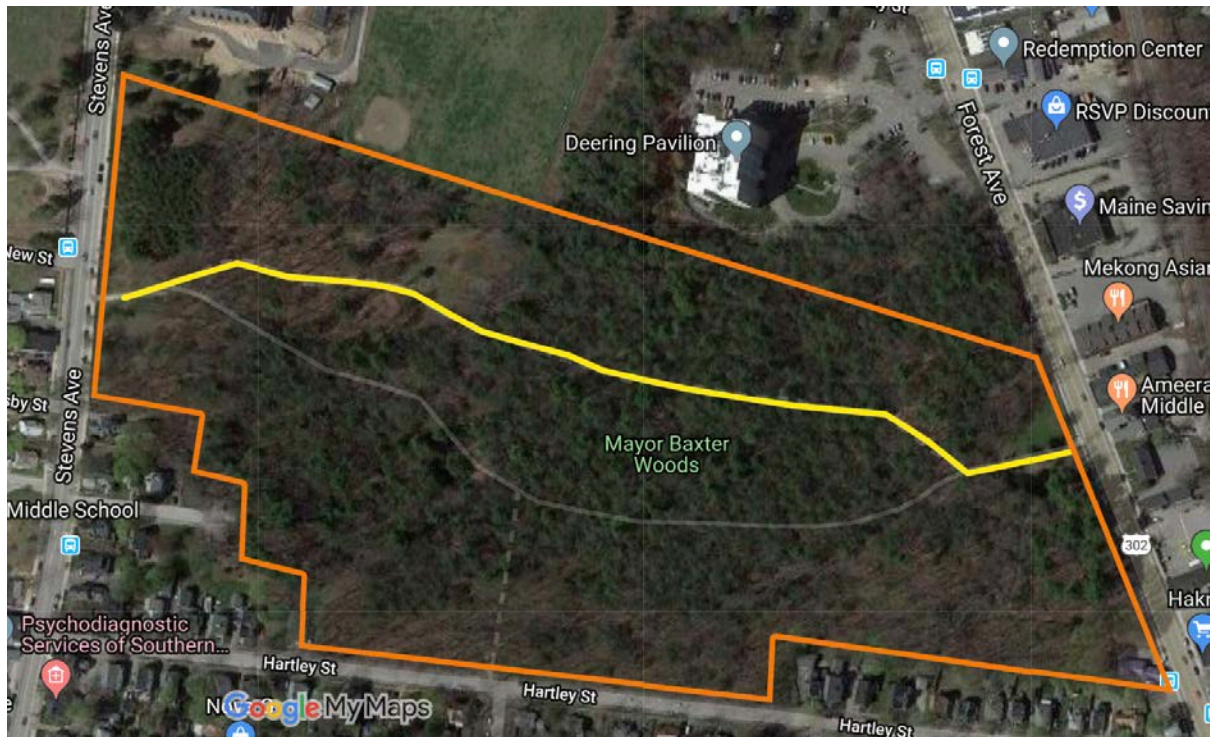
Mayor Baxter Woods Property

The management plan established the ‘cover type’ and ‘land use’ as shown in the following table. The property is approximately 32.46 acres and is dominated by mixed forest with portions of Coniferous and Deciduous forest. There are several access points / trailheads along Forest Avenue and Stevens Avenue and the property abuts backyards on Hartely Street.

Cover Type/Land Use	Area (acres)
Deciduous forest	5.57
Coniferous forest	1.03
Mixed forest	22.98
Meadow/shrub	0.87
Shade tree/mown grass	1.47
Pond	0.22
Parking	0.10
Abutter encroachment	0.22
Total	32.46

The forest patch represents forest dominated by Pine-Oak Woodland plant community with many large and old trees. It also includes stands of Hemlock. The forest of Mayor Baxter Woods is remarkably lacking in understory vegetation. This is likely due to the mixed use of recreation (dog walking-both on and off leash, biking, and child play) and the lack of defined trails. This has implications for the diversity of birds present in the forest.

The map image of Mayor Baxter Woods below provides the approximate outline of the property (orange) and the travel transect used for bird surveys (yellow).



Survey Methods

We used line transect surveys to determine the presence and abundance of birds in Mayor Baxter Woods. Surveys began at dawn in the breeding season and lasted 40 minutes. The exact positions of first detection for birds were recorded and we documented both the location along the transect and distance from the transect to define the spatial arrangement of animals. Every individual detected was recorded. Position along transect was estimated using a GPS. Birds were detected by sight and sound. Both sides of the trail were scanned visually to increase the chance of detecting a bird in that fashion. Finally, additional information on breeding status of the birds were included where relevant including finding nests, nest-

building activities, or carrying food for integration of these data into Maine's 2nd Breeding Bird Atlas.

Results

Family	Species (Common Name)	Species (Scientific Name)	Number of Surveys Encountered	Maximum Number Observed	Breeding Confirmed
Trochilidae	Ruby-throated Hummingbird	<i>Archilochus colubris</i>	1	1	
Picidae	Downy Woodpecker	<i>Dryobates pubescens</i>	1	2	yes
Picidae	Hairy Woodpecker	<i>Dryobates villosus</i>	2	2	yes
Picidae	Pileated Woodpecker	<i>Dryocopus pileatus</i>	2	2	
Tyranidae	Eastern Wood Pewee	<i>Contopus virens</i>	2	3	yes
Hirundidae	Tree Swallow	<i>Tachycineta bicolor</i>	1	1	
Corvidae	American Crow	<i>Corvus brachyrhynchos</i>	1	5	
Corvidae	Blue Jay	<i>Cyanocitta cristata</i>	1	1	yes
Paridae	Black-capped Chickadee	<i>Poecile atricapillus</i>	2	3	yes
Paridae	Tufted Titmouse	<i>Baeolophus bicolor</i>	1	1	
Mimidae	Gray Catbird	<i>Dumetella carolensis</i>	2	2	yes
Vireonidae	Red-eyed Vireo	<i>Vireo Olivaceus</i>	2	10	yes
Parulidae	Black-throated Green Warbler	<i>Setophaga virens</i>	2	2	yes
Parulidae	Chestnut-sided Warbler	<i>Setophaga pensylvanica</i>	1	1	yes
Icteridae	Brown-headed Cowbird	<i>Molothrus ater</i>	1	1	
Cardinalidae	Northern Cardinal	<i>Cardinalis cardinalis</i>	1	1	yes
Fringillidae	American Goldfinch	<i>Spinus tristis</i>	2	4	
Passerellidae	Chipping Sparrow	<i>Spizella passerina</i>	2	4	yes

Breeding Season. The following table provides details of the bird species detected in Mayor Baxter Woods during the breeding season. Surveys occurred on June 25 and July 4 in 2019.

We documented 11 species of nest bird species at Baxter Woods during our surveys. We detected an additional 7 species that were not confirmed to be breeding at the site during the nesting period. None of these species are unusual or listed as Endangered or Threatened by Maine Inland Fisheries and Wildlife Service (Appendix 1).

Fall Migration.

The following table lists bird species observed during fall surveys on September 13, October 3, October 21 in 2019. We show the Number of surveys each species was detected on and the maximum number of individuals detected.

Family	Species (Common Name)	Species (Scientific Name)	Number of dates detected of three	Maximum number of individuals detected
Anatinae	Mallard Duck	<i>Anas platyrhynchos</i>	1	2
Laridae	Herring Gull	<i>Larus argentatus</i>	2	1
Columbiformes	Rock Pigeon	<i>Columba livia</i>	1	2
Picidae	Downy Woodpecker	<i>Dryobates pubescens</i>	3	2
Picidae	Hairy Woodpecker	<i>Dryobates villosus</i>	1	1
Picidae	Northern Flicker	<i>Colaptes auratus</i>	1	2
Picidae	Red-bellied Woodpecker	<i>Melanerpes carolinus</i>	1	1
Picidae	Yellow-bellied Sapsucker	<i>Sphyrapicus varius</i>	1	1
Sittidae	White-breasted Nuthatch	<i>Sitta carolinensis</i>	3	3
Tyranidae	Eastern Phoebe	<i>Sayornis phoebe</i>	1	1
Corvidae	American Crow	<i>Corvus brachyrhynchos</i>	3	6
Corvidae	Blue Jay	<i>Cyanocitta cristata</i>	3	2
Certiidae	Brown Creeper	<i>Certhia americana</i>	3	2
Paridae	Black-capped Chickadee	<i>Poecile atricapillus</i>	3	13
Paridae	Tufted Titmouse	<i>Baeolophus bicolor</i>	1	2
Vireonidae	Warbling Vireo	<i>Vireo gilvus</i>	1	1
Mimidae	Northern Mockingbird	<i>Mimus polyglottos</i>	1	1
Regulidae	Ruby-crowned Kinglet	<i>Regulus calendula</i>	2	4
Turdidae	American Robin	<i>Turdus migratorius</i>	3	3
Parulidae	American Redstart	<i>Setophaga ruticilla</i>	1	2
Parulidae	Black-and-white Warbler	<i>Mniotilta varia</i>	1	3
Parulidae	Bay-Breasted Warbler	<i>Setophaga castanea</i>	1	2
Parulidae	Blackpoll Warbler	<i>Setophaga striata</i>	1	2
Parulidae	Black-throated Blue Warbler	<i>Setophaga caerulescens</i>	1	1
Parulidae	Black-throated Green Warbler	<i>Setophaga virens</i>	1	8
Parulidae	Common Yellowthroat	<i>Geothlypis trichas</i>	1	3
Parulidae	Nashville Warbler	<i>Oreothlypis ruficapilla</i>	1	4
Parulidae	Northern Waterthrush	<i>Parkesia noveboracensis</i>	1	1

MAYOR BAXTER WOODS BIRD SURVEYS

Parulidae	Tennessee Warbler	<i>Oreothlypis peregrina</i>	1	1
Parulidae	Yellow-rumped Warbler	<i>Setophaga coronata</i>	3	4
Cardinalidae	Northern Cardinal	<i>Cardinalis cardinalis</i>	1	1
Cardinalidae	Rose-breasted Grosbeak	<i>Pheucticus ludovicianus</i>	1	1
Fringillidae	American Goldfinch	<i>Spinus tristis</i>	3	2
Fringillidae	House Finch	<i>Haemorhous mexicanus</i>	3	2
Passerellidae	Song Sparrow	<i>Melospiza melodia</i>	3	1
Passerellidae	White-throated Sparrow	<i>Zonotrichia albicollis</i>	2	11
Passeridae	House Sparrow	<i>Passer domesticus</i>	2	4

Observations during surveys during fall migration detected 37 species at Mayor Baxter Woods. None of these species are unusual or listed as Endangered or Threatened by Maine Inland Fisheries and Wildlife Service (Appendix 1).

Discussion and Recommendations

Mayor Baxter Woods provides habitat for nesting birds and supports birds during fall migration. We did not observe species that are endangered or threatened in Maine. We did not conduct surveys during the spring or winter given the timeline for this project. Bird migration is seasonal and can be highly variable with large numbers of birds appearing one day and disappearing the next.

The absence of ground or near ground nesting bird species at Mayor Baxter Woods is striking but not surprising given the mixed recreational use of the park and the lack of understory vegetation. Indeed, the use of the property seems dominated by dog walkers (both on leash and off leash). Impacts to bird diversity and abundance due to disturbance by dog walking and is well documented (Mallord et al. 2007). Additionally, the urban park setting likely hosts other nest predators including raccoons, foxes, feral cats, and squirrels. Notably lacking were species of thrush (Veery, Hermit Thrush), Ovenbird, Song Sparrow, all of which are common in nearby forest patches but were not observed nesting at Baxter Woods.

Habitat enhancements to increase understory vegetation may increase bird use but should coincide with changed to other park regulations, such as clearly defining trails, allowing dogs only on leash, and providing information for public visitors that highlight the parcel as bird friendly and offer guidance to limit impacts to birds such as staying on trails and keeping dogs on a leash. Attracting birds through habitat modifications under the current recreational use plan may lead to birds attempting to nest but failing due to disturbance, or worse being predated.

In addition, as mentioned in the Management Plan, restoration of habitats should include native species and management of invasive species to offer higher quality bird habitat.

A review of e-bird data supports that compared to adjacent areas (Evergreen Cemetery and Capisic Pond trails) Baxter Woods is not routinely visited by birdwatchers. Evergreen Cemetery and Capisic Pond are well known birding hotspots with three birding hotspot location in ebird with 139 species and 181 checklists, 157 species and 525 checklists, and 197 species and 2355 checklist contributed by birdwatchers. Comparatively, birdwatchers have submitted 32 checklists that documented 32 species at Mayor Baxter Woods. Connecting these two nearby sites for birdwatchers may help increase the appreciation of this parcel by birdwatchers and the community more broadly.

References

Mallord, J. W., P. M Dolman, A. F. Brown, and W. J. Sutherland. (2007). Linking recreational disturbance to population size in a ground-nesting passerine. *Journal of Applied Ecology* 44:185-195.

Appendix 1

Maine Endangered and Threatened Bird Species

Maine's Endangered Bird Species

- American Pipit (*Anthus rubescens*) (breeding population only)
- Black-crowned Night Heron (*Nycticorax nycticorax*)
- Black Tern (*Chlidonias niger*)
- Golden Eagle (*Aquila chrysaetos*)
- Grasshopper Sparrow (*Ammodramus savannarum*)
- Least Bittern (*Ixobrychus exilis*)
- Least Tern (*Sterna antillarum*)
- Peregrine Falcon (*Falco peregrinus*) (breeding population only)
- Piping Plover (*Charadrius melodus*)
- Roseate Tern (*Sterna dougallii*)
- Sedge Wren (*Cistothorus platensis*)

Maine's Threatened Bird Species

- Artic Tern (*Sterna paradisaea*)
- Atlantic Puffin (*Fratercula arctica*)
- Barrow's Goldeneye (*Bucephala islandica*)
- Common Gallinule (*Gallinula chloropus*)
- Great Cormorant (*Phalacrocorax carbo*) (Breeding population only)
- Harlequin Duck (*Histrionicus histrionicus*)
- Razorbill (*Alca torda*)
- Short-eared Owl (*Asio flammeus*) (Breeding population only)
- Upland Sandpiper (*Bartramia longicauda*)

Habitat Restoration area in Baxter Woods

Robert Bryan <rrbryan.54@gmail.com>

Wed, May 29, 2019 at 1:40 PM

To: Ethan Hipple <ehipple@portlandmaine.gov>

Cc: Eric Topper <etopper@maineaudubon.org>, Doug Hitchcox <dhitchcox@maineaudubon.org>, Jeff Tarling <jst@portlandmaine.gov>, Matthew Coleman <mcoleman@portlandmaine.gov>

During our May 17 field walk I agreed to make a base map that could be used for planning in the bird habitat restoration area.

Please review the attached map and make sure that it includes the entire area that we discussed and let me know if other changes are needed.

Among the ideas that we discussed and/or that are in the 2018 management plan:

- **Red Pine.** Possible thinning to encourage understory and midstory development. Consider closing the trail on the east side of this stand.
- **Red Oak and Red Oak-White Pine.** Understory development is generally good. Allow stand to develop naturally.
- **Shrub and Meadow.** Allow meadow to develop into old-field habitat. Options might include planting native wildflowers for pollinators and/or planting native cool season grasses to improve habitat. Develop and maintain shrubby margins; periodic brush cutting in some areas (for example, the sumac stand) can help maintain the shrub habitat type.
- **Red Oak - White Pine - Hemlock.** Promote understory development by planting shade-tolerant native shrubs. Take steps to limit impacts to the fringe of the vernal pool. Consider excavating the pool in the middle (to perhaps 2 feet in depth) to provide a longer hydroperiod. Protect selected hemlock legacy trees against hemlock woolly adelgid. Consider moving the walking path nearer to the north line to provide a larger area of undisturbed habitat in this area.

All areas:

- Dogs on leash during the bird breeding season throughout Baxter Woods. (I recall we discussed possibly more stringent regulations within the habitat restoration area).
- Control invasive plants
- Eradicate aggressive non-native plants, notably Linden (*Tilia cordata*)
- Use brush, downed logs, etc. to keep foot traffic and pets n trails
- Develop educational materials and programs.

[Quoted text hidden]

[Quoted text hidden]



Bird Habitat Restoration Area_Baxter Woods.jpg
1364K



MEMORANDUM

TO: Sally DeLuca, Director
Department of Parks, Recreation & Facilities

FROM: Jen Thompson, Associate Corporation Counsel

DATE: February 10, 2020

Re: Leash Restrictions for Dogs in Baxter Woods

I understand that the Sustainability & Transportation Committee is considering a recommendation, advanced by the Department of Parks, Recreation & Facilities, to amend Chapter 5 of the City's Code of Ordinances in order to place new restrictions on the presence of off-leash dogs in Baxter Woods. Currently, Chapter 5 of the City's Code permits dogs to be off-leash in Baxter Woods so long as they are under voice control. See Chapter 5, Section 5-15.1(e). The proposal now being advanced by staff seeks to impose limited restrictions on the presence of off-leash dogs in Baxter woods in order to better fulfill the City's charge to maintain Baxter Woods as a bird sanctuary and to address public safety concerns. Specifically, staff are recommending the following restrictions:

- April 1 through July 31, annually: Dogs on 8-foot leash at all times (to coincide with migratory bird nesting season).
- August 1 through March 31, annually: Dogs permitted off-leash and under voice control from 5am to 9am, and from 5pm to 10pm. From 9am to 5pm, dogs must be on 8-foot leash. During the July 18, 2019 meeting, the evening start time for off leash hours was amended from 5pm to 3pm.
- Habitat Restoration Area: In addition to the off-leash schedule, staff would work with various conservation, school and community groups to create a habitat restoration area where restoration efforts would contribute to creating habitat that can support migratory bird reproduction. The habitat restoration area would be roughly 5.5 acres (out of 32.5 acres total) and would be off limits to off-leash dogs year-round. This is similar to efforts on the Eastern Promenade where there are designated off-leash areas, as well as wildlife habitat meadow areas.

In connection with staff's recommendation and the Committee's consideration of the pending proposal, this office has been asked to provide guidance on the extent to which imposing leash restrictions for dogs in Baxter Woods is necessary or permissible under the City's Code and/or the 1946 deed from Governor Percival Baxter, conveying the land to the City of Portland.

As requested, I offer the following thoughts as guidance for the Committee and the Council:

The City Council has broad discretion to manage its parks as it sees fit, so long as it does so in a manner that is consistent with the City Code and any other regulations governing the use of those lands. It is under this broad authority that the City has long regulated where in the City dogs may be off leash and where leashes are strictly required. Those restrictions are outlined in Chapter 5 of the City's Code. As with all of its ordinances, the City Council is free to amend Chapter 5 in order to revise existing leash requirements as it sees fit in its legislative discretion – again, so long as it is not otherwise prohibited from doing so. Given the City's broad discretion under its police powers, the only restriction other than the

City Code that might limit the Council's regulatory authority over Baxter Woods is the language of the deed conveying the land to the City.

As the Committee is aware, one of the bases for staff's recommendation that off-leash dogs be restricted in Baxter Woods is a requirement outlined in the language of the deed that Baxter Woods be maintained as a "bird sanctuary." According to staff, the presence of off-leash dogs in the park have negatively impacted bird and wildlife habitat and breeding, particularly by ground-nesting birds, thereby inhibiting the City's ability to optimally satisfy the purpose of Governor Baxter's vision for the use of the land.

The deed from Governor Baxter to the City requires that "Mayor Baxter Woods," so-called, must be retained by the City for the benefit of the people of Portland subject to a number of terms, restrictions, reservations and conditions. The restrictions enumerated in the deed include, in pertinent part, requirements that the land:

1. Shall forever be retained and used by [the City] in trust for the benefit of the people of Portland as a Municipal Forest and park and for public recreational and educational purposes the same forever to be known as "Mayor Baxter Woods;"
2. shall forever be kept in its natural wild state and as a sanctuary for wild birds, with no streets for public conveyances and no cement walks therein and with only paths and trails for pedestrians . . .
3. shall forever be maintained for the sole use of pedestrians; and horses, automobiles and all motor vehicles, except those of the City used solely in caring for said woods, shall forever be excluded therefrom

Although the language of the deed expressly requires that the land be "kept in its natural wild state and as a sanctuary for wild birds," there is no mention of dogs or any requirement as to whether they be permitted or excluded. As such, it does not appear to me that the City Council is required to permit dogs to be off leash dogs in Baxter Woods, nor is it required to prohibit them. Rather, the Council is free to exercise its broad discretion to decide, as a policy matter, whether and to what extent it wishes to apply its leash laws in Baxter Woods, just as it does in other City parks. In making that decision, it is certainly free to weigh whether, as staff suggests, limiting off leash dogs will better allow the City to meet its obligation to maintain the park as a bird sanctuary or, as suggested by others, doing so would negatively impact its use as a "park . . . for public recreational . . . purposes." That consideration and balancing of differing policy objectives is entirely in line with the Council's authority over its public spaces and with its exercise of legislative discretion.

Baxter Woods Leash Law Implementation Timeline

February 2020

Consideration by Sustainability and Transportation Committee

March 2020

Pending recommendation from Sustainability and Transportation Committee, Corporation Counsel would review the actual text changes to the ordinance to be included with proposal to full Council. (Chapter 5).

April 2020

Consideration by full City Council

April--May 2020

Habitat restoration efforts begin with community plantings (regardless of Council action). Habitat restoration can take place on an ongoing basis into the future (not dependent on any action from Council)

April--May 2020

Water quality testing to be undertaken by the City. Possible Spring bird surveys could take place in the Spring as well (previous bird surveys covered summer and fall season, so spring data would be desirable so that impacts of policy changes can be measured in the future against this baseline data).

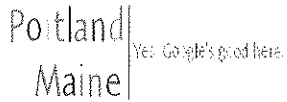
May 2020

Pending Council decision, May would serve as a month to educate visitors to Baxter Woods with signage, etc...

June 2020

Enforcement effective date June 1, 2020 (pending Council action).

Followup monitoring into the future: bird populations, water quality, forest ecology.



Ethan Hipple <ehipple@portlandmaine.gov>

Baxter Woods Leash Law

Adrienne Fine <adrienne.fine@gmail.com>
To: Ethan Hipple <ehipple@portlandmaine.gov>

Fri, Mar 6, 2020 at 8:29 AM

Thank you,

I am very glad to see that it is only 9am-3pm for leash laws. I thought it was until 5pm which was concerning. Ideally it would be 10am-3pm to allow folks a little more time on weekend mornings, especially in the winter when it is very cold before 9am.

I still think the 4 months during the nicest time of year where dogs must be on a leash all the time is overkill and a serious concern for those who live in the neighborhood. I think the restoration area makes sense though!

I appreciate your response and sending this to me.

Adrienne

On Thu, Mar 5, 2020 at 5:20 PM Ethan Hipple <ehipple@portlandmaine.gov> wrote:

Hi Adrienne,

Thanks for the email.

You'll be glad to know that what is currently being proposed is to set specific hours and locations for off-leash voice control dogs in Baxter Woods. The current proposal does not aim to exclude them all together.

I've attached the proposal for you. It also includes a lot of information on your bird questions.

Take care,

Ethan

Ethan Hipple

Deputy Director

Parks, Recreation and Facilities Department

City of Portland

212 Canco Rd, Suite A

Portland, Maine 04103

207-808-5400

ehipple@portlandmaine.gov

www.portlandmaine.gov



On Wed, Mar 4, 2020 at 10:25 AM Adrienne Fine <adrienne.fine@gmail.com> wrote:

Hi Ethan,

I hope you are well. I just sent the following email to the City Councilors regarding the Baxter Woods Leash Law but also wanted to send it to you, who I've communicated with before on this issue, to make sure it is part of any upcoming public hearing process.

I've been meaning to attend the City Council committee meetings on the Baxter Woods leash law issue, but have been unable to. I am writing to urge you to vote down the current leash law going to the council. I understand that some leash law will likely be implemented but the one proposed is very restrictive. Would the council consider leash law hours of 10am-3pm Monday through Friday all year, and at other times allow off leash dogs?

I live near Baxter Woods and have a small dog, who I walk in the woods multiple times a week. I understand that the schools use the woods and that some children are afraid of dogs, so I am fine with leash laws during school hours.

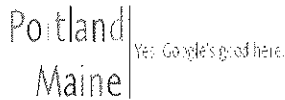
I have heard the bird sanctuary argument but I have never seen ground nesting birds in the woods. When Baxter Woods was deeded as a bird sanctuary I understand that was to prevent people from shooting birds or hunting birds in that area. There are many skunks and raccoons and even fox living in the woods so the likelihood of birds nesting on the ground doesn't make any sense due to these natural predators. Restricting dogs during a time of year or from certain areas due to birds seems useless considering these other predators.

Baxter woods was also deeded to be dog friendly. The availability of dog friendly and off-leash areas in the City is becoming more limited. Many people selected this neighborhood because it is dog friendly. Taking away off-leash entirely does not feel dog friendly. Most parks in Portland require dogs to be on a leash, so this is one of the few havens for working people to give their dogs some quick off-leash exercise throughout the week without having to drive outside of the City limits. Restrictive leash laws like those proposed will continue to drive people out of the City.

Please consider implementing leash laws only Monday through Friday 10am to 3pm, and if necessary those same hours on Saturday and Sunday too. Extending leash laws to 5pm or for all hours through the spring and summer months completely removes the dog friendly aspect of the Deering neighborhood. Who is going to use this park if it isn't dog owners? While I'm walking in Baxter Woods I'd say 95% of people have dogs.

Thank you,
Adrienne Fine

Notice: Under Maine law, documents - including e-mails - in the possession of public officials or city employees about government business may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested.

**Ethan Hipple** <ehipple@portlandmaine.gov>

Baxter Woods leash law proposal

Ethan Hipple <ehipple@portlandmaine.gov>

Fri, Mar 6, 2020 at 12:47 PM

To: Carolyn Ehringhaus <carolyn.ehringhaus@gmail.com>

Cc: Alex Marshall <amarshall@portlandmaine.gov>, Sally Deluca <sld@portlandmaine.gov>

Hi Carolyn,

Our dog waste numbers came from observations from Park Rangers during their regular patrols of the Woods. It is not meant to be a comprehensive count of every piece of dog waste in the park, but merely what we see while we make our routine visits. Thanks for your help in picking up dog waste! Every bit helps.

I have attached the current proposal for you. The hours and dates contained in this memo are what the Sustainability and Transportation Committee recommended at their 2/26 meeting.

There have been many questions about how to create an effective boundary to delineate the habitat restoration area without introducing fencing, etc... this was discussed at the Sustainability and Transportation Committee meeting. One effective way to establish that boundary is to make the Northern Carriage Path and all of the land north of the Northern Carriage Path off limits to off-leash dogs. This would have the effect of keeping off-leash dogs out of the Habitat Restoration area and providing an on-leash trail. We have heard from dog owners who prefer to keep their dogs on leash for various reasons, or who have dogs that don't socialize well with off-leash dogs. This on-leash path would simultaneously create a border for the habitat restoration area and give those people and pets a place to enjoy the woods as well.

Take care,

E

Ethan Hipple

Deputy Director

Parks, Recreation and Facilities Department

City of Portland

212 Canco Rd, Suite A

Portland, Maine 04103

207-808-5400

ehipple@portlandmaine.gov

www.portlandmaine.gov

On Tue, Mar 3, 2020 at 10:52 AM Carolyn Ehringhaus <carolyn.ehringhaus@gmail.com> wrote:

Hi Ethan,

I hope that you are caught up, always tough after being away.

As I mentioned, I am wondering about a few things that were not clear from the information conveyed to me

from the meeting (I was unable to attend).

First, how was the poop data collected? I am not disputing the amount cited, as I go through periods of obsessively picking up every one I see and my numbers are fairly high. I just wonder how is it possible to arrive at an accurate count? The only way I can think of would be to divide the park into sections and have enough people to simultaneously count each section on a specific day. . . and then maybe repeat this procedure a few times. The noticeable poops vary quite a bit with weather, as they disappear after a storm and then reappear with a thaw. I can create a clean walk on my route only to have it sullied by a thaw (and/or some new visitors) by the next day. I know of some others who are diligent about picking up extra droppings, yet my fear is that new laws will do nothing to encourage compliance and may in fact have the opposite effect as our group may not be able to entice participation in frequent cleanup days.

Second, there is a lot of confusion about the off leash hours. The paper reported before 9 a.m. and after 5 p.m., while the proposal had been modified to off-leash after 3 p.m. No one seems to know for sure what was passed last week, although we do realize that the full Council could amend the proposal.

Finally, I have been hearing about blocking off-leash dogs from Stevens to Forest on the main path on the Motherhouse side. Again, there is a lot of speculation and confusion, and it would be helpful to learn what has actually been planned.

best wishes,

Carolyn

p.s. The trails have been treacherous this past week, as the cycle of thawing and refreezing results in glare ice with water, and the park has been relatively quiet as a result. I mentioned the issues around increased risks of falling with dogs on leash in my last email, and I do hope that consideration will be given to certification for dogs under voice control. This would at least offer owners motivation for both training and proving that their dogs are under voice control and so reduce their risk of injury if they have to walk in daylight hours.

On Sun, Mar 1, 2020 at 1:00 PM Ethan Hipple <ehipple@portlandmaine.gov> wrote:

Thanks for your comments Carolyn. I am just getting back from being out of town and getting caught up on correspondence. Just wanted to let you know that your comments will be added to the compilation of written public comments on this issue as it progresses through the process of review by the full City Council.

Take care,

Ethan

Ethan Hipple

Deputy Director

Parks, Recreation and Facilities Department

City of Portland

212 Canco Rd, Suite A

Portland, Maine 04103

207-808-5400

ehipple@portlandmaine.gov

www.portlandmaine.gov



On Wed, Feb 26, 2020 at 7:52 AM Carolyn Ehringhaus <carolyn.ehringhaus@gmail.com> wrote:
another aspect of the leash law proposal that I would like to bring to your attention:

The Parks Department has repeatedly stated that they do not have the resources to enforce current rules and that they tried education (e.g., signage) and it did not work.

I would like to suggest that you give strong consideration to our proposed 10-2 (as compared to 9-3) on-leash compromise. This would provide the following positive benefits:

1. a significantly shorter time span for enforcement of new rules (which should, in turn, increase compliance and may be more feasible within the City's budget)
2. allow dog walkers more time during daylight and warmer hours during the cold, icy winter months
3. allow for parents of school-age children to walk their dogs after drop-off
4. give more time for shift workers to walk after work hours
5. enhance compliance, which in turn will help our Friends group in maintaining a cooperative relationship with the City (again, we would like to offer trainings, a means of communicating with school groups who might want to be in the woods prior to 10 a.m., regular clean-up days, etc.)
6. would still provide the dog phobic or those with reactive dogs on leash the prime hours of the day (I would gladly flip this around and take their hours!)

For reasons related to those cited above, I believe that more detailed analysis of the 4-month period of no dogs merits consideration.

Thank you for your consideration.

On Tue, Feb 25, 2020 at 3:41 PM Carolyn Ehringhaus <carolyn.ehringhaus@gmail.com> wrote:
February 25, 2020

To: Spencer Thibodeau, Jill Duson, Belinda Ray
Cc: Ethan Hipple

From: Carolyn Ehringhaus (11 James St., Portland, ME 04103)

I am writing in support of keeping the most expansive off-leash rules as possible in Baxter Woods.

My greatest concerns focus on **health and safety**:

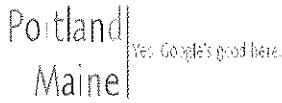
- 1: Baxter Woods is the only location that I dare walk with my dogs off leash due to the increasing prevalence of **tick-borne disease** such as Lyme, anaplasmosis, and babesiosis. Recent news releases highlight our local epidemic levels of these diseases, and there is no vaccination for humans (the canine vaccination is marginally effective, as many vaccinated dogs get Lyme). The lack of understory in Baxter woods is not conducive to deer who carry and drop huge numbers of reproducing ticks, as I have yet to see one in my 18 years of daily walks. All alternatives cited by the City for off-leash dogs are out of bounds for this reason (one of my two has a serious congenital heart disease and must be protected from all disease and injury).

2: Another topic that has received news coverage recently is the **increased injury rates among older adults due to falling while walking dogs on leash**. Walking, especially on the ice-covered trails as we see in BW throughout the winter, will be particularly dangerous even if wearing cleats. I do not go to the woods early and late in the day, as it is too cold and too dark and also does not fit with my other responsibilities. I rarely see many people during the daytime hours when I am there, yet I will now have to risk falling and breaking limbs every single day for months on end (I gave it a sample trial last week with my two dogs and almost went down a number of times – as a 67-year old woman with osteoporosis, my future prospects in getting my dogs their daily needed exercise are intimidating).

3: **Social connection:** Dogs are here to stay, with dog ownership increasing steadily; social scientists report greater happiness being reported by dog owners and many local seniors acquire dogs for company. With off-leash dogs, owners are able to connect with owners, dogs socialize with dogs, and everyone benefits. Dogs on leash changes this dynamic and greatly reduces any possibility of social interaction. **Social isolation** is real, and Portland's aging population will suffer as a consequence of the committee's precipitous decision. (This isolation is not limited to seniors as increasing numbers of younger adults work from home, stay-at-home mothers benefit from adult socialization during school hours, etc.)

On a different note, I can say that our #1 reason against leaving Portland has always been Baxter Woods, as we are fortunate to live nearby and have gotten to know most of our neighbors from our outings there. I have witnessed a number of other walkers say the same or even that they moved to this neighborhood because of the woods. The new laws will be a huge loss to many residents. Please reconsider, or at the very least delay until further data can be gathered concerning the actual day-to-day experiences of Portland's residents who rely on these woods. In addition, I hope that the Parks Department might consider working with the Friends of Mayor Baxter Woods group to pilot a **certification program** in order to have more leash-free time options in BW, as this could provide great incentives for responsible ownership.

Notice: Under Maine law, documents - including e-mails - in the possession of public officials or city employees about government business may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested.



Ethan Hipple <ehipple@portlandmaine.gov>

Baxter Woods Leash Law Support

Ethan Hipple <ehipple@portlandmaine.gov>
To: Christopher Cutler <christopherjcutler@gmail.com>

Sun, Mar 1, 2020 at 12:59 PM

Thanks for your comments Chris. I am just getting back from being out of town and getting caught up on correspondence. Just wanted to let you know that your comments will be added to the compilation of written public comments on this issue as it progresses through the process of review by the full City Council.

Take care,
Ethan
Ethan Hipple
Deputy Director
Parks, Recreation and Facilities Department
City of Portland
212 Canco Rd, Suite A
Portland, Maine 04103
207-808-5400
ehipple@portlandmaine.gov

www.portlandmaine.gov



On Mon, Feb 24, 2020 at 7:22 PM Christopher Cutler <christopherjcutler@gmail.com> wrote:

Greetings Councillors & Parks Department,

My name is Chris Cutler, I am a current resident of Portland, living on Clinton St. in the Deering Center neighborhood just a few blocks away from Mayor Baxter Woods. My fiancée, dog (Oscar), and I moved into our home this past September after a long search for dog-friendly residences in the area. We were drawn towards this particular neighborhood in no small part because of the beautiful public woods that are so easily accessible. Having this natural "escape" within walking distance has been an incredible aspect of our new location, especially because I work from home, and therefore take multiple walks to stretch my legs, clear my head, and decompress, every day. I bring Oscar walking with me as many times as I can, but lately it's become clear that Baxter Woods is not an inclusive space for dogs with moderate canine social anxiety such as him. A combination of vague rule definitions, little to no City enforcement, and inflexible park-goers has created an environment in which Oscar and I no longer feel welcomed or even understood. It is my intention to detail our experiences for you all to consider during your public committee meeting on Wednesday February 26th (unfortunately, I will be out of town on that date, but would otherwise make a public statement with content similar to what is in this email). I fear that there are many other citizens who have similar perceptions or experiences to my own, and who have not been appropriately

represented in the public dialogue as it relates to potential future leash law changes for Mayor Baxter Woods.

Our dog, Oscar, is a seven-and-a-half year old rescue, adopted by my fiancée in New Orleans while she was in undergrad at Tulane University. He was a "neglect" case, having been found as a stray multiple times before being taken in for good by the local ASPCA. He is an incredibly sweet and loving dog, always looking to make more human friends when we have guests over, or even while out on walks. That being said, Oscar generally does not have positive reactions when approached by unknown dogs. While he is more than able to have healthy and stable canine relationships (for example, with my parents' and my fiancée's parents' dogs), the introductions require some serious, intentional planning and execution. Obviously, we do not expect to have the luxury of these intentional introductions with every dog we encounter - normally, on streets or sidewalks, we are able to communicate to other dog owners that Oscar does not like to be approached. This has generally been a good strategy for avoiding canine conflicts with other leashed dogs, but it becomes an almost impossible task when encountering some off leash dogs (and their respective owners) in Baxter Woods.

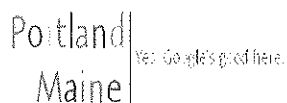
In my opinion, one of the main reasons why these incidents continue to occur is the vague nature of the current off-leash rules/laws. As it stands now, owners are required to have their dogs within 50 feet, and "under voice control" at all times. Unfortunately, there seems to be a wide range of interpretations with respect to what it really means for a dog to be under voice control. I think that dog owners who let their dogs wander off-leash in Baxter Woods do genuinely believe that their dogs are responsive to voice commands, in a vacuum. However, based on my many experiences of having off-leash dogs approach me and Oscar (oftentimes with no owner in sight), it's apparent that the mere presence of another dog and/or human can interfere with the responsiveness of an otherwise well-behaved dog. In addition to the "squishy-ness" of this rule, the lack of enforcement within the Woods only encourages owners to continue their behavior. This can also lead to a sense of entitlement for those who may have technically not been following the rules, simply because they have never been told otherwise. I realize this attitude of some dog owners will make it challenging to make any changes to the current rules and/or enforcement, but it will certainly not be any easier to make these changes in the future if this "voice control" issue continues to go unaddressed. It is my hope that any future rule changes will be accompanied by strict enforcement of the new rules.

Ultimately, it is not my intention to entirely take away anyone's privilege to walk in Baxter Woods with their dogs off-leash. I think the compromise solution proposed by the Parks Department is a great option that would continue to allow for off-leash activities, while giving those people in similar situations to mine a time of day / time of year when we can feel comfortable walking through the Woods without fear of being approached. Having these specific, enforced, on-leash periods in Mayor Baxter Woods would greatly improve our current quality of life, and would solidify my fiancée's and my desire to remain in this neighborhood for years to come.

I appreciate the time and effort you've spent so far addressing this topic, and I thank you for reading and considering my experiences in preparation for your Committee meeting this Wednesday. If you have any questions in the meantime, don't hesitate to contact me via email (christopherjcutler@gmail.com), or by phone at (860) 808-9887. I look forward to your decision and further City Council discussion.

