

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

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

FEBRUARY 20, 2019 CITY COUNCIL AGENDA

The Portland City Council will hold a Regular City Council meeting at 5:30 p.m. in City Council Chambers. The Honorable Ethan K. Strimling, Mayor, will preside.

PLEDGE OF ALLEGIANCE:

ROLL CALL:

ANNOUNCEMENTS:

RECOGNITIONS:

PRESENTATIONS:

ANNUAL MEETING:

SPECIAL MEETING:

Special Meeting of the Corporator of Portland Development Corporation

Pursuant to the Bylaws of the Portland Development Corporation (PDC), the Portland City Council, as Corporator of the Portland Development Corporation, will hold a Special Meeting on February 20, 2019 to consider two orders.

Order 156-18/19 Amending the Portland Development Corporation By-laws - Sponsored by the Housing Committee, Councilor Jill C. Duson, Chair

The Housing Committee met on February 13, 2019 and voted 2-0 (Thibodeau absent) to forward this item to the City Council for approval.

In order for the Portland Development Corporation (PDC) to use the City's Brownfields funds for assessment activities and cleanup for multi-family residential development properties that have no commercial component and for public open space, the PDC by-laws would need to be modified to make it clear that such projects are within the PDC's purview. Without that change, solely residential projects as well as public open space and public recreational projects in Portland needing Brownfields funds for assessment activities and/or cleanup could only apply for such funds to the Greater Portland Council of Governments (GPCOG) for assistance.

Five affirmative votes are required for passage after public comment.

Order 157-18/19 Proposing Brownfields Assessment Program Guidelines, and Amending Guidelines for the Brownfields Revolving Loan Fund Program and the Brownfields Closeout Fund - Sponsored by the Housing Committee, Councilor Jill C. Duson, Chair

The Housing Committee met on February 13, 2019 and voted 2-0 (Thibodeau absent) to forward this item to the City Council for approval.

Related to the proposed amendments to the Portland Development Corporation (PDC) By-Laws, the amendments to the Brownfields Guidelines primarily address the particulars of allowing the PDC to use these funds for assessment activities and cleanup on multi-family residential development properties and public open space projects.

Five affirmative votes are required for passage following public comment.

APPROVAL OF MINUTES OF PREVIOUS MEETING:

February 4, 2019 Draft City Council Minutes.

PROCLAMATIONS:

APPOINTMENTS:

Order 158-18/19 Appointing Members to Various Boards and Commissions - Sponsored by the Nominating Committee, Councilor Pious Ali, Chair

The Nominating Committee met on January 29, 2019 and voted (3-0) to send forward the following recommendations to the Various Boards and Committees:

Name	Board and Commission	Expiration
Bob Dunfey	Planning Board	02/28/2022
Maggie Stanley	Planning Board	02/28/2022
Kenneth Lewis	Police Citizen Review Sub Committee	03/30/2022
	Pesticide Management Advisory Committee (PMAC)	
Jesse O'Brien	PMAC-Agronomist	03/30/2022
Carol Laboissonniere	PMAC- NOFA Certified	03/30/2022
Karen Snyder	PMAC-Resident	03/30/2020
Priscilla Skerry	PMAC-Resident	03/30/2020
Avery Kamila	PMAC-Resident with Organic Exp.	03/30/2021
Tim Lindsay	PMAC-Applicator	03/30/2021

CONSENT ITEMS:

LICENSES:

Order 103-18/19 Granting Municipal Officers' Approval of Pig Exchange, LLC dba Thirsty Pig. Renewal application for an Entertainment without Dance at 37 Exchange Street with the Condition of No Amplified Entertainment Outdoors - Sponsored by Jon P. Jennings, City Manager

Applicant holds a current Class A Lounge License with Entertainment without Dance and Outdoor Dining on Private Property with the condition of no amplified entertainment outdoors. At its November 19, 2018 meeting, the City Council requested that this business come back before them for renewal.

Five affirmative votes are required for passage after public comment.

Order 159-18/19 Granting Municipal Officers' Approval of Austin Street Brewery LLC dba Austin Street Brewery LLC. Application for a Class III & IV FSE with Entertainment without Dancing and Outdoor Dining on Private Property at 109 Fox Street - Sponsored by Jon P. Jennings, City Manager.

Austin Street Brewery LLC dba Austin Street Brewery LLC. Application for a Class III & IV FSE with Entertainment without Dancing and Outdoor Dining on Private Property at 109 Fox Street.

Application was filed on 1/25/2019. Applicant currently holds a Brewery License at this location.

Five affirmative votes are required for passage after public comment.

BUDGET ITEMS:

COMMUNICATIONS:

RESOLUTIONS:

Resolution 10-18/19 Calling upon the United States Congress to Propose a Constitutional Amendment to Restore Fair Elections - Sponsored by Ethan K. Strimling, Mayor

States and towns and cities in the United States have supported a request to the United States Congress to propose a 28th Constitutional Amendment in response to the Supreme Court ruling in *Citizens United v. Federal Elections Commission*, which overturned campaign finance laws and other democratically enacted laws by finding that spending money to influence elections is protected by the Free Speech Clause of the First Amendment, and that corporations have many of the same constitutional rights as people.

The proposed 28th Amendment would end the restriction on the ability of Congress and the States to impose legal limits on political contributions and spending. The non-profit organization American Promise is in charge of this effort.

Five affirmative votes are required for passage after public comment.

UNFINISHED BUSINESS:

Order 96-18/19 Approving Purchase and Sale Agreement with Waterstone Properties Group, Inc. - Sponsored by the Economic Development Committee, Councilor Justin Costa, Chair.

The Economic Development Committee met on October 16, 2018 and voted unanimously (3-0) to forward this item to the City Council with a recommendation for passage.

The City has determined that the 4.82 acre vacant parcel, located in Portland between the Maine Turnpike and the proposed large scale mixed use project in Westbrook, is not needed for municipal use and should be sold. The interested buyer for this property is the Westbrook mixed-use project developer Waterstone Properties Group, Inc.

The subject site is not a legal conforming parcel to develop because it lacks street frontage, and there is no access to public utilities. Additionally, the site is encumbered by 1.81 acres of wetlands and two CMP easements (including 1.48 acres), which prohibit erecting or maintaining structures of any kind.

The upland areas, estimated to be 1.53 acres (excluding the no-build CMP easements), are not contiguous, and access to these areas would require crossing wetlands on-site and wetlands located on the adjacent, privately owned Westbrook mixed-use project property.

The proposed purchase price is \$11,220, as determined by the City Assessor. It is noted that the property appraisal determined the value of this property to be \$0.

The Buyer agrees to indemnify the City regarding any environmental issues, and acknowledges that the property will be sold in an “AS IS WHERE IS” condition.

At the December 17, 2018 City Council meeting, this item was postponed to the February 20, 2019 meeting. Five affirmative votes are required for passage after public comment.

Order 140-18/19 Amendment to Portland City Code Chapter 14 Re: Marijuana Medical and Adult Use Regulations - Sponsored by the Planning Board, Sean Dundon, Chair.

On November 27, 2018 the Planning Board met and voted unanimously (6-0) to forward this item to the City Council with a recommendation for passage.

The Planning Board has unanimously recommended proposed zoning text amendments, which update the City's medical marijuana standards, provide a unified zoning framework for both medical and adult use marijuana, define permitted uses, identify zoning districts for marijuana uses, establish use standards and location criteria, and set size caps for marijuana cultivation and marijuana retail stores.

This item must be read on two separate days. It was given a first reading on January 23, 2019. At the February 4, 2019 City Council meeting, this item was postponed to the February 20, 2019 meeting. Five affirmative votes are required for passage after public comment.

Order 150-18/19 Approving Two-Party Agreement between Portland and the Maine Department of Transportation Re: Washington Avenue Final Engineering and Construction - Sponsored by Jon P. Jennings, City Manager.

This project received initial funding from Portland Area Comprehensive Transportation System (PACTS) and was approved by the City Council in 2016 for the preliminary design of the southernmost portion of Washington Avenue beginning at Congress Street and terminating between Cumberland Avenue and Oxford Street, inclusive of roadway, sidewalk and signal design. This project then became a locally managed project, receiving City Council approval in 2017.

The preliminary design was reviewed and approved by the Maine Department of Transportation (MaineDOT) at the end of 2018. Funding has been approved by PACTS for final design and construction. Final design and associated MaineDOT approvals are expected to be completed in early 2020, with bidding and construction likely to occur later that year.

The agreement increases the total funding from \$175,600 to \$1,880,000, or an increase of \$1,705,000. Of that total, the City is responsible for 25%, or \$470,150.00. The remaining 75% will be provided by MaineDOT/PACTS. Final design and related costs prior to construction are anticipated to be approximately \$200,000, so the Department of Public Works has requested \$50,000 in the Fiscal Year 2020 Capital Improvement Program request. The remaining part of the City's share, for construction only, will be requested in the Fiscal Year 2021 Capital Improvement Program .

This item must be read on two separate days. It was given a first reading on February 4, 2019. Five affirmative votes are required for passage after public comment.

**Order 151-18/19 Authorizing Adoption of Cultural Plan Update of 2018 -
Sponsored by the Planning Board, Sean Dundon, Chair.**

The Planning Board met on January 22, 2019 and recommended by a vote of 7-0 the adoption of the Cultural Plan Update of 2018 to the City Council.

The Cultural Plan Update of 2018: A Living Action Plan is proposed for adoption by the City Council to establish strategic priorities and an action plan to support Portland's creative economy. The Planning Board has recommended the Cultural Plan Update of 2018, A Living Action Plan, for adoption as a City plan, and as an update to the 1998 plan, Celebrating Community: A Cultural Plan for Portland, Maine.

This item must be read on two separate days. It was given a first reading on February 4, 2019. Five affirmative votes are required for passage after public comment.

Order 152-18/19 Authorizing General Obligation Bonds to Finance a Portion of the City's Fiscal Year 2020 Capital Improvement Program in an Amount not to Exceed \$40,100,000 - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Chair

The Finance Committee met on January 24, 2019 and voted 3-0 to forward the Fiscal Year ("FY") 2020-FY2024 Capital Improvement Program to the City Council for approval.

The FY2020-FY2024 Capital Improvement Program ("CIP") has been in development since summer 2018 and has been reviewed by the Finance Committee since their first meeting of 2019. The FY20 Capital Improvement Plan calls for \$17,000,000 of new bond authorization for general fund CIP projects and \$23,100,000 of new bond authorization for sewer and stormwater CIP projects. Two orders are required, one authorizing the FY20 CIP bonds, a second appropriating the proceeds and excess fund balance for several projects. A complete listing of the funds being appropriated is included within the orders. The City Manager recommended the FY20 projects at the 1/10/2019 Finance Committee meeting.

This item must be read on two separate days. It was given a first reading on February 4, 2019. Seven affirmative votes are required for passage after public comment.

Order 153-18/19 Appropriating Bond Proceeds and Unassigned Fund Balance in an Amount not to Exceed \$42,100,000 for the City's Fiscal Year 2020 Capital Improvement Program - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Chair.

This order is a companion order with Order 152-18/19, above. It appropriates the FY20-FY24 CIP proceeds and excess fund balance for several projects, as authorized by the preceding order.

This item must be read on two separate days. It was given a first reading on February 4, 2019. Five affirmative votes are required for passage after public comment.

Order 154-18/19 Amendment to Portland City Code Chapter 12 Re: Abandoned Bicycles - Sponsored by Councilor Belinda Ray

The Abandoned Bicycles Ordinance was passed in April of 2015 for the purpose of giving staff “the ability to handle abandoned bikes in an effort to make space available on the City’s limited bike racks, remove obstructions and clutter from public property, and ensure recovered bicycles are put to good use for the community” (4/6/2015 Council Agenda).

The ordinance allows for bikes to be removed if they have remained locked in one location for 30 days or longer and meet two of the following criteria:

- (1) no tires or wheels;
- (2) missing or warped wheels, handle bars, or seat;
- (3) missing, rusted, or broken chain in a state that renders it inoperative; or
- (4) visible layer of dust on the seat and/or handle bars.

The ordinance has worked reasonably well in locations where abandoned bicycles are stripped of parts or otherwise vandalized. However, in locations where abandoned bikes are not tampered with, they often remain in decent condition, which means they cannot be removed, even after sitting for years in the same location.

Additionally, many of the bicycles cluttering the bike rack in the Welch Street parking lot on Peaks Island are not locked, as the ordinance appears to require. These bikes have been left on the rack for long-term storage—some for months, others for years—resulting in a chronically overcrowded rack that cannot be used by new users due to lack of space. This amendment will enable city staff to remove abandoned bicycles from bike racks in the public way if they have remained in place for 30 days or longer, or if they have remained in place for 14 days or longer and meet two of the original ordinance criteria (see above).

This amendment has been reviewed and approved by members of the Bicycle Coalition of Maine and the Peaks Island Safety Committee. This item must be read on two separate days. It was given a first reading on February 4, 2019. Five affirmative votes are required for passage after public comment.

Order 155-18/19 Amendment to Portland City Code Chapter 12 Re: Expanding E-Card Program - Sponsored by the Sustainability and Transportation Committee, Councilor Spencer Thibodeau, Chair.

The Sustainability and Transportation Committee voted 3-0 on January 16, 2019 to recommend approval of this amendment to the City Council.

The amendment extends eligibility for the bulky waste e-card program to the owners of residential condominiums who, until now, have not received solid waste services from the City of Portland. The current ordinance restricts eligibility to the owners of buildings that receive solid waste services from the City.

This item must be read on two separate days. It was given a first reading on February 4, 2019. Five affirmative votes are required for passage after public comment.

ORDERS:

Order 160-18/19 Accepting the Donation of \$300,000 from Maine Medical Center - Sponsored by Jon P. Jennings, City Manager

In 2017, Maine Medical Center ("MMC") applied for a zone change under the Institutional Overlay Zone (IOZ) provisions of the City's land use code. Under the requirements of the code, the hospital developed a master plan, their Institutional Development Plan (IDP), which framed their short- and long- range expansion plans for the next 20 years. Over the course of the review of this IDP, and the subsequent site plan reviews, the hospital engaged with the surrounding neighborhoods to discuss neighborhood needs, the hospital-neighborhood relationship, and potential areas where the goals of the hospital and its neighbors intersect.

One of the areas that emerged is in the realm of parks and recreation. The hospital's neighborhoods have long sought improvements to park and recreation facilities in their midst, recognizing the social, economic development, and environmental benefits of these resources. St. John/Valley has pursued park improvements at the Valley Street Community Garden/Dog Park for the last decade, Bramhall Square has been the source of conceptual planning for almost as long, and the Western Promenade and West End neighborhoods are currently engaged with Parks and Historic Preservation staff to develop a master plan for improvements to the Western Promenade. Park improvements have tangible value to MMC as well; research shows that the presence of parks and recreation facilities have a demonstrable effect on public health outcomes, correlating with higher rates of physical activity, lower rates of childhood obesity, and even decreased risk of cardiovascular and respiratory disease.

Realizing the potential synergy around park and recreation facilities, Maine Medical Center seeks to make a one-time \$300,000 contribution to the City for the purpose of improving parks in these locations: Bramhall Square, the Valley Street Community Garden/Dog Park, and the Western Promenade. The money is to be used for capital improvements only, with the specific projects to be determined by the Department of Parks, Recreation, and Facilities with the input of the neighborhoods where the facilities are located, based on previous or ongoing planning and design work.

Five affirmative votes are required for passage following public comment.

AMENDMENTS:

Order 161-18/19 Amendment to the Zoning Map Re: Section of Forest Avenue to Community Business B-2B - Sponsored by the Planning Board, Sean Dundon, Chair.

In 2016, the City Council supported Councilor Ray's motion to have the Planning Board consider a zoning map amendment from the current Community Business B-2 zone and the Residential R-5 zone to the Community Business B-2b zone. The referral asked the Planning Board for a recommendation on whether the B-2b, which promotes a more urban form and limits drive-throughs, is a more appropriate zone for this area.

The Planning Board considered the Council Request and held the public hearing on March 22, 2016. The Planning Board voted (6-1, Whited opposed) to recommend to City Council the adoption of the zoning map amendment to rezone a portion of Forest Avenue to Community Business B-2b. Lisa Whited opposed the map amendment, preferring a holistic solution to addressing auto related businesses and for transforming Forest Avenue. The majority of the members supported the map amendment and agreed with Ms. Whited that further analysis of the B-2 zones and drive-throughs was warranted. The Board's recommendation for the drive-through text amendments to the B-2 zones are coming forward concurrently with the recommended map amendment. The text amendments would re-introduce the drive-through use in the B-2b zone, subject to the use being associated with the bank or pharmacy in a minimum of a 3 story building with the majority of the upper floors in residential use (a minimum of 3 dwelling units).

This item must be read on two separate days. This is its first reading.

Order 162-18/19 Amendment to the Portland City Code Chapter 14 Re: Drive-throughs in the B-2, B-2b and B-2c Community Business Zones - Sponsored by the Planning Board, Sean Dundon, Chair

The Planning Board unanimously recommends adoption of text amendments to the B-2, B-2b and B2c zones to allow bank and pharmacy drive-throughs in all B-2 zones, but only when they are in developments that include upper story housing. Currently, drive-throughs associated with permitted uses are allowed in B-2 and B-2c as a conditional use, but no drive-throughs are allowed in the B-2b zone. This proposed amendment would allow drive-throughs in all of these zones, but only in multiple story buildings with housing above. Specifically, the proposed text amendments revise the B-2 Table of Uses to limit drive-throughs to those associated with a pharmacy or banking facility in the three B-2 zones as a conditional use. A proposed footnote in the Use Table clarifies that drive-throughs are not permitted for restaurant, bakery or other food or beverage service uses. The conditional use standards for drive-throughs are revised to only permit a drive-through (associated with a bank or pharmacy) in a building of 3 or more stories where a majority of the upper stories is devoted to 3 or more dwelling units. Screening, location of drive-throughs, and stacking capacity for safe pedestrian and vehicle circulation on and off site are included in the location standard and the other existing 5 standards are retained.

This item must be read on two separate days. This is its first reading.

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

EXECUTIVE SESSION:

MEMORANDUM
City Council Agenda Item

FROM: Greg Mitchell, Director

DATE: February 1, 2019

SUBJECT: **Order 156-18/19 Amending the Portland Development Corporation By-laws - Sponsored by the Housing Committee, Councilor Jill C. Duson, Chair**

SPONSOR: Housing Committee, February 13, 2019 Recommendation; Portland Development Corporation, January 17, 2019 Recommendation

(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 02/20/2019

Final Action 02/20/2019

Can action be taken at a later date: No The Portland Housing Authority (PHA) is seeking Brownfields funds at its 58 Boyd Street housing development to be used for environmental cleanup that needs to happen in March.

PRESENTATION: Tim Agnew, PDC President/5 Minutes

I. SUMMARY

Proposed amendments to the PDC By-Laws would allow the Board to provide EPA Brownfields funds for assessment activities and for loans and grants for remediation/cleanup of properties for multi-family residential developments, public open space and public recreational projects, not only for commercial and mixed use projects that create business and employment opportunities.

II. AGENDA DESCRIPTION

The Housing Committee met on February 13, 2019 and voted 2-0 (Thibodeau absent) to forward this item to the City Council for approval.

In order for the Portland Development Corporation (PDC) to use the City's Brownfields funds for assessment activities and cleanup for multi-family residential development properties that have no commercial component and for public open space, the PDC by-laws would need to be modified to make it clear that such projects are within the PDC's purview. Without that change, solely residential projects as well as public open space and public recreational projects in Portland needing Brownfields funds for assessment activities and/or cleanup could only apply for such funds to the Greater Portland Council of Governments (GPCOG) for assistance.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

The Environmental Protection Agency (EPA) provides the City with Brownfields funds to be used for assessment activities and cleanup of properties for commercial, mixed use, residential developments and open space. To date, the PDC could only approve Brownfields Closeout funds for assessment activities, and loans and grants for cleanup as well as the Brownfields RLF for loans and grants for cleanup relative to multi-family residential projects only when there is a commercial use component.

In order for the City to use its Brownfields funds for multi-family residential development projects that have no commercial component, the PDC Bylaws would need to be amended. This issue came to light because the Portland Housing Authority (PHA) applied to the PDC for a subgrant of \$125,000 for cleanup of soils contaminated with lead and arsenic at its 58 Boyd Street housing development site. The development will include 55 units of affordable family housing.

In 2018, the City received a \$500,000 Brownfields Revolving Loan Fund grant from the EPA for cleanup projects, which became available for use on October 1, 2018. Some of these funds could be used to help the PHA if the PDC By-Laws are amended. The recommended amendments also would allow the use of Brownfields funds on contaminated properties that in the future the City might propose for public open space or public recreational projects.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

The PDC could use Brownfields Funds for assessment activities and cleanup for multi-family residential projects that have no commercial component, but with certain affordability restrictions. These By-Law amendments would not allow the PDC to use any of its other funds for residential purposes, only the Brownfields Funds. The first such project to apply for this funding will likely be the PHA which wants to seek a Brownfields subgrant for cleanup of environmental contamination at its 58 Boyd Street property. In addition, the PDC could use City Brownfields funds for public open space and public recreational projects.

V. FINANCIAL IMPACT

There will be no financial impact on the City because the Brownfields funds have been granted to it from the EPA for assessments activities and cleanup of contaminated properties in Portland. EPA permits fifty percent of the \$500,000 in cleanup funds it granted to the City to be used for subgrants to non-profits, which could include a subgrant to PHA.

VI. STAFF ANALYSIS AND BACKGROUND

Giving the PDC the ability to use City Brownfields Funds for multi-family residential projects, with certain affordability restrictions, will allow such projects to apply for Brownfields funds for assessment activities and cleanup, uses the EPA intended when it granted Brownfields funds to the City. These proposed amendments to the PDC By-Laws will not expand the PDC's involvement in residential projects with any of the other funds it oversees for the City.

VII. RECOMMENDATION

Staff, the Housing Committee, and the PDC (5 members of the board, which was one short of a quorum at its January meeting), recommend the proposed amendments to the PDC By-Laws in order to allow the PDC to use EPA Brownfields Funds for multi-family residential projects with no commercial component, public open space and public recreational projects in Portland. Corporation Counsel has reviewed the proposed By-Law amendments.

VIII. LIST ATTACHMENTS

1. PDC Change to By-laws Order 2.20.2019
2. PDC Proposed Bylaw Amendments Rdlns & Cln for 2-20-2019 CC Mtg

Prepared by:

Greg Mitchell, Director

Date: 02/01/2019

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (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 AMENDING THE PORTLAND DEVELOPMENT CORPORATION BY-LAWS

ORDERED, that the Portland City Council, acting in its capacity as sole Corporator of the Portland Development Corporation, hereby amends the By-laws of the Portland Development Corporation in the substantially the form attached hereto.

BYLAWS OF PORTLAND DEVELOPMENT CORPORATION

ARTICLE 1

NAME, PRINCIPAL OFFICE, CORPORATE SEAL

Section 1.1. Name. The name of this corporation shall be the Portland Development Corporation.

Section 1.2. Principal Office. The principal office for the conduct of the activities of the corporation shall be located at Portland City Hall, 389 Congress Street, Portland, Maine.

Section 1.3. Corporate Seal. The corporate seal of the corporation shall be circular in form and shall bear the words and figures "Portland Development Corporation," the word "Maine" and the year of the corporation's incorporation. The form of such seal may be altered from time to time by the Board of Directors.

Section 1.4. Registered Office. The Registered Office of the Corporation is at 389 Congress Street, Portland, Maine. The address of the Registered Office may be changed from time to time by the Board of Directors or by the Registered Agent.

Section 1.5. Registered Agent. The Registered Agent of the Corporation is the person designated in the Articles of Incorporation, as amended from time to time by the Board of Directors.

ARTICLE II **PURPOSES**

Section 2.1. General Purposes. The Corporation is organized and shall be operated on a non-profit basis to receive donations and contributions in support of the City of Portland economic development efforts that enhance and create business, ~~and~~ employment and development opportunities including:

- A. Implement and administer ~~economic~~ development programs ~~which that~~ enhance business opportunities ~~in the City of Portland~~ and combat community deterioration in the City of Portland; including, but not limited to, brownfields programs that facilitate development of commercial, multi-family residential, public open space and public recreational properties;
- B. Enhance employment opportunities for members of the Portland community by offering education and counseling services which support businesses in the City of Portland, thereby lessening the burdens of government;
- C. Make recommendations to the City Council with respect to, but not limited to, bond and tax increment financing and the management, acquisition, disposal and general land use of City of Portland property;

D. Refer requests to acquire property via eminent domain to the City Council;
and

E. Acquire, hold, own, manage, dispose or liquidate property, upon City Council approval, for the purpose of advancing economic development and promoting employment opportunities in the City of Portland;

Section 2.2. Powers. This Corporation shall have all such powers as are authorized to non-profit corporations by the Maine Nonprofit Corporations Act. The corporation shall neither have nor exercise any power, nor shall it engage directly or indirectly in any activity that would invalidate its status (i) as a corporation which is exempt from federal income taxation as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or (ii) as a corporation, contributions to which are deductible under Section 170(c)(2) of the Internal Revenue Code of 1986, as amended.

Section 2.3. Prohibition of the Inurement of Assets and Income to Private Persons. The corporation is not organized for pecuniary profit and shall not have any capital stock. No part of its net earnings or of its principal shall inure to the benefit of any officer or director of the corporation, or any other individual, partnership or corporation, but reimbursements for expenditures or the payment of reasonable compensation for services rendered shall not be deemed to be a distribution of earnings or principal.

Section 2.4. Dissolution. If this Corporation is dissolved or its legal existence terminated, either voluntarily or involuntarily, or upon final liquidation of the Corporation, none of its assets shall inure to the benefit of any private individual, and all of its assets remaining after payment of all of its liabilities shall be distributed to one or more organizations which the Board of Directors then determines is qualified both as an exempt organization under Section 501(c)(3) of the Internal Revenue Code, and as an organization engaged in activities substantially similar to those of this Corporation (within the meaning of 13-B M.R.S.A. §407).

Section 2.5 Tax exempt Status. It is intended that the Corporation shall have and continue to have the status of a corporation which is exempt from federal income tax under Section 501(a) of the Internal Revenue Code of 1986, as amended, or successor provisions of federal tax law (the "Internal Revenue Code") as an organization described in Section 501(c)(3) of such Code, and to which contributions are deductible under Section 170(c)(2) and 2055(a)(2) of the Internal Revenue Code which is other than a private foundation as defined in Section 509(A) of the Internal Revenue Code. The Articles of Incorporation and these Bylaws shall be construed accordingly, and all powers and activities shall be limited accordingly.