Best,
Chris Cutler

--
Chris Cutler
B.S.E. Acoustical Engineering & Music
University of Hartford '15
(860) 808-9887



Ethan Hipple <ehipple@portlandmaine.gov>

Baxter Woods Leash Law

Ethan Hipple <ehipple@portlandmaine.gov>

Sun, Mar 1, 2020 at 12:59 PM

To: Nellie Wood <wood.nellie@gmail.com>

Thanks for your comments Nellie. I am just getting back from being out of town and getting caught up on correspondence. Just wanted to let you know that your comments will be added to the compilation of written public comments on this issue as it progresses through the process of review by the full City Council.

Take care,
Ethan

Ethan Hipple
Deputy Director
Parks, Recreation and Facilities Department
City of Portland
212 Canco Rd, Suite A
Portland, Maine 04103
207-808-5400
ehipple@portlandmaine.gov

www.portlandmaine.gov



On Mon, Feb 24, 2020 at 6:57 PM Nellie Wood <wood.nellie@gmail.com> wrote:

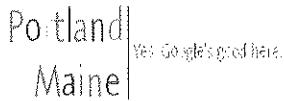
To Whom It May Concern:

I am writing in support of the compromise on the leash law in Baxter Woods.

I am a dog lover and in general I like that well-trained dogs have the opportunity to freely explore the outdoors, however, public parks should be able to be enjoyed by many different people. I live half a mile from the park and my sister was visiting with her 2 dogs, which were on leash. We were approached by two dogs without their owner in sight and were not able to move away from them, making one of the dogs very nervous. We were then yelled at by the dogs' owner for "not knowing the rules" and having leashed dogs in a leash-free park. It left me with a pit in my stomach and no interest in returning to the park anytime soon. I have other friends who live very close to the park but whose dogs have anxieties and have never been able to use this wonderful space.

A compromise would allow all dog owners, those who need to leash their dog, and those who don't, the ability to enjoy the park.

Thank you,
Nellie Wood



Ethan Hipple <ehipple@portlandmaine.gov>

Baxter Woods Leash Law Support

Ethan Hipple <ehipple@portlandmaine.gov>
To: Tessa Wood <tessa.m.wood@gmail.com>

Sun, Mar 1, 2020 at 12:58 PM

Thanks for your comments Tessa. I am just getting back from being out of town and getting caught up on correspondence. Just wanted to let you know that your comments will be added to the compilation of written public comments on this issue as it progresses through the process of review by the full City Council.

Take care,
Ethan

Ethan Hipple
Deputy Director
Parks, Recreation and Facilities Department
City of Portland
212 Canco Rd, Suite A
Portland, Maine 04103
207-808-5400
ehipple@portlandmaine.gov

www.portlandmaine.gov



On Mon, Feb 24, 2020 at 11:34 AM Tessa Wood <tessa.m.wood@gmail.com> wrote:
Hello Councilors and Parks Department -

My name is Tessa Wood. I moved to Portland (Deering Center) this past September. I love where I live now, not least because it is barely a block from the Mayor Baxter Woods. I have a very sweet dog named Oscar. He immediately falls 100% in love with every human he meets, but he is not quite the same with other dogs. I got him when he was 2 (he's 7 now), so he already had some baked-in anxieties around other dogs. That's not to say we haven't worked hard to make his "social anxiety" better, but to a certain degree (just like with some humans), it's just a part of his hardwiring. Oscar has plenty of canine friends, but to forge those relationships, it took a lot of intentional training and introduction. Beyond basic obedience classes, Oscar has earned two higher level training certifications: Canine Good Citizen (CGC), and Advanced Canine Good Citizen (CGCA), both tests administered and recognized by the American Kennel Club. He is a good dog.

When looking for a place to live in Portland, I was very excited to find not only a dog friendly home, but also one that was so close to such a lovely place for walking Oscar (on leash). Unfortunately, it quickly became clear to me that the Baxter Woods were not a safe place to take Oscar.

I had thought that dogs being allowed off-leash in the Baxter Woods would be ok for Oscar, since the dogs were required to be under voice control within 50 feet of their owners. However, this is rarely adhered to, and it is a problem. Of course, there are dogs who are refreshingly well-trained, who come to their owners immediately when called, even in the excitement of seeing another dog. In the Baxter Woods, it seems that

these are the exceptions that prove the rule, so to speak. I have encountered a poorly trained off-leash dog almost every single time I've gone into the Woods. I tell the owner from afar to please not let their dog approach Oscar, and they call the dog, but the dog continues to approach us, often bounding all the way up to us. This has happened more times than I can count, and that's not even getting into the number of times an off-leash dog has approached us without another human in sight.

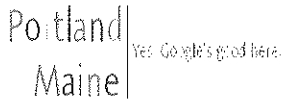
Both of these situations are stressful and deeply frustrating to me. I have stopped using the Woods altogether now, which breaks my heart; despite Oscar's anxiety in the face of being confronted by strange dogs, he loves the Woods when he feels safe, and so do I. But I don't feel that way.

I understand the appeal of having a place for one's dog to run free, and I understand why some other dog owners want to keep using the Baxter Woods the way they always have. But I want to be able to use the Baxter Woods at all. Right now, that is not possible.

Best,

Tessa M. Wood, RPT

Owner, Underdog Pianos
(207) 689-7848
www.underdogpianos.com



Ethan Hipple <ehipple@portlandmaine.gov>

Baxter Woods leash proposal

Ethan Hipple <ehipple@portlandmaine.gov>
To: ehowland@maine.rr.com

Sun, Mar 1, 2020 at 12:58 PM

Thanks for your comments Ethan. I am just getting back from being out of town and getting caught up on correspondence. Just wanted to let you know that your comments will be added to the compilation of written public comments on this issue as it progresses through the process of review by the full City Council.

Take care,
Ethan

Ethan Hipple
Deputy Director
Parks, Recreation and Facilities Department
City of Portland
212 Canco Rd, Suite A
Portland, Maine 04103
207-808-5400
ehipple@portlandmaine.gov

www.portlandmaine.gov



On Sun, Feb 23, 2020 at 10:46 AM <ehowland@maine.rr.com> wrote:

Dear Spencer,

I can't go to the Sustainability Committee's meeting on Wednesday so I am writing to ask that you turn down the proposal to require dogs to be on leashes in Baxter Woods.

The proposal does more harm than good. It would hurt a community of hundreds of dog walkers who help keep the woods a safe, clean place to walk, talk and soak up a small slice of nature. The bonds between the people using the woods spills over into all our lives and makes Portland a better place to live.

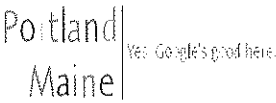
Meanwhile, current data indicate the bird population in the woods is similar to other areas such as Maine Audubon's Gilsland Farm in Falmouth.

If you don't reject the proposal, I hope you will table it to give the parks department more time to gather information about the bird population found in Baxter Woods.

Tabling the proposed ordinance would also give city staff time to work with the Friends of Baxter Woods to develop a balanced plan for how Baxter Woods is used that addresses everyone's concerns.

Thank you,

Ethan Howland
28 Mayland St.
828-5329



Ethan Hipple <ehipple@portlandmaine.gov>

baxter Woods

Debra Flynn <debra_ann@maine.usa.com>

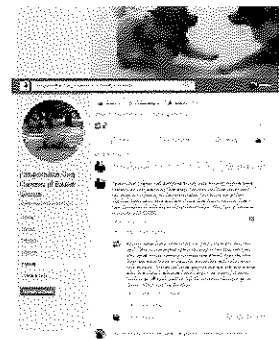
Thu, Jan 30, 2020 at 11:55 AM

To: "ehipple@portlandmaine.gov" <ehipple@portlandmaine.gov>

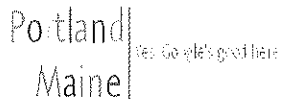
Hello,

The situation in Baxter Woods is now so unsafe that we can no longer go in there, even though we literally live next to it! I sent a screenshot of the latest, today, comment from another dog owner saying I should stay out of there. They do not live on this street, Hartley Street. Micheal who lives a doors up from me, also has been complaining as he has terriers that are molested constantly and has changed his walking habits as well due to these dogs. People are on their cell phones with ear pieces in not watching their off leash dog, not to mention them chasing the wildlife in a sanctuary as their owners talk umonst themselves. As you know I love these woods but now with the loose dogs even coming into our fewnced in portion of the yard it is way to stressful and unsafe please help. People are believing this is a dog park where they can bring their off leash dogs, not pick up after them or watch them.

Debra Ann Gorneault 207-387-3083
11 Hartley Street
Portland Maine



Screenshot_2020-01-30 Responsible Dog Owners of Baxter Woods - Posts.png
404K



Ethan Hipple <ehipple@portlandmaine.gov>

your email re baxter woods.

Ethan Hipple <ehipple@portlandmaine.gov>
To: david victor <dvictor242@gmail.com>

Wed, Jan 8, 2020 at 11:40 AM

Thanks David,
I've received your comments and will pass them on to the Committee.

FYI, there are already rules regarding dogs and leashes in Baxter Woods. We are simply looking to change them to balance the needs of diverse park users and wildlife. However, we understand that there will be different opinions on the matter. Hopefully you can attend the meeting so you can learn more about the specifics and the rationale.

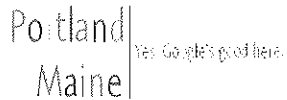
Take care,
Ethan
Ethan Hipple
Deputy Director
Parks, Recreation and Facilities Department
City of Portland
212 Canco Rd, Suite A
Portland, Maine 04103
207-808-5400
ehipple@portlandmaine.gov

www.portlandmaine.gov

On Wed, Jan 8, 2020 at 10:01 AM david victor <dvictor242@gmail.com> wrote:

I'm distressed by the proposal to have onleash rules for baxter woods, especially the restrictions in april through july 31. it's especially confusing since , from what i've gathered, the parks commission is planning to build a fence around an area to accommodate groundnesting birds. why restrict dogs then. it makes no sense. i certainly hope that , if the rules currently proposed are put into effect, the numerous outraged baxter woods community members consider alternatives, such as a referendum (a la peoples park) , to overturn this thoughtless revision that will effect so many for a minimal benefit.

david victor



Ethan Hipple <ehipple@portlandmaine.gov>

Baxter Woods leashing

Jeff Levine <blumlevine@gmail.com>

Sat, Jan 11, 2020 at 5:36 PM

To: Ethan Hipple <ehipple@portlandmaine.gov>, Troy Moon <thm@portlandmaine.gov>

Cc: "Ray, Belinda" <bsr@portlandmaine.gov>, "Thibodeau, Spencer" <sthibodeau@portlandmaine.gov>, Jill Duson <jduson@portlandmaine.gov>

To the Committee:

I am writing as a nearby resident who frequently uses Baxter Woods for recreation and exercise. I am also a dog owner. Until recently, I supported off-leash dogs in Baxter Woods. I was encouraged by the formation of a group to encourage responsible dog stewardship in the woods and hoped that the problem of a few bad apples wouldn't ruin things for all the responsible owners.

Unfortunately, I don't think the efforts to encourage good behavior have helped. This issue has been around for at least five years (see, for example, https://www.pressherald.com/2014/04/23/a_controversy_unleashed_/) and has not improved. I am still regularly run at by strange dogs, whose owners range from apologetic to indifferent. While I have not been physically hurt yet, I have had property damage. I don't see why people should have to continually put up with poor pet behavior when trying to have quiet enjoyment, in a place that is explicitly for quiet enjoyment. I have friends who will not allow their small children in the woods as a result of the loose dogs. I also have friends who are dog owners who will not allow their dogs in the woods, due to the loose dogs.

These woods were provided to the City for residents to share. I don't see why allowing dogs off-leash is such a high priority when there are other uses who suffer as a result. This is not the only place in the area that allows off-leash dogs. The woods behind Evergreen Cemetery are nearby, and much larger, without the inevitable conflicts that will occur in a small space such as Baxter.

The proposal for allowing dogs by time of day and year is a good first step, but I am not sure how that prevents the significant damage to the natural resources of the woods. I'd encourage the Committee to look at fencing off a portion of the woods as a dog park, perhaps the area right on Stevens or Forest Avenues, and leaving the rest as a leashed area. The bulk of the woods themselves should require leashing at all times of the day and year.

thanks,

Jeff Levine
10 Amherst Street



Ethan Hipple <ehipple@portlandmaine.gov>

Re: A compromise for dogs in Baxter Woods

shambaugh@gwi.net <shambaugh@gwi.net>
To: Ethan Hipple <ehipple@portlandmaine.gov>

Tue, Jan 14, 2020 at 8:32 AM

Thank you!

On 2020-01-14 08:27, Ethan Hipple wrote:

Hi Ben,
Thanks for your thoughtful email. Your compromise proposal is very similar to the compromise proposal that will be presented to the Sustainability and Transportation Committee tomorrow night (5:30pm, Council Chambers). I've attached that for you. Hopefully you can be there.
Take care,
Ethan
Ethan Hipple
Deputy Director
Parks, Recreation and Facilities Department
City of Portland
212 Canco Rd, Suite A
Portland, Maine 04103
207-808-5400
ehipple@portlandmaine.gov

www.portlandmaine.gov

On Tue, Jan 14, 2020 at 8:19 AM <shambaugh@gwi.net> wrote:

Dear friends,

I am not able to make the hearing tomorrow and so am sending this to share a few thoughts and a possible compromise regarding dogs in Baxter woods. As you can see below, I have been walking dogs in Baxter Woods daily for more than 14 years. Since my dog died, I have been walking an elderly neighbor's dog there every morning. Just this morning, I had meaningful conversations there with people there who I would not know if it wasn't for walking dogs together. This is a crucible of community, the heart and part of what makes Portland great. A point worth mentioning -- somehow strangers will talk with others who have dogs, when they wouldn't do the same with those who don't. Dogs are wonderful "ice breakers" that help people connect.

There is great value to the community of dog walkers in the woods and a great joy in having the dogs off leash, something which not only helps train and socialize the dogs but also helps burn off some energy for those who are inside all day. Contrary to those who might say that this space from non-dog folks who want to walk or want to preserve a home for birds, I would point to Evergreen Cemetery, a huge, beautiful, dog-free and bird-full place, right next door -- in fact, even more accessible than Baxter Woods. (The roads are even plowed!) The back cove trail is likewise very close and only has dogs on lead.

I also understand that there are those who would like to enjoy the woods without dogs, that there are schools who use the space -- both for young kids doing "nature" walks and for older kids with cross country meets etc.

For a compromise, I suggest that you consider the model of dogs on beaches and have specific hours for off leash and specific hours when a leash is required (and maybe some where no dogs are allowed at all.) It works very well at the East End and Scarborough beaches. For example, say dogs off leash from 7-9 am and 5-9 pm, and maybe even no dogs at all from 10-12 (though this seems excessive if the leash rules are obeyed). Unlike the beaches, these guidelines might have to be "all year" and not just summer.

Thanks for listening and considering a solution that works for everyone and preserves what is one of the gems of Portland (not just the woods but the community of people who use it). Thanks for all you do to serve this wonderful city we call home.

Sincerely,

Ben Shambaugh

147 Clinton Street

Portland, ME 04103

207 400-7516

March 1, 2019

Dear friends,

My dog Sasha died of old age a few months ago. She and I walked in Baxter Woods at least two times a day for 14 years. Baxter is just a block from my home and -- along with Portland High, Longfellow and Lincoln -- is a large part of what makes the Deering Neighborhood great. It was at Baxter Woods that I got to truly know my neighbors, catch up on people's lives, and take time to nourish my soul. This happened in many ways, because of connections made through people with dogs. Again and again, I knew the dog's name long before I knew the owner. Because the dogs were off leash, they were able to greet me as well as my dog, and we built community, one sniff and pet at a time. The pure joy of animals and owners freely wandering the woods is a gift and wonder to share. Though my dog is gone, going to Baxter woods every day fills me with joy.

Today I walked around Mackworth Island and made a point of visiting the cemetery of Baxter's many generations of Irish Setters. Yes, he loved birds. He also loved dogs and during all my time in Baxter woods, I have never seen the one bother the other. In fact, dogs keep the number of cats -- who do bother the birds -- to a minimum.

I was part of community conversations with the city regarding dogs in Baxter Woods that happened at the Wilde Chapel a few years ago. As a result of those meetings, the city put in more trash cans to collect poop and the owners picked it up. Since then, the winter snows and annual "spring thaw" have been much cleaner -- proof that the vast majority of dog owners are responsible and responsive and that we can work together, while still maintaining what is a treasure to us all.

Yes, there are rare occasions when a careless owner or poorly trained dog behave less than perfectly.

These, however, are very limited and – as those folks don't seem to worry about rules or norms I do not think that new rules will change their behavior. They would, however, have a huge negative impact on the quality of life, the sense of community, and the joy that makes our neighborhood and our city special.

Thank you for keeping it as it is today – a gift to us all. Thank you for your continued great work on our behalf.

Sincerely,

Ben Shambaugh

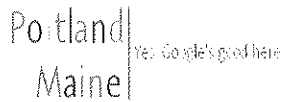
147 Clinton Street

Portland, ME 04103

207 400-7516

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 **Baxter Woods Off Leash Memo December 2019.pdf**
998K



Ethan Hipple <ehipple@portlandmaine.gov>

Re: Baxter Woods Leash Rules Workshop 1/15/20 at Sustainability and Transportation Committee

Teresa Valliere <tvallier@maine.rr.com>

To: Ethan Hipple <ehipple@portlandmaine.gov>

Hi Ethan,

Thank you for handling the Baxter Woods issues so respectfully. I personally don't want to lose access to the park of disappointment should the vote go that way.

Governing the commons is a really hard job, and I think that the process has been fair and inclusive. I know many folks. Thank you for all you do and the respectful leadership you demonstrate.

Teresa

Teresa Valliere, LCSW, LADC, CCS

Valliere Counseling and Professional Support
phone 207.233.9276

<http://valliirecps.com>

MAILING LIST

FMI about counseling, supervision, training or consultation, please contact me at tvallier@maine.rr.com

<http://Therapists.PsychologyToday.com/rms/68128>

Office: 57 Revere Street #1
Portland, ME 04103

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On Jan 15, 2020, at 1:28 PM, Ethan Hipple <ehipple@portlandmaine.gov> wrote:

Hey Teresa,

When you click on the link to the specific agenda, look to the top left corner of the page where there is a tab for "Agenda" information and the proposal there.

Let me know if that doesn't work.

Take care,

Ethan

Ethan Hipple
Deputy Director
Parks, Recreation and Facilities Department
City of Portland
212 Canco Rd, Suite A
Portland, Maine 04103
207-808-5400
ehipple@portlandmaine.gov

www.portlandmaine.gov

On Wed, Jan 15, 2020 at 12:45 PM Teresa Valliere <woodfordscorner@gmail.com> wrote:

Hi Ethan,

I've been trying to find the actual proposal for the workshop tonight, but can't find it on line. I follow the link but it
Can you help?

~Teresa Valliere

President
Friends of Woodfords Corner

FMI call Teresa at 207-233-9276

MAILING LIST

PAYPAL for sponsorship/donation

email woodfordscorner@gmail.com

website Friends of Woodfords Corner

Facebook and Instagram

FMI call Teresa at 207-233-9276

Let's be the neighbors we want to have.

FWC is a 501c3 charitable organization comprised of residents, businesses and local organizations supporting the Woodfords Corner neighborhood.

On Jan 7, 2020, at 4:46 PM, Portland Parks, Recreation & Facilities Department <ehipple@portlandmaine.gov>

PORTLAND

PARKS, RECREATION & FACILITIES

Hello there,

You are receiving this email as you have expressed an interest in changes at Baxter Woods, or have submitted written comments. Please see below for an invitation to attend the Sustainability and Transportation Committee Workshop on this topic. Hope to see you there.

All the best,
Ethan Hipple

Deputy Director
Parks, Recreation and Facilities Department
City of Portland
212 Canco Rd, Suite A
Portland, Maine 04103
207-808-5400
ehipple@portlandmaine.gov

Baxter Woods Leash Rules Workshop

City Council Sustainability and Transportation Committee

Wednesday, January 15, 2020, 5:30pm

City Council Chambers, City Hall, 389 Congress Street

During this workshop, the Committee will weigh whether the establishment of an off-leash season and specific hours for dogs is in the best interest of the city in order to increase wildlife habitat and address safety and other related issues.

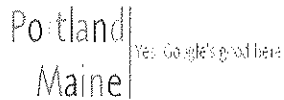
The public is welcome and encouraged to attend to lea
proposal. City staff will present background information c
the Sustainability and Transportation Committee will ask t
Woods to present information as well. As this is a Commi
will be no vote taken on this issue at this meeting, and th
comment. If and when the Committee takes a vote on tl
comment will be allowed at that time.

More information and specific proposal for rule
at: <http://portlandmaine.gov/586/Sustainability-Transpo>



This email was sent to woodfordscorner@gmail.com
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City of Portland Parks, Recreation & Facilities · 212 Canco Rd · Suite A · Por

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There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to



Ethan Hipple <ehipple@portlandmaine.gov>

Re: Question about bird survey for Mayor Baxter Woods

Patrick Keenan <patrick.keenan@briloon.org>

Tue, Jan 21, 2020 at 12:39 PM

To: Jordan Bailey <jordan@portlandphoenix.me>, Ethan Hipple <ehipple@portlandmaine.gov>, Marc Lesperance <baxterwoodsfriends@gmail.com>

Hi Jordan,

Thank you for your interest in the bird surveys that BRL conducted at Mayor Baxter Woods. These surveys are part of the cities effort to determine what species of birds use the property and habitats for breeding and during other times of the year. We conducted surveys in the summer and fall of 2019.

To answer your question, yes, that research that Mallord et al. is relevant. It is a study that documents impacts to birds and models the impact to a common European bird species, Wood Lark, at the population level. There are various studies highlighting recreational disturbance generally and disturbance and predation by dogs in a number of settings and habitats. This science is pretty consistent. Providing the citation was meant to help inform the reason(s) why we may not have found ground nesting birds at that property. I have attached another article here from a study conducted in Australia, that looked specifically at dog walking. It is important to recognize the larger picture here and the utility of the property so that the city and citizens may select management policies in line with their values as well as the intended use of the property.

I hope that it is OK that I have included Ethan Hipple at the City of Portland and Marc Lesperance of the Friends of Mayor Baxter Park here as they have supported and shown interest in the bird surveys respectively.

For added context and perspective, I have also shared Loss et al. paper investigating the impact of cats on wildlife. Also Loss, et al. related to bird-building collisions.

I hope this is helpful. Feel free to reach out if you have other thoughts/questions. My office number is 207 839 7600 x 242.

Be well,
Patrick

On Fri, Jan 17, 2020 at 4:32 PM Jordan Bailey <jordan@portlandphoenix.me> wrote:

Hello Patrick,

I'm reporting on the city's efforts to protect bird habitat in Baxter Woods and reviewed the bird survey you conducted.

I noticed that it says on page 7 that it is well documented that dog walking disturbs bird nesting, and then cites a 2007 study by Mallord et al. I looked at that study and it looks like it was conducted in England on Woodlarks. Can you tell me if you think the results of that study are comparable to the species and conditions in Baxter Woods? If not, are there any other studies you know of about dog disturbance on nesting birds that are more comparable?

Thank you,
Jordan

--

Jordan Bailey

Reporter
Portland Phoenix
251 US Route 1
Falmouth, ME 04105
207-536-5210 x 106
jordan@portlandphoenix.me

--
Jordan Bailey
Reporter
Portland Phoenix
251 US Route 1
Falmouth, ME 04105
207-536-5210 x 106
jordan@portlandphoenix.me

--
Patrick C. Keenan
Outreach Program Director, Biodiversity Research Institute, www.briloon.org
Products, Marketing, Business Support, Avinet Research Supplies, www.avinet.com
276 Canco Road, Portland, ME 04103
(207) 839-7600 x242

3 attachments



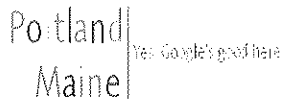
Banks and Bryant_biology letters.pdf
75K



Lossetal2013NatureCommunications-Impactofcatpredation.pdf
365K



loss_et_al_bird-building_collisions_condor_2014.pdf
353K



Ethan Hipple <ehipple@portlandmaine.gov>

Baxter Woods Leash Law

Ethan Hipple <ehipple@portlandmaine.gov>
To: Janice Charek <jbcharek@gmail.com>
Cc: Justin Costa <jcosta@portlandmaine.gov>

Sun, Jan 26, 2020 at 8:32 PM

Thanks for your comments Janice. We will make sure they are passed along to the Council committee that is considering this proposal.

Take care,
Ethan

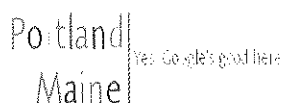
On Fri, Jan 24, 2020, 4:35 PM Janice Charek <jbcharek@gmail.com> wrote:
Dear Councilor Costa,

We are writing in support of the proposed leash law for Baxter Woods as outlined in the presentation by Ethan Hipple at the January 15th meeting of the Sustainability and Transportation Committee. Our backyard on Hartley Street abuts the Baxter Woods and we have two Jack Russell Terriers which must be walked on leash. As one of our dogs was attacked by a large off-leash dog when she was a puppy, she is naturally fearful when approached by off-leash dogs in the woods. Many times we avoid walking our dogs in the woods because of our inability to avoid stressful confrontations with off-leash dogs. It seems "voice control" as required by the current rules is more of a wish than a reality in many cases.

Should the compromise proposal be adopted we will look forward to being able to walk our dogs in peace during the hours of 9 a.m. - 3 p.m. for most of the year and at any time during the warmer months, and enjoy the wonderful resource we have in the Baxter Woods.

Sincerely,

Janice and Michael Charek
25 Hartley Street
Portland



Ethan Hipple <ehipple@portlandmaine.gov>

baxter Woods

Ethan Hipple <ehipple@portlandmaine.gov>

Thu, Jan 30, 2020 at 2:08 PM

To: Debra Flynn <debra_ann@maine.usa.com>

Cc: Alex Marshall <amarshall@portlandmaine.gov>, Sally Deluca <sld@portlandmaine.gov>

Thanks Debra. I will make sure your comments get passed along the Council as they weigh this decision.

Take care,

Ethan

Ethan Hipple

Deputy Director

Parks, Recreation and Facilities Department

City of Portland

212 Canco Rd, Suite A

Portland, Maine 04103

207-808-5400

ehipple@portlandmaine.gov

www.portlandmaine.gov

On Thu, Jan 30, 2020 at 11:55 AM Debra Flynn <debra_ann@maine.usa.com> wrote:

Hello,

The situation in Baxter Woods is now so unsafe that we can no longer go in there, even though we literally live next to it! I sent a screenshot of the latest, today, comment from another dog owner saying I should stay out of there. They do not live on this street, Hartley Street. Micheal who lives a doors up from me, also has been complaining as he has terriers that are molested constantly and has changed his walking habits as well due to these dogs. People are on their cell phones with ear pieces in not watching their off leash dog, not to mention them chasing the wildlife in a sanctuary as their owners talk umonst themselves. As you know I love these woods but now with the loose dogs even coming into our fewnced in portion of the yard it is way to stressful and unsafe please help. People are believing this is a dog park where they can bring their off leash dogs, not pick up after them or watch them.

Debra Ann Gorneault 207-387-3083

11 Hartley Street

Portland Maine



Ethan Hipple <ehipple@portlandmaine.gov>

Baxter Woods

Ethan Hipple <ehipple@portlandmaine.gov>
To: Aimee Kudlak <akudlak@maine.rr.com>

Fri, Apr 5, 2019 at 3:18 PM

Thanks for the comments Aimee.
Take care,
Ethan

Ethan Hipple
Deputy Director
Parks, Recreation and Facilities Department
City of Portland
212 Canco Rd, Suite A
Portland, Maine 04103
207.808-5400
ehipple@portlandmaine.gov

www.portlandmaine.gov
Portland, Maine | Yes. Life's good here.

On Fri, Apr 5, 2019 at 2:50 PM Aimee Kudlak <akudlak@maine.rr.com> wrote:

Dear Ethan,

Thank you for reaching out to all of us who love Baxter Woods. I too am a dog walker there. My 16 1/2 year old dog, Freddy, has outlived almost all of his former friends. There are a lot of both old and new dog owners walking in the woods these days. Some of the new dog owners need as much training as their dogs. But I can't imagine that there is so much damage being done by the dogs that they would have to be kept on leashes.

When I first started walking in Baxter, there was a huge forest of trees behind the Mother House on Stevens Avenue. These were cut down to make a ball field for Cathrine McAuley high school which was very rarely used. No one seemed to complain about the destruction of these woods and all the wildlife it destroyed. Now plans are in the works to build five or six buildings on this ball field. The noise and traffic and commotion coming from the construction will do more harm to the wild life in Baxter Woods than any dog can do, not to mention the influx of all the people that will be moving into those condos.

The dog walkers actually do a lot to clean up the woods. We do a poop cleanup weekend in the Spring, pick up broken bottles and trash and try to keep the woods as natural as we can. One time, someone tossed a bunch of metallic confetti on one of the paths. It took weeks to clean it up, but we did.

I hope this situation can be resolved in a way that will benefit all living things: dogs, cats (yes some people walk their cats), birds, squirrels, fox, raccoons, chipmunks, salamanders, frogs, fish, turtles, trees, but most of all the people who love Baxter Woods and want to keep it just as it is and has been for the past 73 years.

Sincerely,,
Aimee A Kudlak



Ethan Hipple <ehipple@portlandmaine.gov>

Re: A Baxter compromise — set hours

shambaugh@gwi.net <shambaugh@gwi.net>
To: Ethan Hipple <ehipple@portlandmaine.gov>

Fri, Apr 5, 2019 at 5:02 PM

Thank you Ethan, for all your work and your love of the parks!

On 2019-04-05 12:55, Ethan Hipple wrote:

Thanks for the suggestion Ben.

We are looking at some compromise options and weighing that with the possible impact on safety and bird sanctuary habitat.

I appreciated the civility shown at the meeting last night by all involved. I know it is a tough topic that folks are passionate about.

Take care,
Ethan

Ethan Hipple
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www.portlandmaine.gov
Portland, Maine | Yes. Life's good here.

On Thu, Apr 4, 2019 at 6:09 PM Shambaugh <shambaugh@gwi.net> wrote:

Dear Ethan,

Thank you for a good hearing and your great research. I appreciate your points and suggest a possible compromise, which you mentioned but did not include in your bullets points. Off leash 7-9 and after 5 pm. Leashed at other times. That allows the middle of the day for all and does limit bird threats. It works on the beaches and Robinson woods and could work here too.

Thanks again
Ben Shambaugh

Sent from my iPhone

On Apr 1, 2019, at 3:44 PM, Ethan Hipple <ehipple@portlandmaine.gov> wrote:

Hi there Ben,
Thanks for the thoughtful comments and sorry to hear about the loss of your dog Sasha.

We will make sure the Parks Commission gets a copy of your comments for the meeting this Thursday.

Take care,

Ethan

Ethan Hipple

Deputy Director

Parks, Recreation and Facilities Department

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212 Canco Rd, Suite A

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www.portlandmaine.gov

Portland, Maine | Yes. Life's good here.

On Mon, Apr 1, 2019 at 2:33 PM <shambaugh@gwi.net> wrote:

March 1, 2019

Dear friends,

My dog Sasha died of old age a few months ago. She and I walked in Baxter Woods at least two times a day for 14 years. Baxter is just a block from my home and -- along with Portland High, Longfellow and Lincoln -- is a large part of what makes the Deering Neighborhood great. It was at Baxter Woods that I got to truly know my neighbors, catch up on people's lives, and take time to nourish my soul. This happened in many ways, because of connections made through people with dogs. Again and again, I knew the dog's name long before I knew the owner. Because the dogs were off leash, they were able to greet me as well as my dog, and we built community, one sniff and pet at a time. The pure joy of animals and owners freely wandering the woods is a gift and wonder to share. Though my dog is gone, going to Baxter woods every day fills me with joy.

Today I walked around Mackworth Island and made a point of visiting the cemetery of Baxter's many generations of Irish Setters. Yes, he loved birds. He also loved dogs and during all my time in Baxter woods, I have never seen the one bother the other. In fact, dogs keep the number of cats -- who do bother the birds -- to a minimum.

I was part of community conversations with the city regarding dogs in Baxter Woods that happened at the Wilde Chapel a few years ago. As a result of those meetings, the city put in more trash cans to collect poop and the owners picked it up. Since then, the winter snows and annual "spring thaw" have been much cleaner -- proof that the vast majority of dog owners are responsible and responsive and that we can work together, while still maintaining what is a treasure to us all.

Yes, there are rare occasions when a careless owner or poorly trained dog behave less than perfectly. These, however, are very limited and -- as those folks don't seem to worry about rules or norms I do not think that new rules will change their behavior. They would, however, have a huge negative impact on the quality of life, the sense of community, and the joy that makes our neighborhood and our city special.

Thank you for keeping it as it is today -- a gift to us all. Thank you for your continued great work on our behalf.

Sincerely,

Ben Shambaugh

147 Clinton Street

Portland, ME 04103

207 400-7516

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Ethan Hipple <ehipple@portlandmaine.gov>

Baxter woods and Quarry Run dog park

Ethan Hipple <ehipple@portlandmaine.gov>

Mon, Apr 8, 2019 at 11:10 AM

To: Audrey Bergeron <audrey.b.bergeron@gmail.com>

Thanks Audrey.

We are looking at possible compromises and studying whether that could have a positive impact on safety and the bird sanctuary issues.

Enforcement is still required during off-leash voice control times because many people do not comply with voice control rules (dog 50 feet from owner, must return when called).

But either way, we will be looking at alternatives.

Our Parks Maintenance crew is capping the debris that is exposed each Spring--most likely will happen next week. And the piece of metal will be removed sooner. Thanks for letting us know!

Take care,
Ethan

Ethan Hipple

Deputy Director

Parks, Recreation and Facilities Department

City of Portland

212 Canco Rd, Suite A

Portland, Maine 04103

207.808-5400

ehipple@portlandmaine.govwww.portlandmaine.gov

Portland, Maine | Yes. Life's good here.

On Sun, Apr 7, 2019 at 9:42 AM Audrey Bergeron <audrey.b.bergeron@gmail.com> wrote:

To the Deputy Director, Dept of Parks, Rec, & Facility:

I would first like to thank you for all that you do to ensure that Portland has so many beautiful parks for the public to enjoy. I attended the public comment hearing regarding Baxter woods this past week and, although I disagreed with your suggestion regarding the leash law, I appreciate the time and effort you put into your presentation.

I have two requests for your department. The first is regarding Baxter woods and the second is regarding Quarry Run dog park.

My request for Baxter woods is to follow a model similar to East End beach where dogs must be on leash for a certain time (like 9-5) for certain months (April through October). This would be easier to enforce because it limits the enforcement period to 8 hours a day. It would also give people who want to enjoy the woods without meeting dogs a time of day to do so and this time lines up well with the school day and cross country meets. This would also encourage dog walkers to bring their dogs outside of these hours so they can let their dogs off leash. I know that you expressed concern over birds not knowing this schedule, but based on the research you presented, I don't believe you can definitively say the presence of dogs is the only thing affecting the bird population. For example, you compared the number of bird species to places like Wolfe's Neck, but these places do not experience the noise pollution from planes and traffic, the amount of people, or nearby construction that Baxter woods does.

My request regarding Quarry Run dog park has to do with the bricks and chunks of metal that are currently sticking out of the dirt in the open area at the top of the hill where people and dogs tend to congregate. My understanding is that this is an old land fill and this is a recurring issue. My concern is that the sharp corners of these bricks and metal parts are trip hazards for humans and could cut dogs' paws. Is there a plan with the weather warming up to fill in more dirt in this area or to have these items pulled out?

Thank you for your consideration.

Audrey Bergeron
14 Florence St Apt 2



Ethan Hipple <ehipple@portlandmaine.gov>

Question: Baxter Woods - Complaints about dogs, Support of a Leash Law in Baxter Woods...

Ethan Hipple <ehipple@portlandmaine.gov>

Mon, Apr 8, 2019 at 6:33 PM

To: "Lesperance, Marc" <Marc.Lesperance@anthem.com>

Cc: "sld@portlandmaine.gov" <sld@portlandmaine.gov>, "mlesperance@maine.rr.com"

<mlesperance@maine.rr.com>, Jessica Grondin <jgrondin@portlandmaine.gov>, Matthew Coleman <mcoleman@portlandmaine.gov>

Hi Marc,

I've answered your questions below in red. Jessica Grondin will be responding to your FOAA request.

Take care,
Ethan**Ethan Hipple**

Deputy Director

Parks, Recreation and Facilities Department

City of Portland

212 Canco Rd, Suite A

Portland, Maine 04103

207.808-5400

ehipple@portlandmaine.govwww.portlandmaine.gov

Portland, Maine | Yes. Life's good here.

On Mon, Apr 8, 2019 at 4:17 PM Lesperance, Marc <Marc.Lesperance@anthem.com> wrote:

Mr. Hipple: I am following up on your presentation at the Parks Commission meeting last Thursday, April 4, 2019 and have a few questions for you and the Parks Department.

At the meeting on Thursday you mentioned that the City has received "many complaints" from Portland citizens about off leash dogs at Baxter Woods, and in your 3/7 memo (attached) to the Parks Commission – you note that the Parks Department "...regularly receive(s) verbal and written comments from the public about the current policy: primarily the comments are opposed to the off-leash policy, with a smaller number in favor."

While my unofficial tally of speakers at the Thursday meeting polled 24 who spoke against the leash law, I counted only 1 and possibly a 2nd person who favor the leash law in Baxter Woods. As a discounting of the overwhelming public response against the leash law at Thursday's meeting – both you and at least one member of the Parks Commission pointed out that the written comments submitted to the City and in the Commission's packets were more "50/50" in favor of the leash law.

Being compelled to verify the written complaints the City attests to, I reviewed the Public Comments pdf (attached) and tallied the following comments:

- 10 distinct complaints about off-leash dogs in Baxter Woods
- 11 neutral or general statements or communications about Baxter Woods (e.g. concerning tree trimming, replacing signage, ducks in the Baxter Woods Pond, etc.)

- 15 written comments in support of Baxter Woods as-is – and most directly against a full time leash law

I can provide a written summary of the comments tally if you'd like, but clearly the written comments are not, by the numbers, in favor of a leash law!

My questions are:

1. How does your statement in the 3/7 memo, that comments received are "...opposed to the off-leash policy" reconcile to the tally above of public comments released in the PDF (attached) and summarized above?

EH Response: I think most reasonable people would conclude that 10 written complaints about a single property would qualify as an issue worth addressing, but you are free to disagree. The tallies are interesting, but we are not aiming to simply count up which side has more "votes" in favor and going with that. Sometimes land management decisions require thoughtful choices that don't please everyone--our job as Park professionals is to try to balance the many uses of parks: open space, athletics, habitat, play, trails, access to water, accessibility, dog play areas, etc... The bottom line is that we receive many complaints about off-leash dogs at Baxter Woods, and we also have deed issues, so that prompted us to work with the Parks Commission on creating some reasonable recommendations to address that. As you know, public comment is encouraged as part of that process. One of the things the Parks Commission asked us to do is to explore possible compromises (such as designated off-leash hours, which you suggested in your earlier email), which we are currently evaluating and will discuss at the June meeting.

2. What did the Parks Department receive for verbal comments about off-leash dogs in Baxter Woods, and how does it tally and validate such complaints?