No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation; provided that the Corporation shall have the power to make an election under Section 501(h) of the Internal Revenue Code. Likewise, the Corporation shall not participate or intervene in any manner or to any extent in any political campaign on behalf of any candidate for public office. Furthermore, the Corporation shall not engage in any activities that are unlawful under applicable federal, state or local laws,

including, but not limited to, activities prohibited for an exempt organization under Section 501(c)(3) of the Internal Revenue Code and regulations thereunder as they now exist or as they may hereafter be amended.

ARTICLE III **MEMBERSHIP**

Section 3.1. Member. The sole member of the Corporation shall be the City of Portland, Maine. The sole member of the Corporation shall be referred to as the "Corporator" for the purposes of the Articles of Incorporation and these Bylaws.

Section 3.2 General. In addition to the other powers of the Corporator listed in Section 3.3 hereof, the Corporator shall have the responsibility for the election of the Board of Directors of the Corporation, which Board has the ultimate responsibility for governing the Corporation. The rights and responsibilities of the Corporator, may be changed from time to time by an amendment to the Articles of Incorporation (to the extent required by law) and by these Bylaws.

Section 3.3. Powers. The Corporator shall have only those rights set forth in the Articles of Incorporation, as restated in these Bylaws. Such rights are as follows:

- A. The establishment of the size of the Board of Directors within the limits described in Section 4.2 hereof;
- B. The election of Directors pursuant to Article IV hereof, with the exception of filling of a vacant Board seat as provided in Section 4.5 hereof;
- C. The removal of Directors from the Board of Directors;
- D. The amendment, restatement, or modification of the Articles of Incorporation or of the Bylaws of this Corporation;
- E. The approval of the sale, lease, or other disposition (excluding by mortgage or pledge for purposes of security) of all, or substantially all, of the assets and property of the Corporation;
- F. The dissolution of the Corporation or its merger with or consolidation with another corporation; and
- G. Any other matter which a majority of the Board of Directors voting on the matter votes to submit to the Member.

Section 3.4 Annual Meetings. The Annual Meeting of the Corporator shall be held on such day in the month of September of each year at such place and time as shall be fixed by the Board of Directors. In the event of a failure for any reason to hold an Annual Meeting as aforesaid, any business which may properly be transacted at an Annual Meeting, including the election of Directors, may be transacted at a Special Meeting.

Section 3.5 Special Meetings. Special Meetings of the Corporator may be called at any time by the President or a majority of the Directors.

Section 3.6. Notice of Meetings. Notice of all meetings of the Corporator shall be given by the Secretary or in his or her absence or disability by the President, by mailing or emailing to the Corporator a written notice specifying the time and place of the meeting, such notice to be addressed to the Corporator and emailed or mailed (postage prepaid) at least five (5) but not more than fifty (50) days before the meeting.

Section 3.7. Action by Unanimous Consent. Any action required or permitted to be taken at a meeting of the Corporator may be taken without a meeting as long as consent in writing, setting forth the action so taken shall be signed by the Corporator, and filed with the minutes of the meetings of the Corporator.

Section 3.8. Manner of Acting. The act of the Corporator, present in person or by proxy at a meeting, shall be the valid act of the Corporator.

ARTICLE IV **BOARD OF DIRECTORS**

Section 4.1. Management by Board. The affairs of the Corporation shall be managed by its Board of Directors, which may exercise all powers of the Corporation and do all lawful acts and things necessary or appropriate to carry out the purposes of the Corporation.

Section 4.2. Number of Directors; Eligibility. The Board of Directors shall consist of eleven (11) individuals, nine (9) of whom shall be Directors appointed by the Corporator through the Portland City Council and two (2) of whom shall be ex officio members of the Board pursuant to Section 4 of this Article. No fewer than six (6) of the nine (9) directors appointed by the Corporator must be a resident or property owner in the City of Portland or have an ownership interest in a business that has its principal office in the City.

Section 4.3. Nomination. The Corporator shall receive nominations from the Portland City Council Nominating Appointments Committee, which shall supplement its regular Committee recruitment efforts by advertising in the local media and by otherwise publicizing the vacancies as widely as possible.

Section 4.4. Ex Officio Members of the Board of Directors. There shall be two (2) individuals who shall each be deemed an ex officio member of the Board of Directors by virtue of his or her holding the position of (1) Mayor or City Council member of the City of Portland as appointed by the ~~Corporation~~ Corporator; and (2) City Manager of the City of Portland.

The provisions of these Bylaws contained in Section 5 regarding term of office, Section 3 regarding nomination of directors and Section 7 regarding vacancies shall not apply to said ex officio members. The City Manager shall be a member of the Board of Directors so long as he or she continues to serve in the office by virtue of which he or she was appointed; and the Mayor or

City Council member shall be appointed annually; and said members shall enjoy all the rights, privileges and responsibilities of all other member of the Board of Directors, including, without limitation, voting privileges, except, however that no ex officio member may serve as President of the Board of Directors. The Board of Directors may take action by unanimous consent only with the consent of said ex officio member. Ex officio members shall be counted as Directors for purposes of determination of residency requirements in Section I of this Article. Ex officio members shall be entitled to the same indemnification rights available to all Directors under the law, these Bylaws or otherwise.

Section 4.5. Terms of Office. One (1) Director shall be initially appointed by the Corporator to hold office until the Second Annual Meeting of the Corporation following the incorporation of this Corporation; two (2) Directors shall be initially appointed by the Corporator to hold office until the Third Annual Meeting of the Corporation following the incorporation of this Corporation; and two (2) Directors shall be initially appointed by the Corporator to hold office until the fourth Annual Meeting of the Corporation following the incorporation of this Corporation. The Corporator shall specify the term of office for which each Director is initially appointed. Thereafter, Directors shall be appointed by the Corporator at Annual Meetings of the ~~Corporation~~ Corporator to serve as such for a term of three (3) years. Each Director shall serve until his or her successor shall be duly qualified and appointed. Directors shall be nominated prior to the Annual Meeting of the ~~Corporation~~ Corporator. No Director shall succeed himself or herself for more than two (2) full consecutive terms, provided that no term of less than three (3) years which is served directly in advance thereof shall be counted for purposes of this limitation.

Section 4.6. Voting. Each Director shall be entitled to one (1) vote.

Section 4.7. Vacancies. Any vacancy occurring on the Board of Directors may be filled by the Corporator by appointment of an individual qualifying and eligible for such position. A person appointed to fill a vacancy which occurs other than by reason of an increase in the number of Directors shall serve until the next Annual Meeting of the Corporator.

Section 4.8. Resignation. Any Director may resign at any time by giving written notice to the President of the Corporation. Such resignation shall take effect on the date of receipt or at any later time specified therein.

ARTICLE V **MEETINGS**

Section 5.1. Annual Meeting. The Annual Meeting of the Board of Directors shall be held without call at the Board's Regular Meeting in the month of September, at the principal office of the Corporation or at some other place fixed by the President.

Section 5.2. Regular Meeting. Other Regular Meetings of the Board of Directors may be held, without call, at such place, date and time as shall be fixed from time to time by resolution of the Board of Directors.

Section 5.3. Special Meetings. Special Meetings of the Board of Directors may be called by such persons as are authorized by law to call Special Meetings. The place, date and time of the Special Meeting shall be fixed in the call therefor.

Section 5.4. Notice of Meetings. Notice of each Annual, Regular or Special Meeting of the Board of Directors shall be given by the person or persons calling the same or by the President or Secretary at least three (3) days in advance thereof. Notice may be given in writing, by email, by telephone, by oral statement or by any other means to the Directors in person or by delivery of a writing to the Director's residence or business address. Notice given in writing by mail shall be deemed given on the day that the same is deposited in the U.S. mails as first class mail, postage prepaid. Neither the business to be transacted thereat, nor the purposes of any Annual, Regular or Special Meeting of the Board of Directors need to be specified in the notice of such meeting, except when otherwise provided by law.

Section 5.5. Conduct of Meetings. The final actions of the Board of Directors shall be taken openly, and subject to provisions of the Maine Freedom of Access Act, deliberations of the Board shall be conducted openly, and the records of their actions shall be open to public inspection.

Section 5.6. Quorum. Six (6) Directors shall constitute a quorum for the transaction of business. The act of at least four (4) of the Directors present at a meeting of the Board of Directors at which a quorum is present shall be the act of the Board of Directors.

Section 5.7. Informal Action by Directors. Action of the Directors may be taken in accordance with the provisions of Section 708 of the Maine Nonprofit Corporations Act, Title 13-B M.R.S.A. In amplification of, and not in limitation of the foregoing, action taken by agreement of a majority of Directors shall be deemed action of the Board of Directors if all Directors know of the action taken and no Director makes prompt objection to such action. Objection by a Director shall be effective if written objection to any specific action so taken is filed with the Secretary of this Corporation within thirty (30) days of such specific action.

Section 5.8. Notice. Whenever under the provisions of the statutes, Articles of Incorporation or these Bylaws notice is required to be given to any Director, such notice must be given in writing by personal delivery, by email, mail, or by telephone, addressed to such Director at his or her address as it appears on the records of the Corporation, with postage or other delivery fees prepaid, or at his or her telephone number as it appears on the records of the Corporation. Notice by mail shall be deemed to be given at the time it is deposited in the United States mail.

Section 5.9. Indemnification. This corporation shall in all cases indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he or she is or was a Director, officer, employee or agent of this corporation, against expenses, including attorney's fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by him or her in connection with such action, suit or proceeding to the maximum extent permitted by law, including, without limitation, 13-B M.R.S.A. §714 as it may

be amended from time to time, and acts additional thereto and supplementary thereof, to which reference is made.

ARTICLE VI **OFFICERS AND AGENTS**

Section 6.1. Officers. The officers of the corporation shall be chosen annually at the Annual Meeting of the Board of Directors, and shall be a President, a Treasurer and a Secretary. One individual may serve in more than one such office. The Board of Directors may also appoint one or more Assistant Secretaries and Assistant Treasurers.

Section 6.2. Term. Officers shall be elected for a term of one (1) year to serve until the next Annual Meeting of the Board of Directors or until their successors are duly chosen and qualified. Officers may succeed themselves for any period of years. The initial officers shall be appointed by the Board of Directors at their first meeting following incorporation to serve as such until the first Annual Meeting of the Board of Directors.

Section 6.3. Removal. Any officer of the corporation may be removed by the Board of Directors whenever in their judgment the best interests of the corporation will be served thereby.

Section 6.4. Vacancies. Any vacancy in any office (except the office of Director) may be filled by the Board of Directors.

Section 6.5. President. The President of the Corporation shall be elected from among the members of the Board of Directors, provided however that no ex officio member may be permitted to serve as President.

Section 6.6. Treasurer. The Treasurer shall be the chief financial officer of the corporation and, together with the Assistant Treasurer, shall have the responsibility for all corporate funds and securities and shall maintain full and accurate accounts of receipts and disbursements in a book or books kept for that purpose. The Treasurer shall perform such other duties as may be prescribed by the Board of Directors or the President, under whose supervision the Treasurer shall be.

Section 6.7. Secretary. The Secretary shall attend all meetings of Corporation and the Board of Directors and keep minutes of all meetings of the Corporation and the Board of Directors in a book or books kept for that purpose. The Secretary shall perform such other duties as may be prescribed by the Board of Directors or the President, under whose supervision the Secretary shall be. The Secretary, and any Assistant Secretaries, shall have authority to affix the corporate seal to any instrument which requires it, and when so affixed, it may be attested by the Secretary or by any Assistant Secretary.

Section 6.8. The Assistant Treasurer and Assistant Secretary. One (1) Assistant Secretary shall be appointed by the Board of Directors. The individual appointed Assistant Secretary shall be the Director of Economic Development Department of the City of Portland and shall be the principal staff person for the Corporation. The Assistant Secretary will have authority to execute

documents on behalf of the Corporation should a Board officer not be available to do so. One (1) Assistant Treasurer shall be appointed by the Board of Directors. The individual appointed as the Assistant Treasurer shall be that individual who holds the position of Treasurer for the City of Portland. The Assistant Treasurer shall, together with the Treasurer, have the responsibility for all corporate funds and securities and shall maintain full and accurate accounts of receipts and disbursements in a book or books kept for that purpose. The Assistant Treasurer shall have such other powers and duties as may be prescribed from time to time by the Board of Directors. Assistant Secretaries and Assistant Treasurers shall not be members of the Board of Directors.

Section 6.9. Other Employees. Other employees of the Corporation may be appointed by the Board of Directors, and if so appointed, shall be supervised by, and shall serve under the direction of the Assistant Secretary.

ARTICLE VII **ADOPTION, AMENDMENT**

Section 7.1. Generally. These Bylaws may be amended or repealed or new Bylaws adopted only by the affirmative vote of the Corporation, provided, however, that the Bylaws may not be amended in such a way as to cause the Corporation to lose its status (i) as a corporation which is exempt from federal income taxation as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or (ii) as a corporation to which contributions are deductible under Section 170(c)(2) of the Internal Revenue Code of 1986, as amended, or (iii) as a corporation described in Section 170(b)(1)(A)(vi) of the Internal Revenue Code of 1986, as amended.

Section 7.2. Amendments. These Bylaws may be amended solely by the Corporation.

ARTICLE IX **CONFLICT OF INTEREST**

Section 8.1. Avoidance of Conflict or the Appearance of such Conflict. Every Director shall endeavor to avoid conflicts of interest or the appearance of such conflicts or impropriety as provided by state statute, by full disclosure at all times and by abstention in the appropriate circumstances.