EH Response: Verbal complaints were generally made to our Rangers in the field, or phone calls to our office. We do not log verbal comments.

3. Will the Department release the verbal comments, or a summary of the verbal comments received about Baxter Woods (dog-related or not)?

EH Response: We do not log verbal comments.

4. The most recent written public comment (see PDF) was dated January 2019, and many go back as far as 2013 – will the Parks Department share new, previously unreleased public comments it has received since January 2019? I submitted an e-mail just last week, that you graciously acknowledged and forwarded to the Commission – and I am certain many others submitted written comments as well that should be tallied and considered before the Commission votes on the proposed leash law.

EH Response: Yes, our proposal has generated a lot of written public comment, mostly opposed to the proposed change, and we have shared all written comment we received with the Parks Commission prior to their meeting last week. Those comments also get posted as backup material on the agenda website. I've attached that for you in the meantime.

Lastly – I submitted a Freedom of Access Act request to Jessica Grondin earlier today (4/8/2019) for the City of Portland's communications with Forest Synthesis, LLC and/or Robert Bryan concerning the Forest and Wildlife Habitat Management Plan for Mayor Baxter Woods – report dated May, 18, 2018. I am seeking any City (Parks or other Department's) communications with Forest Synthesis, Robert Bryan or any other consultants related to the work Forest Synthesis and/or Robert Bryan did on the City's behalf as it relates to Baxter Woods. Please let me know if you have any questions about this FOAA request. **Good to know, thanks. Jessica will work with you on that.**

Thanks, Marc

Marc Lesperance, 103 Candlewyck Terrace, Portland, ME
04102

W: (207) 209-0517 | M: (207) 329-4953 | H: (207) 774-6584

marc.lesperance@anthem.com

[Quoted text hidden]

5 attachments



4, leash laws, and other concerns.pdf
162K



2019-01-10 City of Portland Mail - Fwd_ Baxter Woods concerns.pdf
125K



Public Comments Baxter Woods Off-Leash.pdf
1489K



Public Comments Baxter Woods Off-Leash 4-3-19.pdf
434K



Public Comments Baxter Woods Off-Leash 4-1-19.pdf
1243K



Ethan Hipple <ehipple@portlandmaine.gov>

Fwd: City Park Inquiry

Ethan Hipple <ehipple@portlandmaine.gov>
To: Avril Williams <adandyline@gmail.com>

Thu, Apr 11, 2019 at 4:34 PM

Hi Avril,
Presumpscot River Preserve is lovely (but a long walk in). Deering Oaks is another option, or Fore River Sanctuary.

Here is a good map of city parks and forests: <https://www.google.com/maps/d/viewer?mid=1a4gsFhxy7BDqsN0NtlS2IDkhsA&ll=43.663640789674496%2C-70.28501602131433&z=14>

Take care,
Ethan
Ethan Hipple
Deputy Director
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ehipple@portlandmaine.gov

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Portland, Maine | Yes. Life's good here.

On Thu, Apr 11, 2019 at 1:55 PM Avril Williams <adandyline@gmail.com> wrote:

Thank you so much for getting back to me! Curious if you know an area that would be better suited. Was interested in Baxter due to having a surrounding wooded area as opposed to a wide open park but not opposed to other options. Thanks so much for your time!

Avril Williams
A Dandy Line Studios

On Apr 11, 2019, at 9:26 AM, Ethan Hipple <ehipple@portlandmaine.gov> wrote:

Hi Avril,
Typically for yoga or fitness classes under 25 people, we don't require a permit, so you should be all set to do your class. Copying Rusty Groh, one of our Event and Permitting Coordinators who can get you more information if you need it.

FYI, Baxter Woods does have a high number off off leash dogs (and a high amount of dog waste), so just tread carefully! You are free to do the class there, just wanted you to be aware.

Take care,
Ethan

Ethan Hipple
Deputy Director
Parks, Recreation and Facilities Department
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207.808-5400
ehipple@portlandmaine.gov

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----- Forwarded message -----

From: **Ethan Owens** <eowens@portlandmaine.gov>
Date: Thu, Apr 11, 2019 at 8:44 AM
Subject: Fwd: City Park Inquiry
To: Ethan Hipple <ehipple@portlandmaine.gov>, Matt Coleman <mcoleman@portlandmaine.gov>

Could one of you guys give her a shout?

Ethan Owens CPRP, CPSI, AOLCP
Parks Assistant Director, Athletic Facilities and Playground/Courts Manager
City of Portland - Parks, Recreation and Facilities Management Dept.
212 Canco Road Portland, Maine 04103 ~ USA
207-808-5400 eowens@portlandmaine.gov

----- Forwarded message -----

From: **Avril Williams** <adandyline@gmail.com>
Date: Fri, Apr 5, 2019 at 1:54 PM
Subject: City Park Inquiry
To: <eowens@portlandmaine.gov>

Hi! My name is Avril Williams and I'm a certified yoga instructor. I am looking for a space to teach outdoor yoga and was really interested in Baxter Woods as I think it would be amazing to offer a yoga class that is in nature while still being in the city! I would love to teach the classes regularly throughout the summer and early fall for one hour and offer them by donation, pay what you can. Is that possible? Do I need some kind of permit? Looking to start next month if possible so any direction you can offer would be so helpful. Feel free to read more about me on my web site, www.adandyline.com. Thanks for your time.

Avril Williams
A Dandy Line Studios

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Ethan Hipple <ehipple@portlandmaine.gov>

Baxter Woods

Ethan Hipple <ehipple@portlandmaine.gov>
To: sarah furman <sarahfurman@msn.com>

Thu, Apr 11, 2019 at 10:02 AM

Thanks for the comments. We are working on some compromise proposals right now. I'll make sure the Parks Commission sees your comments.

Take care,

Ethan

Ethan Hipple

Deputy Director

Parks, Recreation and Facilities Department

City of Portland

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ehipple@portlandmaine.gov

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Portland, Maine | Yes. Life's good here.

On Wed, Apr 10, 2019 at 6:40 PM sarah furman <sarahfurman@msn.com> wrote:

Dear Mr. Hipple,

I have been a resident of Portland for the last 20 years, and have been enjoying Baxter Woods for the last 14 years with my dogs. I walk my dog at Baxter Woods at least 4 times a week. We have met many people in the park, and many dogs. I have to say that all the dogs I have met have been well behaved, and the owners have been respectful of the park. Additionally, I have only seen one incident of drug use in the park. I do fear that if dogs are not allowed off leash, then this park will become a place for drug use and for the homeless to stay. I do hope you will reconsider the leash law that may go to vote in the future as it will certainly change the safe, clean, and friendly park that we all enjoy at Baxter Woods.

Thank you for your consideration,

Sarah Furman



Ethan Hipple <ehipple@portlandmaine.gov>

ground-nesting birds

Ethan Hipple <ehipple@portlandmaine.gov>
To: david victor <dvictor242@gmail.com>

Thu, Apr 11, 2019 at 3:29 PM

Thanks David,

I did hear that comment at the meeting, but I can't vouch for the source or validity of it. If you're interested, I've attached our Management Plan, completed by licensed Forest Ecologist Rob Bryan.

We are working to protect habitat for ground nesting *and* ground feeding birds, which are not necessarily the same. There are also many birds that utilize the pond, which is at ground level.

Either way, we have two issues at Baxter Woods: dog and human safety issues, as well as a bird sanctuary issue. We are exploring some potential compromises that may help improve both. We'll discuss those at the June meeting.

Take care,
Ethan

Ethan Hipple
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Portland, Maine | Yes. Life's good here.

On Thu, Apr 11, 2019 at 3:00 PM david victor <dvictor242@gmail.com> wrote:

at last week's meeting, Mark said that there are only three ground-nesting birds that he knew of (in the area , I assume) , whippoorwills, killdeers and another , but that none of these was in Portland. I didn't hear you respond to this. have you verified this? do you know his source?

it seems to me that the question regarding how many ground-nesting birds we might expect has to be quantified. for example, if only one or two species would be coming to the woods ,if dogs were leashed is that a sufficient number to change this long-lasting situation so drastically?

we have to have a sense of proportion in a democracy or it doesn't work. and given the relatively few complaints (I've been told that the average per year is quite low) what remains of the argument that is pro-leashing?

david victor
portland



Baxter Woods Ecological Assessment and Plan FINAL 2018-5-18.pdf
5435K



Ethan Hipple <ehipple@portlandmaine.gov>

our email exchange yesterday on baxter woods

Ethan Hipple <ehipple@portlandmaine.gov>

Thu, Apr 18, 2019 at 11:36 AM

To: david victor <dvictor242@gmail.com>

Cc: Matthew Coleman <mcoleman@portlandmaine.gov>, Sally Deluca <sld@portlandmaine.gov>

Hi David,

There are many species of ground nesting birds in the Portland area, including oven birds, ground sparrows, wood cock, wood thrush. Maine Audubon estimates 10-12 species of ground nesting birds that can be found in the area, as well as hundreds of species of ground-feeding birds. Our goal is to create suitable habitat where these birds can live and reproduce, while balancing that with other community needs like biking, walking, and dog walking.

You are correct that the presence of barking dogs can scare away birds. That is one of the things we are working to address so that the woods can once again serve as a viable habitat "bird sanctuary" as stated in the deed.

You can read many of the complaints and comments we've received over the years in the [materials we submitted to the Parks Commission](#). That should give you an idea of the type of comments, and the quantity.

Thanks for letting us know about the trees--they were actually tapping pine trees, so they won't get too far making edible syrup! We did go address it though, thanks for the tip.

Take care,

Ethan

Ethan Hipple

Deputy Director

Parks, Recreation and Facilities Department

City of Portland

212 Canco Rd, Suite A

Portland, Maine 04103

207.808-5400

ehipple@portlandmaine.gov

www.portlandmaine.gov

Portland, Maine | Yes. Life's good here.

On Fri, Apr 12, 2019 at 8:44 AM david victor <dvictor242@gmail.com> wrote:

thanks for your response, but you didn't answer a couple of my questions: 1. how many ground-nesting birds are in the portland area; Mark effectively said "none." is this true?, and 2. how many complaints about unleashed dogs in the woods are you receiving annually?

without quantifying , how can any justification be made for changing the rules.

it's also worth pointing out that ground-feeding birds would surely be alerted to the sounds of dogs bounding through the woods to get them and would quickly fly away. cats, which run free and our plentiful in deerling center, are surely a greater threat than lumbering and noisy dogs.

and finally, please remember that for almost five months of the year, the paths in the woods are ice-bound. the only people who are in the woods then are people walking their dogs off-leash. the woods would effectively be empty if leashes were required. often during the winter homeless people inhabit the woods and people presence is comforting.

incidentally, today we noticed that someone is tapping some of the maple trees in the woods. is this authorized by the city?

thanks for listening.

david victor



Ethan Hipple <ehipple@portlandmaine.gov>

Baxter Woods

Ethan Hipple <ehipple@portlandmaine.gov>
To: Stanley Beretsky <beretsky4444@gmail.com>

Wed, Apr 17, 2019 at 8:39 AM

Hi Stanley,
Thanks for your message.
Take care,
Ethan
Ethan Hipple
Deputy Director
Parks, Recreation and Facilities Department
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212 Canco Rd, Suite A
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ehipple@portlandmaine.gov

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Portland, Maine | Yes. Life's good here.

On Wed, Apr 17, 2019 at 8:35 AM Stanley Beretsky <beretsky4444@gmail.com> wrote:

Dear Mr Hipple

Please allow me to keep walking my dog offleash in Baxter Woods. Thank You.

Stanley



Ethan Hipple <ehipple@portlandmaine.gov>

Baxter Woods

Ethan Hipple <ehipple@portlandmaine.gov>
To: Teresa Valliere <woodfordscorner@gmail.com>
Cc: Parks Commission <parkscommission@portlandmaine.gov>

Wed, Apr 17, 2019 at 8:47 AM

Hi Teresa,
Hope all is well with you. Answers below in red...
Take care,
E

Ethan Hipple
Deputy Director
Parks, Recreation and Facilities Department
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Portland, Maine 04103
207.808-5400
ehipple@portlandmaine.gov

www.portlandmaine.gov
Portland, Maine | Yes. Life's good here.

On Wed, Apr 17, 2019 at 8:12 AM Teresa Valliere <woodfordscorner@gmail.com> wrote:
Hi Ethan,

Hope you are well!

Been following the Baxter Woods leash proposal and have some questions -

- when is the next public meeting? Will there be time for public comment at the meeting? **Next regular meeting is first Thursday in June. Final date TBD as some staff and commissioners may be out of town that day. Either way, it will be posted here. Public Comment will be allowed for folks who haven't already made public comment on the issue.**
- Is there a Parks Commission meeting on 5/2? There is your event about public spaces, so I am assuming the next regular meeting is on 6/6 **See above**
- still possible to send public comments via email? and to you or the commission? **You bet. We are sharing all email we get on the topic with the commission.**
- the article in the Forecaster you are quoted saying that dogs are allowed off leash at Evergreen. The friends of Evergreen site says dogs on leash (max 25'). I've been stopped with my dog off leash there by cemetery staff in the past, so I am confused. What is the rule? **The article misquoted me and they issued a correction last week. Off leash dogs are allowed in the Evergreen Woods, behind the cemetery. Dogs in the cemetery itself must be on 25-foot leashes.**

[Quoted text hidden]



Ethan Hipple <ehipple@portlandmaine.gov>

ground-nesting birds in baxter woods.

Ethan Hipple <ehipple@portlandmaine.gov>
To: david victor <dvictor242@gmail.com>

Fri, Apr 19, 2019 at 10:59 AM

Thanks for the feedback David.

I also would remind you that we are proposing changes for a variety of reasons that have been brought up by the public: both safety/nuisance issues with off leash dogs, as well as the bird sanctuary issues.

Either way, you raise some interesting points. Human and dog activity have altered the natural habitat at Baxter Woods. Our understanding from the experts in the field is that Baxter Woods could serve as exceptional bird habitat if properly managed. Of course, we would have to monitor and evaluate whether that is true once changes are implemented.

We'll be sure to look at the issues you raise as we are coming up with the best possible policy.

Take care,
Ethan

Ethan Hipple
Deputy Director
Parks, Recreation and Facilities Department
City of Portland
212 Canco Rd, Suite A
Portland, Maine 04103
207.808-5400
ehipple@portlandmaine.gov

www.portlandmaine.gov
Portland, Maine | Yes. Life's good here.

On Fri, Apr 19, 2019 at 9:15 AM david victor <dvictor242@gmail.com> wrote:

thanks for you response, but you neglected to mention the fact that a number of these birds do not like habitat like that of baxter woods. for example, oven birds like sites with little undergrowth (baxter woods is filled with undergrowth) and wood thrushes like habitats with running water. woodcocks like young forests. i'm sure that among the other species there are water birds and shore birds. so , how many species are we talking about here, especially when we factor in the urban area that the woods are situated in and the preferable area behind evergreen?

finally, you keep ignoring what I keep pointing out: there are feral cats in the deering center neighborhood and many domesticated cats that run free. cats are the biggest killers of birds, by far, in the u.s. why harp on dogs?

david



Ethan Hipple <ehipple@portlandmaine.gov>

Baxter Woods input

Ethan Hipple <ehipple@portlandmaine.gov>
To: E Hamlin <ehamlin@maine.rr.com>

Fri, Apr 26, 2019 at 8:31 AM

Thanks for the thoughtful comments. I will make sure the Parks Commission gets a copy.

Take care,

Ethan

Ethan Hipple

Deputy Director

Parks, Recreation and Facilities Department

City of Portland

212 Canco Rd, Suite A

Portland, Maine 04103

207.808-5400

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www.portlandmaine.gov

Portland, Maine | Yes. Life's good here.

On Sun, Apr 21, 2019 at 8:34 PM E Hamlin <ehamlin@maine.rr.com> wrote:

Hi, Ethan,

My wife and I were not able to make the City meeting/discussion about Baxter Woods because of our work schedules, but I wanted to weigh in on it before the formal discussion happens in June. For the record, we do not own any dogs (or pets of any kind), but we do enjoy seeing wildlife.

In case you don't have the time or inclination to get through all that follows, I have thought about this quite a bit, and would vote **in favor of a requirement that dogs be leashed**.

If you are patient, my thoughts follow:

I understand how nice it is for dog owners to have a place where they can take their dogs to play and to visit with other dog owners. It is obvious that the trips to the park are absolutely the highlight of the day for the dogs and probably rank high with the owners, so I don't blame them at all for wanting so badly to keep the current system in place. In my experience, most of the dog owners are fairly responsible about keeping their dogs in line and cleaning up after them. Unfortunately, not all are so good, and when walking through the park it is not uncommon to have dogs run up to and sometimes jump up on us, and on a couple of occasions I have been approached by off-leash dogs and had the owners suggest that I not pet them because they are not good with strangers. Overall, a mixed bag.

When people come visit our house for the first time and note the location, I generally hear myself telling them that Baxter Woods is an off leash dog park. I realize there is more to it than that, but it very much feels like the park use is dominated by off leash dogs and their owners. As noted, many are great people and most of the dogs are nice - with a few painfully obvious exceptions. I discussed this with my wife, and we both acknowledged that we tend NOT to enter the park when we go for walks simply because it is usually full of dogs. I have no idea if others feel the same way, but most of the people I see entering the park have dogs with them.

I was surprised to read that Baxter had indicated a desire for the park to serve at least partly as a refuge for birds. I absolutely agree that the presence of off leash dogs is a deterrent to ground-nesting and to some

extend ground-feeding birds. Given the number of squirrels that I have seen with partially missing or obviously deformed or damaged tails and other injuries, I suspect the dogs are pretty rough on anything at or near the ground. The squirrels seem to thrive regardless, but I doubt other animals are as resilient.

I have been reflecting on the park and how it is used more frequently lately, largely because of the publicity around the upcoming discussion about off-leash dogs, but also in light of events where the park has been misused. A couple of these were recent; I think it was you who I corresponded with recently about the guy who backed his pickup over the sidewalk and into the woods to chainsaw and take wood from the side near Hartley Street. There was also a more recent discussion on a neighborhood social media site ("Nextdoor.com") about someone who drilled into some of the large pine trees in Baxter trying to tap them for resin to make some kind of folk medicine. These are a couple of the more egregious abuses I have seen, but because I live directly across from the wooded section of the park along Hartley, I am painfully aware of how many less responsible dog owners walk their dogs along the sidewalk and allow them to defecate in the park without cleaning it up. This happens frequently when I am home and happen to be looking out, so I assume it occurs many times throughout the day. I cringe every time I see a small child walk into that section of woods to pick up a stick or look at something, and on a rainy day when I have the windows open I can sometimes even smell it in my house or when walking by.

I also frequently see several people dumping their leaf and yard waste, plant material from old windowboxes, etc. I have also seen at least one person dumping other organics such as corn husks, vegetable scraps, and other material. Once this included a turkey carcass, but I retrieved that for proper disposal. I also occasionally see people cutting vegetation (something that looks like trout lilies, but I'm not sure that's what they are) and bagging it up to take away - one guy said he was feeding his animals...another one simply apologized and left. I have also seen people cutting small evergreen boughs in the early winter - presumably for holiday decor. Needless to say, all of this drives me a bit nuts. When I see it and have the opportunity I try to dissuade people, but doubt I am getting much traction. It is very frustrating to see how many people use or treat the park in a way that I feel damages or diminishes it.

I guess it's obvious that I have a number of gripes and concerns, but I think maybe some improved signs encouraging people not to take, cut, tap, or harvest things, and to clean up after their dogs might help. I also think that requiring dogs to be leashed would give the park wildlife a better chance to thrive and might encourage people who do NOT own dogs to use the park more.

Thanks very much.

Sincerely,

Eric Hamlin (90 Hartley)



Ethan Hipple <ehipple@portlandmaine.gov>

Keep Baxter Woods leash free, here's why

Al Ghanekar <al.ghanekar@gmail.com>
To: Ethan Hipple <ehipple@portlandmaine.gov>

Fri, Apr 26, 2019 at 12:45 PM

Thanks for the info, Ethan.

Al Ghanekar 777
<http://alghanekar.com>
al.ghanekar@gmail.com 777

On Fri, Apr 26, 2019 at 11:15 AM Ethan Hipple <ehipple@portlandmaine.gov> wrote:

Thanks Al. Appreciate the comments.
Just so you know, we have 495 acres of open space in Portland where dogs are allowed to run off leash.
[Check out our Parks page here to find them.](#)

Take care,

Ethan

Ethan Hipple

Deputy Director

Parks, Recreation and Facilities Department

City of Portland

[212 Canco Rd, Suite A](#)

[Portland, Maine 04103](#)

207.808-5400

ehipple@portlandmaine.gov

www.portlandmaine.gov

Portland, Maine | Yes. Life's good here.

On Thu, Apr 25, 2019 at 11:16 AM Al Ghanekar <al.ghanekar@gmail.com> wrote:

Hello Mr. Hipple,

Please allow dogs to remain off leash at Baxter Woods. I've had my dog for 3 months and I alternate between Baxter Woods and two others in Sopo. A leash law would just force me to only go to Sopo.

I would never walk him around Baxter Woods on a leash because that would be pointless. Dogs need freedom and stimulation, playing with other dogs. They still are biologically wild animals and need to interact with their kind.

We Portland citizens can enforce people to pick up after their dogs if they are not doing it. Putting in a leash law will reduce these dogs' quality of life.

Al Ghanekar 777
<http://alghanekar.com>
al.ghanekar@gmail.com 777

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Ethan Hipple <ehipple@portlandmaine.gov>

Fwd: Best Park in Portland!!!!

Parks Commission <parkscommission@portlandmaine.gov>

Fri, May 10, 2019 at 3:17 PM

To: Dory Waxman <mermaidst@gmail.com>, Ethan Hipple <ehipple@portlandmaine.gov>, Matt Coleman <mcoleman@portlandmaine.gov>, Sally Deluca <sld@portlandmaine.gov>

Please see below email.

----- Forwarded message -----

From: **Jason Kaplan** <jasonrkaplan@msn.com>

Date: Thu, May 9, 2019 at 6:12 PM

Subject: Best Park in Portland!!!!

To: parkscommission@portlandmaine.gov <parkscommission@portlandmaine.gov>

Hello to whom ever is reading this.

I just wanted to thank you for having such a wonderful park. The baxter woods park I have been walking threw my entire life. From as a Kid chasing my father threw it on my bike, walking to Deering High school for 4 years. And now as a just someone who enjoys a safe fun play to enjoy nature. The dog community there is wonderful!!! so many happy dogs. Every time you go there are respectful dogs there playing and so much fun to watch and enjoy. Even on the worst days I can go there and watch them play and frolic and feel better. On cold winter days when no one is in the park there are still the loving dog owners who are there clicking around with their cleats trying to stay upright on the ice. I am really sorry its easier for people to complain and people don't appreciate the finer things in life and wright you about all there happy experiences. It would be a real shame if you were to kick so many happy people out of the park with a dog leash law and create such a hostel and dangerous environment for humans and dogs there. I hope you guys have done more research then last time and learned that 25 foot leashes just don't work and are very destructive of the environment. I can't imagine going there and not seeing smiling faces watching people and there dogs playing threw the park like its intended to be. I know people take jobs and everyone wants to make a change that they can say "I made that happen" but leashes make dogs more aggressive and also less trained. Every time I've gone there its the dog crew, that have bought houses in the neighborhood so they could let there dogs play off leash there, that are picking up the trash from all the school kids and calling the cops when they see people drinking or smoking there. I remember the park before the dog people were there and it was not as nice and people didn't take pride in the park. You go there now and people smile when they say this is my park, "I walk my dog here twice a day and love chatting with my dog's friends owners". I understand your hoping that birds that don't exist there will hopefully move in but it doesn't make sense to pick on the dogs. What about the fox, cats, hocks, skunks.... I really hope your not going to try and leash them. It just seems sad to me to ruin something so positive that Portland has for maybe and what ifs. Its a safe park surrounded by friendly neighbors. It would be like suggesting to go to evergreen woods where its hard to see and homeless people pop out from around the bend and there are tones of ticks and no parking with limited hours. 25 foot leashes would be dangerous for dogs. They would

be able to play due to chocking/ strangulation, rope burns and it would make it hard for runners and bikers to enjoy the park. Theres no way they could predict a 25 foot leash. If your worried about the ground nesting birds maybe you could do something like they do for piping clovers. Where they put a fence and a top on it. So the birds won't at least eat them or their eggs. But its nature and thats why we love the park. Who are we to control nature and say who lives. We all wish we could live in harmony but everyone has an off day, even dogs and its not our job to ruin it for everyone but to just smile and say hi to people and hope by being kind we can make their day better.

I hope you don't ruin an amazing park for what ifs and what could be while bending the rules for yourself but you will do what ever you want to.

Thank you for your time and I hope you continue to allow me and everyone ells enjoy the amazing park Baxter provided for us.

Jason Kaplan.
Life time Portland resident

--

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Ethan Hipple <ehipple@portlandmaine.gov>

Baxter Woods Leash Law

Ethan Hipple <ehipple@portlandmaine.gov>
To: Jennifer Baldwin <jenbaldwin563@yahoo.com>

Wed, May 22, 2019 at 12:28 PM

Thanks for your comments Jennifer. I'll make sure the Parks Commission gets them as well.

Take care,
Ethan

Ethan Hipple
Deputy Director
Parks, Recreation and Facilities Department
City of Portland
212 Canco Rd, Suite A
Portland, Maine 04103
207.808-5400
ehipple@portlandmaine.gov

www.portlandmaine.gov
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On Tue, May 21, 2019 at 8:58 PM Jennifer Baldwin <jenbaldwin563@yahoo.com> wrote:

Dear Ethan,

I have been a frequent visitor to Baxter Woods (minimum 1 often 2-3 visits per day) for the last two years since I got my first dog. Prior to that, I would often visit with my sister's dog while dog sitting him, we both live within walking distance of the woods. As I understand it, the developers of the property the abuts Baxter Woods were required to do some environmental impact study as part of the purchase of the previous Maine Girls Academy and determined that the presence of unleashed dogs had a negative impact on ground feeding birds. There are still birds in the woods. I've witnessed three different woodpecker species, turkeys, warblers, owls, crows and the famous falcon from Deering Park was sited there last fall.

I am both a dog lover and a bird lover. I've witnessed many species in the woods on our regular visits and don't believe dogs are negatively impacting the bird sanctuary, putting them on leashes will not change their patterns.

I am opposed to the suggestion that dogs should be required to be on leash at all times in Baxter Woods. It's not necessary. One of the things I love about my neighborhood is the access to the woods and the dog owners who frequent that space. My two year old dog and I have developed a social circle of dog walkers and dogs with various personalities during the last two years. It's often a respite from my high stress professional career and the challenges of family member dealing with Stage IV cancer treatment. Like-minded insofar as our interest in four-legged friends, we've developed a community. I fear this ruling should it pass would upset the patterns and the support I receive daily from my

neighborhood.

Both my dog and I were attacked by a dog (Sherman Rosenberg) who was not under voice command in the fall of 2017. We took this up with Rue and the prosecutor and several months later another neighbor was attacked by the same dog on a sidewalk near the woods. This unruly canine was on leash during the second attack but still exhibited similar aggressive behavior. While I don't think Sherman has the skills or the owner to command his behavior off leash, I'm not letting this experience keep me away from the woods.

I would much prefer some ruling that would limit the human practice of littering the woods both with trash and feces. That has presented a bigger issue for me in the past.

I doubt I will make it to the next public hearing on this topic but wanted to share my thoughts and support for keeping Baxter Woods as a safe area for responsible dog owners to let their dogs frolic off leash.

Thanks,
Jennifer Baldwin



Ethan Hipple <ehipple@portlandmaine.gov>

another Baxter Woods question

Ken Jones <KenJayJay@hotmail.com>
To: Ethan Hipple <ehipple@portlandmaine.gov>

Sun, Jun 2, 2019 at 1:56 PM

Hi Mr. Hipple,

I wrote to you a little over a month ago for some information about dogs in Baxter woods. I appreciated your quick response to my questions.

I have another question now.

Amid the concerns about dogs in Baxter, I haven't heard any similar outcry about the campers in the woods leaving litter. Campers are what I call the people who sleep overnight in Baxter woods. Surely their presence on a regular basis must have some negative impact on the woods, I'm guessing even more so than people walking dogs.

I walk in the woods very early in the morning. I've seen individuals and hiking groups and bicycle groups sleeping in hammocks and tents. Since these campers mostly leave by the time the late morning regulars come through, I don't think many people are aware of them. But they do leave an enormous amount of litter behind. Actually, to be fair, the bicycle group that slept in hammocks did not leave any litter behind.

Last Friday morning (May 31), a couple set up a large tent off the field on the school side of the woods. several dogs started rummaging around at this camp site because of food the pair left near what looked like their camp fire from the night before. When another walker and I tried to get the dogs away, the man in the tent became quite rude and threatening.

I called the police. they showed up very quickly and had the pair take down their tent. the pair left the woods about an hour later, but they also did not remove their litter.

I've attached some pictures I took that afternoon. the pictures include a plastic garbage bag full of who knows what, drink cans, and a sawed off tree limb near their fire. Those white piece of paper you see in the one picture are used toilet paper. This is not the first time in the last year we've seen such evidence of people defecating in Baxter woods.

As much as some people seem outraged by dogs in the woods, I find it hard to believe this kind of thing doesn't seem to concern anyone.

So now to my question: Who is supposed to clean up stuff such as this mess the campers left last Friday? This mess was just from two people one night.

I pick up several beer cans weekly and often several pieces of clothing, even shoes and backpacks.

But I draw the line at cleaning up used toilet paper. There are several of the regular late morning dog walkers, much more ambitious than I am, who come through with trash bags and pick up litter.

Thanks for your help,

Ken Jones

4 attachments



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481K



thumbnail_IMG_1654[1].jpg
579K



thumbnail_IMG_1655[2].jpg
448K



thumbnail_IMG_1652[1].jpg
574K



Ethan Hipple <ehipple@portlandmaine.gov>

another Baxter Woods question

Ethan Hipple <ehipple@portlandmaine.gov>

Mon, Jun 3, 2019 at 3:40 PM

To: Ken Jones <kenjayjay@hotmail.com>, Jill Mulkern <jmulkern@portlandmaine.gov>

Hi Ken,

My Ranger informs me that the camp has been removed. Please let us know of any other issues that come up.

Take care,

Ethan

Ethan Hipple

Deputy Director

Parks, Recreation and Facilities Department

City of Portland

212 Canco Rd, Suite A

Portland, Maine 04103

207.808-5400

ehipple@portlandmaine.govwww.portlandmaine.gov

Portland, Maine | Yes. Life's good here.

On Mon, Jun 3, 2019 at 6:52 AM Ken Jones <kenjayjay@hotmail.com> wrote:

Thanks, I appreciate your quick response.

Ken

From: Ethan Hipple <ehipple@portlandmaine.gov>**Sent:** Sunday, June 2, 2019 3:17 PM**To:** Ken Jones; Jill Mulkern; Matthew Coleman**Subject:** Re: another Baxter Woods question

Thanks for letting us know about the trash. Unfortunately, we are regularly cleaning up after people and removing campsites in Baxter Woods and throughout many parks and open spaces in the city.

Our Rangers will swing through and get this.

Take care,

Ethan

Notice: Under Maine law, documents - including e-mails - in the possession of public officials or city employees about government business may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested.



Ethan Hipple <ehipple@portlandmaine.gov>

Baxter Woods Comment

Ethan Hipple <ehipple@portlandmaine.gov>
To: Logan Puck <logpuck@gmail.com>
Cc: Justin Costa <jcosta@portlandmaine.gov>

Tue, Jun 4, 2019 at 12:39 PM

Thanks for the comments Logan. We are working on a compromise proposal right now, to allow a limited amount of off-leash dog activity there.

Keep an eye on [Parks Commission agendas here](#) if you'd like to attend a meeting. Ultimately, any change to an ordinance will need to be considered and approved by City Council.

I will share your comments with the Parks Commission.

Take care,

Ethan

Ethan Hipple

Deputy Director

Parks, Recreation and Facilities Department

City of Portland

212 Canco Rd, Suite A

Portland, Maine 04103

207.808-5400

ehipple@portlandmaine.gov

www.portlandmaine.gov

Portland, Maine | Yes. Life's good here.

On Tue, Jun 4, 2019 at 12:15 PM Logan Puck <logpuck@gmail.com> wrote:

Dear Deputy Director Hipple,

I was distressed to learn of the proposal to prohibit off-leash dogs from entering Baxter Woods. My family and I have lived in the Woodford's Corner area for three years now and we bring our dog to Baxter Woods four to five times a week. It's a great place for both us and our dog to exercise and socialize with others. I have made many good friends with other people who walk their dogs at Baxter Woods. I even regularly schedule walks with someone who I met at the park because both us and our dogs get along so well.

Baxter Woods is an ideal space for off-leash dogs. The wooded setting gives dogs the ability to run, meet other dogs, and explore, thus stimulating their minds, senses, and bodies. Additionally, having the dogs on a walking path gives them a purpose and thus reduces potential conflicts. I try to avoid fenced in dog parks with no real walking paths, such as the one on Valley Street, because the dogs get bored and often end up fighting with each other. Moreover, dogs that are leashed tend to become fearful and defensive when coming across one another as opposed to when they have the freedom to run away.

In addition, walking an off-leash dog is much more convenient for myself and many others who have infants and toddlers. Pushing a stroller through the park while also holding onto the dog with a leash can be quite an unwieldy experience. The elderly and people with disabilities may also have trouble walking their dogs on a leash and, therefore, Baxter Woods serves as an excellent space for them to take their dogs, exercise, and socialize with others.

Finally, most of the people I see in Baxter Woods are fellow dog walkers. Making it an unfriendly space for dog owners could turn the park into an unfrequented area that serves as an ideal space for individuals who want to

drink alcohol and do drugs out of view of the public and law enforcement.

I hope you will reconsider this proposal. Baxter Woods is a special space that promotes community, health, and well-being. Please don't take that away from us. Thank you.

Sincerely,

Logan Puck

83 Woodford St
Portland, ME 04103



Ethan Hipple <ehipple@portlandmaine.gov>

Baxter Woods - Off Leash Hi Tech Smartphone App Solution

Ethan Hipple <ehipple@portlandmaine.gov>
To: Joel Bolton <joelkbolton@gmail.com>

Fri, Jun 7, 2019 at 11:09 AM

Hi Joel,
Thanks for the email and the out of the box thinking!

We'll certainly look at that along with our other options. Right now we are considering a compromise to allow off-leash dogs during certain hours. There will be more info coming on that as the next public meeting gets closer. It's currently scheduled for July 18--[keep an eye on the Parks Commission Agenda here](#).

Take care,

Ethan

Ethan Hipple

Deputy Director

Parks, Recreation and Facilities Department

City of Portland

212 Canco Rd, Suite A

Portland, Maine 04103

207.808-5400

ehipple@portlandmaine.gov

www.portlandmaine.gov

Portland, Maine | Yes. Life's good here.

On Thu, Jun 6, 2019 at 5:11 PM Joel Bolton <joelkbolton@gmail.com> wrote:

Dear Ethan,

My wife and I are part of the "dog community" at Baxter Woods. Through the years we've had three Golden Retrievers. All have enjoyed off leash privileges there. As responsible dog owners... which seem to be the vast majority who bring dogs to Baxter... we clean up after our dog. We certainly leash up our dogs if we see others in the park who may be fearful of dogs, when we see small children, track teams running, or other groups enjoying the park. In our 15+ years of near daily trips to Baxter with hundreds of interactions of dogs (if not thousands actually), it is rare occurrence to see a dog act in a vicious manner to other dogs. And I don't think I've ever seen one vicious interaction with a human in those years. Good dogs bring together and good neighbors. Most all seem committed to respecting the underlying vision of Mayor Baxter's park. And I echo the many, many public comments that speak much more eloquently than I can as to how important Baxter is to providing a safe, beautiful space where dogs can be off leash for the exercise they crave without having to drive and further pollute our climate with carbon.

That said, I especially want to commend and acknowledge the signage placed in the park, especially the "Dog Ownership" signs. It's dignified language clearly states the expected behavior and spirit of park enjoyment by all that we as dog owners are responsible for. If all dog owners heed that sign, there should be no problem keeping Baxter an off leash park.

SOLUTION????? I would encourage the Council to consider a low-cost, hi-tech solution. How about putting Smart Lights (solar powered and wi-fi driven) at the various entry points to the park. Those lights when activated would indicate to dog owners the need to "leash up". Any school group, after school group, track team, or anyone sensitive/fearful of dogs who are entering the park could trigger the Smart Lights from their smartphone app... sort of like how I can control my Nest thermostat remotely. Dog owners who use the park could also receive an alert notification that they should "leash up". The alert would time out after perhaps 30 minutes or 1 hour if the "sensitive/fearful" group or individual fails to deactivate the alert or "renew" it. Might be worth exploring. Certainly the technology exists for this. And I suspect the City might even be able to engage

our school computer science programs in a competition to create this, and/or I've bet that many of us who want to keep Baxter off leash would fund a Leash Alert app.

Kind regards,
Joel Bolton - April Fry & Camper
149 Ashmont St.
Portland
207.221.7600



Ethan Hipple <ehipple@portlandmaine.gov>

Fwd: Baxter Woods

Allison Carroll <acarroll@portlandmaine.gov>

Fri, Jun 7, 2019 at 1:51 PM

To: Amy Segal <amybellsegal12@gmail.com>, Ana Lagunez <analagunez@gmail.com>, Brian Batson <bbatson@portlandmaine.gov>, Caitie Whelan <caitie.whelan@gmail.com>, Chelsea Malacara <chelsea.malacara@gmail.com>, Colette Bouchard <coletteb1821@gmail.com>, Craig Lapine <craig@cultivatingcommunity.org>, Cynthia Loebenstein <cloebenstein@yahoo.com>, Dory Waxman <mermaidst@gmail.com>, Ethan Hipple <ehipple@portlandmaine.gov>, Marie Gray <mariegray263@aol.com>, Matt Coleman <mcoleman@portlandmaine.gov>, Michael Mertaugh <michaelmertaugh@gmail.com>, Nathan Robbins <npalmer.robbins@gmail.com>, Sally Deluca <sld@portlandmaine.gov>, Zack Anchors <zack.anchors@gmail.com>

Another comment from the public for your records.

Take care,

Alli Carroll

Senior Administrative Officer
City of Portland, Parks, Recreation & Facilities
212 Canco Road, Suite A, Portland, Maine 04103
207.808.5428

----- Forwarded message -----

From: **Peggy Akers** <kizzypax@maine.rr.com>
Date: Thu, May 23, 2019 at 7:02 AM
Subject: Fwd: Baxter Woods
To: <parkscommission@portlandmaine.gov>

Sent from my iPad

Begin forwarded message:

From: Peggy Akers <kizzypax@maine.rr.com>
Date: May 22, 2019 at 2:56:26 PM EDT
To: parkscommission@portlandmaine.gov
Subject: Baxter Woods

How disappointed I felt after the long meeting last month when so many of us shared our thoughts and feelings and concerns about changes in the leash law in the park. It seemed that emailing was more important than the passionate voices of the neighborhood dog walkers.