Section 8.1. Disclosure. Any Director who has a direct interest in any matter to be considered by the Board shall fully disclose that interest to the Board. If a Director is unsure whether a direct interest exists in a particular matter or if the issue is otherwise raised in good faith, the Director shall disclose the pertinent facts to the Board, and the Board shall determine the issue.

Section 8.3. Abstention. When the Director has so disclosed and is deemed to have a direct interest in a matter, the Director shall abstain from voting on the matter and from otherwise participating in the decision-making process on the matter. Notation of the disclosure and abstention of the Director shall be recorded in the minutes.

Section 8.4. Direct Interest. For purposes of this Article, direct interest in a matter shall mean:

- A. A substantial financial interest of the Director or of the spouse or dependent child of the Director;
- B. A substantial financial interest of any employer, partner, associate, co-shareholder or other co-venturer of the Director;
- C. A substantial financial interest of the Director in any entity which has a substantial financial interest in the matter; or
- B. Any other substantial interest of the Director which the Director or the Board believes might reasonably impair the Director's ability to act independently.

ATTEST:



Gregory A. Mitchell
Assistant Secretary

DATE: March 31, 2016

BYLAWS OF PORTLAND DEVELOPMENT CORPORATION

ARTICLE 1

NAME, PRINCIPAL OFFICE, CORPORATE SEAL

Section 1.1. Name. The name of this corporation shall be the Portland Development Corporation.

Section 1.2. Principal Office. The principal office for the conduct of the activities of the corporation shall be located at Portland City Hall, 389 Congress Street, Portland, Maine.

Section 1.3. Corporate Seal. The corporate seal of the corporation shall be circular in form and shall bear the words and figures "Portland Development Corporation," the word "Maine" and the year of the corporation's incorporation. The form of such seal may be altered from time to time by the Board of Directors.

Section 1.4. Registered Office. The Registered Office of the Corporation is at 389 Congress Street, Portland, Maine. The address of the Registered Office may be changed from time to time by the Board of Directors or by the Registered Agent.

Section 1.5. Registered Agent. The Registered Agent of the Corporation is the person designated in the Articles of Incorporation, as amended from time to time by the Board of Directors.

ARTICLE II **PURPOSES**

Section 2.1. General Purposes. The Corporation is organized and shall be operated on a non-profit basis to receive donations and contributions in support of the City of Portland economic development efforts that enhance and create business, employment and development opportunities including:

- A. Implement and administer development programs that enhance business opportunities and combat community deterioration in the City of Portland, including, but not limited to, brownfields programs that facilitate development of commercial, multi-family residential, public open space and public recreational properties;
- B. Enhance employment opportunities for members of the Portland community by offering education and counseling services which support businesses in the City of Portland, thereby lessening the burdens of government;
- C. Make recommendations to the City Council with respect to, but not limited to, bond and tax increment financing and the management, acquisition, disposal and general land use of City of Portland property;

D. Refer requests to acquire property via eminent domain to the City Council;
and

E. Acquire, hold, own, manage, dispose or liquidate property, upon City Council approval, for the purpose of advancing economic development and promoting employment opportunities in the City of Portland;

Section 2.2. Powers. This Corporation shall have all such powers as are authorized to non-profit corporations by the Maine Nonprofit Corporations Act. The corporation shall neither have nor exercise any power, nor shall it engage directly or indirectly in any activity that would invalidate its status (i) as a corporation which is exempt from federal income taxation as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or (ii) as a corporation, contributions to which are deductible under Section 170(c)(2) of the Internal Revenue Code of 1986, as amended.

Section 2.3. Prohibition of the Inurement of Assets and Income to Private Persons. The corporation is not organized for pecuniary profit and shall not have any capital stock. No part of its net earnings or of its principal shall inure to the benefit of any officer or director of the corporation, or any other individual, partnership or corporation, but reimbursements for expenditures or the payment of reasonable compensation for services rendered shall not be deemed to be a distribution of earnings or principal.

Section 2.4. Dissolution. If this Corporation is dissolved or its legal existence terminated, either voluntarily or involuntarily, or upon final liquidation of the Corporation, none of its assets shall inure to the benefit of any private individual, and all of its assets remaining after payment of all of its liabilities shall be distributed to one or more organizations which the Board of Directors then determines is qualified both as an exempt organization under Section 501(c)(3) of the Internal Revenue Code, and as an organization engaged in activities substantially similar to those of this Corporation (within the meaning of 13-B M.R.S.A. §407).

Section 2.5 Tax exempt Status. It is intended that the Corporation shall have and continue to have the status of a corporation which is exempt from federal income tax under Section 501(a) of the Internal Revenue Code of 1986, as amended, or successor provisions of federal tax law (the "Internal Revenue Code") as an organization described in Section 501(c)(3) of such Code, and to which contributions are deductible under Section 170(c)(2) and 2055(a)(2) of the Internal Revenue Code which is other than a private foundation as defined in Section 509(A) of the Internal Revenue Code. The Articles of Incorporation and these Bylaws shall be construed accordingly, and all powers and activities shall be limited accordingly.

No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation; provided that the Corporation shall have the power to make an election under Section 501(h) of the Internal Revenue Code. Likewise, the Corporation shall not participate or intervene in any manner or to any extent in any political campaign on behalf of any candidate for public office. Furthermore, the Corporation shall not engage in any activities that are unlawful under applicable federal, state or local laws,

including, but not limited to, activities prohibited for an exempt organization under Section 501(c)(3) of the Internal Revenue Code and regulations thereunder as they now exist or as they may hereafter be amended.

ARTICLE III **MEMBERSHIP**

Section 3.1. Member. The sole member of the Corporation shall be the City of Portland, Maine. The sole member of the Corporation shall be referred to as the "Corporator" for the purposes of the Articles of Incorporation and these Bylaws.

Section 3.2 General. In addition to the other powers of the Corporator listed in Section 3.3 hereof, the Corporator shall have the responsibility for the election of the Board of Directors of the Corporation, which Board has the ultimate responsibility for governing the Corporation. The rights and responsibilities of the Corporator, may be changed from time to time by an amendment to the Articles of Incorporation (to the extent required by law) and by these Bylaws.

Section 3.3. Powers. The Corporator shall have only those rights set forth in the Articles of Incorporation, as restated in these Bylaws. Such rights are as follows:

- A. The establishment of the size of the Board of Directors within the limits described in Section 4.2 hereof;
- B. The election of Directors pursuant to Article IV hereof, with the exception of filling of a vacant Board seat as provided in Section 4.5 hereof;
- C. The removal of Directors from the Board of Directors;
- D. The amendment, restatement, or modification of the Articles of Incorporation or of the Bylaws of this Corporation;
- E. The approval of the sale, lease, or other disposition (excluding by mortgage or pledge for purposes of security) of all, or substantially all, of the assets and property of the Corporation;
- F. The dissolution of the Corporation or its merger with or consolidation with another corporation; and
- G. Any other matter which a majority of the Board of Directors voting on the matter votes to submit to the Member.

Section 3.4 Annual Meetings. The Annual Meeting of the Corporator shall be held on such day in the month of September of each year at such place and time as shall be fixed by the Board of Directors. In the event of a failure for any reason to hold an Annual Meeting as aforesaid, any business which may properly be transacted at an Annual Meeting, including the election of Directors, may be transacted at a Special Meeting.

Section 3.5 Special Meetings. Special Meetings of the Corporator may be called at any time by the President or a majority of the Directors.

Section 3.6. Notice of Meetings. Notice of all meetings of the Corporator shall be given by the Secretary or in his or her absence or disability by the President, by mailing or emailing to the Corporator a written notice specifying the time and place of the meeting, such notice to be addressed to the Corporator and emailed or mailed (postage prepaid) at least five (5) but not more than fifty (50) days before the meeting.

Section 3.7. Action by Unanimous Consent. Any action required or permitted to be taken at a meeting of the Corporator may be taken without a meeting as long as consent in writing, setting forth the action so taken shall be signed by the Corporator, and filed with the minutes of the meetings of the Corporator.

Section 3.8. Manner of Acting. The act of the Corporator, present in person or by proxy at a meeting, shall be the valid act of the Corporator.

ARTICLE IV **BOARD OF DIRECTORS**

Section 4.1. Management by Board. The affairs of the Corporation shall be managed by its Board of Directors, which may exercise all powers of the Corporation and do all lawful acts and things necessary or appropriate to carry out the purposes of the Corporation.

Section 4.2. Number of Directors; Eligibility. The Board of Directors shall consist of eleven (11) individuals, nine (9) of whom shall be Directors appointed by the Corporator through the Portland City Council and two (2) of whom shall be ex officio members of the Board pursuant to Section 4 of this Article. No fewer than six (6) of the nine (9) directors appointed by the Corporator must be a resident or property owner in the City of Portland or have an ownership interest in a business that has its principal office in the City.

Section 4.3. Nomination. The Corporator shall receive nominations from the Portland City Council Nominating Committee, which shall supplement its regular Committee recruitment efforts by advertising in the local media and by otherwise publicizing the vacancies as widely as possible.

Section 4.4. Ex Officio Members of the Board of Directors. There shall be two (2) individuals who shall each be deemed an ex officio member of the Board of Directors by virtue of his or her holding the position of (1) Mayor or City Council member of the City of Portland as appointed by the Corporator; and (2) City Manager of the City of Portland.

The provisions of these Bylaws contained in Section 5 regarding term of office, Section 3 regarding nomination of directors and Section 7 regarding vacancies shall not apply to said ex officio members. The City Manager shall be a member of the Board of Directors so long as he or she continues to serve in the office by virtue of which he or she was appointed; and the Mayor or

City Council member shall be appointed annually; and said members shall enjoy all the rights, privileges and responsibilities of all other member of the Board of Directors, including, without limitation, voting privileges, except, however that no ex officio member may serve as President of the Board of Directors. The Board of Directors may take action by unanimous consent only with the consent of said ex officio member. Ex officio members shall be counted as Directors for purposes of determination of residency requirements in Section I of this Article. Ex officio members shall be entitled to the same indemnification rights available to all Directors under the law, these Bylaws or otherwise.

Section 4.5. Terms of Office. One (1) Director shall be initially appointed by the Corporator to hold office until the Second Annual Meeting of the Corporation following the incorporation of this Corporation; two (2) Directors shall be initially appointed by the Corporator to hold office until the Third Annual Meeting of the Corporation following the incorporation of this Corporation; and two (2) Directors shall be initially appointed by the Corporator to hold office until the fourth Annual Meeting of the Corporation following the incorporation of this Corporation. The Corporator shall specify the term of office for which each Director is initially appointed. Thereafter, Directors shall be appointed by the Corporator at Annual Meetings of the Corporator to serve as such for a term of three (3) years. Each Director shall serve until his or her successor shall be duly qualified and appointed. Directors shall be nominated prior to the Annual Meeting of the Corporator. No Director shall succeed himself or herself for more than two (2) full consecutive terms, provided that no term of less than three (3) years which is served directly in advance thereof shall be counted for purposes of this limitation.

Section 4.6. Voting. Each Director shall be entitled to one (1) vote.

Section 4.7. Vacancies. Any vacancy occurring on the Board of Directors may be filled by the Corporator by appointment of an individual qualifying and eligible for such position. A person appointed to fill a vacancy which occurs other than by reason of an increase in the number of Directors shall serve until the next Annual Meeting of the Corporator.

Section 4.8. Resignation. Any Director may resign at any time by giving written notice to the President of the Corporation. Such resignation shall take effect on the date of receipt or at any later time specified therein.

ARTICLE V **MEETINGS**

Section 5.1. Annual Meeting. The Annual Meeting of the Board of Directors shall be held without call at the Board's Regular Meeting in the month of September, at the principal office of the Corporation or at some other place fixed by the President.

Section 5.2. Regular Meeting. Other Regular Meetings of the Board of Directors may be held, without call, at such place, date and time as shall be fixed from time to time by resolution of the Board of Directors.

Section 5.3. Special Meetings. Special Meetings of the Board of Directors may be called by such persons as are authorized by law to call Special Meetings. The place, date and time of the Special Meeting shall be fixed in the call therefor.

Section 5.4. Notice of Meetings. Notice of each Annual, Regular or Special Meeting of the Board of Directors shall be given by the person or persons calling the same or by the President or Secretary at least three (3) days in advance thereof. Notice may be given in writing, by email, by telephone, by oral statement or by any other means to the Directors in person or by delivery of a writing to the Director's residence or business address. Notice given in writing by mail shall be deemed given on the day that the same is deposited in the U.S. mails as first class mail, postage prepaid. Neither the business to be transacted thereat, nor the purposes of any Annual, Regular or Special Meeting of the Board of Directors need to be specified in the notice of such meeting, except when otherwise provided by law.

Section 5.5. Conduct of Meetings. The final actions of the Board of Directors shall be taken openly, and subject to provisions of the Maine Freedom of Access Act, deliberations of the Board shall be conducted openly, and the records of their actions shall be open to public inspection.

Section 5.6. Quorum. Six (6) Directors shall constitute a quorum for the transaction of business. The act of at least four (4) of the Directors present at a meeting of the Board of Directors at which a quorum is present shall be the act of the Board of Directors.

Section 5.7. Informal Action by Directors. Action of the Directors may be taken in accordance with the provisions of Section 708 of the Maine Nonprofit Corporations Act, Title 13-B M.R.S.A. In amplification of, and not in limitation of the foregoing, action taken by agreement of a majority of Directors shall be deemed action of the Board of Directors if all Directors know of the action taken and no Director makes prompt objection to such action. Objection by a Director shall be effective if written objection to any specific action so taken is filed with the Secretary of this Corporation within thirty (30) days of such specific action.