I have had the privilege of walking in that park for over twenty years and meeting so many wonderful friends and dogs. I am a nurse practitioner who works hard to help folks age in place. Older residents walk with their pets there daily and meet friends and comrades. They keep active both physically and mentally. It is a joy to

talk together while our dogs run and play.

I have read what Mr Baxter wrote and knowing that he was a big dog [lover](#) as are other members of his family...I do not believe this is what he was wanting for the use of the park. You have closed the Western Cemetery which was a most special place to be with dogs. I remember how fun it was to watch nuns and teens talk and laugh together as their dogs played. Now you will try and take this joy from us.....please please listen to all our voices. Evergreen cemetery is open for non dog folks and it is so beautiful. Let us have our one little corner of Portland.

Thanks for listening

Peggy Akers

[187 Concord street](#)

[Portland, Maine 04103](#)

207 232 7695

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Ethan Hipple <ehipple@portlandmaine.gov>

Question: July 18th Parks Commission Meeting...

D Leland <lelanddm@gmail.com>

Tue, Jun 11, 2019 at 8:10 AM

To: "Lesperance, Marc" <Marc.Lesperance@anthem.com>

Cc: "sld@portlandmaine.gov" <sld@portlandmaine.gov>, "ehipple@portlandmaine.gov"

<ehipple@portlandmaine.gov>, Parks Commission <parkscommission@portlandmaine.gov>, Anne Callender <anne@whipplecallender.com>

Ethan and Sally,

I was negligent in not thanking you! I do appreciate our friendly conversation in the coffee shop. Thanks so much.

– Dawn

On Sun, Jun 9, 2019 at 10:02 AM Lesperance, Marc <Marc.Lesperance@anthem.com> wrote:

Sally, Ethan: First off thanks for meeting with Dawn and me on Friday, 5/31. We appreciate the extra effort the Parks Department is putting into the desired ordinance change for Baxter Woods. As we discussed briefly on 5/31, I am following up on our request to be allowed the opportunity to present PowerPoint slides at the 7/18 Parks Commission meeting, in support of off-leash dog-walking and our community of family walkers at Baxter Woods.

Since 5/31 I've reviewed the Ch.18 City Code Ordinance covering Parks Commission meetings, and see the following from Ch. 18:

(8) Adopting reasonable rules for the conduct of its meetings, which rules shall include provisions for public comment.

(Ord. No. 50-83, 6-20-83; Ord. No. 70-09/10, 10-5-09; Order 203-13/14, 5-28-2014; Ord. No. 116-14/15, 1-5-2015)

I haven't see anything in Ch. 18 or anywhere else in the City Code that precludes the Commission from granting anyone the right to make a presentation. Nor does our request seem unreasonable or improper given the impact of the ordinance change. But digging deeper into the City Code I found the Council's Rules of Procedure for conducting meetings – with the following provision noted that does allow the City Council to grant additional time for public comment:

*8. Persons addressing the Council on an item prior to start of deliberation on such item by the Council shall be permitted to speak only once on an item, and shall limit their remarks on each item to three (3) minutes. **From time to time, the Presiding Officer may grant an extension of this three (3) minute requirement.***

I would imagine the Parks Commission meetings would have the same or more generous allowances for public comment – especially as the proposed ordinance change in Baxter Woods will directly impact the daily devotions of over 1,000 Portland residents. We are seeking no more than 10-15 minutes of continuous presentation time at the 7/18 Parks Commission meeting, for which 5 or more people will gladly relinquish their public comment time.

We respectfully ask again that the Parks Commission allow us this additional time beyond the 3 minute allotments to present at the 7/18 meeting.

Thanks, Marc

Marc Lesperance, [103 Candlewyck Terrace, Portland, ME 04102](#)

Tel: 207-774-6584; **Cell:** 207-329-4953; **Work:** 207-209-0517

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Ethan Hipple <ehipple@portlandmaine.gov>

Baxter Woods

Ethan Hipple <ehipple@portlandmaine.gov>
 To: Teresa Valliere <tvallier@maine.rr.com>

Mon, Jul 15, 2019 at 9:02 AM

Thanks Teresa,
 We will add to the record!
 Take care,
 Ethan
Ethan Hipple
 Deputy Director
 Parks, Recreation and Facilities Department
 City of Portland
 212 Canco Rd, Suite A
 Portland, Maine 04103
 207.808-5400
ehipple@portlandmaine.gov

www.portlandmaine.gov
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On Mon, Jul 15, 2019 at 7:49 AM Teresa Valliere <tvallier@maine.rr.com> wrote:
 Hello Ethan and Parks Commission,

I'm hoping I can still offer my perspective on the **proposed leash law change for Baxter Woods** up for discussion this week. Unfortunately, I cannot attend the meeting due to conflict.

Here's why I think the current rules should remain in place

- Within a 15 min walk of Woodfords Corner there are 8 public green spaces, many underutilized. Baxter Woods is the only one where dogs can run off-lead and many dog owners use the space appropriately.
- The city comp plan promotes walkable neighborhoods, but to get to an "off-leash" dog park should Baxter rules change, people like myself will have to drive to one of the 2 dog parks in the city. This is a waste of gas and time for many people.
- The city wants people to use the green spaces - keeping parks active keeps them safer. The only folks in Baxter Woods in the early mornings are the dog walkers and some joggers.
- In the 17 years I've been walking there in the early mornings, I have never seen any problems with dogs interfering with kids, joggers, etc, nor have I ever seen people with small children in the park in those hours
- All the owners in the early morning have voice control of their dogs
- I hear and see birds within the woods every day (except deepest cold winter days) - birds are clearly nesting there. There are plentiful woods in the back of Evergreen, and there are multitudes of birds there as well and dogs are allowed off leash. I trust the birds figure it out.
- How this will be enforced if it should pass? Will the city waste resources monitoring something that doesn't require monitoring?
- I doubt Governor Baxter leashed his dogs on his walks in the woods. I read the materials presented from the city website, and believe the intention is to prevent the cutting of trees or removing the water features. There is no language about leashing dogs.

If the decision is to make a change, I propose that the rule be dogs off-leash, under voice command, until 9 AM all year round.

Thank you,

Teresa Valliere, LCSW, LADC, CCS

Valliere Counseling and Professional Support
phone 207.233.9276

MAILING LIST

<http://valliirecps.com>

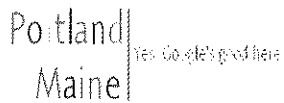
FMI about counseling, supervision, training or consultation, please contact me at tvallier@maine.rr.com

<http://Therapists.PsychologyToday.com/rms/68128>

Office: 57 Revere Street #1
Portland, ME 04103

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Teresa Valliere
tvallier@maine.rr.com



Ethan Hipple <ehipple@portlandmaine.gov>

Baxter Woods for dogs

Ethan Hipple <ehipple@portlandmaine.gov>

Wed, Apr 3, 2019 at 2:25 PM

To: Caroline Robinson <robinc@portlandschools.org>

CC!! Good to hear from you, and thanks for the comments. I'll pass them on to the Parks Commission.

It is a tough one--I've got many friends and neighbors (you included!) who love to use it as an off-leash dog area, but we are trying to balance that with other uses and the deed restrictions to preserve it as a bird sanctuary. Definitely a good case study of the challenges of balancing the multiple uses of public land.

Take care,

E

Ethan Hipple

Deputy Director

Parks, Recreation and Facilities Department

City of Portland

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www.portlandmaine.gov

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On Tue, Apr 2, 2019 at 10:26 PM Caroline Robinson <robinc@portlandschools.org> wrote:

Howdy!!!!

I hear you are the one sifting through everyone's perspective on the old Baxter Woods leash question!

As a massive fan of Baxter Woods (Lewis and I walk George in there twice a day!) I want to say that it's my favorite part of our neighborhood and watching George gallop around with his buddies is often the best part of my day. I am definitely in the 'please keep off leash permission there' camp.

The community of dog owners there is pretty awesome, very responsive and responsible, and fun to walk with.

That being said....I utterly respect cross country runners who want to not have dogs get excited when they fly through!

Good luck with this one....it's dear to the heart of many!

CC

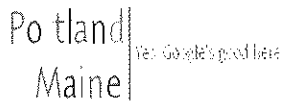
--

CC Davies Robinson
English Teacher
Senior Humanities Team
Casco Bay High School

"Love allows understanding to dawn, and understanding is precious. Where you are understood, you are at home." -John O'Donohue

*** Please Note: ***

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Ethan Hipple <ehipple@portlandmaine.gov>

Comptemplation of leash law in Baxter Woods

Ethan Hipple <ehipple@portlandmaine.gov>

Tue, Apr 2, 2019 at 2:24 PM

To: Lita Semrau <lita@portcityarch.com>

Hi Lita,

I've attached a memo that we wrote to the Parks Commission that helps explain the reasoning. Hope it helps answer your questions. FYI... We allow off-leash dogs on approximately 495 acres in Portland. Valley St Dog Park and Quarry Run account for about 6 acres together, and Baxter Woods is 29 acres.

Take care,

Ethan

Ethan Hipple

Deputy Director

Parks, Recreation and Facilities Department

City of Portland

212 Canco Rd, Suite A

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207.808-5400

ehipple@portlandmaine.gov

www.portlandmaine.gov

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On Tue, Apr 2, 2019 at 12:21 PM Lita Semrau <lita@portcityarch.com> wrote:

Just want to know what would motivate even considering a leash law in Baxter Woods – there are already many place in Portland where leashes are required and very few where dogs can run . . . please do not mention the dog park below Maine Med (that place is overused and too small for an adequate walk for me) and we need to more spaces for humans and their dogs to be able to take in a little exercise at their own pace . . . las

Lita Semrau, AIA, NCARB, LEED AP

Port City Architecture

65 Newbury Street

Portland, ME 04101

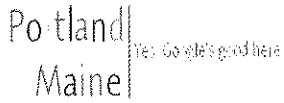
p: 207.761.9000

w: www.portcityarch.com





Baxter Woods Off Leash Memo 3-7-19.pdf
142K



Ethan Hipple <ehipple@portlandmaine.gov>

Baxter Woods off-leash issue

Ethan Hipple <ehipple@portlandmaine.gov>

Tue, Apr 2, 2019 at 2:26 PM

To: Rochelle Spiegel <rochellespiegel@gmail.com>

Thanks for your comments Rochelle. I will pass them on to the Parks Commission.

Take care,

Ethan

Ethan Hipple

Deputy Director

Parks, Recreation and Facilities Department

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207.808-5400

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www.portlandmaine.gov

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On Tue, Apr 2, 2019 at 10:00 AM Rochelle Spiegel <rochellespiegel@gmail.com> wrote:

Hello Mr. Hipple,

I am writing to you because I am a small dog owner and I regularly take my dog off-leash into beautiful Baxter Woods. My husband and I bought our house in the neighborhood to live within walking distance of Baxter Woods. We are responsible dog owners and have always respected this place. Our dog is very well trained and always stays with 15 feet of us. We are also nature lovers and love admiring all of the trees, shrubs, wildflowers, mushrooms, mosses, and birds up in the trees.

We walk there in the mornings before work and I know our presence there has made many strange and or drugged-out homeless people feel very uncomfortable. I've seen them move on and pack up their sleeping bags because they see us coming. I've even called the police many times to report tents and crazy people acting oddly. We've even scared away groups of teenagers smoking pot on their way to school. Responsible and respectful dog owners make a huge difference in this park.

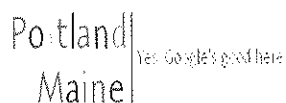
My elderly neighbor has lived in this neighborhood her whole life and will not set foot into Baxter, not because of the dogs, but because that is where the "Bad people hang out", because she only knows that drug addicts used to hang out in there. I try to tell her it's not like that anymore but she is terrified of being mugged or raped by a drug addict living in there.

If this park becomes a leash-only park I'm afraid it will turn into a homeless and druggie haven again, especially on the back trails. Personally, my husband and I would no longer use this park and I know many of us responsible people would just go somewhere else where our dog can run and play with other dogs.

Maybe a better solution would be to have a multi-use park by setting times of the day that are off-leash and leash only, like Willard Beach. This way everyone could use the park.

Please do not take this place from us.

Respectfully,
Rochelle Spiegel
503-307-4091



Ethan Hipple <ehipple@portlandmaine.gov>

Baxter Woods public comment

Ethan Hipple <ehipple@portlandmaine.gov>
To: Marissa Bodnar <marissabodnar@gmail.com>

Tue, Apr 2, 2019 at 3:54 PM

Thanks for the comments Marissa--we'll forward on to the Parks Commission.

Thanks,

Ethan

Ethan Hipple

Deputy Director

Parks, Recreation and Facilities Department

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On Tue, Apr 2, 2019 at 1:39 PM Marissa Bodnar <marissabodnar@gmail.com> wrote:

Hi Ethan,

I'm writing to weigh in on the proposed leash rule in Baxter Woods. I can't make it to the hearing on Thursday, but am hoping the committee will take this under consideration with the other public comments.

As a dog owner who visits these woods multiple times a week, every week, I strongly oppose this proposal. I can't really speak to the bird sanctuary part of the memo, but do feel it's important to share my experiences regarding "safety concerns."

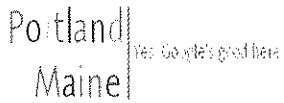
I've been bringing my rescue dog there for more than three years and have never worried for my safety or his. I don't doubt there are occasional incidents – sometimes a dog gets excited and jumps up on someone – but that can also happen anywhere, leash or no leash, rules or no rules. From my experience, the suggestion that dogs in Baxter Woods are "unruly" or a threat to people or other dogs is completely absurd. In fact, I actually see owners of less friendly dogs taking the preemptive step of putting them on a leash.

As a former resident of Deering Center, I can tell you this is the heart of the neighborhood for any dog owner. It's a wonderful community of people and dogs. I've made friends in these woods and so has my dog. The location is still five minutes away from our home and allows us to meet up with other folks to get some activity in, especially on busy work days and the part of the year when daylight is in short supply.

In my opinion, a 25-foot leash just makes for a tangled mess of a walk with brush and trees right along the trails, and as dogs greet each other. The questions I'm left with: How will this be enforced? And if passed, is the city willing to look at making other locations available for off-leash dogs?

Thanks for your time.

Marissa Bodnar (& Atlas)
207-653-3446.



Ethan Hipple <ehipple@portlandmaine.gov>

Baxter Woods - in support of off leash

Ethan Hipple <ehipple@portlandmaine.gov>
To: Adrienne Fine <adrienne.fine@gmail.com>

Wed, Apr 3, 2019 at 2:07 PM

Hi Adrienne,
Thanks for your comments, we will share with the Parks Commission.
Take care,
Ethan
Ethan Hipple
Deputy Director
Parks, Recreation and Facilities Department
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212 Canco Rd, Suite A
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207.808-5400
ehipple@portlandmaine.gov

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On Wed, Apr 3, 2019 at 2:05 PM Adrienne Fine <adrienne.fine@gmail.com> wrote:

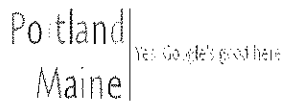
Hello Ethan,

Thank you for accepting emails prior to the meeting in regards to the Baxter Woods dog leash issue. I just wanted to email you as a citizen and neighbor to Baxter Woods (27 Florence St, Portland) to say that I am in support of continuing to allow dogs to be off lease within Baxter woods.

In general I see users of Baxter woods following the current rules of voice command, not letting your dog out of sight, and picking up after them (even off trail). It would be a shame to take away one of the few areas that dogs are allowed off leash within the City limits, especially one that is walking distance from many neighborhoods. Forcing dog owners who chose to buy homes in dog friendly neighborhoods walking distance to Baxter Woods to now drive to the City limits to get to other off leash areas is not favorable. Portland is a dog friendly City and removing this central off leash area would change that perception.

I appreciate your time on this matter.

Thank you,
Adrienne Fine



Ethan Hipple <ehipple@portlandmaine.gov>

Baxter Woods

Ethan Hipple <ehipple@portlandmaine.gov>
To: Mollie Bash <mbash2@gmail.com>

Wed, Apr 3, 2019 at 3:50 PM

Thanks for the comments Mollie. We will share with the Parks Commission.

Take care,
Ethan

Ethan Hipple
Deputy Director
Parks, Recreation and Facilities Department
City of Portland
212 Canco Rd, Suite A
Portland, Maine 04103
207.808-5400
ehipple@portlandmaine.gov

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On Wed, Apr 3, 2019 at 9:05 AM Mollie Bash <mbash2@gmail.com> wrote:

Hi Mr Hipple,

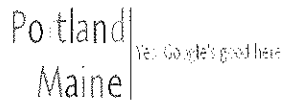
I am writing to you as a citizen of Portland who visits Baxter Woods daily with her two dogs. I live in Portland and am a Portland taxpayer. Baxter Woods is a fantastic off leash space for dogs to be able to play in Portland. As someone who visits daily, changing the leash law would have a significant negative impact on my quality of life as Portland citizen. Every dog owner that I have encountered there is conscientious about watching their dogs and cleaning up after them. There are very few places like Baxter Woods in Portland available for dogs and there are many more places for people to walk if they do not wish to be around dogs.

A far bigger concern in terms of the park being family friendly is the amount of broken glass that can be found in the Woods. This is something that I pick up whenever I see it and I know other people walking their dogs do the same. This will continue to be a bigger problem for children and families if the number of people walking their dogs decreases due to this proposed law.

I am unable to attend the meeting tomorrow due to work but it would be extremely disappointing to lose this space.

Thank you,
Mollie Goldenberg

Sent from my iPhone



Ethan Hipple <ehipple@portlandmaine.gov>

Baxter Woods

Ethan Hipple <ehipple@portlandmaine.gov>
To: Debra Flynn <debra_ann@maine.usa.com>

Wed, Apr 3, 2019 at 4:03 PM

Thanks very much Debra, I will make sure the Parks Commission sees your comments.
See you tomorrow,
Ethan

Ethan Hipple
Deputy Director
Parks, Recreation and Facilities Department
City of Portland
212 Canco Rd, Suite A
Portland, Maine 04103
207.808-5400
ehipple@portlandmaine.gov

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On Mon, Apr 1, 2019 at 11:07 AM Debra Flynn <debra_ann@maine.usa.com> wrote:

Hello,

I live on Hartley Street and I wanted to let you know that I will be there at the meeting to support the city in it's obligation as a trustee of Baxter Woods.

This is not only a public safety issue, a waste issue but dogs that are loose are detrimental to the environment. Baby birds learning to fly as well as other wildlife are at risk from loose dogs.

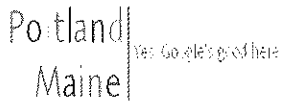
We have 2 greyhounds that have been attacked in the day in these woods, so much that they now refuse to enter or go near them during the day when there are loose dogs. We hear people all the time calling or whistling for their loose dogs. We've had loose dogs come into our yard, no person in sight or dogs come after us walking on the sidewalk past the woods. This isn't a dog park, yet people seem to forget how to be responsible for their pet.

Thank you for addressing this issue of Baxter Woods not being in compliance with the deed.

Debra Ann Gorneault

--

Sent from my Android phone with mail.com Mail. Please excuse my brevity.



Ethan Hipple <ehipple@portlandmaine.gov>

Baxter Woods leash law change

Ethan Hipple <ehipple@portlandmaine.gov>
To: Anne Callender <anne@whipplecallender.com>

Wed, Apr 3, 2019 at 4:06 PM

Hi Anne,
Thanks for your comments and thoughtful letter. I will make sure the Parks Commission gets a copy.
Take care,
Ethan
Ethan Hipple
Deputy Director
Parks, Recreation and Facilities Department
City of Portland
212 Canco Rd, Suite A
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ehipple@portlandmaine.gov

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On Tue, Apr 2, 2019 at 3:03 PM Anne Callender <anne@whipplecallender.com> wrote:
Hello Ethan -

Please include my letter enclosed with the comments on proposed changes to the leash law in Baxter Woods.

I have enjoyed walking my dog in Baxter Woods for the past 15 months (at least twice a day) and have had many wonderful experiences and relationships because of it. Your proposal will deny me and my husband the happiness that we enjoy by having a place near by to let our dog run. Dogs bring a lot of joy and comfort to humans, and they are a big part of a healthy life. Your proposal will impact my life negatively.

Sincerely,
Anne Callender

April 1, 2019

Mr Ethan Hipple
Deputy Director
Parks, Recreation and Facilities Department
City of Portland
212 Canco Road, Suite A
Portland, ME 04103

RE: Baxter Woods Off-leash Policy

Dear Mr. Hipple -

I am disappointed to read your recommendation of having dogs leashed in Baxter Woods. The study commissioned by the City solely looks at the use of the Woods from an ecological assessment bias that puts more weight on the "sanctuary for wild birds" than it does on the "benefit of the people of Portland for public recreational purposes".

I am frustrated that staff has not taken the time to survey users of Baxter Woods and appears to be heavily influenced by complaints rather than observing those who regularly use it and keep it vibrant. If you did, you would find that the regular users have formed a community that enjoys seeing each other on a regular basis for walks and while allowing their dogs to play. This might sound like a joke, but I used to have regular walks with a Rabbi, a Priest and a professed Communist, and found that we would enjoy each other's company discussing a wide range of topics. None of us would have ever had that opportunity to meet and form such a meaningful relationship if it wasn't for this park.

If the dog owners of Portland knew that we had to regularly write comments to staff about our love and joy of walking with and meeting other people in our community in Baxter Woods, we would fill your in box on a daily basis. The majority of the users are responsible in keeping their dogs under watchful eyes, picking up their feces, and keeping the play under control. The park has allowed us to socialize our dogs as well as ourselves. For over 15 years, I have enjoyed the benefits of this park, it seems capricious to change the rules now.

I disagree that there ample access to other open spaces for dogs to run free in Portland. Baxter Woods proximity to 3 streets has an advantage for my safety. I would not be comfortable walking alone in Evergreen Woods because of its lack of visibility and proximity from habituated areas. The same can be said for Canco Woods, and Valley Street doesn't present itself with a way for me to get exercise in unison. There are more dogs than children in the blocks surrounding Baxter Woods and it provides a welcomed break from walking dogs on leashes on the street.

In this era of disconnectedness, Baxter Woods has given me a way to connect with my neighbors and form bonds with my community that aren't available to me in any other form. Introducing leashes into the park will make it difficult to have the same interactions. Dogs behave differently on leashes when interacting with other dogs. Some appear more aggressive to protect their owners and themselves since they can't retreat to assess the situation. Dogs that enjoy playing with each other will get tangled up in leashes. Twenty-five foot leashes threaten to entangle more humans and do bodily harm.

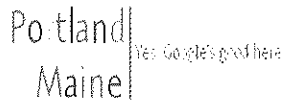
I respectfully request that you and the Parks Commission consider that the benefit for the people of Portland and leave the off leash provision in place. The report did not find that this park had any high-value plant or wildlife habitats. There isn't a lack of wildlife in Baxter Woods with its owls, woodpeckers, hawks, raccoons, squirrels, chipmunks, skunks, foxes and opossums. Evergreen Cemetery with its larger acreage and less light pollution is a greater draw for migrating birds. In 1946 when this land was deeded to the city, dogs could run free without much fear of being hit by cars or being lost or stolen. My mother's dog would walk her to school in the morning, return at lunch to walk her home, and repeat the exercise again at the end of the day. Those days are long gone and dog owners would like to have places to allow them to play with their dogs off leash. There is a big need and desire for these types of spaces and they should be accommodated in similar fashion to providing ballfields for another portion of the population.

Governor Baxter was a tremendous dog fan and I have a hard time believing that he won't have left the woods to the dogs if he knew how limited the options would be for them to roam free and play today.

Thank you for your consideration.

Respectfully,

Anne Callender and Dash the springer spaniel
138 Pleasant Ave
Portland ME 04103



Ethan Hipple <ehipple@portlandmaine.gov>

Keep Baxter Woods off-leash!

Ethan Hipple <ehipple@portlandmaine.gov>
To: Stephan Spiegel <stephan@stephanspiegel.com>

Wed, Apr 3, 2019 at 4:35 PM

Thanks for your comments Stephan, I'll get them to the Parks Commission.

Take care,

Ethan

Ethan Hipple

Deputy Director

Parks, Recreation and Facilities Department

City of Portland

212 Canco Rd, Suite A

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207.808-5400

ehipple@portlandmaine.gov

www.portlandmaine.gov

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On Wed, Apr 3, 2019 at 4:19 PM Stephan Spiegel <stephan@stephanspiegel.com> wrote:

Dear Mr. Hipple,

I'm writing to voice my strong opposition to the proposal to revoke the off-leash status of Baxter Woods.

I'm both a dog walker and a property owner. I walk my dog almost daily at Baxter Woods. While having to take my dog elsewhere for off-leash activity would be an inconvenience, I'm much more concerned about what the rule change would do to the value of my property.

My wife and I bought our house three years ago. We specifically wanted a home within walking distance to Baxter Woods, because of its status as an off-leash area. We paid significantly over asking for our home, in large part because of its location, and I know we're not the only home buyers in our neighborhood for whom this is the case.

Some of our long-time neighbors have not set foot in Baxter Woods since the 80s or 90s. They are afraid, not of dogs, but of "shady people" who supposedly hang out there. Having never seen anyone of that description in Baxter Woods, it's clear to me that the presence of dog walkers keeps drug users and urban campers out. In fact, some of the wooded areas immediately adjacent to Baxter Woods, on private property and thus off-limits to dog walkers, show signs of recently inhabited encampments.

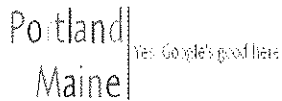
To summarize, I believe banning off-leash dogs from Baxter Woods will lower the surrounding property values in two ways: One, by making the area less desirable to home buyers who are also dog owners, and two, by making the woods themselves more attractive to drug users and homeless people, with the ensuing rise in crime and refuse.

Please don't allow the unattainable "unspoiled" woods imagined by some who would use it once or twice a year ruin it for those of us who use it daily, and to take money out of the pockets of all of us who own property around Baxter Woods!

Regards,

Stephan Spiegel

151 Prospect Street
Portland ME, 04103



Ethan Hipple <ehipple@portlandmaine.gov>

off leash policy - Baxter Woods

Ethan Hipple <ehipple@portlandmaine.gov>

Mon, Apr 1, 2019 at 2:29 PM

To: Gayl Anglin <ganglin65@gmail.com>

Thanks for your comments Gayl--I will make sure they are shared with the Parks Commission.

Take care,

Ethan

Ethan Hipple

Deputy Director

Parks, Recreation and Facilities Department

City of Portland

212 Canco Rd, Suite A

Portland, Maine 04103

207.808-5400

ehipple@portlandmaine.gov

www.portlandmaine.gov

Portland, Maine | Yes. Life's good here.

On Mon, Apr 1, 2019 at 1:48 PM Gayl Anglin <ganglin65@gmail.com> wrote:

Dear Ethan,

I received notice about the Parks Commission meeting this Thursday regarding the off-leash policy at Baxter Woods. Unfortunately, I am unable to attend due to another commitment, but wanted to at least send my input.

I am a Portland resident and dog lover. While I do not currently have a dog, I have had dogs most of my life and have always appreciated places where I could allow my dogs to run off leash. That being said, I knew the limits of my voice control with them and never had them in a place that would be disruptive to others or put them in a place where they could be injured or cause an accident. I have on three separate occasions since the beginning of this school year stopped to help people catch their errant dog who had run from Baxter Woods, on one occasion the dog was running in traffic. All three times the owners were exclaiming that "s/he never does this" however, all it takes is one time for a dog to get hit and/or cause an accident. Baxter Woods sits right on two major streets and is not fenced, which in and of itself does not lend it to being an off-leash park. Add to this, the level of voice command that is needed to keep a dog fully under control seems to often be interpreted liberally by dog owners.

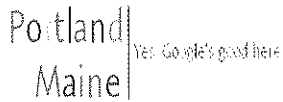
I recommend that Baxter Woods require leashes for dogs, for both their safety and also for the general public, unless the city were to extend a fence around the entire border of the park, which does not seem feasible.

Best regards,

Gayl M. Anglin, Ph.D.

ganglin65@gmail.com

"Hungry man reach for the book, it is a weapon." - Bertolt Brecht



Ethan Hipple <ehipple@portlandmaine.gov>

Please keep dogs free in Baxter Woods!

Ethan Hipple <ehipple@portlandmaine.gov>

Mon, Apr 1, 2019 at 3:44 PM

To: shambaugh@gwi.net

Cc: Justin Costa <jcosta@portlandmaine.gov>, Belinda Ray <bsr@portlandmaine.gov>, Spencer Thibodeau <sthibodeau@portlandmaine.gov>, Brian Batson <bbatson@portlandmaine.gov>, "Kimberly M. Cook" <kcook@portlandmaine.gov>, Pious Ali <pali@portlandmaine.gov>, Jill Duson <jduson@portlandmaine.gov>, "Mavodones, Nicholas" <nmm@portlandmaine.gov>, Ethan Strimling <estrimling@portlandmaine.gov>, Sally Deluca <sld@portlandmaine.gov>

Hi there Ben,

Thanks for the thoughtful comments and sorry to hear about the loss of your dog Sasha.

We will make sure the Parks Commission gets a copy of your comments for the meeting this Thursday.

Take care,

Ethan

Ethan Hipple

Deputy Director

Parks, Recreation and Facilities Department

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On Mon, Apr 1, 2019 at 2:33 PM <shambaugh@gwi.net> wrote:

March 1, 2019

Dear friends,

My dog Sasha died of old age a few months ago. She and I walked in Baxter Woods at least two times a day for 14 years. Baxter is just a block from my home and -- along with Portland High, Longfellow and Lincoln -- is a large part of what makes the Deering Neighborhood great. It was at Baxter Woods that I got to truly know my neighbors, catch up on people's lives, and take time to nourish my soul. This happened in many ways, because of connections made through people with dogs. Again and again, I knew the dog's name long before I knew the owner. Because the dogs were off leash, they were able to greet me as well as my dog, and we built community, one sniff and pet at a time. The pure joy of animals and owners freely wandering the woods is a gift and wonder to share. Though my dog is gone, going to Baxter woods every day fills me with joy.

Today I walked around Mackworth Island and made a point of visiting the cemetery of Baxter's many generations of Irish Setters. Yes, he loved birds. He also loved dogs and during all my time in Baxter woods, I have never seen the one bother the other. In fact, dogs keep the number of cats -- who do bother the birds -- to a minimum.

I was part of community conversations with the city regarding dogs in Baxter Woods that happened at the

Wilde Chapel a few years ago. As a result of those meetings, the city put in more trash cans to collect poop and the owners picked it up. Since then, the winter snows and annual "spring thaw" have been much cleaner – proof that the vast majority of dog owners are responsible and responsive and that we can work together, while still maintaining what is a treasure to us all.

Yes, there are rare occasions when a careless owner or poorly trained dog behave less than perfectly. These, however, are very limited and – as those folks don't seem to worry about rules or norms I do not think that new rules will change their behavior. They would, however, have a huge negative impact on the quality of life, the sense of community, and the joy that makes our neighborhood and our city special.

Thank you for keeping it as it is today – a gift to us all. Thank you for your continued great work on our behalf.

Sincerely,

Ben Shambaugh
147 Clinton Street
Portland, ME 04103
207 400-7516



Ethan Hipple <ehipple@portlandmaine.gov>

Baxter Woods

Ethan Hipple <ehipple@portlandmaine.gov>
To: Christina Dalessio <cmd4567@gmail.com>

Mon, Apr 1, 2019 at 3:46 PM

Hi Christina,
Thanks for your comments. I'll make sure the Parks Commission gets a copy.
See you on Thursday.
Ethan H
Ethan Hipple
Deputy Director
Parks, Recreation and Facilities Department
City of Portland
212 Canco Rd, Suite A
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www.portlandmaine.gov
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On Mon, Apr 1, 2019 at 2:50 PM Christina Dalessio <cmd4567@gmail.com> wrote:

Ethan,

After moving to Portland in 1994, I purchased a home within walking distance of Baxter Woods back in 2003 ... expressly so I would be able to walk my dog there off leash.

Over the past 16 years I have visited the park almost daily and have directly observed during that time that off leash dog walkers are in fact the most frequent, caring and responsible users of the park. We pick up after our dogs and we pick up trash left behind by other visitors such as students and families with kids. We are literally the heart and soul of Baxter Woods.

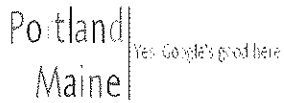
I'm told that you are concerned about ground birds. There has never been a ground bird population in this park since I moved to Portland 25 years ago, nor *would* there be if off-leash dogs were prohibited. There would still be people with kids and dogs walking everywhere in the park, not just on the trails, and there would still be people riding bikes through the park, large groups of students school running through the park, archeology groups digging holes and planting flags in the park, etc. The idea that prohibiting off-leash dogs would somehow prompt a miraculous ground bird revival at the park just doesn't make sense scientifically. The park already IS a bird sanctuary with many different species living there in concert with people and their pets. The dogs do not harm the birds, off-leash or on. In fact, watching and listening to the birds is one of the best parts of walking my dog there.

The tax-paying citizens of Deering/Rosemont/Deering Highlands/ Back Cove neighborhoods need space to run their dogs off-leash. There is simply no way to own a dog over 30 pounds and give it enough exercise on leash only. And other options around the city are not acceptable alternatives.

The woods behind Greenwood cemetery are remote, full of ticks and I do not feel safe walking there. There are literally homeless people living in tents back there. The Valley Street Dog Park is an unsanitary, filthy, dust bowl that is way too small to accommodate all the off leash dog walkers from our area of Portland. We need a place in in our neighborhood that we can walk to. And we have a perfectly good one. Please don't ruin it because of a few "squeaky wheels" who do not represent the majority of users.

In my opinion, the mindset of **exclusion** as a way to solve problems is really what's wrong with our country these days. Instead of **excluding** the people who are the most devoted and frequent users of the of the park, you should look for ways to find common ground and compromise among constituents. It's your job to work **with** us not against us.

See you Thursday.



Ethan Hipple <ehipple@portlandmaine.gov>

Meeting on Thursday

Ethan Hipple <ehipple@portlandmaine.gov>
To: David Little <authorartist775@gmail.com>

Mon, Apr 1, 2019 at 3:58 PM

Thanks for the comments David.

Take care,

Ethan

Ethan Hipple

Deputy Director

Parks, Recreation and Facilities Department

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On Mon, Apr 1, 2019 at 1:52 PM David Little <authorartist775@gmail.com> wrote:

Hi Ethan. Sorry not to attend the meeting on Thursday.

I guess my issue with off-leash dogs in Baxter Woods is the multitude of dog doo deposits that lie hidden just off the trails. I can't tell you how many times I have stepped in dog shit while going off trail to look at a particular tree, pit and mound, view, and so on. Even setting up one's easel to paint in Baxter Woods can become unpleasant.

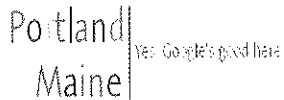
I have been wheeled around, and knocked over by dogs that don't obey voice commands or where the owner is out of sight.

I believe that were JPB alive today, he would be just fine with keeping dogs on leashes.

That's my 2 cents.

David Little

142 Brentwood St, Portland, Maine 04103



Ethan Hipple <ehipple@portlandmaine.gov>

Baxter Woods - public comment

Ethan Hipple <ehipple@portlandmaine.gov>

Mon, Apr 1, 2019 at 4:00 PM

To: Sarah Hilzinger Kellogg <sarah.h.kellogg@gmail.com>

Hi Sarah,

Thanks for the thoughtful comments. The program in Boulder looks very interesting and worth looking into.

I'll share your comments with the Parks Commission.

Take care,

E

Ethan Hipple

Deputy Director

Parks, Recreation and Facilities Department

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On Mon, Apr 1, 2019 at 11:07 AM Sarah Hilzinger Kellogg <sarah.h.kellogg@gmail.com> wrote:

Hello Ethan,

I am writing to share my perspective on the Baxter Woods leash vs. no leash debate since I will be out of town this Thursday night.

I am someone who walks in Baxter Woods many mornings before work (irrespective of whether it is 9 or 90 degrees). In fact, we walk there so frequently that when my dog and I walk out the door of our house in the Back Cove, she takes me straight to Baxter Woods.

I can unequivocally say that the community of dog walkers that use the park is exceptional. We moved to Portland 3 years ago and the community of people that use the park as part of their daily routine are some of the most kind and welcoming people I have met as we've started to put down roots here. It is one of the examples I often cite when telling family/friends about how Portland is different than most cities: there is a degree of implicit trust the city imparts on its people to do the right thing, and it is not uptight or overly restrictive (particularly in contrast to bigger East Coast cities where we grew up/moved from). I think of Portland as a city that aims to strike the right balance between the Maine "frontier" spirit (channeling the type of mindset that is more pervasive Downeast) with the realities of a growing city.

I urge you to consider this balance, trusting your citizens to do what's right (while nudging them in the right direction as needed) and making the woods a place where the greatest number of people and wildlife can co-exist in peace. I am strongly of the mindset that moving from the status quo to a leash-only environment would be a detriment to a robust community, not to mention disband a group that I imagine inadvertently prevents nefarious activity.

On the point of nefarious activity - I think it is critical to be realistic about the state of drug use in the city. We also walk frequently in other wooded areas and have unfortunately had to deal with the aftermath of our dog finding drugs. If we assume the imposition of a leash law would make a large portion (if not all) of the Baxter Woods dog walking community to go elsewhere for their morning and evening (rain or shine) walks, its possible this could have unintended consequences on the safety of the woods. While I appreciate dog poo is

not a minor nuisance... we can all certainly agree that needles and edibles are a more acute safety issue. The community of dog walkers are out in the woods early in the morning and evening, when the park may otherwise be empty, and also the vast majority of us are picking up garbage as we go. To think that the existing community will continue to use the woods in this manner and to this degree (just with their dogs on leashes) is not realistic - we will go elsewhere. I urge you to fully consider what this will mean for how the woods WILL be used.

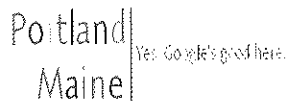
With this in mind, I feel strongly that there must be other ways to address the concerns that others have raised without jumping to a unilateral leash law. While I do not expect I have a full line of sight into the entire suite of concerns, here are just a few thoughts:

- On/off leash hours?
 - I am in full support of the neighboring schools feeling safe when they want to use the woods as outdoor exploratory space. I could fully understand and respect restricting a certain window of time during the school day where dogs must be on leash.
- Seasonal on/off leash?
 - I am not an expert, but I would expect ground bird nesting is particularly sensitive during certain times seasonally - restrictions that limit impact during sensitive times would also be entirely reasonable to me
- Bags/garbage bins?
 - I do not disagree that dog walkers can do a better job of picking up their dogs' poo. Bags and garbage cans at each entrance of the park can make a huge difference in this - there is 1 entrance without a garbage can, several without bags, and where bags are typically available they were not stocked most of this past winter.
- More publicity for park cleanup days?
 - One of the community members organizes this informally in the spring and fall, and a good group does get together to clean things up - but this type of effort may benefit from extra visibility (e.g., promotion by the city and/or Portland Trails)
- Off leash program?
 - I have heard some concern for walkers who do not have/like dogs feeling as if the off leash dogs are running wild and frightening. To address this, other cities have instituted off leash dog programs that allow dog owners that are responsible about off leash behavior to take advantage of it (rather than treat the woods like they are a "dog park"). Boulder (CO) is one example of a well established program that may be worth investigating, but the general model would be the cost of an off leash "tag" covers the cost of verifying that the dog has been trained to respond to basic off leash commands.