Section 5.8. Notice. Whenever under the provisions of the statutes, Articles of Incorporation or these Bylaws notice is required to be given to any Director, such notice must be given in writing by personal delivery, by email, mail, or by telephone, addressed to such Director at his or her address as it appears on the records of the Corporation, with postage or other delivery fees prepaid, or at his or her telephone number as it appears on the records of the Corporation. Notice by mail shall be deemed to be given at the time it is deposited in the United States mail.

Section 5.9. Indemnification. This corporation shall in all cases indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he or she is or was a Director, officer, employee or agent of this corporation, against expenses, including attorney's fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by him or her in connection with such action, suit or proceeding to the maximum extent permitted by law, including, without limitation, 13-B M.R.S.A. §714 as it may

be amended from time to time, and acts additional thereto and supplementary thereof, to which reference is made.

ARTICLE VI **OFFICERS AND AGENTS**

Section 6.1. Officers. The officers of the corporation shall be chosen annually at the Annual Meeting of the Board of Directors, and shall be a President, a Treasurer and a Secretary. One individual may serve in more than one such office. The Board of Directors may also appoint one or more Assistant Secretaries and Assistant Treasurers.

Section 6.2. Term. Officers shall be elected for a term of one (1) year to serve until the next Annual Meeting of the Board of Directors or until their successors are duly chosen and qualified. Officers may succeed themselves for any period of years. The initial officers shall be appointed by the Board of Directors at their first meeting following incorporation to serve as such until the first Annual Meeting of the Board of Directors.

Section 6.3. Removal. Any officer of the corporation may be removed by the Board of Directors whenever in their judgment the best interests of the corporation will be served thereby.

Section 6.4. Vacancies. Any vacancy in any office (except the office of Director) may be filled by the Board of Directors.

Section 6.5. President. The President of the Corporation shall be elected from among the members of the Board of Directors, provided however that no ex officio member may be permitted to serve as President.

Section 6.6. Treasurer. The Treasurer shall be the chief financial officer of the corporation and, together with the Assistant Treasurer, shall have the responsibility for all corporate funds and securities and shall maintain full and accurate accounts of receipts and disbursements in a book or books kept for that purpose. The Treasurer shall perform such other duties as may be prescribed by the Board of Directors or the President, under whose supervision the Treasurer shall be.

Section 6.7. Secretary. The Secretary shall attend all meetings of Corporation and the Board of Directors and keep minutes of all meetings of the Corporation and the Board of Directors in a book or books kept for that purpose. The Secretary shall perform such other duties as may be prescribed by the Board of Directors or the President, under whose supervision the Secretary shall be. The Secretary, and any Assistant Secretaries, shall have authority to affix the corporate seal to any instrument which requires it, and when so affixed, it may be attested by the Secretary or by any Assistant Secretary.

Section 6.8. The Assistant Treasurer and Assistant Secretary. One (1) Assistant Secretary shall be appointed by the Board of Directors. The individual appointed Assistant Secretary shall be the Director of Economic Development Department of the City of Portland and shall be the principal staff person for the Corporation. The Assistant Secretary will have authority to execute

documents on behalf of the Corporation should a Board officer not be available to do so. One (1) Assistant Treasurer shall be appointed by the Board of Directors. The individual appointed as the Assistant Treasurer shall be that individual who holds the position of Treasurer for the City of Portland. The Assistant Treasurer shall, together with the Treasurer, have the responsibility for all corporate funds and securities and shall maintain full and accurate accounts of receipts and disbursements in a book or books kept for that purpose. The Assistant Treasurer shall have such other powers and duties as may be prescribed from time to time by the Board of Directors. Assistant Secretaries and Assistant Treasurers shall not be members of the Board of Directors.

Section 6.9. Other Employees. Other employees of the Corporation may be appointed by the Board of Directors, and if so appointed, shall be supervised by, and shall serve under the direction of the Assistant Secretary.

ARTICLE VII **ADOPTION, AMENDMENT**

Section 7.1. Generally. These Bylaws may be amended or repealed or new Bylaws adopted only by the affirmative vote of the Corporation, provided, however, that the Bylaws may not be amended in such a way as to cause the Corporation to lose its status (i) as a corporation which is exempt from federal income taxation as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or (ii) as a corporation to which contributions are deductible under Section 170(c)(2) of the Internal Revenue Code of 1986, as amended, or (iii) as a corporation described in Section 170(b)(1)(A)(vi) of the Internal Revenue Code of 1986, as amended.

Section 7.2. Amendments. These Bylaws may be amended solely by the Corporation.

ARTICLE IX **CONFLICT OF INTEREST**

Section 8.1. Avoidance of Conflict or the Appearance of such Conflict. Every Director shall endeavor to avoid conflicts of interest or the appearance of such conflicts or impropriety as provided by state statute, by full disclosure at all times and by abstention in the appropriate circumstances.

Section 8.1. Disclosure. Any Director who has a direct interest in any matter to be considered by the Board shall fully disclose that interest to the Board. If a Director is unsure whether a direct interest exists in a particular matter or if the issue is otherwise raised in good faith, the Director shall disclose the pertinent facts to the Board, and the Board shall determine the issue.

Section 8.3. Abstention. When the Director has so disclosed and is deemed to have a direct interest in a matter, the Director shall abstain from voting on the matter and from otherwise participating in the decision-making process on the matter. Notation of the disclosure and abstention of the Director shall be recorded in the minutes.

Section 8.4. Direct Interest. For purposes of this Article, direct interest in a matter shall mean:

- A. A substantial financial interest of the Director or of the spouse or dependent child of the Director;
- B. A substantial financial interest of any employer, partner, associate, co-shareholder or other co-venturer of the Director;
- C. A substantial financial interest of the Director in any entity which has a substantial financial interest in the matter; or
- B. Any other substantial interest of the Director which the Director or the Board believes might reasonably impair the Director's ability to act independently.

ATTEST:



Gregory A. Mitchell
Assistant Secretary

DATE: March 31, 2016

MEMORANDUM
City Council Agenda Item

FROM: Greg Mitchell, Director

DATE: February 1, 2019

SUBJECT: **Order 157-18/19 Proposing Brownfields Assessment Program Guidelines, and Amending Guidelines for the Brownfields Revolving Loan Fund Program and the Brownfields Closeout Fund - Sponsored by the Housing Committee, Councilor Jill C. Duson, Chair**

SPONSOR: Housing Committee, February 13, 2019 Recommendation; Portland Development Corporation, January 17, 2019 Recommendation

(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 02/20/2019

Final Action 02/20/2019

Can action be taken at a later date: No (If no why not?) The Portland Housing Authority (PHA) is seeking Brownfields funds for its 58 Boyd Street housing development to be used for environmental cleanup needing to happen in March.

PRESENTATION: Tim Agnew, PDC President/5 Minutes.

I. SUMMARY

This item is proposing Brownfields Assessment Program Guidelines and Amendments to the Brownfields RLF Program and Brownfields Closeout Fund Guidelines including to allow PDC's use of Brownfields Funds for multi-family residential developments that have no less than 10 units and at least 50% of the residential units priced for households earning 100% or less of area median income (AMI), along with public open space projects.

II. AGENDA DESCRIPTION

The Housing Committee met on February 13, 2019 and voted 2-0 (Thibodeau absent) to forward this item to the City Council for approval.

Related to the proposed amendments to the Portland Development Corporation (PDC) By-Laws, the amendments to the Brownfields Guidelines primarily address the particulars of allowing the PDC to use these funds for assessment activities and cleanup on multi-family residential development properties and public open space projects.

Five affirmative votes are required for passage following public comment.

III. BACKGROUND

Staff is proposing amendments to two sets of Brownfields Guidelines – the Revolving Loan Fund (RLF) Program and the Closeout Fund Program. The amendments will establish consistency between these two programs given that they are both sources of loans and grants for remediation/cleanups, and they will help to achieve greater use of the Closeout Funds (program income). The latter type of fund was the subject of a recent national audit report by the Office of Inspector General of the U.S. Environmental Protection Agency which stressed the importance of using program income (Closeout Funds), rather than letting those funds sit idle in

growing closeout fund accounts. It is proposed that cleanup projects under \$100,000 use Closeout Funds instead of the Brownfields RLF Program, which will increase Closeout Fund utilization and keep accessory costs down given that there are fewer EPA requirements for use of these funds.

Also, staff is proposing new Brownfields Assessment Guidelines for the recent grant of \$200,000 that the City received from the U.S. Environmental Protection Agency (EPA). This is the first EPA assessment grant that the City of Portland has received. Assessment funds are used only for assessment activities, including but not limited to Phase 1 and Phase II Environmental Site Assessments, and cleanup planning. Staff and the PDC recommend that requests for Assessment Program Funds be reviewed and approved administratively by staff in consultation with the City's Qualified Environmental Professional (QEP). Throughout the State of Maine, review and approval of requests for assessment funding are always done administratively because of the need to generally react quickly to assessment activity requests. The proposed changes to the Closeout Fund also will make them consistent with the new Assessment Guidelines as both sources provide funds for assessment activities. However, Closeout Funds for assessment work will only be requested when the Assessment Fund itself becomes fully depleted. The PDC will retain review and approval authority over the Closeout Funds for loans, grants and environmental assessment activities using this funding source.

Note that the Portland Brownfields Assessment Program pays for the cost of assessment activities only for properties that are deemed to be eligible by EPA. Eligibility generally relates to whether the owner is potentially responsible for contamination on the property and the property or site qualifies as a Brownfield. Further, assessment funds are not awarded as a grant or loan to an applicant, rather, the City will pay directly from its EPA grant to the service provider for the cost of assessment work. Review criteria included in the Assessment Fund Program Guidelines will assist in determining whether to fund an applicant's request.

Related to the proposed amendments to the PDC By-Laws, amendments to the Brownfields RLF Program and Closeout Fund Program Guidelines and the Assessment Program Guidelines address the requirements that a multi-family residential project must meet in order for the PDC and staff to consider using Brownfields funds. Specifically, a residential multi-family project must have no less than 10 residential units and at least 50% of the units must be priced for households earning 100% or less of area median income (AMI), as determined by the Planning Authority.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

These amendments will result in more cohesive Brownfields Programs as well as provide the PDC and staff with the ability to use EPA Brownfields funds for assessment activities and cleanup/remediation on properties for multi-family residential developments that have no commercial component, and for public open space projects.

V. FINANCIAL IMPACT

There will be no cost to the City from these proposed amendments as they will draw on EPA Brownfields grants made to the City of Portland for assessment and cleanup/remediation.

VI. STAFF ANALYSIS AND BACKGROUND

The proposed amendments to the two Brownfields Program Guidelines (RLF Program and Closeout Funds Program) and the new Assessment Program Guidelines will bring consistency and efficiency to the City of Portland Brownfields Programs.

The residential amendments to the Brownfields RLF and the Brownfields Closeout Fund Programs will allow

the PDC to fund assessment activities and provide loan and grant funds for remediation/cleanup for multi-family residential developments that have no commercial component and for public open space projects. The affordability restrictions that the residential projects have no less than 10 housing units and at least 50% of the units be priced for households earning 100% or less of area median income (AMI), were arrived at in cooperation with the City's Housing Division. They are proposed in order to support an increase in the development of workforce and affordable housing. The same affordability restrictions for multi-family residential housing are included in the Brownfields Assessment Program. 100% AMI translates into a one-person household earning no more than \$58,380 and a two-person household earning no more than \$66,720 as per the U.S. Department of Housing and Urban Development.

VII. RECOMMENDATION

Staff, the Housing Committee, and 5 PDC Board Members (as the last PDC meeting was one member short of a quorum of 6) recommend approval of the proposed amendments to the Brownfields RLF Program and Closeout Fund Program Guidelines that would allow the PDC to provide assessment funds as well as loan and grant cleanup/remediation funds to multi-family residential projects that meet the affordability restrictions and to public open space projects. Staff and the PDC also recommend all other proposed Amendments to these two Brownfields Programs as well as the Guidelines for the Brownfields Assessment Program.

See an attached matrix showing a side-by-side comparison for each of the three EPA funded Brownfields Programs, noting available funds, funding types, eligible applicants, allowable uses of funds and the approving entity. Also attached are two program guidelines in a strike through and underline format (redlined) showing proposed new language and proposed deletions as well as Assessment Program Guidelines.

VIII. LIST ATTACHMENTS

1. Amending Brownfields Program, Loan Fund and Closeout Fun Guidelines for PDC 2.20.2019
2. Agenda request Guidelines 1-29-19 - FINAL Backup

Prepared by:

Greg Mitchell, Director

Date: 02/01/2019

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (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 PROPOSING BROWNFIELDS ASSESSMENT PROGRAM GUIDELINES,
AND AMENDING GUIDELINES FOR THE BROWNFIELDS REVOLVING LOAN
FUND PROGRAM AND THE BROWNFIELDS CLOSEOUT FUND**

ORDERED, that that the Portland City Council, acting in its capacity as sole Corporator of the Portland Development Corporation, hereby approves the guidelines for the Brownfields Assessment Program in a form substantially the same as those attached hereto; and

BE IT FURTHER ORDERED, that the guidelines of the Portland Brownfields Cleanup Revolving Loan Fund, a loan program administered by the Portland Development Corporation, are hereby amended in substantially the form attached hereto; and

BE IT FURTHER ORDERED, that the guidelines for the Brownfields Closeout Fund are hereby amended in substantially the form attached hereto; and

BE IT FURTHER ORDERED, that the City Manager is hereby authorized to execute whatever documents are necessary to effect the intent and purpose of this Order.

Matrix of Brownfields Programs						
Program	Assessment Program #281 - \$200,000	RLF Cleanup Program #280 - \$500,000		Closeout Fund Program #278 - \$372,162		
Funding Type	Direct Payment*	Loan	Grant	Direct Payment*	Loan	Grant
Applicant	City, FP, NP	City, FP, NP	NP	City, FP, NP	City, FP, NP	NP
Purpose	Phase I & II ESAs	Cleanup	Cleanup	Phase I & II ESAs	Cleanup	Cleanup
Maximum Amt.	See ranges below**	\$100,000 - \$300,000	\$200,000	See ranges below**	< \$100,000	< \$100,000
Approval Entity	Staff and QEP	PDC	PDC	PDC	PDC	PDC

ESAs = Environmental Site Assessments, etc.

FP = For Profits

NP = Non Profits

QEP = Qualified Environmental Professional (geologist or environmental engineer)

RLF = Revolving Loan Fund

*Direct Payment = Direct payment to service provider conducting Phase I or Phase II ESA

**Ranges for Phase I & II ESAs = Generally, a Phase I ESA ranges from 2,500 - \$4,000; Generally, a Phase II ESA ranges from \$20,000 - \$35,000

PORTLAND BROWNFIELDS CLEANUP REVOLVING LOAN FUND PROGRAM

Amended to be applicable City-wide and passed by the City Council on 7/16/07.

Amended by Corporator at 11/7/08 Meeting adding an amendment for Requests for Amendment to Loan Terms.

Amended by Corporator at 3/6/2017 Meeting.

The Portland Brownfields Cleanup Revolving Loan Fund Program (BCRLF) (Fund # 280) provides loans and subgrants to assist those interested in remediating and redeveloping Brownfields sites within the City of Portland. Brownfields are abandoned, idled or underused industrial or commercial properties with real or perceived environmental contamination. is designed to encourage the remediation/cleanup of eligible Brownfields sites and activities associated with removing, mitigating, or preventing the release, or threat of a release, of a hazardous substance, pollutant, or contaminant from Brownfields sites.

The purpose of this Program is to facilitate the cleanup and reuse of Brownfield properties for commercial, public open space and recreation, and multi-family residential of at least 10 units in a project. At least 50% of the residential units must be priced for households earning 100% or less of area median income (AMI), as determined by the Planning Authority.

Program assistance is provided through low interest loans and subgrants, with subgrants available to non-profits. Per the EPA Revolving Loan Fund Terms and Conditions, the City may not provide a subgrant to itself or another component of its own unit of government or organization.

Brownfields Definition: A brownfield is a property whose expansion, redevelopment, or reuse is complicated by the presence or potential presence of a hazardous substance, pollutant or contaminant.

The funding for this Program funding comes from the U.S. Environmental Protection Agency (EPA) and is authorized by the ~~City of~~ Portland City Council.

1. Program Goal

To assist in financing the cleanup of Brownfields sites within the City of Portland, thereby making these properties available for redevelopment and contributing to the revitalization of the community, creation of jobs, improving the environment and eliminating the public health risks associated with these sites.

2. Program Objectives

- (a) To create an incentive for private investment in Brownfields properties/sites with in the City of Portland;
- (b) To safely clean up Brownfields properties based on end use in order to facilitate their sustainable reuse;
- (c) To foster development and implementation of financial and administrative approaches that can support self-sustaining efforts to facilitate Brownfields cleanup efforts; and
- (d) To prevent the exacerbation, creation or spread of contamination on or between properties to protect the public health by minimizing exposure to toxic materials in the environment.

3. Program Description

This program is designed to encourage the cleanup of eligible Brownfields sites and activities associated with removing, mitigating, or preventing the release, or threat of a release, of a hazardous substance, pollutant, or contaminant from Brownfields sites. Assistance is provided through low interest loans and subgrants. Subgrants are available to non-profits and governmental entities.

4. Program Budget

The funding for the Portland Brownfields Cleanup Revolving Loan Fund is provided by the U.S. Department of Environmental Protection Agency (EPA) and authorized by the Portland City Council.

35. Eligible Project Applicants

- (a) The project applicant or owner is not considered potentially responsible for the contamination on the property;
- (b) The project applicant or owner is not currently suspended, debarred or otherwise ineligible to participate in Federal financial assistance programs;
- (c) The project applicant or owner is not in environmental non-compliance with Federal or State agencies.
- (d) The project applicant or owner must owe no outstanding property taxes, fees, judgments, or liens to the City;

4. Property Threshold Requirements

- (e) The property to be assisted is located within the City of Portland;
- (a) ~~(b)(f)~~ The project applicant or owner must owe no outstanding property taxes, fees, judgments, or liens to the City;

- ~~(e)(g)~~ The property must be eligible to apply to meet the definition of a Brownfield and be enrolled in the Maine Voluntary Response Action Program (VRAP) for site cleanup;
- ~~(h)~~ The property must have had adequate environmental assessments completed in order to understand site conditions and necessary remediation (e.g. Phase I Environmental Site Assessment and/or Phase II Environmental Site Assessment);
- ~~(d)~~
- ~~(i)~~ The site property meets the EPA eligibility requirements;
- ~~(e)~~
- ~~(f)~~ The project applicant or owner is not a generator or transporter of contamination to the site;
- ~~(g)~~ The project applicant or owner is not currently suspended, debarred or otherwise ineligible to participate in Federal financial assistance programs; and
- ~~(h)~~ The project applicant or owner is not in environmental non-compliance with Federal or State agencies.

56. Ownership Eligibility ~~le~~ Applicants/Entities

- ~~(a)~~ Publicly or privately owned by current or prospective property owners, banks, developers, etc., to seek loans; ~~either directly by a municipality or indirectly through a~~
- ~~(a)~~ quasi-public entity such as a community development corporation ~~Privately-owned by current or prospective non-profit owners to seek loans and/or subgrants ; or~~
- ~~(b)~~ Privately-owned by current or prospective commercial property owners, banks, developers, non-profits, etc.;
- ~~(c)~~ Applicant must own or be in the process of obtaining ownership at the time of application;
- ~~(e)(d)~~ Applicant cannot be potentially liable under CERCA Sec. 107 for contamination on the property.

67. Eligible Activities

Cleanup actions associated with removing, mitigating, or preventing the release or threat of a release of a hazardous substance, pollutant or contaminant including but not limited to:

- (a) Preparation of a Maine Department of Environmental Protection (DEP) VRAP application and associated application fee, Community Relations Plan (CRP), Analysis of Brownfields Cleanup Alternatives (ABCA); public meeting to present the ABCA; and preparation of meeting minutes;
- (b) Fences, warning signs or other security or site control precautions;
- (c) Drainage controls;
- (d) Stabilization of berms, dikes or impoundments or drainage or closing lagoons;

- (e) Capping of contaminated soils;
- (f) Using chemicals and other materials to retard the spread of the release or mitigate its effects;
- (g) Excavation, consolidation, or removal of contaminated soils from drainage or other areas;
- (h) Abatement of hazardous building materials including asbestos, lead paint, mold and PCBs;
- (h) Removal of drums, barrels, tanks, or other bulk containers that contain or may contain hazardous substances, pollutants or contaminants;
- (i) Containment, treatment, disposal, or incineration of hazardous materials;
- (j) Provision of alternative water supply where necessary immediately to reduce exposure to contaminated household water;
- (k) Site monitoring activities, including sampling and analysis, that are necessary during the cleanup process, including determination of effectiveness of a cleanup; ~~and~~
- (l) Costs associated with meeting public participation, worker health and safety, and interagency coordination requirements;
- (m) Costs associated with removal activities including demolition and/or site preparation that are part of site cleanup;
- (n) Environmental Insurance Premiums;
- o) Programmatic costs for the City of Portland and its QEP to manage and oversee the work being performed under this Program.

78. Ineligible Activities

- (a) Pre-cleanup environmental response activities (i.e. site assessment, identification, and characterization); however, the Lead Agency may request EPA approval for limited site assessment on a case-by-case basis when necessary to ensure protection of the environment and public health through cleanup action.
- (b) Monitoring and data collection necessary to apply for, or comply with environmental permits under other federal and state laws, unless such a permit is required as a component of the cleanup action; ~~and~~
- (c) Construction, demolition and development activities that are not integral to the cleanup actions, and addressing public or private drinking water supplies that have deteriorated through ordinary use. Development activities that are not removal actions (e.g. construction of a new facility or marketing of property).
- (d) Job training unrelated to performing a specific cleanup at a site covered by a loan or subgrant;
- (e) To pay for a penalty or fine;
- (f) To pay a federal cost share requirement (for example, a cost-share required by another Federal subgrant) unless there is specific statutory authority;
- (g) To pay for response costs at a Brownfields site for which the recipient of the subgrant or loan is potentially liable under CERCLA Section 107;

- (h) To pay a cost of compliance with any federal law, excluding the cost of compliance with laws applicable for cleanup;
- (i) Unallowable costs (e.g. lobbying and fund raising) under applicable OMB Circulars.

89. Financing Terms

The following terms will guide the actions of the Portland Development Corporation (PDC) on behalf of the City of Portland for cleanup remediation loans and subgrants:

- (a) Loan amount for eligible cleanup activities will be limited to the balance of the loan fund, but generally range from a minimum of \$1050,000 to a maximum of \$300,000, and will be negotiated based on project redevelopment needs. Subgrants up to \$200,000 are available for eligible cleanup activities;
- (b) Maximum loan term is up to 10 years, though shorter terms are preferred; The actual term is negotiable on a case-by-case basis, and may include a longer amortization period with a balloon at the end of the designated term. Projects must justify the need for the maximum term.
- (c) Interest rate will be determined by the PDC, though Brownfields loans are usually lent at a lower interest rate;
- (d) Brownfields site, business assets, outside collateral, and/or personal guaranties may be required as security;
- (e) Environmental indemnification and/or lenders environmental insurance may be required;
- (f) Evidence of a cost share of at least 20% of the loan or subgrant amount will be required of all Applicants/Borrowers; in special circumstances, as determined by the PDC, the cost share may be reduced or waived.
- (g) Cost share monies and or eligible in-kind cleanup activities will be specifically utilized for eligible cleanup activities;
- (h) As applicable, Borrower/Subgrantee will be required to utilize Davis Bacon Wage compliance requirements and provide backup verifying compliance;
- (i) Loan/Subgrant drawdown requests with sufficient backup of eligible cleanup activities will be reimbursed at the PDC approved loan or subgrant proportion to cost share prior to final drawdown (e.g., 80% of eligible activities will be reimbursed by the City, the remaining 20% will be considered as the Applicants cost share and shall be paid by the Applicant).

910. Requests for Amendment to Loan Terms

A one percent fee will may be applied for requests for amendments to loan terms, as well as costs for legal fees and recording fees associated with

preparing any additional loan documents/modifications. The one percent fee will be based on the current loan balance at the time of the request. This one percent fee will be applied to those loan amendments which require the PDC Assistant Secretary to bring the request to the PDC Board of Directors based on substantive changes.

The City's Economic Development Director (PDC Assistant Secretary) has the discretion to determine whether requested loan amendments should be brought to the Board or done administratively. If done administratively, the PDC Assistant Secretary will confer with the Business Programs Manager and the Associate Corporation Counsel to determine the fee based on hourly rates of pay, as well as recording fees and legal hourly fees.

110. Underwriting Criteria

Project Review will include, but not be limited to, the following factors:

- ~~(a) Location of the Brownfields site within the City of Portland;~~
- ~~(b)(a)~~ (a) Necessity of loan and/or subgrant funds to make the project economically feasible with the least amount of public resources.
- ~~(c)(b)~~ (b) Analysis of credit reports and financial documents as well as budget feasibility analysis provided by the the RLF Site Manager ((Qualified Environmental Professional - (QEP)) City contracted underwriter to assess that applicant is a not a cleanup and/or business risk.

121. Application-Overall Review Criteria

The application for City of Portland Brownfields RLF funding will be evaluated using some or all of the following criteria:

- (a) Cleanup activities are eligible
- (b) Completeness of application
- (c) Sufficient Brownfields funds available
- (d) Economic/Financial benefit(s)
 - 1. Potential for redevelopment;
 - 2. Developer interest in site;
 - 3. Potential for job creation, workforce/affordable housing and/or sustainable economic development;
 - 4. Financial feasibility for cleanup/remediation of contamination
 - 5. Ability to leverage additional funding or other resources for cleanup/remediation.
- (e) Environmental benefit(s)
 - 1. Potential reduction, elimination and/or control of threats/risks to human health and the environment;
 - 2. Creation, preservation and/or maintenance of greenspace.
- (f) Community benefit(s)

1. Likelihood for successful redevelopment, reuse and/or revitalization
2. Availability of existing infrastructure, transportation corridors and municipal services to support redevelopment;
3. Potential to enable sustainable growth, use of green building design initiatives and green/renewable energy resources;
4. Interest and presence of a willing owner, buyer or other stakeholder to invest in the property and to provide access to the property for cleanup.

12. Application Review Process

The PDC, with input and recommendations made by the Maine Department of Environmental Protection, EPA, City's QEP and the City's Economic Development Department (EDD), will review project proposals to determine eligibility and negotiate with applicants to determine the least amount of public resources necessary to make the projects feasible.