The easiest route forward would be to put in place a leash restriction and feel like the job is done. I urge you to take a route that endeavors to find a compromise on all fronts, which may be more challenging/more work, but also takes into account the positives that this community of dog walkers brings to Baxter Woods.

Thank you for your consideration!

Best,
Sarah Kellogg
908-399-9109



Ethan Hipple <ehipple@portlandmaine.gov>

Baxter Woods

Ethan Hipple <ehipple@portlandmaine.gov>
To: kevin@ktcole.net

Mon, Apr 1, 2019 at 4:40 PM

Thanks Kevin, we will pass your comments on to the Parks Commission.

Take care,

Ethan

Ethan Hipple

Deputy Director

Parks, Recreation and Facilities Department

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207.808-5400

ehipple@portlandmaine.gov

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On Mon, Apr 1, 2019 at 4:37 PM <ktcole@fairpoint.net> wrote:

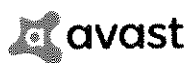
Ethan, I'm not sure what's being suggested with respect to Baxter Woods. Unfortunately, I will be out of state when the meeting is to occur on Thursday, so I'm hoping I can add my two cents to the discussion via this e-mail.

Baxter Woods is one of the only really good off-leash areas in the city. I walk my dog there frequently. It's a pleasant stroll and I've not met anyone there who either caused a problem or expressed a complaint. The dogs almost always interact well with each other. I would be very sad to have the rules change to make the area less dog-friendly.

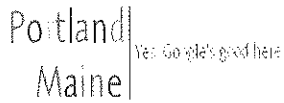
Thanks.

Kevin T. Cole

33 Fessenden Street



This email has been checked for viruses by Avast antivirus software.
www.avast.com



Ethan Hipple <ehipple@portlandmaine.gov>

Baxter Woods Leash Proposal

Carolyn Ehringhaus <carolyn.ehringhaus@gmail.com>
To: Ethan Hipple <ehipple@portlandmaine.gov>

Wed, Mar 27, 2019 at 9:21 AM

Hello Ethan: I wrote to you last week regarding the proposal. After reading the materials from the links that you provided, I have written another letter for both you and the commission.

I had thought that the proposal to restrict dogs to leashes was due to negligent owners, particularly regarding waste disposal and dogs not being under voice control. Reading through the proposal documents, however, I see that the ecological report has major emphasis.

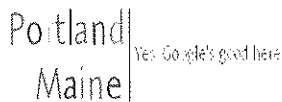
I would like to point out the following, keeping in mind the proposal's suggestion: *"Recreation use. Use trail cameras or other monitoring methods for fixed periods of time to quantify and describe recreation use and evaluate the potential impact of unleashed dogs on wildlife."*

1. Bird nesting: Regarding the ecological study, how many ground-nesting birds reside in or migrate to Baxter woods? I am not a bird expert, yet I do know that Baxter woods are not suitable for at least some of the more common New England ground nesters. We do have a diverse wildlife population, and I suspect that the dogs help to keep down some of the predators that kill birds, such as foxes.
2. Enforcement: With respect to the waste and voice control, signage is posted, yet nothing has been enforced. Additional patrolling and enforcing fines, possibly with the cameras suggested in the report, could quickly change behavior.
3. Previous incidents: As shown in the lengthy attachment documenting letters to the Park service, over a period of six years, there were actually very few letters concerning dog aggression incidents (again, monitoring can determine whether or not incidents occur with greater frequency in off-leash areas as compared to on-leash areas).
4. Alternatives: Baxter Woods is primarily a destination for local residents. It is not a "dog park" (Quarry or Valley St. are not options for many of us due to aggressive dogs and irresponsible owners). There is inadequate parking at these alternatives if Baxter users did switch, and neither Canco Rd. nor Evergreen are good options regarding space and/or parking. (Given the thicker growth behind Evergreen, wouldn't ground bird nesting be an issue?)
5. Dog waste: Lack of picking up has become a problem in Baxter woods and elsewhere. The PPH had an article about Hinckley Park (3/22/19) discussing this. Their Park ranger had planted 300 flags to encourage awareness and promote pickup prior to a predicted rain storm.

6. Lyme disease: In my 17 years of daily trail walking, including walking into growth to pick up waste, I have never found a tick. Given that Lyme disease is a serious health threat, the lack of tall grass and migrating deer in Baxter woods makes it a safer place for many residents and their dogs and/or children.
7. Safety: Prior to the woods becoming popular with dog owners, it was used by alcoholics, drug users, homeless people, and teenage partiers. I continue to pick up large quantities of broken glass, trying to keep the park clean and protect my dog's feet, as do other walkers. If dedicated dog walkers were not there daily taking care of the woods, glass and debris would only accumulate. Given the safety in numbers, there have not been incidents with aggressive humans, yet this could easily change without the presence of dogs.
8. Winter ice/falls: The paths have been covered with ice for much of 2018-2019 and recent winters due to the changing weather cycle. If dog walkers have to go elsewhere, the woods will be under-used much of the year. In addition, I have tried walking with my dog on leash under these conditions, and it is treacherous as even with cleats it is difficult to stabilize against the slightest pull. Many of the walkers are seniors, only adding to these potential human injury problems with increased risk of falling.
9. Quality of life: daily life for many of us has been enhanced greatly by being able to walk outdoors with our dog in Baxter Woods. Many of us walk to the woods and do not need to consume fossil fuels for transportation, and we value and take pride in this neighborhood asset.

I hope that, as a minimum, the council will decide to monitor the situation and will recommend increased patrolling before making any permanent changes. Although I care about wildlife, I think it is prudent to also consider resident quality of life.

Carolyn Ehringhaus
11 James St.
Portland, Maine 04013



Ethan Hipple <ehipple@portlandmaine.gov>

Baxter Woods On-Leash policy

Chelsea Malacara <chelsea.malacara@gmail.com>
To: Ethan Hipple <ehipple@portlandmaine.gov>

Thu, Mar 28, 2019 at 10:50 AM

Thank you for the clarification.

On Thu, Mar 28, 2019 at 10:26 AM Ethan Hipple <ehipple@portlandmaine.gov> wrote:

Hi Chelsea,

Yes, if the rule change is approved, we would enforce the rule using existing fines. \$75 first offense, and goes up from there.

Unfortunately, we have limited funds for Park Rangers, so it would be enforced at strategic times, not 24/7.

Take care,

E

Ethan Hipple

Deputy Director

Parks, Recreation and Facilities Department

City of Portland

212 Canco Rd, Suite A

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207.808-5400

ehipple@portlandmaine.gov

www.portlandmaine.gov

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On Wed, Mar 27, 2019 at 8:19 PM Chelsea Malacara <chelsea.malacara@gmail.com> wrote:

Ethan,

I just recently saw that there is going to be a council hearing on the proposed rule changes to Baxter Woods. Based on public concerns and most importantly, the ecological impact report, I fully support the decision to require dogs be on leash in Baxter Woods.

I was curious as to how the city intends on enforcing this rule? Will there be a fine, will there be new signage and rangers patrolling especially during peak times and the initial roll out?

Thank you for all your hard work.

Best,

Chelsea Malacara

--

Chelsea Malacara

chelsea.malacara@gmail.com

207-405-1009

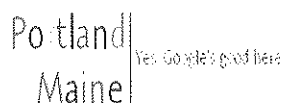
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--

Chelsea Malacara

chelsea.malacara@gmail.com

207-405-1009



Ethan Hipple <ehipple@portlandmaine.gov>

parks 4/4, leash laws, and other concerns

Ethan Hipple <ehipple@portlandmaine.gov>

Fri, Mar 29, 2019 at 9:05 AM

To: D Leland <lelanddm@gmail.com>

Yes, we are proposing that dogs in Baxter Woods are on a 25 foot leash. See attached memo for more information.

Take care,

E

Ethan Hipple

Deputy Director

Parks, Recreation and Facilities Department

City of Portland

212 Canco Rd, Suite A

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207.808-5400

ehipple@portlandmaine.gov

www.portlandmaine.gov

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On Thu, Mar 28, 2019 at 7:19 PM D Leland <lelanddm@gmail.com> wrote:

Hi - Thanks! I'm reading this as leashing IS going to be proposed. Right?

— Dawn

On Thu, Mar 28, 2019 at 10:20 AM Ethan Hipple <ehipple@portlandmaine.gov> wrote:

Thanks for your comments Dawn. I know it's a tough issue with strong feelings on both sides, so thanks for your efforts to find common ground.

I will share your comments with the Parks Commission.

Our primary concern here is abiding by the deed that calls for Baxter Woods to be maintained as sanctuary for wild birds. However, as you know, there are many properties within Portland where we do allow off-leash dogs, so this isn't an across the board policy change, it's just a change to how we manage this single property. We also hear from the public about dog safety issues at Baxter Woods.

You are correct that picking up feces is a separate, but important issue. I know you have been very instrumental in helping model positive behavior on that! We are working on enforcement, but with only a single full-time Park Ranger, we could use help from groups like yours, and we are always open to new ideas of how to increase enforcement.

We aren't proposing leash vs non leash times at Baxter Woods as that would address just the safety issues, not the underlying deed issues.

We currently have one full time Park Ranger and 4 seasonals that come on in the summer.

Hope this answers your questions.

Take care,

Ethan H

Ethan Hipple

Deputy Director
Parks, Recreation and Facilities Department
City of Portland
212 Canco Rd, Suite A
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ehipple@portlandmaine.gov

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On Wed, Mar 27, 2019 at 3:01 PM D Leland <lelanddm@gmail.com> wrote:

Hi Ethan,

I met you briefly some time ago at One Longfellow-- I do the Facebook page Responsible Dog Owners of Baxter... Please check out what I've been posting. I'm trying to strike a balance. Those who walk dogs there really do care about the park, the community it enhances, and having space for dogs to interact and run. And they're generally conscientious.

On the plus side

- It's a hub where we've gotten to meet others, and I have several friends I've met there.
- Some dog owners routinely pick up trash and beer cans, too.
- If drinking and drug deals go on, it's at night. There was an instance a year ago when one person saw some suspicious behavior and a group of us walked to the area and that seemed to be a deterrent to the people there. Then it occurred again, same thing.

Enforcement will always be with us

Enforcement is always an issue and it's not feasible to have park staff in there all the time.

- Some people didn't make a big effort over the winter to plow through a foot of snow into the trees to retrieve poop--and of course, that's where the kids go to do projects. The paths have also been littered with it.
- I've seen a couple men who have been unconcerned about picking up after their dogs or have been unpleasant in response to people not wanting dogs jumping on them or accosting their own dogs.
- Dog walkers have to be concerned about bikers who tear through the trails, often giving no warning, with little attention to whether people or dogs can get out of the way.
- We are adults and should know enough to behave--but we're talking about humans.

Some thoughts about leashing

I'm sure you know that most dog owners hate the idea but understand.

- Leashing won't stop people who won't pick up feces.

- What are the main issues that you/parks staff are hearing about? I know the environment is one. Is it any different than other parks? Worse? Better?
- If leashing is the goal, could there be consideration about off-leash times, such as 7-9 a.m. when dogs are most active, and use is greatest?
- What are the staffing and budget situations these days?

It would be lovely to have feedback that I could put on the FB page. Thanks so much.

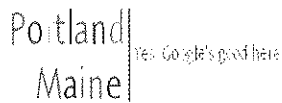
– **Dawn**

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Baxter Woods Off Leash Memo 3-7-19.pdf

142K



Ethan Hipple <ehipple@portlandmaine.gov>

Baxter Woods - Dogs Off Lease

Ethan Hipple <ehipple@portlandmaine.gov>
To: Rick Lorello <rick@informationsystemsme.com>

Thu, Mar 28, 2019 at 3:17 PM

Thanks for the comment Rick.

Take care,

Ethan

Ethan Hipple

Deputy Director

Parks, Recreation and Facilities Department

City of Portland

212 Canco Rd, Suite A

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ehipple@portlandmaine.gov

www.portlandmaine.gov

Portland, Maine | Yes. Life's good here.

On Thu, Mar 28, 2019 at 1:35 PM Rick Lorello <rick@informationsystemsme.com> wrote:

Hello

I don't agree with the request to make Baxter Woods a place to leash the dogs. No ground birds in the park.

--

Rick Lorello

Principal

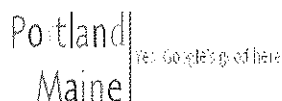
Information Systems of Maine, LLC

Rick@InformationSystemsME.com

207-653-4143

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Ethan Hipple <ehipple@portlandmaine.gov>

Baxter Woods Dog Policy - Parks Commission April 4th Agenda

Brooks More <brooksmore@gmail.com>
To: Ethan Hipple <ehipple@portlandmaine.gov>

Fri, Mar 29, 2019 at 1:29 PM

Thank you Ethan.

Have a great weekend.

Regards,
Brooks

On Fri, Mar 29, 2019 at 12:47 PM Ethan Hipple <ehipple@portlandmaine.gov> wrote:
Thanks for your thoughtful comments Brooks. I will share with the Parks Commission.
Thanks,
E
Ethan Hipple
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On Fri, Mar 29, 2019 at 12:42 PM Brooks More <brooksmore@gmail.com> wrote:
Hi Ethan,

I saw your email address on some of the correspondence regarding Baxter Woods. So, I'm hoping that you can include these comments as part of the upcoming deliberations.

My name is Brooks More and I live at 7 Tremont St. in Portland. Our family owns a 2 year old dog and walk him every morning in Baxter Woods. In my experience, there is a consistent group of people that walk their dogs in Baxter every morning before work. For us, it is the only way for the dog to get a little bit of exercise in the morning (walking on-leash isn't really exercise for our dog).

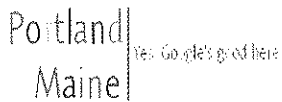
My sense of reading through the agenda materials is that the on-leash policy is inevitable and for good reasons. That being said, I'd like to ask if the Parks Commission could consider some compromises. For example, SoPo went through this type of issue with Willard Beach and decided to allow dogs off-leash for restricted hours and months. Rather than prohibit all off-leash activity in Baxter, would it be possible to limit it to a few hours in the morning? Say 6:00 a.m. to 8:30 or 9:00 a.m. After that window of time, all dogs would have to be on-leash. I realize that this may not address the bird sanctuary issues.

If all off-leash activity is prohibited, my expectation is that everyone will start driving over to the trails behind Evergreen. As a result of this consolidation of use, neighbors over there will then start complaining and it too will become off leash. If there is a chance for compromise, we would greatly appreciate it.

Thanks for your time and consideration.

Brooks

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Ethan Hipple <ehipple@portlandmaine.gov>

Baxter Woods Leash Proposal

Ethan Hipple <ehipple@portlandmaine.gov>
To: Jessica Marino <jbmarino77@gmail.com>

Mon, Apr 1, 2019 at 9:39 AM

Thanks for your comments Jessica. I will pass them on to the Parks Commission for their meeting this Thursday.
Take care,

Ethan

Ethan Hipple

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On Mon, Apr 1, 2019 at 8:37 AM Jessica Marino <jbmarino77@gmail.com> wrote:

Hello Ethan,

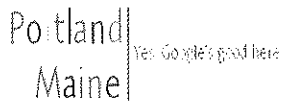
I'm not able to attend the meeting on Thursday night but wanted to share my thoughts. I've lived just blocks from Baxter Woods for 12 years and, even though I am a dog owner, I support enacting some kind of leash law and/or limiting times when dogs may be off leash there. I feel that I cannot safely walk my own dog there. I keep him on leash because he is a squirrel chaser and would gladly run into traffic after one. But we have had countless negative encounters where off leash dogs run up to him and get tangled in his leash. I have had those dog's owners scold me for bringing in a dog on a leash because "this is an off-leash dog park" and have had other times where an owner is nowhere to be found.

I have three children and when they were much younger their babysitter used to take them to the pond in the summer. A few years ago she stopped taking them because she felt like the number of dogs had increased and some were out of control and she didn't feel safe bringing the kids. One of my daughters did Cross Country running at Lincoln last year but after being chased by dogs during practice and during meets she did not sign up this year. There have been other cases where they have gone to Baxter Woods for science class and been approached by dogs with no owners in sight.

Most parents I know will not let their kids walk through Baxter Woods. Nobody will ride their bike there anymore.

I understand that Baxter Woods is a special place for dog owners who want to let their dogs off leash. But they are the minority. There is a huge community of people who cannot use those woods because of the influx of off-leash dogs. Baxter Woods is not a dog park. We have dog parks in Portland for those who want to let their dogs off leash. It is unfair that it is being used primarily by dog owners at a cost of the other neighborhood residents. It's a beautiful place and should be filled with walkers and bike riders. Nobody is saying dogs can't enjoy that park too, but everyone would be safer with those dogs on a leash. I would also support some kind of compromise; perhaps there could be times of day where dogs are allowed off leash and those times could be clearly marked.

Thank you for taking on this issue, which I know people feel passionately about on both sides.



Ethan Hipple <ehipple@portlandmaine.gov>

Dogs and Baxter Woods

Ethan Hipple <ehipple@portlandmaine.gov>
To: Barbara Doughty <babsy1000@yahoo.com>

Mon, Apr 1, 2019 at 8:24 AM

Thanks Barbara. I will share your comments with the Parks Commission.

Take care,

Ethan

Ethan Hipple

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On Sun, Mar 31, 2019 at 8:18 AM Barbara Doughty <babsy1000@yahoo.com> wrote:

Mr. Hipple:

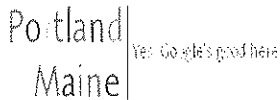
Please do not pass an ordinance that forces dogs to be on a leash in Baxter Woods. For years, I have enjoyed the beauty of that special place and especially seeing dogs running free and interacting with other dogs and humans.

This is a very special community of dog lovers. Incidents of bad behavior by dogs are so rare.

Governor Baxter proclaimed the Woods as a special place to be enjoyed by humans. As a dog lover himself, I can't believe he would have wanted to see them leashed. Doing so will deplete the Woods of many good folks who love to be there with their dog companions.

Barbara Doughty
35 Brook Road
Portland 84103

617-899-2583



Ethan Hipple <ehipple@portlandmaine.gov>

re: Baxter Woods

Ethan Hipple <ehipple@portlandmaine.gov>
To: J Godsey <joycegodsey@gmail.com>

Mon, Apr 1, 2019 at 8:27 AM

Thanks for your comments Joyce. I will send along to Parks Commission.

Take care,

Ethan H

Ethan Hipple

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Portland, Maine | Yes. Life's good here.

On Sat, Mar 30, 2019 at 11:04 AM J Godsey <joycegodsey@gmail.com> wrote:

I'm really aghast at this proposed leash restriction in Baxter Woods.

This is a case of a very tiny minority spoiling things for the majority of people.

We visit this park several times a week at various times of day.

And I have never experienced a negative incident in Baxter with my dog or other dogs!

This is a great place for dogs to learn to be social and learn to be off leash and under voice command. Fenced dog parks trap you and your dog with dogs that are unsocial and cannot behave off leash. I simply can't take my dog to a small fenced area, large unsocialized dogs tend to dominate smaller dogs.

It would be appropriate to TICKET people with unsocialized dogs who cause problems and ban those that are unsocialized. You KNOW that a proposed leash law will drive people with well behaved dogs from the park....and almost immediately be violated and you will end up trying identify people to ticket for letting their dogs BE dogs.

Nearly ALL walking and hiking trails on public land in the state are dog friendly. Imposing leash restrictions are usually dictated by the natural environment, to protect ground nesting birds or sensitive plantlife or erosion areas.

Imposing a leash restriction because a few people have caused problems is NOT a way to handle this situation.

From Personal Experience:

My dog and I hike and walk all over the state.

Our few negative experiences are with TOURISTS DOGS who aren't socialized and are off leash and FENCED DOG PARKS where people who refused to properly train their BIG DOGS bring them to wrestle with other untrained big dogs. I have literally had to pick my dog up and FLEE!

We love Quarry Run but that's just too far to go very often. It's practically in Falmouth!

Joyce Godsey
joycegodsey@gmail.com
BookRepairSupply.com
82 Devon St
Portland, Maine 04102
978-918-6031



Ethan Hipple <ehipple@portlandmaine.gov>

Baxter Woods/Dogs

Ethan Hipple <ehipple@portlandmaine.gov>
To: Mary Najarian <pickensmountainmama@gmail.com>

Mon, Apr 1, 2019 at 8:29 AM

Thanks for your comments Mary. I will forward your comments to the Parks Commission.

Take care,

Ethan

Ethan Hipple

Deputy Director

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Portland, Maine | Yes. Life's good here.

On Sat, Mar 30, 2019 at 9:10 AM Mary Najarian <pickensmountainmama@gmail.com> wrote:

I understand there is a move on again to require dogs to be on leashes. I am strongly opposed. The woods make a healthy outlet for dogs to run, to be free to chase squirrels if so inclined or to chase each other. The owners enjoy a relaxing social time as well. Please do not impose this unnecessary restriction. Mary Najarian



Ethan Hipple <ehipple@portlandmaine.gov>

Baxter woods

Ethan Hipple <ehipple@portlandmaine.gov>
To: Toji Perlman <tojiperlman@hotmail.com>

Mon, Apr 1, 2019 at 8:30 AM

Thanks for the comments Toji. I will share your comments with the Parks Commission.

Thanks,

Ethan

Ethan Hipple

Deputy Director

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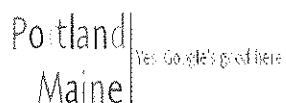
On Sat, Mar 30, 2019 at 4:02 PM Toji Perlman <tojiperlman@hotmail.com> wrote:

Hello,

I read the report concerning the leash laws in Baxter woods. I live next to the woods and walk my dogs there regularly. In the last 6 years, I haven't had one issue with unruly dogs. I think that the reason there have been more complaints than letters of support is because those who enjoy Baxter woods as it is don't feel the need to write to you. I think it would be a big loss for the residents around here to change the leash law. I also think it was largely due to more people using the the park to walk there dogs that pushed out those who where using the woods for sketchy purposes. Limiting its use for dog owners (mostly local families) not a good idea. Thank you for considering my thoughts.

Toji Perlman

Sent from iPad



Ethan Hipple <ehipple@portlandmaine.gov>

dog issues

Ethan Hipple <ehipple@portlandmaine.gov>

Mon, Apr 1, 2019 at 8:33 AM

To: D Leland <lelanddm@gmail.com>

Thanks Dawn. I'll make sure the Parks Commission sees your comments.
Take care,
Ethan

Ethan Hipple
Deputy Director
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On Sun, Mar 31, 2019 at 1:28 PM D Leland <lelanddm@gmail.com> wrote:

Hi Ethan

Maybe you can consider a couple things that came up:

- I tried out a 25' leash today. Did anyone ever actually do that? Dogs can't really play. Mine caught in brush beside the path and then tangled up and tripped another German shepherd and wrapped around people. The leash became covered in mud. It's laughably impractical and just got eye-rolls from people. Try to imagine 10 people with dogs on max. 25' leashes, trying to socialize their dogs.
- Ticks over at Evergreen appear to be an ongoing complaint and several folks mentioned that today. Is the city doing anything to eradicate them, aside from adding toxics to the environment? The deer aren't going away.
- Valley St. park is a poop swamp, a few responsible people come in the early morning, and many of those who do come sit on benches with cell phones and ignore dogs going off to the edges to poop. I've also found piles by the benches, and one day found THREE piles right by the gate.
- If you have a chance, check out (as I did a few weeks ago) the pathetic effort at a "dog park" over in Westbrook: A fenced square, with two broken gates, NO trees or shade or benches, and positioned at a busy intersection near Wm Clarke Dr. and the Hannaford. With snow a foot deep, nothing had been plowed. No one showed up while I was there.

There was nothing about it that said "community."

I realize the decision has probably already been made by those who heard only a few overheated complaints over the years, and no happy messages from those of us who enjoy the space with dogs. It would be interesting to see the place a year off and review the trash left in the woods, which walkers now pick up.

Attached: Leash fun, kids, regular walkers who pick up trash, walkers scouting for dog poop off-path. Enjoy.

Thanks!

— **Dawn**



Ethan Hipple <ehipple@portlandmaine.gov>

FYI: Baxter Woods - Fully eliminating the off-leash policy...

Ethan Hipple <ehipple@portlandmaine.gov>

Mon, Apr 1, 2019 at 9:24 AM

To: "Lesperance, Marc" <Marc.Lesperance@anthem.com>

Hi Marc,

Thanks for your thoughtful comments. I will send them along to the Parks Commission.

Take care,

Ethan

Ethan Hipple

Deputy Director

Parks, Recreation and Facilities Department

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207.808-5400

ehipple@portlandmaine.gov

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Portland, Maine | Yes. Life's good here.

On Fri, Mar 29, 2019 at 8:59 PM Lesperance, Marc <Marc.Lesperance@anthem.com> wrote:

Mr. Hipple: I am writing to you out of my concern that the off-leash policy at Baxter Woods (BW) in Portland will be fully eliminated per the City's proposed ordinance change. My dog (Marco) and I are "regulars" in BW and I think I can speak for other "Regulars" in saying that - we all appreciate the hard work that the City staff and Portland Trails crews put in to keep BW safe, clean and gorgeous! First and foremost we dog owners realize how lucky we are to have BW as an off-leash place to enjoy with our canine loved ones! We respect and appreciate the City's role in protecting BW and honoring the deed governing how BW is to be maintained in perpetuity as a sanctuary for people and birds.

Marco and I walk in BW pretty much every day of the week, and even twice per day sometimes. Marco's ability to be off-leash in BW is a benefit to both he and I, as it allows us to each get the physical exercise and social experience we seek in the forest setting. Science shows that dogs are most fit and happy when they are allowed to sniff and mark territory freely. <http://digest.thefarmersdog.com/the-importance-of-letting-your-dog-sniff/> Requiring a 25ft. or shorter leash would drastically limit all dogs experiences in BW and generally make every one of our dogs lives (who love and need their woods romps) less rich and fulfilling.

If the off-leash allowance is fully eliminated - the thought of 25 ft. leashes being used by multiple dog owners during the same visit to BW causes me to envision people tripping over the long lines, dog leashes getting wrapped together potentially leading to dog fights, and dogs coiling their leashes around young trees or shrubs. People, likely dogs and possibly forest flora are going to get hurt! Even worse, with potentially dozens of leashed dogs around BW at peak use hours - passing runners, bikers or even pedestrians will be endangered. Requiring leashes on the BW setting will likely cause more problems than currently exist with the off-leash allowance.

Touching on the complaints and comments the City has purportedly received concerning off-leash dogs - I

have heard about and experienced first-hand some difficult situations in BW. I think I can speak to some people's concerns. While dog fights are not a common occurrence in BW, the worst I've seen happened when one of the dogs was actually on leash! Similarly – as I noted above – kids and people will not necessarily be safer in BW if a leash-law is enforced. Lastly on this topic - I've never heard of a dog biting a person in BW – so I trust that is not an argument for enacting a full time leash requirement. As for kids or other pedestrians being fearful of dogs – we handlers need to be aware of those situations and typically remove our dogs from the setting as needed. This too is not a reason to disallow off-leash dogs.

Looking at the history of Baxter Woods, I recall an initiative in the mid-1990s to ban dogs, and more recently in 2014, when citizen complaints caused the City to rethink the leash rules for BW. The City has considered leash rules before. But if you go back to the original intent, you may already know that both Mayor Baxter and Governor Baxter – namesakes of the BW park - were huge dog and animal lovers! You can see evidence of this at their Pet Cemetery on Mackworth Island – where a dozen or so dogs, horses and even cats I think are interred. While the BW Deed may not mention dogs – the Baxter's allowed their dogs a free run of their homestead on Mackworth Island. I believe the Baxter's would wholeheartedly support the current off-leash ordinance at BW. While there is no mention of dogs in the BW Deed, likely because Portland had no leash laws back in the 1940's - the Deed clearly disallows HORSES in BW and refers to BW as a bird sanctuary. I cannot imagine there is any evidence that ground-nesting or ground-feeding birds have been adversely impacted by off leash dogs in BW. Squirrels perhaps – but birds have not been threatened by the presence of dogs in BW in recent memory. I do not feel birds can be used as a reason to keep dogs on leashes in BW!

In closing I am ALL for keeping the BW off-leash/voice-command rules as is, but can live with an alternative or a compromise. I would suggest allowing dogs to be off-leash during certain hours in the morning and evening (e.g. 7-9am and 4-6pm per se) during the weekdays, with longer off-leash hours on weekends (say 7-10am and 4-7pm). I urge the City to reconsider fully eliminating the off-leash allowance in a wholesale manner! Allowing dogs to be off-leash for certain hours is a good compromise I think, and one that all impacted parties can find some agreement with.

Thanks, Marc

Anthem, Inc.

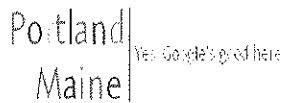
Marc Lesperance, 103 Candlewycck Terrace, Portland, ME
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marc.lesperance@anthem.com

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Ethan Hipple <ehipple@portlandmaine.gov>

Baxter Woods leash/off leash issue

Ethan Hipple <ehipple@portlandmaine.gov>
To: Shannon Wong <shannonmwong@hotmail.com>

Mon, Apr 1, 2019 at 11:10 AM

Thanks for your comments Shannon. I will pass along to the Parks Commission.

Take care,

E

Ethan Hipple

Deputy Director

Parks, Recreation and Facilities Department

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On Mon, Apr 1, 2019 at 11:08 AM Shannon Wong <shannonmwong@hotmail.com> wrote:

Dear Ethan Hipple,

As a lifelong citizen of Portland and a life long dog owner I'm passionate that we need to have access to off leash opportunities for our pets. Portland has such a great network of trails and park spaces yet, not all of them offer off leash opportunities. As a resident in the Highlands neighborhood, a great joy has been walking with my family and dog to Baxter Wood and letting him run off leash to socialize with other people and dogs. For me, this is one of the reasons Portland is such a great place to live. Our outside spaces are shared spaces, and Baxter Woods is a particular gem. These spaces are becoming fewer and fewer, so I urge you to help to find a way that this park can be maintained as a shared space for humans and off leash dogs.

I understand that the issue of owners not picking up after their pets is a concern. Perhaps, as in South Portland, a ranger could patrol and place flags where there are incidences and volunteer responsible dog owners can organize days to go in and pick up the mess. I know I'd be more than willing to go to the woods and spend an hour once a month to help maintain the cleanliness.

Baxter Woods has offered a special spot for my dog to socialize with other dogs, which is vital for his wellness, simultaneously offering opportunities for me to be social with other dog owners too which can sometimes be rare in the winter months. It's a space that the community can gather for a common purpose. This is a niche need for some people.

Just know that the site is such a valuable space for our particular family, and I know we are not alone. I'm sure we can come up with a way to compromise usage so everyone wins. Please don't take away the freedom of all the because of the short fallings of a few.

My best,

Shannon Wong

Shannon Wong

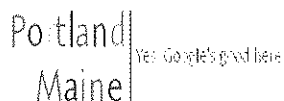
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<http://www.shannonmwong.com> (massage)

<http://www.wongpottery.com> (pottery)



Ethan Hipple <ehipple@portlandmaine.gov>

Comments regarding the Proposed Changes to Baxter Woods Off-Leash Rules

Ethan Hipple <ehipple@portlandmaine.gov>

Mon, Apr 1, 2019 at 2:27 PM

To: Don Caton <dcaton@maine.rr.com>

Cc: "Mavodones, Nicholas" <nmm@portlandmaine.gov>, Justin Costa <jcosta@portlandmaine.gov>, "Kimberly M. Cook" <kcook@portlandmaine.gov>

Thanks for your thoughtful comments Don. I will share them with the Parks Commission.

Take care,

Ethan

Ethan Hipple

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Portland, Maine | Yes. Life's good here.

On Mon, Apr 1, 2019 at 1:04 PM Don Caton <dcaton@maine.rr.com> wrote:

My understanding is that you are encouraging public comment for the proposed changes that will require all dogs in Baxter Woods to be on a leash 25 foot or less. I have lived in the same house within walking a short distance of Baxter's Woods for 43 years. My children are the 5th generation of my wife's family that have lived in our house and 2 of them still live in the Deering Center neighborhood with children of their own. I have walked 4 generations of dogs in these woods and I am opposed to such a change:

- The large majority of dog owners are responsible and are self-policing. Each time that the Parks Dept. has brought up issues, things have improved. I doubt that adding another restriction will change the actions of any 'bad actors', only harm the responsible owners and their dogs.
- Baxter Wood's is a neighborhood meeting place for many of these dog owners, including a lot of our older residents. They walk together or meet at the field to let their dogs play, while they enjoy the outdoors and each other's company. Can you imagine what it will be like if groups of 2 or more dog owners try to gather or work together and have a discussion while their dogs play on 25 foot leashes? Someone will get hurt or just as bad: the conversations and gatherings of neighbors will just stop happening. Is that what the Parks & Rec Dept. is trying to achieve?
- During winter, the ice on the paths in the woods is a hazard. Walkers use "grippers" on their boots just to try to stand up. Adding leashes to the mix will cause injuries and force older residents to stop walking there completely.
- I find the argument regarding 'not qualifying' as a bird sanctuary to be a weak and laughable attempt to come up with reasons to leash the dogs. Has the Park & Rec Dept ever provided any education regarding any birds, let alone ground nesting birds, when they nest, or how to protect these nests the woods? There are signs describing trees in the woods – I've nothing to identify birds or that these woods are a bird sanctuary.

You also state that there alternatives for off-leash. This is a lot like what the federal government did to the American Indians: slowly taking away all the available good land and forcing us to less than desirable alternatives: the woods behind Evergreen Cemetery have a lot of ledge and are more dangerous in the winter time when it is icy. The cemetery is gated and locked, it's hours are 8 am – 4:30 pm: open too late for people that work and not open late enough for those that want to walk after work. The other options mentioned are not very desirable.

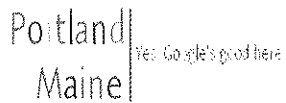
I have to admit that I do agree with the fact that these woods should be available for EVERYONE. I feel bad for those that are just plain scared of any dogs, but I don't agree that the majority of dog owners should be penalized for a few bad actors. Perhaps, you could look at some compromise, something similar to East End Beach: off-leash only before 9am and after 3:30pm (which as it turns out is when most dog owners walk their dogs there). It's not perfect, but it would provide plenty of worry-free access time for families with children, those afraid of dogs, school children.

I appreciate your willingness to request comments and hope your committee and the city council can consider the needs of the dog owners.

Don Caton

14 Holly St

Portland, ME 04103



Ethan Hipple <ehipple@portlandmaine.gov>

Baxter Woods Neighborhood Meeting

Ethan Hipple <ehipple@portlandmaine.gov>
To: Eva Humeniuk <evahumeniuk@gmail.com>

Mon, Apr 1, 2019 at 2:28 PM

Thanks for your comments Eva. I will share with the Parks Commission.

Take care,

Ethan

Ethan Hipple

Deputy Director

Parks, Recreation and Facilities Department

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www.portlandmaine.gov

Portland, Maine | Yes. Life's good here.

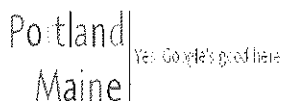
On Mon, Apr 1, 2019 at 1:09 PM Eva Humeniuk <evahumeniuk@gmail.com> wrote:

Hi Ethan, I won't be able to attend the neighborhood meeting on Baxter Woods but wanted to share my email thoughts and suggest a solution.

I walk through these woods quite often with my young children and pup. While, we have not had any bad experiences with dogs off leash I have no doubt others have.

One solution is that, perhaps the woods could have off leash "hours", similar to our beaches likes Willard. Perhaps a time early in the morning (before 7am) and evenings (after 7pm) dogs can be off leash but all other times dogs must be on a leash, (or whatever time everyone thinks is best).

Thank You, Eva



Ethan Hipple <ehipple@portlandmaine.gov>

Dogs in Baxter Woods

Ethan Hipple <ehipple@portlandmaine.gov>

Fri, Mar 29, 2019 at 12:54 PM

To: Michael Mertaugh <michaelmertaugh@gmail.com>

Cc: Sally Deluca <SLD@portlandmaine.gov>, "Waxman, Dory" <mermaidst@gmail.com>, Allison Carroll <acarroll@portlandmaine.gov>

Thanks Michael. Sorry to hear about the incident.

So the language we will use will be what is currently in Chapter 5 of City Code--we are simply proposing to move Baxter Woods from the "off leash/voice control" section (5.15-1(e)) to the "25 foot leash" section (5-15.1(c))
<http://www.portlandmaine.gov/DocumentCenter/View/1069/Chapter-5-Animals-and-Fowl---Revised-9182017>

See you on Thursday,

E

Ethan Hipple

Deputy Director

Parks, Recreation and Facilities Department

City of Portland

212 Canco Rd, Suite A

Portland, Maine 04103

207.808-5400

ehipple@portlandmaine.gov

www.portlandmaine.gov

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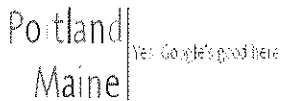
On Thu, Mar 28, 2019 at 1:37 PM Michael Mertaugh <michaelmertaugh@gmail.com> wrote:

Ethan,

I'd like to add my voice to the comments on dogs in Baxter Woods. I frequently ride my bicycle through Baxter Woods enroute to Pat's market on Stevens Avenue or the fish market on Forest Avenue. I was attacked by an off-leash dog there when I was bicycling on the path recently, and the dog owner limply explained: "I'm sorry, my dog freaks out over bicycles." I have seen many other examples of unwelcome behavior by dogs there.

I heartily support the proposed change, with a slight change in wording. I propose: "Dogs in Baxter woods are to be restrained at all times on a leash not exceeding 25 feet in length." This wording makes it clear that the dog owner is responsible for **restraining** his or her dog, which means much more than allowing any behavior within a 25 foot radius. We have all seen examples of aggressive behavior by dogs that are on leash but not restrained by their owners.

Michael



Ethan Hipple <ehipple@portlandmaine.gov>

Baxter Woods, Dogs, etc.

Ethan Hipple <ehipple@portlandmaine.gov>

Mon, Apr 1, 2019 at 12:59 PM

To: Adam Victor <adam_victor@yahoo.com>

Thanks for the comments Adam--I'll pass along to the Parks Commission.

We do receive a lot of citizen comment on off-leash dogs at Baxter Woods--more than for any other open space in the city.

I'll see you at the meeting, and hopefully can answer some of your questions there.