Remediation/cleanup plans should be implemented efficiently and redevelopment projects completed on schedule and within identifiable cleanup budgets. The actions to be taken, including PDC review, are as follows:

The loan approval process shall be carried out efficiently and pragmatically to insure loans are approved in a timely manner, cleanup plans are implemented and redevelopment projects are completed on schedule to maximize the community benefit goals of the projects. The actions to be taken are: is as follows:

- The applicant will meet with the City and City's QEP to discuss the project;
- (a) Applicants seeking funds for remediation/cleanup are required to be enrolled in the Maine (VRAP) or in the process of applying (that is, VRAP application and associated workplan and VRAP fees are eligible for RLF reimbursement) ;
 - (b) Applicant will complete the City's Brownfields RLF Application (Part 1) and provide it along with ESAs I and II and evidence of VRAP submittal and provide supporting documentation for review by the EDD and QEP;
 - (a)(c) Applicant or QEP will prepare EPA Site Eligibility form; EDD submits to EPA for approval;
 - (b)(d) The City's QEP and Maine DEP will review the environmental assessments and cleanup plan summary in addition to the Part 1 RLF Application. If the Applicant's site cleanup activities and preliminary project costs are eligible, the City's QEP will prepare a summary memo to the EDD (approval or denial) for review by the Maine DEP, the EPA and the EDD;:-
 - (e)(e) Applicant submits Part II RLF application (financial backup). The underwriter will proceed with the review and analysis of the financial components of the loan and/or subgrant application and prepare a report

for the PDC with recommended terms and conditions;

~~(d)~~(f) The PDC will be presented with the loan report and, based on an analysis of the financial qualifications of the applicant and the merits of the project, the PDC will vote to approve or disapprove of the loan/subgrant request including terms and conditions ;

~~(e)~~(g) The EDD will prepare a loan commitment letter for the Applicant/~~Borrower~~, including terms and conditions.

~~(f)~~(h) Once the commitment letter is fully executed:

1. The ~~Applicant~~/Borrower/Subgrant Recipient and their QEP will prepare a Draft Community Relations Plan (CRP) and Draft Analysis of Brownfields Cleanup Alternatives (ABCA). The Draft CRP and Draft ABCA will be submitted to the Maine DEP and EPA for approval and comment. Upon comment receipt and incorporation, the draft ABCA will be presented at a public community meeting hearing and will be subject to a 30-day public comment period;
2. The City attorney will draft loan documents which will include but not be limited to the loan agreement, promissory note, mortgage agreement and any other documentation as necessary. The loan documents and RLF Agreement with City shall include attachments including but not limited to a copy of the deed, a schedule for the cleanup activities, and costs for eligible activities associated with the cleanup.

~~(g)~~(i) Based on the community meeting CRP, a final draft of the ABCA is prepared by the ~~Applicant~~/Borrower/Subgrant Recipient, which incorporates comments received by Maine DEP, EPA and the public;

~~(j)~~ Once the CRP and ABCA has ~~ve~~-been finalized, the Applicant/Borrower prepares ~~a Scope of Work for the cleanup activities, including a detailed detailed cleanup~~ budget and work schedule, a Health and Safety Plan, and a Quality Assurance Project Plan if needed (the QAPP will need to be reviewed by Maine DEP and EPA, prior to finalization); and

~~(h)~~(k) Borrower/subgrant recipient acknowledges that Davis Bacon wage compliance is mandatory for receipt of Brownfields funds;

~~(l)~~ The loan agreement, promissory note, mortgage agreement, and any other loan documents are signed. Any loan fees are paid;

~~(i)~~(m) The Applicant shall prepare a project sign to be posted at the site prior to initiation of cleanup activities listing at a minimum the City, MEDEP, EPA and contact information for the Applicant's QEP. A draft mockup of the sign shall be submitted to the City for approval and provided to DEP and EPA.

City Checklist for Applicants

The City will request the following information from the is a checklist of information needed from Applicants: Applicant to make the loan or subgrant determination;

Applicant Information

- (a) Applicant Overview: name, location, principal owners/stockholders, type of business and products or services, date established;
- (b) Financial Overview: historical financial statements for the past three years, most recent quarter and copies of appropriate IRS Tax Returns;
- (c) Management Overview: resumes of principals; and
- (d) Credit References: financial institutions and other creditors.

Site Related Conditions

- (a) Environmental assessments (e.g., Phase I and II in accordance with American Society for Testing and Materials (ASTM) Standards);
- (b) Information regarding the status of the Applicant/ as a potentially responsible party at the site;
- (c) Information on environmental compliance history;
- (d) Information on whether or not the Applicant is currently or ever has been subject to any penalties resulting from environmental non-compliance at the site;
- (e) Information on whether or not the Applicant is a generator or transporter of contamination at the site; and
- (f) Information on whether or not the Applicant falls under a statutory exemption from liability; or that the EPA could use its enforcement discretion and not pursue the party as a responsible party under CERLA if the Applicant is currently the owner/operator of the site.

Remediation Cleanup Plan

Cleanup Plan Summary: cleanup plan including a technical description of work to be done, eligible cleanup activities and costs estimates for cleanup and project redevelopment. Cleanup Plan should also document other funding sources for cleanup and eligible activities to be utilized for cost share. The source of the 20% cost share of monies and or eligible in-kind services/materials must be provided.

Redevelopment Plan

- (a) Financing Project: a description of the cleanup project and the reuse plan;
- (b) Business Plan: a description of the business goals, strategies and action plans; and
- (c) Financial Plan: pro-forma financial statements which demonstrates the economic viability of the project and identifies the sources of repayment for the loan.

Community Benefits

- (a) Employment Impact: number of current and new jobs, wage levels and job training anticipated to be generated from the cleanup and redevelopment of the site.
- (b) Investment Impact: Serves as an incentive for investment in Brownfields areas.
- (c) Multi-Family Housing~~Housing Units~~: Available for the creation of multi-family housing~~Housing Units located~~ in Brownfields areas.
- (d) Public open space and recreation acreage for cleanup located in the brownfields area.
- (e) Any other community benefits.

PORTLAND BROWNFIELDS CLEANUP REVOLVING LOAN FUND PROGRAM

Amended to be applicable City-wide and passed by the City Council on 7/16/07.

**Amended by Corporator at 11/7/08 Meeting adding an amendment for Requests for
Amendment to Loan Terms.**

Amended by Corporator at 3/6/2017 Meeting.

The Portland Brownfields Cleanup Revolving Loan Fund Program (Fund # 280) . is designed to encourage the remediation/cleanup of eligible Brownfields sites and activities associated with removing, mitigating, or preventing the release, or threat of a release, of a hazardous substance, pollutant, or contaminant from Brownfields sites.

The purpose of this Program is to facilitate the cleanup and reuse of Brownfield properties for commercial, public open space and public recreation, and multi-family residential of at least 10 units in a project. At least 50% of the residential units must be priced for households earning 100% or less of area median income (AMI), as determined by the Planning Authority.

Program assistance is provided through low interest loans and subgrants, with subgrants available to non-profits. Per the EPA Revolving Loan Fund Terms and Conditions, the City may not provide a subgrant to itself or another component of its own unit of government or organization.

Brownfields Definition: A brownfield is a property whose expansion, redevelopment, or reuse is complicated by the presence or potential presence of a hazardous substance, pollutant or contaminant.

Program funding comes from the U.S. Environmental Protection Agency (EPA) and is authorized by the Portland City Council.

1. Program Goal

To assist in financing the cleanup of Brownfields sites within the City of Portland, thereby making these properties available for redevelopment and contributing to the revitalization of the community, creation of jobs, improving the environment and eliminating the public health risks associated with these sites.

2. Program Objectives

- (a) To create an incentive for private investment in Brownfields properties in the City of Portland;

- (b) To safely clean up Brownfields properties in order to facilitate their sustainable reuse;
- (c) To foster development and implementation of financial and administrative approaches that can support self-sustaining efforts to facilitate Brownfields cleanup efforts; and
- (d) To prevent the exacerbation, creation or spread of contamination on or between properties to protect the public health by minimizing exposure to toxic materials in the environment.

3. Eligible Project Applicants

- (a) The project applicant or owner is not considered potentially responsible for the contamination on the property;
- (b) The project applicant or owner is not currently suspended, debarred or otherwise ineligible to participate in Federal financial assistance programs;
- (c) The project applicant or owner is not in environmental non-compliance with Federal or State agencies.
- (d) The project applicant or owner must owe no outstanding property taxes, fees, judgments, or liens to the City;

4. Property Threshold Requirements

- (a) The property is located within the City of Portland;
- (b) The property must be eligible to apply to the Maine Voluntary Response Action Program (VRAP) for site cleanup;
- (c) The property must have had adequate environmental assessments completed in order to understand site conditions and necessary remediation (e.g. Phase I Environmental Site Assessment and/or Phase II Environmental Site Assessment);
- (d) The property meets the EPA eligibility requirements;

5. Ownership Eligibility

- (a) Publicly or privately owned by current or prospective property owners, banks, developers, etc., to seek loans; Privately-owned by current or prospective non-profit owners to seek loans and/or subgrants
- (b) Applicant must own or be in the process of obtaining ownership at the time of application;
- (c) Applicant cannot be potentially liable under CERCA Sec. 107 for contamination on the property.

6. Eligible Activities

Cleanup actions associated with removing, mitigating or preventing the release or threat of a release of a hazardous substance, pollutant or contaminant including but not limited to:

- (a) Preparation of a Maine Department of Environmental Protection (DEP) VRAP application and associated application fee, Community Relations Plan (CRP), Analysis of Brownfields Cleanup Alternatives (ABCA); public meeting to present the ABCA; and preparation of meeting minutes;
- (b) Fences, warning signs or other security or site control precautions;
- (c) Drainage controls;
- (d) Stabilization of berms, dikes or impoundments or drainage or closing lagoons;
- (e) Capping of contaminated soils;
- (f) Using chemicals and other materials to retard the spread of the release or mitigate its effects;
- (g) Excavation, consolidation, or removal of contaminated soils from drainage or other areas;
- (h) Abatement of hazardous building materials including asbestos, lead paint, mold and PCBs;
- (i) Removal of drums, barrels, tanks, or other bulk containers that contain or may contain hazardous substances, pollutants or contaminants;
- (j) Containment, treatment, disposal, or incineration of hazardous materials;
- (k) Provision of alternative water supply where necessary immediately to reduce exposure to contaminated household water;
- (l) Site monitoring activities, including sampling and analysis, that are necessary during the cleanup process, including determination of effectiveness of a cleanup;
- (m) Costs associated with meeting public participation, worker health and safety, and interagency coordination requirements;
- (n) Costs associated with removal activities including demolition and/or site preparation that are part of site cleanup;
- (o) Environmental Insurance Premiums;
- (p) Programmatic costs for the City of Portland and its QEP to manage and oversee the work being performed under this Program.

7. Ineligible Activities

- (a) Pre-cleanup environmental response activities (i.e. site assessment, identification, and characterization); however, the Lead Agency may request EPA approval for limited site assessment on a case-by-case basis when necessary to ensure protection of the environment and public health through cleanup action.
- (b) Monitoring and data collection necessary to apply for, or comply with environmental permits under other federal and state laws, unless such a permit is required as a component of the cleanup action;
- (c) Construction, demolition and development activities that are not integral to the cleanup actions, and addressing public or private drinking water

supplies that have deteriorated through ordinary use; Development activities that are not removal actions (e.g. construction of a new facility or marketing of property).

- (d) Job training unrelated to performing a specific cleanup at a site covered by a loan or subgrant;
- (e) To pay for a penalty or fine;
- (f) To pay a federal cost share requirement (for example, a cost-share required by another Federal subgrant) unless there is specific statutory authority;
- (g) To pay for response costs at a Brownfields site for which the recipient of the subgrant or loan is potentially liable under CERCLA Section 107;
- (h) To pay a cost of compliance with any federal law, excluding the cost of compliance with laws applicable for cleanup;
- (i) Unallowable costs (e.g. lobbying and fund raising) under applicable OMB Circulars.

8. Financing Terms

The following terms will guide the actions of the Portland Development Corporation (PDC) on behalf of the City of Portland for cleanup remediation loans and subgrants:

- (a) Loan amount for eligible cleanup activities will be limited to the balance of the loan fund, but generally range from a minimum of \$100,000 to a maximum of \$300,000, and will be negotiated based on project redevelopment needs. Subgrants up to \$200,000 are available for eligible cleanup activities;
- (b) Maximum loan term is up to 10 years, though shorter terms are preferred; The actual term is negotiable on a case-by-case basis, and may include a longer amortization period with a balloon at the end of the designated term. Projects must justify the need for the maximum term.
- (c) Interest rate will be determined by the PDC, though Brownfields loans are usually lent at a low interest rate;
- (d) Brownfields site, business assets, outside collateral, and/or personal guaranties may be required as security;
- (e) Environmental indemnification and/or lenders environmental insurance may be required;
- (f) Evidence of a cost share of at least 20% of the loan or subgrant amount will be required of all Applicants/Borrowers; in special circumstances, as determined by the PDC, the cost share may be reduced or waived.
- (g) Cost share monies and or eligible in-kind cleanup activities will be specifically utilized for eligible cleanup activities;
- (h) As applicable, Borrower/Subgrantee will be required to utilize Davis Bacon Wage compliance requirements and provide backup verifying compliance;
- (i) Loan/Subgrant drawdown requests with sufficient backup of eligible cleanup activities will be reimbursed at the PDC approved loan or

subgrant proportion to cost share prior to final drawdown (e.g., 80% of eligible activities will be reimbursed by the City, the remaining 20% will be considered as the Applicants cost share and shall be paid by the Applicant).