Take care,

Ethan

Ethan Hipple

Deputy Director

Parks, Recreation and Facilities Department

City of Portland

212 Canco Rd, Suite A

Portland, Maine 04103

207.808-5400

ehipple@portlandmaine.gov

www.portlandmaine.gov

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On Mon, Apr 1, 2019 at 11:21 AM Adam Victor <adam_victor@yahoo.com> wrote:

Hi, Ethan,

I understand you've received some complaints about unruly dogs in the Woods. I'd be curious as to the volume of complaints -- I've spent a good amount of time there myself (have lived in the neighborhood since 2003), and certainly have seen some rambunctiousness, excitement, and exuberance amongst the dogs — they are dogs, after all — but I've never witnessed danger, attacks, or people cowering in fear. I'm sure it's happened, but it's certainly not characteristic of the space, the dogs, the owners, or even the non-dog-owning bystanders (like myself).

I noted that this morning's Press Herald article does not reference dog attacks, danger, or anything of the like. It does mention that a pregnant woman was "nearly knocked over," and the owner wasn't "apologetic." OK...um...well, that doesn't really sound like a crisis. Also, some middle school students were "terrified" of dogs. That sounds more like a people problem than a dog problem.

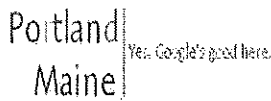
I understand the bird issues, but are we at the stage where if there are negative consequences for any person, or group of birds, we need to make this kind of change? A change that impacts not only the hundreds of dogs and taxpayers who enjoy the park daily, but also the surrounding community?

If you've ever been in Baxter Woods at 7 o'clock in the morning, there is life, there is conversation, there is joy, there is animation, and there is community. People who look out for each other and their dogs. And it is all incredibly enhanced by the untethered nature of both dog and owner.

The net effect of making this change will be a reduction in the park's usage. It will become more sparse, less trafficked, less safe, and less of a community gathering place. Is that what Portland citizens want? I hope not.

See you Thursday night, and thanks for your consideration.

Adam Victor
224 Coyle St.
Portland, ME 04103
207-766-6807



Ethan Hipple <ehipple@portlandmaine.gov>

Fwd: Baxter Woods concerns

Ethan Hipple <ehipple@portlandmaine.gov>

Thu, Jan 10, 2019 at 4:39 PM

To: Chelsea Malacara <chelsea.malacara@gmail.com>

Cc: Sally Deluca <sld@portlandmaine.gov>, Ethan Owens <eowens@portlandmaine.gov>, Matthew Coleman <mcoleman@portlandmaine.gov>, Joe Dumais <jdumais@portlandmaine.gov>, Jeff Tarling <jst@portlandmaine.gov>

Hi Chelsea,
Ethan Owens forwarded me your email...

Sorry to hear about your dog encounters at Baxter Woods. We are currently evaluating our leash policy at Baxter Woods. We do have a recommendation from our ecologist consultant that dogs be limited to on-leash so that we can comply with our deed restrictions to maintain Baxter Woods as a bird sanctuary. And anecdotally, we do receive many complaints of aggressive off-leash dogs in Baxter Woods. It is a complicated issue, with many emotions on all sides, so we don't take it lightly.

We will continue to evaluate the effectiveness of our current policy and report out to Parks Commission on any new recommendations. Ultimately, City Council would need to approve any proposed change to Chapter 5 of city code that regulates dogs on public property.

Feel free to let me know if you have any other questions or background info.

Take care,
Ethan

Ethan Hipple
Deputy Director
Parks, Recreation and Facilities Department
City of Portland
212 Canco Rd, Suite A
Portland, Maine 04103
o: 207.808-5400
ehipple@portlandmaine.gov

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----- Forwarded message -----

From: **Ethan Owens** <eowens@portlandmaine.gov>

Date: Wed, Jan 9, 2019 at 10:21 AM

Subject: Fwd: Baxter Woods concerns

To: Ethan Hipple <ehipple@portlandmaine.gov>, Joe Dumais <jdumais@portlandmaine.gov>, Matt Coleman <mcoleman@portlandmaine.gov>, Tarling, Jeff <jst@portlandmaine.gov>

For you guys

----- Forwarded message -----

From: **Chelsea Malacara** <chelsea.malacara@maine.edu>

Date: Wed, Jan 9, 2019 at 9:50 AM

Subject: Baxter Woods concerns

To: <eowens@portlandmaine.gov>

Good Morning,

I wanted to reach out as a member of the Deering Center community and a commissioner on the Portland Parks Commission. Last summer there was talk about monitoring bird activity in Baxter Woods and possibly reevaluating whether or not Baxter Woods should be an off leash park.

As a dog owner myself, I never bring my dog there. The amount of dog bags seems to pile up and of more concern is the number of times myself or my dog has been accosted by other off leash dogs who are not well behaved.

I am currently pregnant and went for a solo walk, without my dog, through the park this morning knowing it wouldn't be busy. While it wasn't busy, I had two scary dog encounters. The first, two dogs came running at me and one jumped high, nearly knocked me over, and scratched my leg. The owner nonchalantly said "yeah the black one still jumps" and kept walking. Then about 5 minutes later, another dog approached me growling, looking like it was ready to bite. Again, another unapologetic owner just said "he's fine."

As someone who is passionate about park preservation, accessibility, wildlife, and dogs, I am curious about what progress or conversations, if any have recently taken place about changing the status of Baxter Woods but also changing rules about off leash dogs and having some type of enforcement. I would be supportive of turning a portion of Baxter Woods into an dog park but as it stands, with such a small footprint and irresponsible dog owner, I don't understand why it's still off leash.

I hope you can shed some light on this matter.

Best,

Chelsea Malacara

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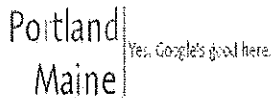
Ethan Owens CPRP, CPSI, AOLCP

Parks Assistant Director, Athletic Facilities and Playground/Courts Manager

City of Portland - Parks, Recreation and Facilities Management Dept.

212 Canco Road Portland, Maine 04103 ~ USA

207-808-5400 eowens@portlandmaine.gov



Ethan Hipple <ehipple@portlandmaine.gov>

Fwd: Baxter Woods

Ethan Hipple <ehipple@portlandmaine.gov>

Tue, Oct 10, 2017 at 5:15 PM

To: jackson.mcmann@maine.edu, Mike Murray <msm@portlandmaine.gov>

Hi Jackson,

Thanks for your inquiry. We have an ongoing city-wide park sign project, and Baxter will receive new signs as well. We developed special language for signs at Baxter to address dogs-at-large issues. They are currently in production at the sign company and will be up within a couple weeks of receiving them from the sign company.

Take care,
Ethan

Ethan Hipple, CPRP
Parks Director
City of Portland
212 Canco Rd.
Portland, Maine 04103
o: 207.808-5400
ehipple@portlandmaine.gov

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----- Forwarded message -----

From: **Mike Murray** <msm@portlandmaine.gov>
Date: Tue, Oct 10, 2017 at 10:59 AM
Subject: Fwd: Baxter Woods
To: Ethan Hipple <ehipple@portlandmaine.gov>

Can you reach out to Mr. McMann on schedule?

Mike Murray
Assistant to the City Manager
City of Portland
389 Congress Street
Portland, ME 04101
207.756.8288

----- Forwarded message -----

From: **Jackson McMann** <jackson.mcmann@maine.edu>
Date: Sun, Oct 8, 2017 at 6:47 PM
Subject: Re: Baxter Woods
To: Mike Murray <msm@portlandmaine.gov>

Good evening,

Today in Baxter Woods I witnessed a bike that was moving very fast hit a dog. The dog was a little shaken up, but overall both the dog and the biker were okay. There are still no signs up. Signs could have prevented that from happening today. Please let me know if you still plan on putting up signs.

On Mon, Sep 11, 2017 at 1:20 PM, Mike Murray <msm@portlandmaine.gov> wrote:
To All,

Parks staff has recently been meeting on this very subject and will be installing signs at both entrances to Baxter Woods outlining current policy and expectations.

Mike Murray
Assistant to the City Manager
City of Portland
389 Congress Street
Portland, ME 04101
207.756.8288

On Mon, Sep 11, 2017 at 8:28 AM, Ethan Strimling <estrimling@portlandmaine.gov> wrote:
Thanks for the note. I have cc'd staff to have them look into this issue.

On Mon, Sep 11, 2017 at 8:24 AM Jackson McMann <jackson.mcmann@maine.edu> wrote:
Good morning,

My name is Jackson McMann and I have lived in Portland for all 22 years of my life. First, I want to say thank you for your career so far as a public official for our wonderful city. You are representing us well, and many of us appreciate what you have done.

I am emailing you to bring to your attention a problem in the heart of Deering: Baxter Woods. This beautiful community area is full of good people and friendly vibes, but there have been some issues surrounding dogs there. Dogs are allowed off-leash here, yet some still get into disputes over how much "off-leash" is allowed. Many bikers and runners get frustrated with people who are just letting their dogs run around. There are also incidences of small children who do not know how to act around dogs (e.g. running around letting the dogs chase them and then screaming when the dog gets a little excited), thus further causing problems. I have yet to meet an unfriendly dog in this community. What I have met, though, is a woman who is terrified of dogs yet continues to walk through Baxter Woods yelling at dog owners to keep their pets away from her.

Baxter Woods is a convenient area for dogs and their owners to take a stroll through nature in a place that is more known for its city environment. Being dog-friendly is a staple of this neighborhood and part of what makes it such a family-centered community. What I am asking is that a sign gets put at the entrance of the woods. Something that gives a friendly warning about off-leash dogs in the areas. There is also a beautiful, on-leash cemetery across the street with plenty of walking/biking paths for those who do not want any contact with dogs.

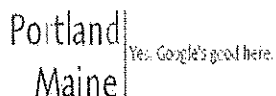
There is no reason that both bikers and off-leash dogs cannot get along. We each have to do our part by being aware of each other and properly training our pets. Either way, thank you for taking the time to read this.

Sincerely,

A Concerned Resident

—
Ethan Strimling
Mayor, Portland
389 Congress Street
Portland, ME 04101
207-874-8941

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Ethan Hipple <ehipple@portlandmaine.gov>

February with Parks, Recreation & Facilities

Stacey Dand <swd@portlandmaine.gov>
To: Ethan Hipple <ehipple@portlandmaine.gov>

Thu, Feb 16, 2017 at 3:19 PM

FYI, just a comment on Baxter woods

~~~~~  
Stacey Willis Dand  
Marketing Consultant  
City of Portland -- Public Assembly Facilities Division  
P: 207.808.5436  
E: swd@portlandmaine.gov

----- Forwarded message -----  
From: **Kevin Donoghue** <kjdonoghue@gmail.com>  
Date: Thu, Feb 16, 2017 at 1:36 PM  
Subject: Re: February with Parks, Recreation & Facilities  
To: "Portland Parks, Recreation and Facilities Department" <swd@portlandmaine.gov>

Love the newsletter. I've found Baxter Woods to be pretty poor for skiing with kids as it's essentially become an off-leash dog park.

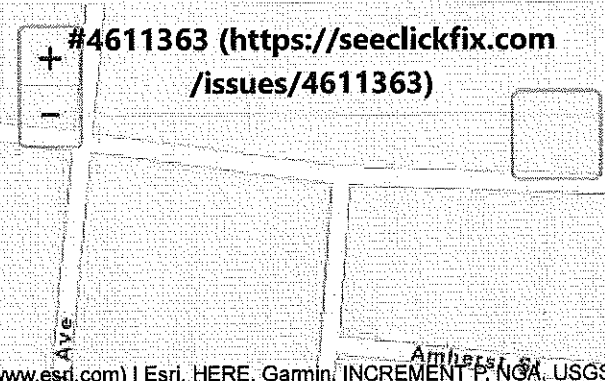
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This email was sent to kjdonoghue@gmail.com  
*why did I get this?*   unsubscribe from this list   update subscription preferences  
Recreation Department, City of Portland, Maine · 134 Congress St · Suite 2 · Portland, Me 04103 · USA

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**#4611363** (<https://seeclickfix.com/issues/4611363>)



www.esri.com) | Esri, HERE, Garmin, INCREMENT P, NOAA, USGS  
43.6726907770178, -70.2883749661866

**Replace Leash Law Signs!**

Created Date: 06/27/2018 1:16 PM

86 Concord Street Portland, Maine

**Details**

Replace Leash Law Signs!: I am a dog owner in Deering Center. I reported this issue last year and received no help. All of the leash law signs are either gone or illegible. Recently there have been several aggressive dogs off leash that have attacked othe...

*This request has no associated secondary questions.*

 1  2

## Comments

All

Public Only

Internal Only

Category:

**Replace Sign**

Recategorize

Status:

**Acknowledged**

Change Status

Assigned to:

**Public Works**

Assign

Due Date:

**07/19/2018**

Change Due Dat

SLA Expires at:

**07/19/2018**

Priority:

**Normal**

Prioritize

 (<https://seeclickfix.com/issues/4611363>)

## Status Log

**Opened:** 06/27/2018 1:16 PM**Acknowledged:** 06/27/2018 3:17 PM

## Integration Info

**Cityworks AMS****Next poll at:** in an hour**Status:** Succeeded**Remote ID:** 69152



**Concord St Resident**   
(<https://seeclickfix.com/users/1568725>) | Registered User

Opened

Replace Leash Law Signs!: I am a dog owner in Deering Center. I reported this issue last year and received no help. All of the leash law signs are either gone or illegible. Recently there have been several aggressive dogs off leash that have attacked other dogs, cats, and even children! This is no longer just a Baxter Woods issue, the majority of incidents that I have seen were near Concord/Norwood. Please put up new signs and replace the ones that are unreadable. If not, I fear that you will have a dead dog, cat, or even child on your hands. I'll look forward to seeing swift action. Thank you.

06/27/2018 1:16 PM



**Fix It! Portland**   
(<https://seeclickfix.com/users/873807>) | Verified Official

Assignment

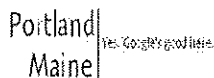
Fix It! Portland assigned this issue to Public Works

06/27/2018 3:17 PM

Check integration

1/11/2019

City of Portland Mail - Fwd: RE: Baxter Woods



Jeff Tarling <jst@portlandmaine.gov>

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**Fwd: RE: Baxter Woods**

1 message

Jeff Tarling <JST@portlandmaine.gov>  
To: jst@gapps.portlandmaine.gov

Fri, Jan 11, 2019 at 11:24 AM

>>> Randy Billings <rbillings@mainetoday.com> 4/15/2014 12:09 PM >>>

Thanks for forward, Jeff. But could you please forward the original emails? I would like to reach out to these people. If you need me to file a formal Freedom of Access Act request, I would be more than happy to do so; just let me know.

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**From:** Jeff Tarling [mailto:JST@portlandmaine.gov]  
**Sent:** Friday, April 11, 2014 12:20 PM  
**To:** Randy Billings  
**Cc:** Joe Dumais; Troy Moon  
**Subject:** Re: Baxter Woods

Hi Randy -

Attached our Mayor Baxter Woods park information, including the dedication plaque, MBW brochure which includes a brief description of the prescribed uses by the donor, Governor Percival Baxter, the 1936 Park map, & a draft of a possible new sign that could help educate visitors to the park (the sign mockup was donated by a frequent visitor to the park and dog owner / sign graphic professional).

Baxter Woods has a variety of uses / visitors including - hiking / walking, mountain biking, nature viewing of trees, flora & fauna; outdoor environmental education, and visitors with dogs. While all uses are up in Baxter Woods as it is in all of Portland's

1/11/2019

City of Portland Mail - Fwd: RE: Baxter Woods

park system, dog use seems to increased exponentially due to popularity. As with any use, for example if the current dog visits where switched with say mountain biking we would likely hear from dog walkers or other groups that there are too much of that activity. Problematic dog visits seem to be limited to small numbers but indicative of the overall use increase.

In the email below also included the requested recent complaints received. In a nutshell - the park has many types of uses and visitors. Mayor Baxter Woods is unique due to donor guidelines or conditions set in the deed to the City by Governor Baxter. "A sanctuary for Wild Birds" was one of the primary uses along with a "held in trust for the people of Portland as a Municipal Forest and Park for public recreational and educational purposes..." kept in a natural state and as a sanctuary for wild birds", the deed mentions use of pedestrians and horses in the use. (see the attached brochure)

I cc'd Troy Moon and Joe Dumais who may have more information on parks & policy etc. More details soon on our proposed public meeting.

Jeff

>>> Randy Billings <rbillings@mainetoday.com> 4/11/2014 9:43 AM >>>

Hi Jeff,

This is a follow-up to our conversation. If you could please send me whatever background material, including the complaints the city has received, about dogs in Baxter Woods, I would greatly appreciate it.

Randy Billings

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4/2/14

1/11/2019

City of Portland Mail - Fwd: RE: Baxter Woods

Jeff:

I hope the early spring is treating you well. I took my 6th grade students to Baxter Woods this morning and once again encountered the problem of many off-leash dogs. Many of our students who come from immigrant and refugee families are terrified of dogs. Extremely terrified of them. Despite my coaching every time we head to Baxter to stay still if a dog is coming at them, most run in fear and the dog chases them thinking it is a game. Once again, I had a boy in tears today, terrified, hiding behind a tree crying. I asked the seemingly oblivious dog owner to please keep the dog from chasing our students. I did not see any action on his part. There was a small girl walking the woods today with her family, huddling next to her mom scared when she saw a different pair of off-leash dogs in the forest. I saw these same dogs poop in the forest and the dog owner do nothing about it. Actually, he wasn't even watching the dogs as they were running in the direction of the family. Just about every time I take students to the woods we encounter these problems many times throughout the day, particularly with my morning classes. I understand it is difficult balancing the desires of dog owners with the other community uses of the space, however, I am wondering where the conversation is at regarding dogs in the woods. Is there an expectation that dogs need to be on-leash? If so, could we add some signage about this and enforce it? I would really like to use the woods this spring and want to find ways for it to be a positive experience for all of my students. Aside from the dog issues, the students had a blast today and asked to go to the woods for the rest of our science classes for the year.

Any help you could offer is much appreciated.

Thank you,  
6th Grade Science  
Lincoln Middle School

=====

12/15/13

Hoping you can help keep; there's talk in the Deering hood that the schools are attempting to enforce a leash law in Baxter woods. All of the doggy wood hood over here are concerned! These woods are our daily stomping grounds and we want to keep them leash free for our pups to pounce and play.

We've heard it's being sent to the council for a vote...could you message me when you see it up on the council agenda...we plan to organize against this.

Also, wondering if you could help guide me...I'd like to get a copy of Baxter's deed to the city for this patch of wood...how do I go about finding it????

=====

1/11/2019

City of Portland Mail - Fwd: RE: Baxter Woods

9/13/13

Hello,

I obtained your email from Jamie Parker, who was returning a message I left regarding my recent experiences at Baxter Woods park off of Forest Ave. He suggested I forward my comments and concerns to you.

I have been frequenting that park for about two years since moving to Portland. Since spring has arrived however, it has become more and more something of a glorified dog park where various breeds run around unleashed and well beyond the means of their owners reach. I usually visit with my 4 year old who is unfortunately terrified of dogs after having been bitten, yet even if she wasn't afraid, I myself would not like to be caught unawares by the several dogs who inevitably will run up to us while we walk the paths. Owners usually beckon their pets to no avail and they cannot grab them when they are 10-15 feet ahead and quite frequently sometimes show no wish to contain them. I almost always get the supposed reassurance that their dogs 'are really friendly' or that they 'love children'.

I must admit, it's not my desire to please strangers' dogs. For the sake of their happiness and freedom, my particular family, and I believe many others, are negatively affected while visiting what should be a peaceful slice of nature. The dogs eagerly sniff, lick, jump and prod. I am forced to quickly pick up my daughter as she freezes in fear and hides behind me. Sometimes with a drink in my hand or other items, this isn't possible and I shouldn't have to do this. I always immediately inform them my daughter is afraid of dogs and they usually apologize and maybe try to go after their dog, but the damage is done and increasingly my daughter is afraid of who's around the corner and I'm more and more angered, to the point I looked up the park website, obtained the number and left a message that Jamie kindly answered.

The rules of the park clearly state the dog must be leashed OR under voice command, which I take to mean heeding carefully their owner's commands. This is almost never the case. These are animals after all and are eager to explore, and who can blame them when their owners put their needs before other people. I don't believe Gov. Baxter intended these lands to be an animal park. It should be the exception not the norm to see an unleashed dog, especially throughout trails that meander and are sometimes well disguised with summer foliage.

My daughter and I love to identify plants, leaves and wild edibles and we're genuinely on edge to get on our knees and do so, when several dogs in a half hour period will come in contact with us in a way that invades our private time and personal space. It could be a small breed, but we have come across a Great Dane two weeks ago who was unleashed. It is extremely selfish and entirely intentional that owners unleash their dogs; the dogs are almost always leashed entering the park (of course due to traffic), they are then set free to have their fun once under cover of trees. There have been only two occasions where I have been upset enough to vocalize my feelings to the owners themselves and they weren't well received because for some reason it's seen as abnormal to not want to greet every unknown dog with cheer. Not everyone is a dog lover. Humans rights should come before animals. Again, if it was an occasional

1/11/2019

City of Portland Mail - Fwd: RE: Baxter Woods

occurrence I would not think twice, however my daughter has been enrolled in a local preschool, Roots-N-Shoots on nearby Clinton Ave. and part of their curriculum is to regularly visit Baxter Woods. I would be very angered to know that this is still an issue while toddlers are exploring the woods. There are several places in Portland where dog owners may take their pets for their pleasure. Not every natural space should automatically be one. It's not exclusive to Baxter Woods; even the Eastern Promenade is experiencing a lot of unleashed dogs running up and down the hills just adjacent to a children's playground. However, it's more of an issue when as I mentioned the trails and paths are significantly more hidden.

I appreciate your reading these concerns. If you would like to contact me for any reason, please do so here or at 978-489-4982. Thank you again.

Regards,

Yael

Staff writer

Portland Press Herald/Maine Sunday Telegram

Desk: 207-791-6346

Cell: 207-615-5271

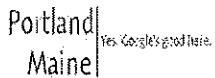
Twitter | Facebook

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1/11/2019

City of Portland Mail - Fwd: Re: Yes to dogs in the woods - an idea!



Jeff Tarling <jst@portlandmaine.gov>

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**Fwd: Re: Yes to dogs in the woods - an idea!**

1 message

---

Jeff Tarling <JST@portlandmaine.gov>  
To: jst@gapps.portlandmaine.gov

Fri, Jan 11, 2019 at 11:43 AM

>>> Ben and Shari Shambaugh <shambaugh@gwi.net> 5/5/2014 5:45 PM >>>

Hi Jeff,

As you may have noticed, Baxter woods is looking great these days. Dog owners are listening and they care about their woods, their city, and fellow Portlandians! I have a suggestion, which is to keep the rules as they are (allowing dogs off leash) and enforce them. At \$250 a fine for not picking up after your dog, the city staffer will pay for their summer job many times over -- and if the person shows up at random times and issues fines, people will get the hint. After a few summer months, it will not be needed any more and will not cost the city anything or take valuable city council and citizen involvement time!

At the same time, I would put signs and a trash can at the entrance most used by the neighborhood, the entrance on James Street.

Thanks for listening  
Ben Shambaugh

Feb 11, 2014 02:13:51 PM, shambaugh@gwi.net wrote:

>

Thanks Jeff. I just ran into our mutual friend Norm Buttrick who gave me the gist of what you said. Thank you for your care and oversight of the forests of Portland! I would enjoy a walk through with you some time. Let's try to find a time that works.

>

>

All the best,  
Ben Shambaugh  
761-1569

on Feb 10, 2014, Jeff Tarling <JST@portlandmaine.gov> wrote:

>

>

Hi Ben -

First, thanks for visiting 'Mayor Baxter Woods' so frequently, that is exactly the intent of Percival Baxter

<https://mail.google.com/mail/u/0/?ik=5cb7043df0&view=pt&search=all&permthid=thread-f%3A1622383044896611723&simpl=msg-f%3A1622383044896611723>

1/3

1/11/2019

City of Portland Mail - Fwd: Re: Yes to dogs in the woods - an ideal

and role of having a forest in the city.

In the past few weeks Forestry crews have been removing invasive Norway Maple trees in Baxter Woods. Our top two primary goals in managing the trees at Mayor Baxter Woods is safety and keeping the woods as 'natural' as possible. The tree removal mentioned targeted Norway Maples as they will tend to overtake or out compete the native Red & White Oaks, Yellow Birch and Beech trees. (They likely seeded into the park from trees planted along Stevens Avenue.)

Recently in January the students at McAuley High School began working on a survey for Hemlock Woolly Adelgid another exotic pest from 'away' that threatens our native Hemlock trees which make up the largest tree type in the woods. Unfortunately the pest was found the first day. Thus our work at removing the Norway Maples to remove the seed source to hopefully keep the Norway Maples from spreading into new areas if we loose our Hemlocks.

I would be glad to meet you at the park someday for a walk. Also attached some Baxter maps & information. The first one is the View of Deering from 1886 where you can see the old 'Forest Home', the 1932 map of the woods, 'Forest Home', our recent brochure of the park.

Thanks,

>Jeff Tarling

Info on Norway Maples -  
[http://www.na.fs.fed.us/fhp/invasive\\_plants/weeds/norway-maple.pdf](http://www.na.fs.fed.us/fhp/invasive_plants/weeds/norway-maple.pdf)

>

>>>> Cheryl Leeman <cal4161@yahoo.com> 2/7/2014 7:43 AM >>>

Good morning, Ben. thank you for your thoughtful comments regarding Baxter Woods. It is indeed one of the jewels of the city's park system By copy of this email, I am asking Jeff Tarling, City Arborist to respond to your concerns. Appreciate hearing from you. Best, Cheryl

>

>

On Wednesday, February 5, 2014 6:38 PM, Ben and Shari Shambaugh <shambaugh@gwi.net> wrote:

>

>Dear Cheryl,

Thank you for your continued great work on behalf of all of us!

I am writing with a question about Baxter Woods. Like many in Deering, I am in Baxter Woods not once but several times a day with my dog (walking or today on cross-country skis!). It is a treasure for the neighborhood and the city and for me a place of spiritual solace and connection with nature, neighbors, and new friends. I am pleased that Baxter woods is well cared for, with bridges, paths, and recently sand added when walkways were icy.

1/11/2019

City of Portland Mail - Fwd: Re: Yes to dogs in the woods - an ideal

My question is about a series of tree cutting over the past few weeks. I understand needing to thin for the health of the woods. This, however, seems excessive and contrary to Mayor Baxter's intention for this special place. I have looked and have found no notice or other explanation, only more and more red dots - an ominous portent of more cutting to come. Do you know what is planned? Is there anyway that this could be shared with the users of the park?

Thank you much. Hope to see you around.

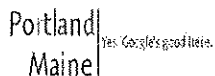
Ben Shambaugh  
147 Clinton Street  
761-1569  
(You may remember me as the dean from St. Luke's Cathedral)

>Notice: Under Maine law, documents - including e-mails - in the possession of public officials or city employees about government business may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested.

>  
>

1/11/2019

City of Portland Mail - Fwd: WHAT?!! no dogs off leash in Baxter Woods! What would Gov. Baxter say?



Jeff Tarling <jst@portlandmaine.gov>

---

**Fwd: WHAT?!! no dogs off leash in Baxter Woods! What would Gov. Baxter say?**

1 message

Jeff Tarling <JST@portlandmaine.gov>  
To: jst@gapps.portlandmaine.gov

Fri, Jan 11, 2019 at 11:41 AM

>>> Bonnie Washuk <bwashuk@sunjournal.com> 4/23/2014 12:06 PM >>>

Hi Jeff, After reading today's story in the Press Herald I emailed Leslie Bridgers. She gave me your contact email.

Like a lot of people, I take my dog, a black lab named Lucy, to Baxter Woods 3 or 4 times a week. Before I let her off leash I spent many hours training her. She's good with recall now, helped my the fact I always have treats in my pocket. (Lucy loves to eat.)

I do plan to speak or oppose plans to no longer let dogs off leash in Baxter Woods. Remembering how the late Gov. Baxter LOVED dogs, I'm guessing he would not approve of banning off-leash dogs.

I'm usually in and out of there in 20 minutes, quick, but I really love the ability to enjoy nature so close to home. The woods is very well kept, I do my part to keep it that way. (pick up always).

It's a great resource to let Lucy sniff and run free. We both enjoy mingling with other dogs and dog owners. From what I observe, it is a community of responsible dog lovers.

That said, there's always room for improvement. Not everyone picks up after their dog, which is wrong.

One day there was a class from the school, I called Lucy, leashed her until the little ones passed. A few Somali students seemed scared even though Lucy didn't do anything and was on leash. Other students came up and asked if they could pet her, which they did. If it's a culture issue for immigrant students, maybe they could be taught that dogs are pets here.

Anyway, can you keep me informed of when any meetings will be held?

I will probably share my sentiments with Mayor Brennan and councilors.

Many thanks,

Bonnie Washuk Zaccaro and Rick Zaccaro, 22 Aiden Circle, Portland.

Home: 773-3243.

Like Page

Responsible Dog Owners of Baxter Woods Dogs

November 5, 2018 ·

Posting to you all from Sarah Maloney: Good morning RDOOBWD!! Saw your post about german shepard puppies playing...lately I've noticed on several occasions out-of-control dogs who's owners do nothing to control them. I am a dog person, but last week one lunged at me aggressively and attacked my dog, and this AM an owner with two dogs did nothing when his dogs ruthlessly hounded mine when he was headed in opposite direction- he had no voice control over the dogs, and one of them made a point to turn back to attack mine several times- another friend reported she was also scared by an aggressively behaving dog towards her last week...we need to make sure the woods stay safe for all, and being able to be leash free doesn't mean your dog can act all wild and crazy...if I post this I'll be a nag, but maybe you guys could put in a public service announcement for well-controlled and well-behaved dogs in the woods?? Thank you!!!

Liz Miraglia McGranahan Unfortunately that's the risk you take when taking dogs to unleashed dog parks, which Baxter Woods is not, by the way

2

Manage

LikeShow more reactions

· Reply

· 10w

Responsible Dog Owners of Baxter Woods Dogs Liz, Baxter is indeed for unleashed dogs.

Manage

LikeShow more reactions

· Reply

· 4w

Write a reply...

Jenny Siler Thank you Sarah Maloney!

Responsible Dog Owners of Baxter Woods Dogs

August 31, 2018

This from Jeremy, a fellow dog walker:

"I don't think there's anything that can be done but I'm noticing a fair amount of unfriendly leashed dogs in Baxter Woods. I appreciate that they're leashed but I'm constantly forced to grab my dog and leash him up so he doesn't get bit by a dog that probably shouldn't be taking walks in an off leash dog park."

[ DEAR WALKERS - I've heard this comment from a few people. First, be glad they're LEASHED. It's the unleashed ones with disagreeable owners that are worrisome. Yelling at them just makes it worse. Maybe first ask them to control their dogs, then asking that they be more considerate. READERS, HOW HAVE YOU HANDLED THIS SUCCESSFULLY?]

Gini Monsell I've heard this said by so many people, but Baxter woods is NOT an 'unleashed dog park'. We are lucky enough to be able to use it as such, but there are stipulations to the rule. Unleashed dogs MUST be within 50 feet of their owner and must be under STRICT voice control. If you are following these rules, one shouldn't have to 'grab my dog and leash him so he doesn't get bit.' Everyone in the neighborhood has the right to use that park. It is not intended for the use of unleashed dog walkers only. It is also for the local schools, walkers, bikers, cross-country skiers, etc. and they all have a right to enjoy it without being disturbed by off leash dogs and their poop. This "It's an unleashed dog park, don't come here if you don't like it" mentality is going to ruin it for us all one day. (I'm sure this comment won't win me any popularity contests in this group but oh well, its the truth lol).

5

Manage

LikeShow more reactions

• Reply

• 19w

Judy Ann Haas Yes! My thoughts exactly. Well said.

1

Manage

LikeShow more reactions

• Reply

• 19w

Gini Monsell \*\*\*Also: a dog with leash aggression towards a loose dog running up on them, doesn't mean the dog is unfriendly. Furthermore, some people keep their dogs leashed not because the dog is aggressive, but because they dog is a runner. Either way they still have a right to be there.

6

Manage

Like

• Reply

• 19w

Jeremy Conn I understand all these factors they weren't relevant to my experiences however

Manage

LikeShow more reactions

• Reply

• 19w

Paula Gates I no longer live in Portland but when I did I was deeply grateful for a place like Baxter Woods. Having to call my dog in a couple of times during each walk seemed an acceptable price to pay for such a treasure of a place.

I have a pitbull and often called her in simply to allow others who seemed uncomfortable to be comfortable again...who wants to rock such a lovely boat

2

Manage

LikeShow more reactions

• Reply

• 19w

June Delano Many dogs (including mine) only bark aggressively when leashed. Hopefully, people will have patience (and remember that our wonderful pets are also territorial canines.)

1

Manage

Like

• Reply

• 19w

1 Reply

Mike Margate Been going there for years until recently. Went today and saw a sign for leashed dogs. When did that happen?

Manage

Like

• Reply

• 19w

Responsible Dog Owners of Baxter Woods Dogs Mike - Leashed or voice-controlled dogs has always been the rule. The signs are new.

Responsible Dog Owners of Baxter Woods Dogs

January 12, 2018 •

Spooky morning at Baxter! Plus lots of poop to pick up. Please, please pick up any you see, in addition to your own dog's. It's pretty disgusting to be dodging it on the path.

And my two dogs each brought me a dead squirrel within 5 minutes of each other. Thoughtful. They didn't have wounds but I'm thinking they froze to death and fell.

Dogs and hysteria

People, I think it's time to bring it down a notch. And especially, we should not be doing it in this forum. Keep in mind that we two-leggeds do a lot more damage to each other than the dogs



ever do.

We're all grateful for a respite from the world that's offered by Portland's parks. I'm in Baxter Woods frequently and find that HUMANS go there for community, and for their dogs. Over the years I've met a lot of nice people --and dogs-- and have made a few friends. 99% of the time all goes well and often dog owners will gently remind others of the need to pick up or to watch their dogs. Some of us control our dogs too much, others are more generous both with dogs and others. We humans all need to do a better job being responsible. Let's not make this another us-versus-them situation.

26 Feb 17 · 19 neighborhoods in General  
ThankReplyReply

Andrea Gaines  
Andrea Gaines, Deering Center · 26 Feb 17  
Thanks, Dawn. You speak very well to the issue.

Ron Harrity  
Ron Harrity, Deering Center · 26 Feb 17  
Respectfully, I can't think of a better use of this forum than to discuss our shared green spaces.

Robyn Brown  
Robyn Brown, Deering Highlands · 26 Feb 17  
This is the appropriate forum to serve as a reminder that there is a leash law in Portland. It is also required that you pick up after your dog.

Andy Graham  
Andy Graham, Rosemont · 26 Feb 17  
As has been stated before, Baxter Woods and Capisic Pond Park are two of the very, very few places that dogs can be off-leash legally in Portland.. Robyn, while there may be a leash law in Portland, dogs are allowed off-leash while under voice control in both of those places. There are many, many, many acres of public space available for you folks who are timid around dogs - please leave those of us who are responsible dog owners those few spots we have left. Help us police irresponsible dog owners, but don't insist on regulating every public acre in Portland.

Kevin T. Cole  
Kevin T. Cole, Oakdale / USM · 26 Feb 17  
Baxter Woods is a designated off-leash area. We still must pick up after our dogs.

Dawn Leland  
Dawn Leland, Rosemont · 27 Feb 17  
I could have stated my initial comment better -- discussion, yes, but not mean-spirited,

us-vs.-them comments that I felt were not productive.

Lorrie Ferrari

Lorrie Ferrari, Rosemont Triangle-27 Feb 17

I have always lived with dogs and never expected tax payers to provide for them - there are 2 dogs parks (I also don't use them but they do exist) and I don't feel that my dog or myself have the right to limit others enjoyment of public spaces because they are afraid of dogs and packs of dogs. Unfortunately "responsible" doesn't mean the same thing to everyone but I'm sure none of us wants our dog harmed or killed by a responsible dog owners dog

mary emmons

mary emmons, Valley-27 Feb 17

I was walking my 2 little dogs the other day (on leash and poop bags in hand) in the city. as I was walking by a gentlemen he tried to kick my dog which was doing nothing. As I have said portland is becoming very unfriendly to dogs. He is very lucky I just called him alot of vulgar names. As a taxpayer in Portland and paying way too much in taxes etc . I find portland is not a nice place to live anymore. I respect people who dont like dogs but I also would like them to respect me and my dogs. As far as dog parks they are over crowded and dangerous for my little ones. We need more open spaces for our pets. As a TAXPAYER who pays alot I would like a little open space to let my dogs be free if only for a few minutes . I try to get to ocean ave once in awhile but it is hard for me to get there. Sooo respect goes 2 ways

Sarah Maloney

Sarah Maloney, Deering Highlands-27 Feb 17

Hello neighbors, I'm saddened by the comments in this feed and the un-neighborly feel of several of them- As a dog owner I greatly value Baxter Woods for what it offers me: a safe and beautiful space to allow my young dog to run free which aids greatly in his overall demeanor and my ability to own him and have him as a companion.. I also typically go between 6-7 AM or late in the day when no one is really there except the regulars. He is not aggressive towards anyone and ignores humans completely. I do understand however that this is not a DOG park, this is a city park, and perhaps it will become necessary at some point to create dog walking hours similar to Willard Beach and other shared human/dog spaces. One thing that would really help in the park is more containers to dispose of poop, IMO- I try to be hyper vigilant about where he goes and will frequently go off trail to tromp after his toileting to get it picked up- but it is a HUGE problem, agreed. I would hope as this discussion continues that this not become and us versus them between dogs and humans, again, it is a city park and as a dog owner in the neighborhood I thank my lucky stars it exists and would hate for it to go away.

Kevin T. Cole

Kevin T. Cole, Oakdale / USM-27 Feb 17

My sympathy for those with an irrational fear of dogs was destroyed when I was physically assaulted and injured by a person with such a fear. It's really a mental health issue and should be treated as such.

The only reason there is a taxpayer cost for dogs is because our city has decided to have a leash ordinance, which resulted in demand for creation of off-leash areas and dog parks. When I was a child in Portland, neither existed. Dogs roamed free. The biggest issue with that seemed to be that dog poop showed up on lawns--big deal. Now, the only place in Portland where I am allowed both to let my dog run free and to smoke a cigar is the forest behind Evergreen Cemetery.

Portland has changed a lot.

Bringfido.com

Baxter Woods

555 Stevens Ave, Portland, ME, US, 04103-0000

Share

Save

Website

Reviews

Directions

Or call (207) 874-8801 for more information.

Description

Baxter Woods is a forested retreat in the midst of residential neighborhoods where you and your dog can enjoy a stroll along the primary or secondary trails. Dogs must be leashed at all times and humans must clean up after their dogs.

Reviews

BringFido Traveler Rating

Baxter Woods has received a rating of 4.0 out of 5 bones by 1 dog owner on BringFido.

Gwen

More than one year ago.

We like it!

This park has a bunch of trails and an open space for dogs to romp. It is off leash, but make sure dogs are close when there are small children around as kids love running up to try to pet

my dog and I have to tell them not to. During the week it is pretty quiet and that's when I usually go.

Gayl Anglin

December 10, 2018 ·

Dear People that walk your dogs in Baxter Woods:

PLEASE put them on a leash. This morning was the second time in a month that I became part of an improptu dog rescue of someone's baby that took off on a wild run. And while I get that they may "never do this," all it takes is one time for them to get hit by a car. The dog this morning barely missed getting hit, save for me running out into the street to wave my arms frantically at the car who slowed and swerved at the last minute. This is an urban park and your babies need to be on leash.

Signed: Your neighbor and fellow dog lover

1515

7 Comments

Like

Share

Comments

Margie Arnett

Margie Arnett People refusing to use leashes drive me NUTS!

Manage

Like

· 5w

Alicia Hicks Olsen

Alicia Hicks Olsen First rule of owning a dog. Never say never. They will prove you wrong.

Manage

LikeShow more reactions

· 5w

Kayla Cavallaro

Kayla Cavallaro YES. omg YES

Manage

LikeShow more reactions

· 5w

Christine Lashua

Christine Lashua Hi, can you set it up so that I can share this. So important.

1

Manage

LikeShow more reactions

· 5w

Gayl Anglin

Gayl Anglin Yes!

Manage

LikeShow more reactions

· 5w

Penny Von Helmolt

Penny Von Helmolt Good work as usual Gayl. I remember you crawling on the 10 Freeway in LA- rescuing a poor little fellow. Bravo!

1

Manage

LikeShow more reactions

· 5w

Gayl Anglin

Gayl Anglin Ha. Those were the (crazy) days.

Responsible Dog Owners of Baxter Woods Dogs

June 13, 2018 ·

Does anyone know details of a rumored "bike camp" that may include Baxter Woods?

New signs are there at entrances. Oddly they do NOT include any "no smoking" notice. Again today we spotted a young woman smoking and politely said to her that it was not allowed. She kept on walking. What is it about timber and dry leaves that smokers don't get?

Responsible Dog Owners of Baxter Woods Dogs

June 4, 2018 ·

Does a poop bag in COLOR left on the path for a walker's return-trip pickup, more incline you to take it to the trash? Just wondering.

Also, found leash. \*\* Not- purple poop bag was pictured under this post\*\*

my note

Responsible Dog Owners of Baxter Woods Dogs

May 18, 2018 ·

Rochelle sent this 5/15:

This morning we noticed a Maillard duck family with very new tiny ducklings in Baxter pond [near Forest Av.]. They are very vulnerable in that small pond and helpless if dogs go after them. I'm hoping you can post something letting people know about them so they don't allow their dogs to harass them. Last spring, I witnessed people laughing while their dogs swam around chasing ducks in that pond.

I know someone else who witnessed teenage boys throwing things at them early this evening. She has called Maine Audubon about it.

Anyway thanks for listening and I hope you have time to ask people to keep their dogs out of the pond.

5/18: Unfortunately, I think they have already been eaten. We checked on them this morning. Dad was alone and then flew away while we walked around the pond looking for mom and babies.

Responsible Dog Owners of Baxter Woods Dogs What time was it that you saw these critters? Would love to time my walks to see them (dogs on leash of course).

Manage

Like · Reply · 34w

Liam Sullivan

Liam Sullivan I saw the 10 baby ducks tonight around 6pm with the mother duck. They are pretty amazing creatures and we are lucky to have them in our neighborhood

1

Manage

Like · Reply · 34w

Responsible Dog Owners of Baxter Woods Dogs

Responsible Dog Owners of Baxter Woods Dogs Oh good!

Manage

Like · Reply · 34w

Liam Sullivan

Liam Sullivan Update: Asher and I saw the ducklings this morning with what I am assuming are their parents; 1 duck and 1 drake. They look like they are healthy, growing and noticeably a lot more independent, but I only counted 8 ducklings today. Okay; back to work!

Responsible Dog Owners of Baxter Woods Dogs

March 19, 2018 ·

Way too much poop on the path, folks. Watch what your dog is doing!

How much more trouble would it be to just type two letters "th" instead of ' ' ?

Responsible Dog Owners of Baxter Woods Dogs

Responsible Dog Owners of Baxter Woods Dogs Of course the problem is how police are distributed in the community-- dog poop isn't high on the list. The park rangers do come in periodically but there aren't enough of them either to be everywhere, all the time. Just reality in what is not a police state. Luckily, emergency calls (see previous post) do get a quick response.

1

Manage

Like · Reply · 43w

Debra Ann Flynn

Debra Ann Flynn if people truly got fined for not watching their loose dogs, having no control of them in attack mode or for their waste I think all the parks would be better :)

Responsible Dog Owners of Baxter Woods Dogs

March 11, 2018 ·

Someone added a smile to the snowperson! Good idea. Except that another storm is due Tuesday. No smile for that. A few determined daffodils are peeking through the melted areas elsewhere.

A sudden flurry of people occurred, some having forgotten the time changeover. Two girls had to be told (nicely) not to smoke in the woods. Fire's unlikely now but the place is full of pine pitch AND smoking in parks is illegal.

A person came with a small female dog in heat, running loose, causing a brief rumble among the males. A couple people pointed out it's not a great idea to bring her loose like that, both for the dog's safety and to avoid a fight. Owner just ignored it all and walked on.

Responsible Dog Owners of Baxter Woods Dogs

March 10, 2018 ·

Dogs found a newly killed squirrel on the path. They were curious. I took it and stashed it under some logs. Then Joe ran back, dug it out, and went to a new location and dug a new hole, dropped in the squirrel, and covered it, using his nose in lieu of the missing front leg. Then he came back to me. What IS that? Reverence for the dead? Saving for a snack later? A commentary on my choice of burial?

# Complaints rising over unleashed dogs in Portland's Baxter Woods

[pressherald.com/2014/04/23/a\\_controversy\\_unleashed\\_/](http://pressherald.com/2014/04/23/a_controversy_unleashed_/)

By Leslie Bridgers

April 23, 2014

It takes only a short stroll into the trees from the entrance on Stevens Avenue to see who rules Portland's Mayor Baxter Woods.

On Tuesday afternoon, dozens of dogs romped through the park, some sprinting down the trails, a few fetching balls in a field and others ambling by their owners' sides – almost every one without a leash.

## Additional Photos

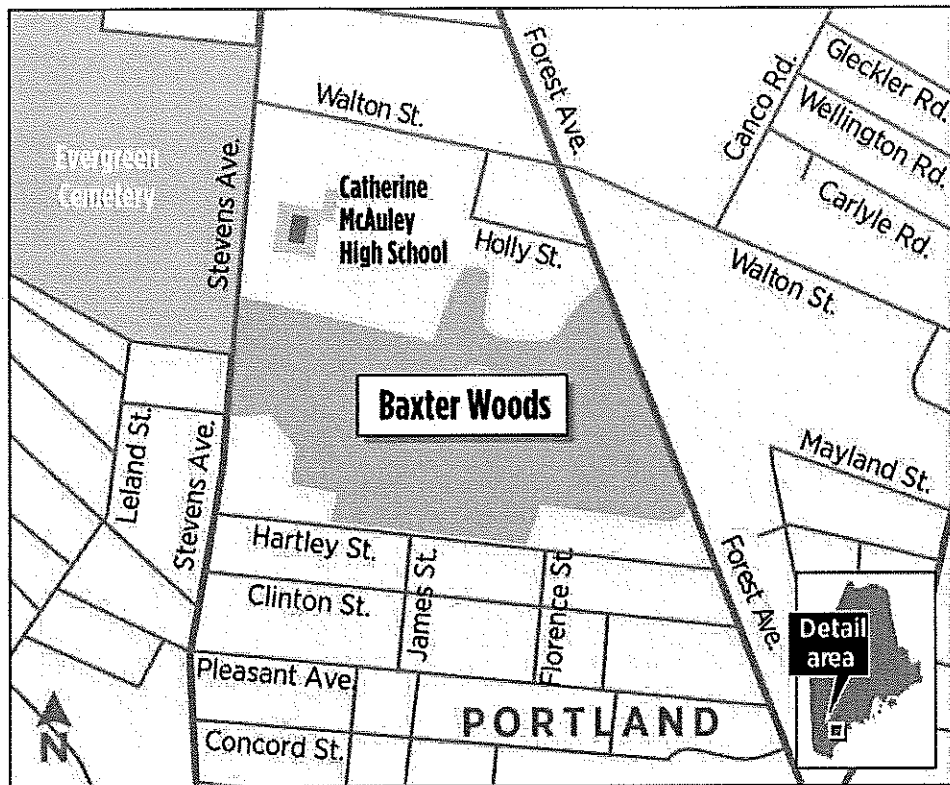


Moriah Duval of Portland walks her dog Penelope, center, and a friend's pooch, Kyra, during a visit to Mayor Baxter Woods in Portland on Tuesday. Dogs are allowed off-leash in the park if they're under voice control, but some visitors to the woods complain about the effect loose dogs can have on children and others. Shawn Patrick Ouellette/Staff Photographer





Tammy Riley of Portland walks her dogs Noelle, left, and Sophie off leash during a visit to Baxter Woods on Tuesday. City officials say they want to balance the needs of all of the park's users. Shawn Patrick Ouellette/Staff Photographer



STAFF GRAPHIC | MICHAEL FISHER

Dogs may not rule for long, however.

Complaints that loose dogs have chased and frightened children, among other things, have thrust the popular park into the recurring conflict between dog owners who want their pets to run free and people who, for various reasons, prefer them on a short leash.

The city is about to post signs and hold a meeting to warn dog owners to be respectful of other park users. If those efforts don't work, the signs warn, the city could require leashes in Baxter Woods.

While officials hope to avoid it, similar conflicts have escalated into culture clashes over dogs' access to beaches, parks and other public areas, dividing neighborhoods and communities in southern Maine, including in Portland and South Portland.

Most recently, dog owners in Scarborough forced a special election to overturn leash rules adopted to protect shorebirds such as piping plovers, one of which was killed by an unleashed dog on Pine Point Beach last summer.

The number of dogs in Baxter Woods has been on the rise since Portland banned dogs from Western Cemetery in 2001, the outcome of an early and bitter clash between pet owners and those who felt overwhelmed by loose dogs.

The number of complaints about dogs in Baxter Woods has risen, too, said Jeff Tarling, the city's arborist.

Dogs are allowed off-leash in the park if they're under voice control, Tarling said, but people's definitions of voice control vary. City code says an off-leash dog in Baxter Woods, or any other public area where leashes are not required, must be within 50 feet of its owner and immediately return to the owner's side when called.

Although dogs that use the trails regularly far outnumber the people who are opposed to them running loose, Tarling said, everyone should be able to enjoy the park peacefully.

"We're just looking at this to be so that all visitors have the same experience," he said.

Within the next month, the city plans to post signs at the park's four entrances and hold a public meeting to make dog owners more aware of the effect their animals can have on other people in the park.

That includes Yael Ashtari's 4-year-old daughter, who has been scared of dogs since she was bitten by one.

"The dogs eagerly sniff, lick, jump and prod. I am forced to quickly pick up my daughter as she freezes in fear and hides behind me," Ashtari wrote in a letter to the city in August.

Robin Lea, a sixth-grade science teacher at Lincoln Middle School, wrote to Tarling this month, saying she had taken students to nearby Baxter Woods "and once again encountered the problem of many off-leash dogs."

Lea said her immigrant and refugee students are particularly scared of the dogs – presumably because they're not familiar with them as pets. Many Muslims consider dogs unclean and avoid them.

Despite Lea's instructions for her students to be still, she said, "most run in fear and the dog chases them thinking it is a game."

And that could cause more than tears.

Two years ago, Tarling said, a middle school student who was running through the woods with the cross-country team was bitten by an unleashed dog.

There's no mention of dogs in the terms laid out by Percival Baxter in 1946, when he conveyed the 30-acre park to the city in honor of his father, James Phinney Baxter, a former Portland mayor. Rather, he deemed it a place for recreation and education, as well as a sanctuary for birds.

"There's no question it's probably not a place that birds are going to find inviting right now," Tarling said.

Before requiring leashes for dogs in the woods, he said, the city will try to educate dog owners and balance the needs of the park's various users. He hopes people will start policing themselves.

Baxter Woods is not yet a battleground similar to Scarborough's beaches, but David Victor can see the same thing happening if the city considers a leash requirement.

"People would come out," he said. "It would be like Scarborough."

Victor has been bringing his black Lab, Lily, to Baxter Woods twice a day for 10 years. Because of her taste for other dogs' excrement, he keeps her on a leash. But that doesn't mean he's fine with a leash requirement.

He fears that people who want to let their dogs run loose would stop coming, and the character of the park, as a place for dog owners to meet and mingle, would change completely.

"There's community here," he said.

*Leslie Bridgers can be contacted at 791-6364 or at: [\[email protected\]](#)[\[email protected\]](#)Twitter: [@lesliebridgers@lesliebridgers](#)*

# Friends of Mayor Baxter Woods (BW) Leash Law Proposal Responses

The Friends of Mayor Baxter Woods group is submitting this document to provide new information to Councilors and City Staff regarding the City's leash law proposal, and in particular, our responses to the reasons why City Staff is asking Council to revise the leash laws in the City Code only for BW. We ask you to review the data we have collected, and to consider the gathering of more information to determine what is actually happening in BW before the proposed ordinances changes are enacted into law.

## Table of Contents

- Page 2:** Executive Summary that includes our suggestions to modify the City's leash law proposal
- Pages 3 – 12:** Full Responses to City's leash law memo and reasons cited by City Staff for leash law
1. Complaints: Pages 3-4
  2. Bird Habitat: Pages 5-8
  3. Other Places to walk dogs off-leash: Pages 8-9
  4. Deed Issues: Pages 10-12
- Page 12:** Our Final Thoughts & Suggestions
- Pages 13 – 15:** Summary Bird Count Data compiling the City's reports and relevant eBird.com data

## References

1. Please refer to the 33-page document packet handed out at the 1/15 S&T Comm. Mtg. that includes: Our Case for more study of BW; a PowerPoint Slide Deck; the Deed; our essay about Gov. Baxter, 1946 Press Herald articles about BW; supporting documents on the bird counts/comparison charts, our request for a delay in the process, and our presentation at the 1/15 Committee Meeting
2. Visit our Friends Group's website at [www.baxterwoodsfriends.com](http://www.baxterwoodsfriends.com) for more information about Mayor Baxter Woods, Gov. Baxter and his legacy, and the City's leash law proposal.
3. Gov. Baxter's book "My Irish Setter Dogs" can be accessed here:  
<https://babel.hathitrust.org/cgi/pt?id=loc.ark:/13960/t88g98v5n&view=1up&seq=1>  
Our essay about Gov. Baxter and his Legacy: <https://www.baxterwoodsfriends.com/baxters-deed.html>
4. The City's leash-law documents (Memos, the Management Plan, FFMB, etc.) for the 1/15/20 S&T Comm. meeting: <https://portlandme.civicclerk.com/Web/Player.aspx?id=1203&key=-1&mod=-1&mk=-1&nov=0>,  
7/18/19 Parks Comm.: <https://portlandme.civicclerk.com/Web/Player.aspx?id=95&key=-1&mod=-1&mk=-1&nov=0>,  
4/4/19 Parks Comm.: <https://portlandme.civicclerk.com/Web/Player.aspx?id=92&key=-1&mod=-1&mk=-1&nov=0>
5. Journal of the American Medical Association study on senior injuries related to leashed dog walking:  
<https://www.mnn.com/family/pets/stories/seniors-dog-walking-study-tips-avoid-fall>
6. Reporting on ticks and tick borne diseases: <https://www.pressherald.com/2020/01/03/tick-borne-illnesses-lyme-anaplasmosis-increased-in-maine-in-2019/>

## **Executive Summary – Friends Group Responses to the City’s Baxter Woods (BW) Leash Law Proposal**

The Friends of BW kindly asks City Council to delay the final vote on this proposal so that City Staff, in collaboration with our group and other members of the community, can collect all the data, work on strategies to identify and resolve issues, and produce a workable and acceptable plan for Council to consider. We pledge to work in consort with City Staff, offering a committed group of volunteers to assist in collecting data. It is our belief that together we can come up with a better proposal, one that will be accepted by the entire community that reflects collaboration rather than conflicting presentations.

### **A. CITY’S REASONS FOR THE LEASH LAW & OUR RESPONSES**

#### **1. Complaints against off-leash dogs – Pages 3-4**

- We recognize issues exist (everywhere); request delayed leash law; collect data, develop plan
- Most complaints internal to City Staff, from years back, no City enforcement/education efforts
- Staff ignored 430+ surveyed by Friends group (98% support daily off-leash hours)

#### **2. Bird Habitat impacted by off-leash dogs – Pages 5-7**

- No evidence of any “negative impact” by dogs, conjecture only; bird population is healthy
- City Memo and presentations misrepresent information from its Management Plan
- City did not follow their own Management Plan’s guidance – “Societal Considerations”
- City’s Management Plan lists natural reasons why BW is not a suitable habitat for nesting birds

#### **3. Other “more appropriate” places in Portland to walk dogs off-leash – Pages 8-9**

- The health of our established community in BW will be negatively impacted by the leash law
- What about the other places? They are all less safe, less accessible and further away than BW
- City says BW “sanctuary” should be “on-leash”; Robinson Woods & other places allow off-leash

#### **4. City may be in violation of the 1946 BW Deed – Pages 10-15**

- City did believe it was out of compliance initially. Does it still?
- What was the intent of the words in the 1946 Deed? Gov. Baxter’s actual words as a guide
- Again - the actual bird count data show that BW is a fine “sanctuary for wild birds” already!
- If leash-law passes as it stands now, then the City WILL be out of compliance with the Deed

### **B. THE CITY’S LEASH LAW PROPOSAL & OUR SUGGESTED MODIFICATIONS**

#### **1. On-leash only from April 1<sup>st</sup> through July 31 annually**

- Strike this section or amend to annual off-leash hours (See 2.), bird populations are healthy

#### **2. Off-leash hours from August 1<sup>st</sup> to March 31<sup>st</sup> annually (off-leash 5am-9am and 3pm-10pm)**

- Suggest amending this section; add 2 hours of off-leash hours as follows: 5am-10am, and 2pm-10pm off-leash hours to accommodate night workers, elderly walkers and stay-at-home parents

#### **3. Establish 5.5 acre “Bird Habitat Restoration Area” (BHRA) in NW corner of BW (fenced and log/brush\_barrier)**

- This section, if enacted as drafted will put the City in the position of being out of compliance with the Deed – where BW is not “kept in a natural wild state” as required in the Deed
- Additional compliance issues - pedestrians “undisturbed”, “no fancy works”, no “landscaping”
- At a minimum, the BHRA should be delayed until the five-building construction project immediately adjacent to the proposed BHRA is completed.
- See Pages 10-12 for more information on the Deed and Gov. Baxter’s timely, written guidance

## **Friends of Baxter Woods – Responses to the Parks Department’s Reasons for the leash law**

In its Memo dated December 2019 – the City presents four “reasons” for its BW leash law proposal, and seeks enactment of the ordinance by April 1, 2020. Below is our feedback to those reasons – none of which we believe rise to the level of requiring the changes to City Code that Staff are seeking.

Further, we also believe this is an unnecessarily quick turn-around time for City Council to review the data presented and consider whether there truly is a justification for this action right now. City Staff noted at the 1/15 S&T Committee meeting this is not an emergent situation requiring expedited action by the Council. We contend the City does not make its case for the ordinance changes. More data should be collected, and the current proposal be put on hold until all of the relevant data is gathered and considered ahead of any ordinance changes being made to the City Code. Here are our responses to the City’s reasons as listed in the December 2019 Memo.

### **1. COMPLAINTS AGAINST OFF-LEASH DOGS**

The first reason for enacting the new leash law (cited by City Staff) is based entirely on complaints about “packs” of unruly dogs.

**A. We are ready to work together to identify the issues at hand!** We recognize that some situations around dogs create anxiety for people, and to that end, the Friends of Mayor Baxter Woods is ready to work with City Staff and the community to gain a better understanding about why some people avoid BW because of the long time (>65 years!) off-leash dog activity there. The Friends of Baxter Woods group kindly requests that Council grant it more time to work with all affected parties (teachers, kids, daycare operators, etc.) at determining what the problems truly are, and to work together to develop a plan that resolves all the perceived issues. We therefore ask for a delay in the implementation of the proposed leash law so that City Staff, our group and others can coordinate the collection of data (interviews, surveys, monitoring, etc.) and put a plan into action. The City has a resource in our Friends group of hundreds of potential volunteers, who are people committed to making BW a safe and welcoming place for everyone.

**B. Complaints** - Were daycare and school groups really “turned back” from BW because of “unruly dogs”? (*City Memo – p.2*), or did something different happen? Our group has communicated with staff from local Daycare Centers and a Lincoln Middle School teacher, all who visit BW with students – none of whom have ever been “turned back” or denied access to BW by dogs! This alarming accusation made in the City’s memo is not supported in any of the complaints – whether prior to or after the leash law was initially proposed. Our interactions with educators and daycare operators - who regularly use BW without incident and love the park setting, report having positive interactions between their kids and dogs. The science is clear on how dogs have a therapeutic effect on most people, and can enhance the overall educational and developmental experiences of children. We believe this is something to build on and develop, not limit, restrict or rescind.

One Lincoln Middle School teacher we contacted, who wished to remain anonymous regarding her original complaint from 2013 about dogs interrupting her classes’ visits to BW, never intended for the City to enact a leash law in BW because of her complaint. Rather, she hoped that City Staff would help get the word out to BW dog owners to help steer their dogs away or leash pets during her class’ visits to BW. **This is something that our group would love to work on with educators and others.** We strongly believe that together we can effectively resolve any issues identified without a change to the City ordinances. We are eager to work with City Staff (Parks Department, Portland Schools, etc.) to establish an effective policy that will allow all BW Park users to feel safe and still enjoy all the forest has to offer.

Outreach to the Police Department recently disclosed that the PPD has no record of any problems in BW. Even Parks Staff admits that no tickets or citations have been issued in BW for any dog -

related violations in many years. **If BW has been this unsafe place, where unruly dogs are repeatedly threatening children – surely the City would have acted in some way to protect its citizens – long before seeking a change to the City Code leash law ordinance.** However, in fact – City staff has done little or nothing to change behaviors in BW, other than place a few signs asking for dog-owners to be respectful of others who use BW.

Did the City boost enforcement in BW or monitor activity in any way? The answer is **NO!**

Did the City host a public forum to educate the users of BW about the issues? **NO!**

Did the City meaningfully inform the community about the supposed public safety issues? **NO!**

Did the City work with the users of BW in any way to problem-solve solutions prior to seeking a leash law ordinance change? Yet again, the answer is **NO!**

Regardless – we are ready to work with City Staff and all interested parties at identifying the issues that affect citizen's experiences in BW, and collaborating to determine the best course of action to resolve them. We want everyone to experience this unique park in Portland. We urge Councilors to make its decision on this leash-law proposal based on facts, a full understanding of the incidents, and the overall public benefit and general sentiments about citizen's perceived experiences. One group's views should not be discounted over the others. Councilors did not need to be presented with this frustrating, muddled, and inaccurate portrayal of BW – one that is reliant on errant assumptions, some alarmist language, and conflated or incomplete data to make its case. We can and should do better than this when impacting people's lives!

**C. Not a representative vote** – Despite repeatedly telling users that this proposal is not a popularity contest, City Staff (hypocritically and erroneously we add) notes in the proposal memo that:

*“Before a (leash law) policy change was first publicly proposed in March 2019, the majority of public comments have been opposed to the current permissive off-leash policy”. City Memo p. 1*

How could BW users have known to call the City to provide complimentary data (about off-leash dogs) when the proposal had not been publicly announced at the time? If this is not a popular vote, why does the City even make this assertion in its proposal memo?

Despite the City's intentions of proposing the leash law still being a secret, and with only inside individuals or the complainants themselves knowing about the coming initial leash-law proposal – even then there were still more positive comments about BW current policy when City Staff issued the initial proposal. A rudimentary review of the first PDF summary of communications received by the City (*a document not provided to the Committee on 1/15, but shared in July 2019*), prior to the initial proposal's roll-out in March 2019, reveals 32 communications about BW, breaking out as follows:

- 10 are indeed complaints about dogs in BW (4 internal from City staff or officials)
- 14 communications supporting the current off-leash dog walking policy
- 8 were general questions about BW signage, tree cutting, ducks in the pond, etc.

Therefore, by the numbers, **complaints were not the majority** of comments received by City Staff before the initial leash law proposal was released. As the City has acknowledged, after the proposal was released comments supporting the existing policy skyrocketed, with up to 98% supporting the current off-leash policy! Regardless of how many people have complained and how many people support the existing law – the VAST MAJORITY of citizens have stepped up to say the City's proposal is just not acceptable. We believe there should be further study about what is currently happening in BW, and a common-sense solution developed collaboratively to ensure all voices are heard and considered!



## 2. BIRD HABITAT IMPACTED BY OFF-LEASH DOGS

Next, the City contends that off-leash dog activity is having a “negative impact on ground-nesting and ground-feeding birds” in BW.

- A. **No documented evidence of the supposed “...negative impact...”**: The City memo misstates what the Management Plan actually says; the premise is that off-leash dogs are some sort of a “threat” to birds in BW. The Management Plan actually reads as follows (emphasis added),

*“Off-leash dogs are **likely** having a negative impact on ground-nesting and ground-feeding birds as well as the associated shrubs and small trees. A related concern is that **the high density of trails and foot traffic adds to wildlife disturbances whether or not dogs are leashed.**” Management Plan, p.6*

Unfortunately, in the Management Plan, there is NO evidence that dogs have harmed any birds, damaged any shrubs or trees, or even “likely” had a “negative impact” on the natural habitat of BW. The City’s assertion is just not supported anywhere in the Management Plan, or other City documents for that matter. We even Googled “dogs damage bird habitat”, and what comes up are reports of feral dogs harming habitats in Third World countries, where foraging for food affected some bird and mammal species. We suggest our domesticated, well fed and much loved family pets are not negatively affecting the bird population of BW. None of the pronouncements in the City’s Management Plan, memo or leash law proposal provides any evidence or observations to support the claims made. We are a neighborhood City Park with hundreds of pet cats nearby and many predator species often observed in BW. These are the real threat to birds in BW and elsewhere as cited in the City’s Management Plan, the BRI study and world-wide-web.

- B. **“likely having a negative impact...”** - Even so – when the draft Management Plan was released by the author, one member of the City Parks Staff requested that the word “likely” be removed from the report to indicate that (emphasis added) “off-leash dogs **are having** a negative impact...”. The e-mail below, secured by the Friends group via a Freedom of Access request in April 2019, illustrates this interaction between City Staff about the Management Plan and how it has been utilized by the City (emphasis added)...

**From:** [Joe Dumais](#)  
**Sent:** Thursday, February 15, 2018 8:52 AM  
**To:** [Jeff Tarling](#)  
**Cc:** [Ethan Hipple](#)  
**Subject:** Re: Management plan draft

*I read the whole thing, let's make some signs and require dogs to be on leash April 1 through July 30 as prescribed on the bottom of page 54. **We should go in saying year round then negotiate the limited restriction. (or not)** because they are going to go nuclear when we do this. I do wish he would not say "likely having an impact" and would say are definitely having an impact, can you get him to change that, he says it a couple times.*

*This is great stuff, good luck with implementation. (I'm not being sarcastic here, I mean it)*

*Saw two typos pg 6, sort should be short, & page 16, ever should be never.*

The word “likely” as written in the Management Plan is important, because it shows that the author/forester was not certain himself if dogs were truly having a negative impact on BW. That is why he advised the City to conduct further study to confirm if his assertion was indeed correct. **The City has done no further analysis or study of this in any way** as illustrated below.

**C. City did not adhere to the Management Plan's suggestions & there was no user input...**

- 1. A full-time leash-law?** A full time (24/7/365) leash-law was not something suggested in the Management Plan, but it was the very first thing City Staff initially proposed at the 4/4/2019 Parks Commission meeting. Then, only after it was urged to do so by the Commission Chair did City Staff then draft and submit the "compromise" proposal for consideration by the Parks Commission at the 7/18/19 meeting. That second version of the proposal was amended again, to include user suggestions of an earlier start time to off-leash activity in the afternoons, but other suggested amendments (a later end time for off-leash activities in the morning and off-leash allowed in the 4-1 – 7/31 period) were either ignored by City Staff or were subverted inappropriately by the Commission Chair.
- 2. Commission vote:** Although the revised proposal passed by a 10-1 vote at the 7/18/2019 meeting – the final vote was taken out of order and was therefore rendered meaningless. In the midst of the Commission's deliberations the Chair interrupted a Commissioner, who held the floor, and who we have confirmed was in the process of further amending the proposal (to remove the April 1 – July 31 full-time on-leash requirement – much to our delight). Our enthusiasm was quashed though – as the Chair cut-off the Commissioner and quickly redirected to a vote on the proposal as amended – resulting in the 10-1 vote, with the interrupted Commissioner being the sole "No" vote. The "compromise" proposal (a compromise only with itself), was therefore not even fully heard by the Parks Commission, and certainly wasn't done in consultation with the actual users and caretakers of Baxter Woods.
- 3. Presentation:** While our group appreciated being allowed to present at the 1/15/2020 S&T Committee Workshop, this was the first time we were given a voice in this entire process. Back in May 2019, when we met with Staff to learn about the "compromise" proposal – we were told we could make a presentation at the 7/18 meeting if we met certain criteria. Despite jumping through several hoops to be allowed to make a brief presentation, we were denied the opportunity to speak beyond our individual three minutes of public comment, even when we requested additional time for one individual to speak, if others gave up their 3 minutes of public comment time. City Staff denied us this reasonable request as well. The City has excluded our unified voices and denied the Commission an opportunity to hear our point of view and witness the evidence we have collected. Is it not clear why this process has been perceived as anti-democratic by a majority of the 250+ citizens on our e-mail list, who are consistent BW caretakers?
- 4. Shut out:** From the outset the actual daily users of BW were shut out of this process. We were not consulted with or even appraised of the City's desire to enact a leash law, or that the City had even contracted with a consultant to develop a Management Plan for Baxter Woods. We first learned of all this in late March 2019, just weeks prior to the first Commission meeting on 4/4. Perhaps most discouraging, the Management Plan included a section suggesting a public review of the plan before it was finalized:

**Societal Considerations**

Public forest management should include opportunities for members of the public to ask questions about and provide comments on draft plans before they are finalized. **Management Plan, p. 34**

The City ignored this consideration of it' own Management Plan, never consulting with the users of BW until the "compromise" leash proposal had already been developed in May 2019 – over one year after the Management Plan had been finalized and the initial proposal published.

5. **The meeting:** In its memo City Staff says it met with BW users, but that was only after the initial proposal was published. The request for a meeting went to one user of Baxter Woods (who runs a BW Facebook Page on social media), who graciously invited a second user to attend. That meeting took place on 5/31/19 and was more a one-way communication than a collaboration or problem-solving session. City Staff was not interested in or receptive to any suggestions our user group offered at the meeting, and discounted all of our requests.

D. **What does the Management Plan really say?** Back to the purported “likely negative impact” off-leash, dogs may have on the BW habitats. The Management Plan actually does say a few things.

1. **No ground cover/under-growth:** A deeper review of the forest analysis in the Management Plan reveals the true reasons why Baxter Woods is not a suitable/preferred habitat for forest birds. One reason is that 81% of BW acreage (24 of the 30 acres) has little or no undergrowth due to the Hemlock/Pine/Oak high canopy blocking sunlight from reaching the lower canopy and ground level.

*“Nearly all stands have moderate to full canopy cover of mature trees...which limits the light available for forest regeneration. While attractive from a visual perspective, the lack of understory cover **limits the habitat for species that nest and forage in the lower canopy layers.** Old field, shrub, and young saplings, and important habitat type for some species, represent less than 3% of the area (in Baxter Woods).” **Management Plan, p. 25***

2. **BW size diminishes the habitat:** As reported in the Management Plan and the Audubon Forestry for Maine Birds (FFMB) manual (see the City’s documents linked at p.1), the key forest birds to watch for locally likely prefer nesting and foraging in larger forest blocks >250 acres in size. BW, a forest of just 30 acres is too small in size for the key species.

*“This stand provides habitat values of mature mixed hardwood-conifer forest, but has a minimal understory and ground cover layers favored by some species, and **(bird) species characteristic of larger forest blocks are unlikely to nest here.**” **Management Plan, p. 43***

3. **The shape of BW even diminishes the habitat:** The City’s own documents clearly show that the context of forest shape and landscape impacts the habitat for forest bird species:

*“The size and shape of a forest block matters to many bird species. A long, thin block of forest has less interior and more edge compared to a square block, and many birds are sensitive to these features. **Wood thrush, tanagers and ovenbirds prefer forest interior and avoid edges.**” **FFMB, p. 70***

BW is approximately 10 acres (L) x 3 acres (W), running between Hartley Street and the sprawling 100+ unit Motherhouse Complex (under construction) and the 200 unit/11 story Deering Pavilion apartment building. This narrow woodland park provides little “interior” forest that most wild bird species prefer. All of BW is essentially dangerous edge forest where wild birds are at more risk from their common predators – cats, hawks, owls and even raccoons or squirrels who will raid nests. Lastly – other than in the City’s Management Plan, dogs are not mentioned in any of the City’s other reference documents as a threat to forest birds. The two studies referenced in the BRI document (one from Australia and the second from Great Britain) conclude that dogs are no more of a risk to wild birds than human activity, such as bird watching. There is just no evidence indicating that domestic dogs (cats are a whole other matter) are a serious or even recognized danger to wild, forest bird populations.

### 3. THERE ARE “MORE APPROPRIATE” PLACES TO WALK DOGS OFF-LEASH

The City contends there are other “**more appropriate locations**” where people can walk their dogs off-leash in Portland.

- A. Our community** - While we agree there are other places to walk dogs off-leash in Portland, BW is where we have built our community and established our club so to speak of active walkers, runners and riders. Foremost, BW is where we have developed friendships, fostering relationships over years that transcend our dog’s lives, the lives of family-members, and even our own lives. We take care of each other, our families and our pets. We celebrate one another and we have mourned the passing of dear friends. You cannot just recreate or relocate to a different place in the City, the kinship and community we have developed in BW! The City should not force us to relocate to other places unless there is an urgent public need or crisis at hand.

In fact, many of BW Seniors face significant safety hazards by being tethered to their dogs during walks – especially in the icy winter months. Most relevant to our situation, a comprehensive, up-to-date investigation into fracture risk in older adults who use leashes when walking dogs has shown that fractures related to walking dogs on leash have more than doubled between 2004 and 2017 in patients 65 and older, with hip and upper extremity breaks being the most common . (Kevin Pirruccio; Yeo Myoung Yoon; Jaimo Ahn, MD; JAMA Surgery, 2019).

Research by the National Institutes on Aging has linked social isolation and loneliness to higher risks for a variety of physical and mental conditions, including high blood pressure, heart disease, obesity, weakened immune system, anxiety, depression, cognitive decline, and even death. BW’s dog-walking community is an essential aspect of life for many of Portland’s adults, offering an opportunity to meet and socialize within their local community. (National Inst. Of Health, 2019)

- B. What about all those other places the City says we can go to walk our dogs off-leash in Portland?** Speaking just to the acreage and aesthetics of BW – it is unlike any other park in Portland. Easily accessible to thousands of people in the third-densest zip code in Maine, the wide and relatively flat central trails of BW naturally accommodate many: elderly walkers, the handicapped, strollers, bicyclists, XC skiers/runners and snowshoers. There is also a gentle slope from Stevens to Forest Ave. for a bit of an uphill climb or downhill run or both if you make the full circuit. BW is big enough to find solitude if desired on the secondary trails, but small enough to run into friends for communing and connection. BW also has ample parking, again with easy access to the trails for elderly walkers or the disabled.

While the City notes in its memo there are 495 acres of City space for off-leash walking, it does not say that just 200 acres are woodland forest spaces like BW. Here is a table of the forest/woodland areas where off-leash dogs are allowed that shows the other locations do not compare:

| City Woodland Parks        | Acreage   | Notes about the Parks                                                                      |
|----------------------------|-----------|--------------------------------------------------------------------------------------------|
| Evergreen Cemetery Woods   | 100       | Ticks, Steep, <b>Rough, Steep Terrain</b> , Limited Parking                                |
| Presumpscot River/Oat Nuts | 40        | Ticks, Steep, <b>Rough/Steep Terrain</b> , Limited Parking                                 |
| Canco Woods Park           | 10        | Ticks, Steep, <b>Rooted Terrain</b> , No Parking, Small                                    |
| Riverton Trolley Park      | 20        | Ticks, <b>Very Steep, Rough Terrain</b> , Safety concerns                                  |
| Virginia Woods/Landfill    | 30        | Ticks, <b>Rooted Terrain</b> , No Parking, Pollutants, Safety Concerns                     |
| Hall School Woods          | 5         | Steep, <b>Rough/Steep Terrain</b> , Small, No Parking                                      |
| Pine Grove Park            | 5         | Steep, <b>Rough Terrain</b> , Small, No Parking                                            |
| <b>Baxter Woods</b>        | <b>30</b> | <b>Minimal Ticks*/Fleas, Level Trails, No Roots, Ample Parking, NO Safety Concerns Now</b> |

\*Please note that ticks are rarely seen in BW, most likely due to the lack of understory. In 2019, the Maine Center for Disease Control and Prevention reported a record number of Lyme disease cases. As the Director of the Maine CDC noted in a press release:

“Lyme disease and other tickborne diseases (e.g., anaplasmosis and babesiosis ) are on the rise, so Mainers need to proactively protect themselves.” **Portland Press Herald, 1/3/2020**

All alternative sites recommended by the City are known for having abundant tick populations, and we are very concerned about being forced to walk in these habitats.

- C. Other off-leash sites - an apples-to-oranges comparison:** BW 30 acres accounts for approximately 15% to 20% of the available woodland acreage – but BW is by far the hands-down best place for walking dogs off-leash in the Portland, ME. The City's assertion that we can go elsewhere does not take into account that all other dog parks or off-leash areas are just not up to the quality of BW. Some of the issues identified above apply to other parks as well – see our PowerPoint for pictures and more info. Comparing BW to all locations and acreage just doesn't make sense – since most of the acreage sighted by the City is not woodland/forest space like BW, and most of it is miles away from our Deering Center neighborhood. The other places are not as accommodating to our elderly population. Our large group of Deering Center Seniors who frequent BW – typically during the late morning and early afternoon hours - are an inspiration to us “late-boomers” who hope to be as active and vibrant in our senior years. The leash law will be a severe disruption to the lives of many of Portland's most vulnerable midday-walkers!
- D. Does BW need to be a managed as a wildlife or conservation preserve?** In its December 2019 Memo the City contends that BW is a stand-alone wildlife sanctuary in Maine that allows off-leash dog activity. This is not the case, as Robinson Woods, one of the preserves cited by the City does allow off-leash walking as noted at its website (link below):

**\*NOTICE FOR DOG OWNERS**

Please keep dogs within sight at all times and remove all dog waste. Please keep dogs out of sensitive habitat areas. Reminder: Maine Law requires dog license and rabies tag on collar at all times.

**\*\*NOTICE FOR DOG OWNERS:** Off-Leash use is regulated on this property. **Dogs are allowed off-leash at Robinson Woods II Pond Trail before 10am daily. Dogs are allowed off-leash at Robinson Woods I after 4pm daily (3pm daily during standard time – November – March).** Dog waste bags are available at the kiosk at Shore Rd. Please clean up after your dog. Please do not allow dogs to swim in ponds or streams. <https://www.capelandtrust.org/properties-trails/property/robinson-woods-preserve/>

While Robinson Woods allows year-round off-leash dog activity, the City's leash law proposal for BW would only allow off-leash walking for 8 months of the year – much more restrictive and certainly not one that is “innovative” or “stand-alone” (City Memo p. 5), or again, collaborative.

Once more, we are ready and willing to work with the City on making BW welcoming to all who may not feel it is to their enjoyment now. We seek a stay or delay on enactment of the leash law, until a more reasonable, workable and less disruptive proposal is developed collaboratively – so all voices can be heard. We are a group of citizens who hold annual clean ups, and a group who wants to be a part of the solution, to help!

#### 4. CITY MAY BE IN VIOLATION OF THE 1946 DEED

In its initial proposals, City Staff contended that it was out of compliance with the 1946 Deed, asserting that BW was not being preserved "...as a sanctuary for wild birds."

- A. The City has said it is not compliant with the Deed.** While it did not clearly make this argument in its December 2019 Memo to the Council, City Staff did make the assertion that it was out of compliance with the Deed in its presentation to the S&T Committee on 1/15/2020, and in its prior two leash law memos issued in March and July 2019. In its current Memo the City does mention the Deed on 3 occasions, finally alluding that it would be "better in compliance" with the Deed if the leash law were to be enacted.

As we have said before - we disagree with both contentions City Staff have made, that it is currently out of compliance, and that it will be in better compliance with the Deed if the leash law is passed. We further argue that should the leash law pass as currently proposed –the City will become out of compliance with the Deed for several reasons as detailed below.

- B. What did the Deed mean to Gov. Baxter and the City in 1946?** As a land grant contract, we believe the 1946 Deed must be considered in context to the times when the Deed was written. It should honor the express written intent of Gov. Percival Baxter as publicly communicated to the City and people of Portland upon the presentation of BW to City officials in April 1946. What did Gov. Baxter mean by a "sanctuary for wild birds" in the 1946 Deed? It is clear that he meant to preserve BW as a place where there was to be NO HUNTING, and where birds and other wildlife could live in a natural state, undisturbed by the City commotion and development outside the confines of the park. The historical definition from the time is here:

*"It has long been recognized that refuges and sanctuaries, in which no shooting is permitted at any time, are needed as resting places for game birds. Moreover, with the constantly increasing use of the land for lumbering, grazing, agriculture or settlement, it becomes a pressing necessity to set aside portions as "wilderness areas" in which all wildlife may work out its natural balance under the closest approach to undisturbed conditions..." Compton's Encyclopedia - Vol. B, p.208 (1957)*

To gain a better understanding of what Gov. Baxter's intents were for his gift of BW to the City and the 1946 Deed – we have timely documents available and newspaper articles from the day to guide us (*see 33 pg. document, p.7*). This is how the City received BW as a gift, how the City has historically managed BW as a park and City property since 1946. We contend that since 1946 the City has generally taken care of BW how Gov. Baxter intended. Only a few times over the years has the City stepped across a line on projects inside the boundaries of BW, but for the most part it has been prudent and well in compliance with the BW Deed.

**What do we know about Gov. Baxter and off-leash dogs?** We know that he took his dogs everywhere he went, and always off leash. That included to Bowdoin College – from the dorm, to his classrooms, and even the chapel for Sunday services or convocations. Later he took his off-leash dogs (plural) to the Governor's Mansion and the State Capitol Building in Augusta. He also traveled extensively and took his dogs with him abroad and to U.S. cities such as New York and Philadelphia – always off-leash. Gov. Baxter believed dogs had "rights" like humans and should be allowed to run free with their humans. We believe Gov. Baxter would oppose the leash law being proposed by the City.

In his book "My Irish Setter Dogs", Gov. Baxter documented many stories about his dogs and their daily life, including many off-leash romps in the "Woods". It is clear to us that by naming "Mayor Baxter Woods" a "Woods" in the 1946 Deed – clearly exemplifies Gov. Baxter's intent that BW be a place where off-leash dogs would be welcomed forever.

- C. What about the birds?** Clearly, Gov. Baxter honored birds and wanted them to be safe in BW. We contend that they are and always have been, and that our off-leash, well fed, cared for and loved, domesticated dogs pose little or no risk to forest birds, song birds or any other birds in BW.

To rebut the City's assertion that the bird population of BW is impaired - please consider the eBird data and BRI comparisons we have provided (*see pages 13-15 in this document*). Using data contracted for by City Staff (utilizing over \$10,000 in Motherhouse developer funding), we feel the data shows that BW is already a thriving bird sanctuary, and well in line with the species observed at other parks in Portland and outside the City – whether dogs visit them or not. We have normalized the data to show information for 20 species of forest bird identified in Audubon's FFMB as referenced in the City's Management Plan. Here is a summary of the bird study and eBird data we have compiled for the 20 species at four local forest areas (see p.13 for details).

| <b>Audubon's FFMB - 20 Forest Birds Watch List</b><br>(See p.13 for details) | <b>Gilsland Farm-Audubon</b><br><b>50 acres/ No Dogs</b><br>(eBird, FFMB) | <b>Baxter Woods</b><br><b>30 acres / +Dogs</b><br>(BRI Study/eBird)      | <b>EvergreenCem. - Ponds</b><br><b>100 acres / +Dogs</b><br>(eBird Data only) | <b>Hinckley Woods</b><br><b>50 acres / +Dogs</b><br>(eBird data only) |
|------------------------------------------------------------------------------|---------------------------------------------------------------------------|--------------------------------------------------------------------------|-------------------------------------------------------------------------------|-----------------------------------------------------------------------|
| <b>Forest Bird Species Observed</b> (BRI Study – late June – early Oct):     | <b>16 species by 3570 eBird Observers</b><br>(all seasons)                | <b>11 species by 36 Observers</b> (Study – late June - Oct only)         | <b>17 species by 529 eBird Observers</b>                                      | <b>18 species by 418 eBird Observers</b>                              |
| <b>Nesting Forest Birds Observed:</b>                                        | <b>4 regular nesters</b><br>7 occasional nester<br>9 never nesters        | <b>3 nesting species obs</b><br>No data –Occasional and Never nesters... | No data – Regular/ Occasional and Never nesters...                            | No data – Regular/ Occasional and Never nesters                       |

Variations in the data show the following:

- BW has 3,534 fewer observers than Gilsland Farm, or just 1% of Gilsland's observers
- Despite having only 36 observers, BW still has 11 of the 20 key species documented, with 3 actually observed nesting by the BRI observers in June/July 2019.
- If 3,500 more observers visited BW, how many more bird species would be observed?
- No bird study was completed in BW during the busiest (April – June) period in 2019, we contend depressing the full count of key species observed in BW
- Audubon's Gilsland Farm has 16 of the 20 key species observed, with 4 nesting regularly (just 5 more observed than BW, and only 1 more nesting species) – and no dogs EVER!
- More of the key species have been observed at Evergreen-Ponds and Hinckley Park (where off-leash dogs are allowed), than at Gilsland Farm – with just 1/7<sup>th</sup> the observers at those dog-friendly places
- These bird counts clearly refute the assertion that dogs hamper bird observations in the Woods, or negatively impact the habitats for wild forest birds!

The City's Bird Survey report admittedly missed the busiest part of the spring/summer nesting season, the three months from April through June. We contend before making any ordinance changes the City should first conduct the April - June bird count and collect the data. Only after the City has the full set of data and the accurate count of bird species and nesting species in BW should the leash law proposal be considered. We predict if surveyed properly the data will show that BW bird counts for the key forest birds will mirror those of Gilsland Farm and other local birding hotspots. We further contend the full collection of data will demonstrate that off-leash dogs do not detract from the number of bird species observed, and that BW is a fine "sanctuary for wild birds" as it currently exists.

- D. The City will be out of compliance with the Deed** – If the proposed ordinance is passed, we contend the City's proposal to erect a fence or develop landscaping around the "Bird Habitat Restoration Area" in the northwest corner of BW is itself a clear violation of the Deed. In his letter

to the City that accompanied the 1946 Deed (gifting BW to the people of Portland) Gov. Baxter wrote (emphasis added),

*“The conditions imposed upon this gift are simple and understandable. I want it to remain in its natural wild state for the use of pedestrians only, without what may be called “landscaping”. (And) there should be no fancy work of any kind. I want it to remain about as it is now...so that people undisturbed may enjoy its simplicity, its beauty and it’s quiet...”. **Portland Sunday Telegram, 4/14/1946 p. 1a and 2a***

Clearly erecting fencing and blocking off trails through brush piles, equate to “fancy work” and inappropriate “landscaping” that do not comport with the “wild natural state” requirement of the Deed. Fencing and landscaping are also most assuredly “disturbances” to pedestrians, another violation of the Deed. We believe the City is not now in violation of the BW Deed, but for these reasons and the above – if the ordinance change is enacted as it is currently worded, the City will become out of compliance with the Deed.

We therefore urge Councilors to vote no on this proposal as it is currently drafted. We also ask that Council request City Staff to work more closely with the Friends and other local groups to collect more data about BW before any restrictions to off-leash dog walking are considered. **The time to collect data is BEFORE the leash law is passed – NOT AFTER.**

## OUR FINAL THOUGHTS AND SUGGESTIONS

The Friends of BW kindly ask City Council to **delay the implementation of this proposal for one-year**, so that City Staff, in collaboration with our group and other members of the community, can collect data, work on a strategy for resolving the issues identified and present a more workable and viable plan to Council.

**Missing data:** As key April – June data is missing from the City’s analysis of bird populations, we request that this survey data be collected to complete the annual bird survey before the Council votes on the leash law proposal. In addition, the City has no data on park usage, visit timing or visit types. We offer to work with City Staff to collect the information needed for Council to be truly “informed” and make a sound decision about BW – only after it receives this information.

**The Management Plan:** The City did not follow the Management Plan’s suggestion for user input, and ignored the advice in the plan to collect data. Open the process up to citizen input.

**The Deed:** If the proposal is enacted as it currently stands, the City will be out of compliance with the “natural wild state” requirement of the Deed, and furthermore dishonoring the express written wishes of Gov. Percival Baxter!

We pledge to work in consort with City Staff and offer a committed group of volunteers to assist in collecting data and developing the plan. It is our belief that together we can come up with a better proposal, one that will be acceptable to the whole group as a true compromise. We ask you to please not take a vote on and implement this proposal before gathering and considering all relevant data!

Short of a delay in implementation, we ask that the following changes be made to the proposal:

1. The 4/1 through 7/31 full time leash law (24/7 on-leash only) be removed from the proposal
2. Off-leash hours be amended to go from 5am-10am, and 2pm-10pm (10am-2pm on-leash only)
3. Establishment of the Bird Habitat Restoration Area be removed from the proposal

Thank you!



## Bird Count Data (Baxter Woods and other forests with off-leash dogs vs. Audubon's Gilsland Farm)...

This table summarizes the City's Biodiversity Research Institute (BRI) Study and eBird (eB) data for Baxter Woods (BW) and three other local forest areas. Three areas welcome off-leash dogs: BW, Evergreen Cemetery—Ponds (EC-P), and Hinckley Woods (HW). The fourth, Audubon's Gilsland Farm (GF) has not allowed any dogs on its property since the 1980's. Our focus at these four locations is on 20 species of forest birds identified in Audubon's Forestry for Maine's Birds (FFMB) Manual, as referenced in the City's Management Plan (p. 50). It is our position that the key variance in the data relates to the number of observers documented – with 35 eBird observers for BW, versus GF's 3,570 observers and roughly 500 each at EC-P and HW. It is well understood that with increased observers more species will be observed over time at any location. We therefore contend City Staff has wrongfully concluded that Baxter Woods is deficient as a "sanctuary for wild birds". The data below shows it is evident that BW is already a healthy and thriving sanctuary for wild birds! The collection of new data in the spring and early-summer season, we contend will show the actual bird population in BW is comparable to the other locations, and will demonstrate that dogs are NOT having a "negative impact" on the natural habitat of Mayor Baxter Woods.

| <b>Audubon's FFMB - 20<br/>Forest Birds Watch List...</b> | <b>Gilsland Farm<br/>50 acres/ No Dogs<br/>(eBird, FFMB)</b>     | <b>Baxter Woods<br/>30 acres / +Dogs<br/>(BRI Study/eBird)</b>      | <b>Evergreen- Ponds<br/>100 acres / +Dogs<br/>(eBird Data only)</b> | <b>Hinckley Woods<br/>50 acres / +Dogs<br/>(eBird data only)</b> |
|-----------------------------------------------------------|------------------------------------------------------------------|---------------------------------------------------------------------|---------------------------------------------------------------------|------------------------------------------------------------------|
| <b>Forest Bird<br/>Species Observed:</b>                  | <b>16 species by<br/>3570 Observers</b>                          | <b>11 species by<br/>36 Observers</b>                               | <b>17 species by<br/>529 Observers</b>                              | <b>18 species by<br/>418 Observers</b>                           |
| # Canada Warbler                                          | 1                                                                |                                                                     | 1                                                                   | 1                                                                |
| * Chestnut-sided Warbler                                  | 1                                                                | *1(BRI) +3 (eB) = 4                                                 | 1                                                                   | 2                                                                |
| ^ Mourning Warbler                                        |                                                                  |                                                                     |                                                                     | 1                                                                |
| ^ Black-throated Blue<br>Warbler                          | 1                                                                | 1(BRI) + 1(eB) = 2                                                  | 1                                                                   | 1                                                                |
| ^ Bay-breasted Warbler                                    | 1                                                                | 2 (BRI)                                                             | 1                                                                   | 1                                                                |
| * Black-throated Green<br>Warbler                         | 1                                                                | *10(BRI)+1(eB)=11                                                   | 1                                                                   | 1                                                                |
| ^ Blackburnian Warbler                                    | 1                                                                |                                                                     | 2                                                                   | 1                                                                |
| ^ Magnolia Warbler                                        | 1                                                                | 0(BRI) + 1 (eB)= 1                                                  | 1                                                                   | 3                                                                |
| ^ Yellow-bellied Sapsucker                                | 1                                                                | 1 (BRI)                                                             | 1                                                                   | 1                                                                |
| # Scarlet Tanager                                         | 3                                                                | 0(BRI) + 1 (eB)= 1                                                  | 2                                                                   | 1                                                                |
| * Ovenbird                                                | 1                                                                | 0(BRI) + 1 (eB)= 1                                                  | 1                                                                   | 2                                                                |
| ^ Woodthrush                                              | 1                                                                |                                                                     | 1                                                                   | 1                                                                |
| # Northern Flicker                                        | 1                                                                | 2(BRI) + 1(eB)= 3                                                   | 3                                                                   | 1                                                                |
| ^ Veery                                                   |                                                                  |                                                                     | 1                                                                   | 1                                                                |
| # Woodcock                                                | 1                                                                |                                                                     | 1                                                                   | 7                                                                |
| * Eastern Pee-Wee                                         | 1                                                                | *3(BRI)+1 (eB)= 4                                                   | 1                                                                   | 2                                                                |
| # Northern Parula                                         | 1                                                                | 0(BRI) + 1 (eB)= 1                                                  | 2                                                                   | 1                                                                |
| ^ Black-sided Woodpecker                                  |                                                                  |                                                                     |                                                                     |                                                                  |
| ^ Boreal Chickadee                                        |                                                                  |                                                                     |                                                                     |                                                                  |
| ^ Olive-sided Flycatcher                                  | 1                                                                |                                                                     | 2                                                                   | 1                                                                |
| <b>TOTAL Species Observed</b>                             | <b>16 species/18 count</b>                                       | <b>11 spec/ 31 count</b>                                            | <b>17 species/ 21 count</b>                                         | <b>18 species/ 29 count</b>                                      |
| <b>Nesting Forest Birds<br/>Observed:</b>                 | * 4 common nesters<br># 7 occasional nester<br>^ 9 never nesters | * 3 actual nesting birds<br>#,^ No data occasional<br>/never nester | *,#,^ No data for<br>reg./occasional/never<br>nester                | *,#,^ No data for<br>reg./occasional/never<br>nester             |

\* = Observed nesting in Baxter Woods (2019) by BRI (3 species)// Common nesters at Audubon's GF per the FFMB (4 species)

# = 7 species - occasional nesters at Audubon GF – and we assume all the other locations as well – no data available online...

^ = 9 species - never observed nesting at GF per J. Witham, 2016 - See the City's Management Plan and FFMB. No other data...

## Baxter Woods Portland, ME

My Home | Agendas & Minutes Center | Portland | A rare serious post from me... | Mayor Baxter Woods | eBird Hotspot

eBird.org/hotspot/L5960768

Suggested Sites: Democratic Underg... | From The Communi... | Google | HuffPost | Crooks and Liars | Portland Press Herald | Daily Kos | Common Dreams

eBird Submit Explore My eBird Science About News Help

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< Hotspot Map

### Mayor Baxter Woods

Cumberland County, Maine, US — Get Directions

All Months All Years Set Submit Data

Overview Recent Visits Illustrated Checklist

**70 Species** | 35 Checklists Updated 11 sec ago

Last Seen First Seen High Counts Bar Charts Printable Checklist Show All Details

|   | SPECIES NAME           | COUNT | DATE        | BY            |
|---|------------------------|-------|-------------|---------------|
| 1 | Hairy Woodpecker       | 1     | 9 Dec 2019  | Erin Barber   |
| 2 | Black-capped Chickadee | 3     | 9 Dec 2019  | Erin Barber   |
| 3 | Carolina Wren          | 2     | 9 Dec 2019  | Erin Barber   |
| 4 | American Goldfinch     | 2     | 9 Dec 2019  | Erin Barber   |
| 5 | Rock Pigeon            | 8     | 22 Nov 2019 | Doug Hitchcox |

Evergreen Cemetery

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Recent Visits

9:37 AM 1/10/2020

## Gilsland Farm (Audubon HQ – no dogs allowed at all) in Falmouth, ME

My Home | Agendas & Minutes Center | Portland | A rare serious post from me... | Gilsland Farm Audubon Center

eBird.org/hotspot/L251783

Suggested Sites: Democratic Underg... | From The Communi... | Google | HuffPost | Crooks and Liars | Portland Press Herald | Daily Kos | Common Dreams

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< Hotspot Map

### Gilsland Farm Audubon Center

Cumberland County, Maine, US — Get Directions

All Months All Years Set Submit Data

Overview Recent Visits Illustrated Checklist

**258 Species** | 3570 Checklists Updated 8 sec ago

Last Seen First Seen High Counts Bar Charts Printable Checklist Show All Details

|   | SPECIES NAME           | COUNT | DATE       | BY         |
|---|------------------------|-------|------------|------------|
| 1 | Mourning Dove          | 6     | 7 Jan 2020 | Turk Duddy |
| 2 | Downy Woodpecker       | 2     | 7 Jan 2020 | Turk Duddy |
| 3 | American Crow          | 1     | 7 Jan 2020 | Turk Duddy |
| 4 | Black-capped Chickadee | 2     | 7 Jan 2020 | Turk Duddy |
| 5 | Tufted Titmouse        | 3     | 7 Jan 2020 | Turk Duddy |

Portland Country Club

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Recent Visits

9:51 AM 1/10/2020

## Evergreen Cemetery in Portland, ME

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ebird.org/hotspot/L3026348

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< Hotspot Map

### Evergreen Cemetery--ponds

Cumberland County, Maine, US — Get Directions

All Months All Years Set Submit Data

Overview Recent Visits Illustrated Checklist

**157** Species | 529 Checklists Updated 7 sec ago

Last Seen First Seen High Counts Bar Charts Printable Checklist Show All Details

|   | SPECIES NAME     | COUNT | DATE        | BY              |
|---|------------------|-------|-------------|-----------------|
| 1 | Mallard          | 7     | 22 Oct 2019 | sophia r        |
| 2 | Hooded Merganser | 1     | 22 Oct 2019 | kieran r        |
| 3 | Great Blue Heron | 1     | 22 Oct 2019 | sophia r        |
| 4 | Downy Woodpecker | 1     | 20 Oct 2019 | Peter Carpenter |
| 5 | Blue Jay         | 2     | 20 Oct 2019 | Peter Carpenter |

Send feedback

Evergreen Cemetery

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Recent Visits

9:39 AM 1/10/2020

## Hinckley Park in South Portland, ME

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ebird.org/hotspot/L710754

Suggested Sites Democratic Underg... From The Communi... Google HuffPost Crooks and Liars Portland Press Herald Daily Kos Common Dreams

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< Hotspot Map

### Hinckley Park, South Portland

Cumberland County, Maine, US — Get Directions

All Months All Years Set Submit Data

Overview Recent Visits Illustrated Checklist

**159** Species | 418 Checklists Updated 12 sec ago

Last Seen First Seen High Counts Bar Charts Printable Checklist Show All Details

|   | SPECIES NAME           | COUNT | DATE        | BY              |
|---|------------------------|-------|-------------|-----------------|
| 1 | Herring Gull           | 1     | 25 Nov 2019 | Donald Thompson |
| 2 | Downy Woodpecker       | 1     | 25 Nov 2019 | Donald Thompson |
| 3 | American Crow          | 3     | 25 Nov 2019 | Donald Thompson |
| 4 | Black-capped Chickadee | 7     | 25 Nov 2019 | Donald Thompson |
| 5 | Tufted Titmouse        | 5     | 25 Nov 2019 | Donald Thompson |

Send feedback

South Portland

eBird Feed your habit. Donate Now

Recent Visits

9:40 AM 1/10/2020

KATE SNYDER (MAYOR)  
BELINDA S. RAY (1)  
SPENCER R. THIBODEAU (2)  
TAE Y. CHONG (3)  
JUSTIN COSTA (4)

**CITY OF PORTLAND  
IN THE CITY COUNCIL**

KIMBERLY COOK (5)  
JILL C. DUSON (A/L)  
PIOUS ALI (A/L)  
NICHOLAS M. MAVODONES, JR (A/L)

**AMENDMENT TO PORTLAND CITY CODE CHAPTER 12  
RE: REPEAL OF SINGLE-USE CARRY-OUT BAGS ORDINANCE**

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

*1. That Sections 12-230 to 12-237 of Chapter 12 of the  
Portland City Code are hereby amended to be struck in their  
entirety:*

**Art. I. In General, § 12-1--12-15**

**Art. II. Garbage and Solid Waste Removal/Recycling, §§  
12-16--12-45**

**Art. III. Health Nuisances, §§ 12-46--12-60**

**Art. IV. Public and Private Dumps, §§ 12-61--12-74**

**Art. V. Junked Motor Vehicles, §§ 12-75--12-99**

**Art. VI. Solid Waste Disposal, §§ 12-100--12-119**

**Art. VII. Rendering Wastes, §§ 12-120--12-205**

Div. 1. Generally, §§ 12-120--12-149

Div. 2. Waste Transportation Licenses, §§ 12-150--12-199

Div. 3. Construction and Operation of Rendering Facilities,  
§§ 12-200--12-209

**Art. VIII. Polystyrene and Plastic, §§ 12-210--12-229**

Div. Polystyrene §§ 12-211--12-219

Div. Plastic §§ 12-220--12-229

~~**Art. IX. Waste Reduction, §§ 12-230--12-237**~~

**Art. X. Abandoned Bicycles, §§ 12-238--12-241**

...

~~**ARTICLE IX. WASTE REDUCTION**~~

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

~~The city council hereby finds as follows:~~

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

- ~~(b) The use of single-use carryout bags has severe environmental impacts on a local and global scale, including greenhouse gas emissions, litter, harm to wildlife, atmospheric acidification, water consumption and solid waste generation; and~~
- ~~(c) Despite recycling and voluntary solutions to control pollution from single-use carryout bags, very few single-use carryout bags are recycled; and~~
- ~~(d) Numerous studies have documented the prevalence of single-use carryout bags littering the environment, blocking storm drains, and endangering wildlife; and~~
- ~~(e) The City of Portland's taxpayers must bear costs associated with the effects of single-use carryout bags on the solid waste stream, drainage, litter, and wildlife; and~~

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

- ~~(g) From an environmental and economic perspective, the best alternative to single-use carryout bags is to shift to reusable bags for shopping; and~~
- ~~(h) Whereas the City Council of the City of Portland aims to conserve resources, reduce greenhouse gas emissions, waste, and litter and to protect the public health and welfare, including wildlife, all of which increase the quality of life for the City's residents and visitors; and~~
- ~~(i) Evidence indicates that the vast majority of single-use carryout bags are used for the bagging and carryout of products purchased from Stores, as those business are defined in this Ordinance; and~~
- ~~(j) Studies document and participating municipalities report that prohibiting the free distribution of single-use carryout bags will dramatically reduce the use of those types of bags; and~~



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

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

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

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

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

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

~~*Reusable Bag* means a bag that is:~~

~~(a) Designed and manufactured to withstand repeated uses over a period of time;~~

~~(b) Is machine washable or, made from a material that can be cleaned and disinfected regularly;~~

~~(c) That is at least 2.25 mil thick if made from plastic;~~

~~(d) Has a minimum lifetime of 75 uses; and~~

~~(e) Has the capability of carrying a minimum of 18 pounds.~~

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

~~(a) a full-line, self-service market located in a permanent building, operating year-round, and which sells at retail a line of staple foodstuffs, meats, produce, household supplies, dairy products or other perishable items.~~

~~(b) a drug store, pharmacy, supermarket, grocery store, convenience food store, food mart, or other entity engaged in the retail sale of a limited line of goods that includes milk, bread, soda, and snack foods.~~

~~Store does not mean:~~

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

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

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

~~(b) A Store may make available for sale to a Customer a Single-Use Carryout Bag for a minimum charge of five cents (\$0.05).~~

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

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

~~(e) Notwithstanding this Section, no Store may make available for sale a Single-Use Carryout Bag unless~~

~~the amount of the sale of the Single-Use Carryout is separately itemized on the sale receipt.~~

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

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

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

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

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

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

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

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

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

#### **~~12-236. Effective Date~~**



~~—The provisions of this ordinance shall become effective on April 15, 2015.~~

**~~12-237. Severability.~~**

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

Editor's Note: By Order 168-19/20 approved as an emergency on April 6, 2020, Sections 12-230 to 12-237, Article IX Waste Reduction, which regulated the distribution of single use carry-out plastic bags, were repealed. The ordinance was repealed in light of LD 1532 Public Law Chapter 346 becoming effective on April 22, 2020. This state law imposed state-wide prohibitions on the distribution of single-use carry-out bags and was expressly intended by the Legislature to "occupy the field" with respect to regulation of single-use bags in Maine, expressly rendering void all local regulation of such bags.

## MEMORANDUM

**TO:** Troy Moon, Sustainability Coordinator

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

**DATE:** March 9, 2020

**RE:** Portland's Single Use Bag Ordinance

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As you know, in June 2019 the Governor approved an amendment to state law aimed at reducing the use of single-use carry-out bags. That statute, a copy of which is attached, goes into effect on April 22, 2020. Although a number of municipalities, including the City of Portland, have adopted ordinances in recent years regulating single use bags at the local level, the new state law is intended to make more uniform the regulation of single-use carry-out bags, statewide. Consistent with that objective, Section 5 of the state law provides:

5. Preemption. To ensure maximum effectiveness through uniform statewide application, the State intends to occupy the whole field of regulation of single-use carryout bags at retail establishments beginning April 22, 2020. A local government may not adopt an ordinance regulating single-use carry-out bags at retail establishments and, beginning April 22, 2020, any ordinance or regulation that violates this subsection is void and has no force or effect.

In light of this stated intent to “occupy the field” and language making it clear that any local ordinance intending to regulate single-use carry-out bags will automatically be deemed void and of no force or effect, this office is recommending that the Council affirmatively repeal the City’s ordinance (Sections 12-230-12-237). By repealing and removing those sections from the City’s Code (which will be rendered void as of April 22, 2020), the City can avoid confusion on the part of local retailers and shoppers as to their obligations and ensure that the City’s Code is current and contains only those ordinances that remain in force and effect.

## STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

H.P. 1115 - L.D. 1532

## An Act To Eliminate Single-use Plastic Carry-out Bags

Be it enacted by the People of the State of Maine as follows:

**Sec. 1. 38 MRSA §1605**, as repealed and replaced by PL 1991, c. 475, §1, is repealed.

**Sec. 2. 38 MRSA §1611** is enacted to read:

**§1611. Plastic bag reduction**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Plastic" means an organic or petroleum derivative synthetic or a semisynthetic organic solid that is moldable, and to which additives or other substances may have been added. "Plastic" does not include natural polymers that have not been chemically modified.

B. "Point of sale" means a check-out stand, cash register or other point of departure from a retail establishment.

C. "Post-consumer recycled material" means a recycled material that if not recycled would otherwise have been destined for solid waste disposal, having completed its intended end use and product life cycle. "Post-consumer recycled material" does not include materials and by-products generated from, and commonly reused in, an original manufacturing and fabrication process.

D. "Recycled paper bag" means a paper bag that:

(1) Is 100% recyclable; and

(2) Contains at least 20% post-consumer recycled material if it has a capacity to hold at least 8 pounds.

E. "Restaurant" means an establishment that sells prepared food directly to the consumer.

F. "Retail establishment" means a store, a restaurant or a temporary business.

G. "Reusable bag" means a bag with handles that:

- (1) Is designed and manufactured to withstand a minimum of 75 repeated uses;
- (2) Is machine washable or made from a material that can be cleaned and disinfected regularly;
- (3) If made from plastic is at least 4 mils thick; and
- (4) Has the capability of carrying a minimum of 18 pounds.

H. "Single-use carry-out bag" means a bag that is made of plastic, paper or other material provided by a retail establishment at the point of sale for the purpose of transporting merchandise away from the retail establishment and that is not a recycled paper bag or a reusable bag.

I. "Store" means a retail store that engages in the retail sale of merchandise, including food, goods, products and clothing. "Store" includes grocery stores primarily engaged in the retail sale of canned food, dry goods, fresh fruits and vegetables, fresh meats, fish and poultry and convenience stores engaged in the sale of a limited line of goods, including milk, bread, soda and snack foods, and prepared foods intended to be consumed off the premises.

J. "Temporary business" means a seasonal or nonpermanent retail establishment such as a farmers' market or fair that sells merchandise including food, goods, products or clothing.

**2. Prohibition; exemptions.** This subsection governs the use of single-use carry-out bags.

A. Except as otherwise provided in this subsection, beginning April 22, 2020, a retail establishment may not provide a single-use carry-out bag to a customer at the point of sale or otherwise make single-use carry-out bags available to customers.

B. The prohibition in paragraph A does not apply to:

- (1) Bags provided by a pharmacy to a customer for transporting a prescription medication away from the store;
- (2) Bags without handles used to protect items from being damaged or from damaging or contaminating other purchased items placed in a recycled paper bag or a reusable bag;
- (3) Bags used by customers inside a retail establishment to package loose items, such as fruits, vegetables, nuts, coffee, grains, bakery goods, candy, greeting cards or small hardware items; to contain or wrap frozen foods, meats or fish; or to contain or wrap flowers or potted plants;
- (4) Laundry, dry cleaning or garment bags, including bags provided by a hotel to guests to contain wet or dirty clothing or bags provided to protect large garments like suits, jackets or dresses;
- (5) Newspaper bags;

(6) Bags sold in packages containing multiple bags intended to contain garbage, pet waste or yard waste;

(7) Bags used to contain live animals, such as fish or insects sold in pet stores;

(8) Bags used for vehicle tires;

(9) Bags used to transport chemical pesticides, drain cleaning chemicals or other caustic chemicals sold at a retail establishment;

(10) Bags used by a hunger relief organization such as a food pantry or soup kitchen to distribute food directly to the consumer at no charge;

(11) Bags that customers bring to the retail establishment for their own use or for carrying away from the retail establishment goods that are not placed in a bag provided by the retail establishment.

C. A retail establishment may make single-use carry-out bags made of plastic that are exempted in paragraph B available to customers to bag products within the retail establishment other than at the point of sale only if the retail establishment:

(1) Locates inside the retail establishment or within 20 feet of the main entrance to the retail establishment a receptacle for collecting any used single-use carry-out bags made of plastic; and

(2) Ensures that single-use carry-out bags made of plastic that are collected by the retail establishment are recycled or delivered to a person engaged in recycling plastics.

**3. Recycled paper bag fees and reusable plastic bag fees; exemptions.** This subsection governs fees assessed on recycled paper bags and on reusable bags made of plastic.

A. Beginning April 22, 2020 a retail establishment may use a recycled paper bag or a reusable bag made of plastic to bag products at the point of sale as long as the retail establishment charges a fee of at least 5¢ per bag.

(1) All amounts collected pursuant to this paragraph are retained by the retail establishment and may be used for any lawful purpose.

(2) A retail establishment may not rebate or otherwise reimburse a customer any portion of the fee charged pursuant to this paragraph.

B. The requirement to charge a fee under paragraph A does not apply to:

(1) Stores at which less than 2% of retail sales are attributed to the sale of food and that have less than 10,000 square feet of retail area;

(2) Restaurants; or

(3) Hunger relief organizations engaged in distributing food directly to consumers at no charge.

A retail establishment exempt from charging a fee under this paragraph may charge a fee for a recycled paper bag or a reusable bag made of plastic.

**4. Violations.** A retail establishment that violates a provision of this section is subject to civil penalties under section 349.

**5. Preemption.** To ensure maximum effectiveness through uniform statewide application, the State intends to occupy the whole field of regulation of single-use carry-out bags at retail establishments beginning April 22, 2020. A local government may not adopt an ordinance regulating single-use carry-out bags at retail establishments and, beginning April 22, 2020, any ordinance or regulation that violates this subsection is void and has no force or effect.

## MINIMUM WAGE

### PROPOSED SUMMARY:

An Act to Increase the Minimum Wage in Portland will increase the minimum wage in Portland to \$15 an hour over three years. It increases the minimum that tipped employees must be paid by their employer to \$7.50 an hour. It moves the effective date of annual cost-of-living increases to the minimum wage from July 1 to Jan 1 to maintain consistency with state law. It also requires a higher minimum wage for work performed during declared states of emergency.

### RAY SUGGESTED SUMMARY:

An Act to Increase the Minimum Wage in Portland will increase the minimum wage in Portland to \$15 an hour over three years: It increases the minimum that tipped employees must be paid by their employer to ~~\$7.50 an hour.~~ 50% of the minimum wage, although employers must make up the difference if tipped employees do not earn at least minimum wage when their tips are added in. It moves the effective date of annual cost-of-living increases to the minimum wage from July 1 to Jan 1 to maintain consistency with state law. It also requires ~~a higher minimum wage for work performed during declared states of emergency that employees be paid 1.5 times the minimum wage rate for any work performed during an emergency declared by the state or the municipality if that emergency applies to the employee's geographical workplace. For instance, if the minimum wage were \$12/hr, and the State of Maine or the City of Portland issued emergency proclamations such as the emergency orders declared during the COVID-19 pandemic, work performed during that emergency would be paid at 1.5 times the minimum wage, or \$18/hr. This higher rate of pay would not apply to employees being allowed to work from home.~~

## GREEN NEW DEAL

### PROPOSED SUMMARY:

An Act to Implement a Green New Deal for Portland promotes sustainability and sustainable communities by: ensuring that all building projects receiving \$50,000 or more in public funds are built using up-to date environmental standards, with solar-ready or living roofs, and additional worker pay and training; increasing the numbers of affordable units built in developments of 10 units or more, and the affordability of those units; and asking the Council to annually monitor use of fossil fuel infrastructure in the city and to come up with plans to reduce this infrastructure to meet stated emissions targets.

### RAY SUGGESTED SUMMARY:

An Act to Implement a Green New Deal for Portland ~~promotes sustainability and sustainable communities by: ensuring~~ requires that all building projects receiving \$50,000 or more in public funds through grants by the City, Community Development Block Grant loans, HOME loans, Neighborhood Stabilization loans, tax increment financing, or other gifts, resources, property or things of value from the City, are built using up-to date environmental standards, with solar-ready or living roofs, and that

workers on these projects receive additional worker pay and training; It increasing the numbers of affordable units built in requires that 25% of the units in new building developments of 10 units or more be affordable to people making 80% of the area median income, and the affordability of those units and increases the fee developers must pay to opt out of this requirement from \$100,000 to \$150,000 per unit. It also requires asking the Council to annually monitor use of fossil fuel infrastructure in the city and to come up with plans to reduce this infrastructure to meet stated emissions targets the City to annually publish and present a report detailing the city's use of and reliance on fossil fuels including the following information: 1) a survey of all new building built in Portland without fossil fuel based infrastructure; 2) a survey of green building technologies that have been implemented as alternatives to fossil fuels; 3) an assessment of the benefits of adopting this policy; 4) a survey of relevant legislation enacted at the state and local level; and 5) proposals for further changes to the City Code to reduce the use of fossil fuels.

## **RENT CONTROL**

### **PROPOSED SUMMARY:**

An Act to Protect Tenants will cap most annual rent increases to the rate of inflation, ban discrimination against tenants with public vouchers, incentivize landlords to provide 90-day notice to tenants they are asking to vacate, and create a tenant/landlord board to permit additional rent increases when individual building circumstances warrant, such as major capital improvements.

### **RAY SUGGESTED SUMMARY:**

An Act to Protect Tenants will cap most annual rent increases to the rate of inflation, ~~ban discrimination against tenants with public vouchers,~~ incentivize landlords to provide 90-day notice to tenants they are asking to vacate, and create a tenant/landlord board to permit additional rent increases when individual building circumstances warrant, such as major capital improvements. Several types of rental units in the City are exempted from this Act, including: units operated by municipal housing authorities, accessory dwelling units as defined in the City Code, rental units in multi-unit buildings in which there are four (4) or fewer units and the owner of the building occupies one of the units, and accommodations provided in a hospital or religious facility.

## **SHORT TERM RENTALS**

### **PRPOSED SUMMARY:**

An Act to Restrict Short Term Rentals (STRs) in Portland will restrict all mainland STRs to only those that are owner-occupied. It increases the annual fee for all STRs to \$1,000 for mainland and \$400 for island rentals. The initiative also increases penalties for and strengthens enforcement of violations, requires the logging of complaints against STRs, and allows the city to revoke STR licenses for repeated violations.



RAY SUGGESTED SUMMARY:

An Act to Restrict Short Term Rentals (STRs) in Portland will restrict all mainland STRs to only those that are owner-occupied. It increases the annual fee for all STRs to \$1,000 for each mainland STR and \$400 for each island ~~rentals~~ STR. The initiative also increases penalties for ~~and strengthens enforcement of~~ violations, requires the Department of Permitting and Inspections to maintain a logging of complaints against STRs, and allows the city to revoke STR licenses for ~~repeated~~ any violations.