9. Requests for Amendment to Loan Terms

A one percent fee may be applied for requests for amendments to loan terms, as well as costs for legal fees and recording fees associated with preparing any additional loan documents/modifications. The one percent fee will be based on the current loan balance at the time of the request. This one percent fee will be applied to those loan amendments which require the PDC Assistant Secretary to bring the request to the PDC Board of Directors based on substantive changes.

The City's Economic Development Director (PDC Assistant Secretary) has the discretion to determine whether requested loan amendments should be brought to the Board or done administratively. If done administratively, the PDC Assistant Secretary will confer with the Business Programs Manager and the Associate Corporation Counsel to determine the fee based on hourly rates of pay, as well as recording fees and legal hourly fees.

10. Underwriting Criteria

Review will include, but not be limited to, the following factors:

- (a) Necessity of loan and/or subgrant to make the project economically feasible with the least amount of public resources.
- (b) Analysis of credit reports and financial documents as well as budget feasibility analysis provided by the (City contracted underwriter to assess that applicant is a business risk.

11. Overall Review Criteria

The application for City of Portland Brownfields RLF funding will be evaluated using any or all of the following criteria:

- (a) Cleanup activities are eligible
- (b) Completeness of application
- (c) Sufficient Brownfields funds available
- (d) Economic/Financial benefit(s)
 - 1. Potential for redevelopment;
 - 2. Developer interest in site;
 - 3. Potential for job creation, workforce/affordable housing and/or sustainable economic development;
 - 4. Financial feasibility for cleanup/remediation of contamination
 - 5. Ability to leverage additional funding or other resources for cleanup/remediation.

- (e) Environmental benefit(s)
 - 1. Potential reduction, elimination and/or control of threats/risks to human health and the environment;
 - 2. Creation, preservation and/or maintenance of greenspace.
- (f) Community benefit(s)
 - 1. Likelihood for successful redevelopment, reuse and/or revitalization
 - 2. Availability of existing infrastructure, transportation corridors and municipal services to support redevelopment;
 - 3. Potential to enable sustainable growth, use of green building design initiatives and green/renewable energy resources;
 - 4. Interest and presence of a willing owner, buyer or other stakeholder to invest in the property and to provide access to the property for cleanup.

12. Application Review Process

Remediation/cleanup plans should be implemented efficiently and redevelopment projects completed on schedule and within identifiable cleanup budgets. The actions to be taken, including PDC review, are as follows:

- (a) Applicants seeking funds for remediation/cleanup are required to be enrolled in the Maine (VRAP) or in the process of applying (that is, VRAP application and associated workplan and VRAP fees are eligible for RLF reimbursement) ;
- (b) Applicant will complete the City's Brownfields RLF Application (Part 1) and provide it along with ESAs I and II and evidence of VRAP submittal for review by the EDD and QEP;
- (c) Applicant or QEP will prepare EPA Site Eligibility form; EDD submits to EPA for approval;
- (d) The City's QEP will review the environmental assessments and cleanup plan summary in addition to the Part 1 RLF Application. If the Applicant's site cleanup activities and preliminary project costs are eligible, the City's QEP will prepare a summary memo to the EDD ;
- (e) Applicant submits Part II RLF application (financial backup). The underwriter will proceed with the review and analysis of the financial components of the loan and/or subgrant application and prepare a report for the PDC with recommended terms and conditions;
- (f) The PDC will be presented with the loan report and, based on an analysis of the financial qualifications of the applicant and the merits of the project, the PDC will vote to approve or disapprove of the loan/subgrant request including terms and conditions ;
- (g) The EDD will prepare a loan commitment letter for the Applicant, including terms and conditions.
- (h) Once the commitment letter is fully executed:

1. The Borrower/Subgrant Recipient and their QEP will prepare a Draft Community Relations Plan (CRP) and Draft Analysis of Brownfields Cleanup Alternatives (ABCA). The Draft CRP and Draft ABCA will be submitted to the Maine DEP and EPA for approval and comment. Upon comment receipt and incorporation, the draft ABCA will be presented at a community meeting and will be subject to a 30-day public comment period;
2. The City attorney will draft loan documents which will include but not be limited to the loan agreement, promissory note, mortgage agreement and any other documentation as necessary. The loan documents and RLF Agreement with City shall include attachments including but not limited to a copy of the deed, a schedule for the cleanup activities, and costs for eligible activities associated with the cleanup.
 - (i) Based on the community meeting, a final draft of the ABCA is prepared by the Borrower/Subgrant Recipient, which incorporates comments received by Maine DEP, EPA and the public;
 - (j) Once the CRP and ABCA have been finalized, the Applicant/Borrower prepares a detailed cleanup budget and work schedule, a Health and Safety Plan, and a Quality Assurance Project Plan if needed (the QAPP will need to be reviewed by Maine DEP and EPA, prior to finalization); and
 - (k) Borrower/subgrant recipient acknowledges that Davis Bacon wage compliance is mandatory for receipt of Brownfields funds;
 - (l) The loan agreement, promissory note, mortgage agreement, and any other loan documents are signed. Any loan fees are paid;
 - (m) The Applicant shall prepare a project sign to be posted at the site prior to initiation of cleanup activities listing at a minimum the City, MEDEP, EPA and contact information for the Applicant's QEP. A draft mockup of the sign shall be submitted to the City for approval and provided to DEP and EPA.

City Checklist for Applicants

Applicant Information

- (a) Applicant Overview: name, location, principal owners/stockholders, type of business and products or services, date established;
- (b) Financial Overview: historical financial statements for the past three years, most recent quarter and copies of appropriate IRS Tax Returns;
- (c) Management Overview: resumes of principals; and
- (d) Credit References: financial institutions and other creditors.

Site Related Conditions

- (a) Environmental assessments (e.g., Phase I and II in accordance with American Society for Testing and Materials (ASTM) Standards);
- (b) Information regarding the status of the Applicant/ as a potentially responsible party at the site;
- (c) Information on environmental compliance history;
- (d) Information on whether or not the Applicant is currently or ever has been subject to any penalties resulting from environmental non-compliance at the site;
- (e) Information on whether or not the Applicant is a generator or transporter of contamination at the site; and
- (f) Information on whether or not the Applicant falls under a statutory exemption from liability; or that the EPA could use its enforcement discretion and not pursue the party as a responsible party under CERLA if the Applicant is currently the owner/operator of the site.

Remediation Cleanup Plan

Cleanup Plan Summary: cleanup plan including a technical description of work to be done, eligible cleanup activities and costs estimates for cleanup and project redevelopment. Cleanup Plan should also document other funding sources for cleanup and eligible activities to be utilized for cost share. The source of the 20% cost share of monies and or eligible in-kind services/materials must be provided.

Redevelopment Plan

- (a) Financing Project: a description of the cleanup project and the reuse plan;
- (b) Business Plan: a description of the business goals, strategies and action plans; and
- (c) Financial Plan: pro-forma financial statements which demonstrates the economic viability of the project and identifies the sources of repayment for the loan.

Community Benefits

- (a) Employment Impact: number of current and new jobs, wage levels and job training anticipated to be generated from the cleanup and redevelopment

of the site.

- (b) Investment Impact: Serves as an incentive for investment in Brownfields areas.
- (c) Multi-Family Housing: Available for the creation of multi-family housing in Brownfields areas.
- (d) Public open space and recreation acreage for cleanup located in the brownfields area.
- (e) Any other community benefits.

**PORTLAND BROWNFIELDS CLOSEOUT CLEANUP REVOLVING LOAN
FUND PROGRAM**

USING CLOSEOUT BROWNFIELDS FUNDS

Amended to be applicable City-wide and passed by the City Council on 7/16/07.

**Amended by Corporator at 11-17-08 Meeting adding an amendment for Requests for
Amendment to Loan Terms.**

Amended by Corporator at 12-16-13 Meeting for Using Brownfields Closeout Funds.

The Portland Brownfields Closeout Fund Program (Fund #278) is designed to encourage the environmental assessment and remediation/ cleanup of eligible sites and activities associated with removing, mitigating, or preventing the release, or threat of a release, of a hazardous substance, pollutant, or contaminant from Brownfields sites.

The purpose of the Program is to facilitate the assessment, cleanup and reuse of Brownfield properties for commercial, public open space and recreation, and multi-family residential of at least 10 units in a project. At least 50% of the residential units must be priced for households earning 100% or less of area median income (AMI), as determined by the Planning Authority.

Program assistance is provided through direct funding of assessment activities including but not limited to Phase I and II environmental site assessments and through low interest loans and subgrants for remediation/cleanups. Subgrants are available to non-profits. Per the EPA Revolving Loan Fund Terms and Conditions, the City may not provide a subgrant to itself or another component of its own unit of government or organization.

Brownfields Definition: A brownfield is a property whose expansion, redevelopment, or reuse is complicated by the presence or potential presence of a hazardous substance, pollutant or contaminant.

All work under this Program is to be completed in accordance with the requirements outlined in the Closeout Agreements between the U.S. Environmental Protection Agency (EPA) and the City of Portland. Program funding was provided by the EPA and authorized by the Portland City Council.

Use of Closeout Funds Relative to Other Brownfields Funds

Closeout Funds will be considered for RLF assessment projects and cleanup projects that are less than \$100,000. Closeout funds do not trigger the significant level of public

involvement, review and reporting required by the active (current) RLF Brownfields Fund Program and will, thereby, facilitate faster project completion at lower consultant costs. As an example, use of Closeout Funds for a cleanup loan or subgrant do not require a Community Relations Plan (CRP), an Analysis of Brownfields Cleanup Alternatives (ABCA) or utilization of Davis Bacon wages and associated regulations because of the size of the loan and/or subgrant (i.e., less than \$100,000).

1. Program Goals

~~(a) To finance the removal of hazardous substances from Brownfields sites within the City of Portland.~~

~~To support a sustainable revolving loan fund program to~~ finance the assessment and remediation/cleanup of Brownfields properties, thereby making these properties available for redevelopment and contributing to the revitalization of the community, creation of jobs, improving the environment, and eliminating the public health risks associated with these sites. It is the intention of the City to continue to revolve (loan) these monies for remediation and cleanup however, Closeout Funds are flexible and can also be used for subgrants and assessment related activities.

~~(b)~~

~~(c) To assist the assessment and remediation/cleanup and redevelopment of Brownfields sites within the City of Portland.~~

2. Program Objectives

- (a) To create an incentive for private investment in Brownfields areas, properties in the City of Portland;
- (b) To assess and safely clean up Brownfields properties in order to facilitate their sustainable reuse;
- (c) To foster development and implementation of financial and administrative approaches that can support self-sustaining efforts to facilitate Brownfields cleanup efforts; and
- (d) To prevent the exacerbation, creation or spread of contamination on or between properties to protect the public health by minimizing exposure to hazardous materials in the environment.

~~3. Program Description~~

~~This program is designed to encourage the environmental assessment and remediation/cleanup of eligible sites and activities associated with removing, mitigating, or preventing the release, or threat of a release, of a hazardous substance, pollutant, or contaminant from Brownfields sites. This will be achieved through funding Phase I and II environmental site assessments and remediation/cleanups on public properties owned by~~

~~the City of Portland, and Phase II environmental site assessments and remediation/cleanups through loans to for-profit entities and non-profit organizations for properties owned by such entities.~~

~~All work under this Program is to be completed in accordance with the requirements outlined in the Closeout Agreements between the EPA and the City.~~

~~4. Program Funding~~

~~The funding for the Portland Brownfields Cleanup Revolving Loan Fund is provided by the U.S. Department of Environmental Protection and authorized by the City Council.~~

53. Eligible Project Applicants/Entities and

- (a) The project applicant or owner is not considered potentially responsible for the contamination on the property ;
- (b) The project applicant or owner is not currently suspended, debarred or otherwise ineligible to participate in Federal financial assistance programs;
- (c) The project applicant or owner is not in environmental non-compliance with Federal or State agencies at the subject property;
- (d) The project applicant can be the City of Portland, non- profit or private property owner or prospective commercial property owner, bank, developer, etc.;
- (e) The project applicant or owner must owe no outstanding property taxes, fees, judgments, or liens to the City;

4. Property Threshold Requirements:

- (a) The property ~~to be assisted~~ is located within the City of Portland.
 - (a) The property must be eligible to apply to the Maine Voluntary Response Action Program (VRAP) for site cleanup;
 - (b) For cleanup, the property must have had adequate and recent (within the last 2-3 years) environmental assessments completed in order to understand site conditions and necessary remediation (e.g., Phase I and/or Phase II Environmental Site Assessments and Cleanup Planning, if applicable);
 - (c) The property meets EPA eligibility requirements;
 - ~~(b) The project applicant or owner must owe no outstanding property taxes, fees, judgments, or liens to the City;~~
 - ~~(c) The project applicant or owner is not considered potentially responsible for the contamination on the property ;~~
 - ~~(d) The project applicant or owner is not currently suspended, debarred or otherwise ineligible to participate in Federal financial assistance programs;~~
 - ~~(d) The project applicant or owner is not in environmental non-compliance with Federal or State agencies at the subject property.~~
 - ~~(e)~~

- ~~(f) The project applicant can be the City of Portland, not for-profit or private property owner or prospective commercial property owner, bank, developer, etc.~~
- ~~(g) (h) Funds can be used for Phase I and Phase II environmental site assessments and remediation/cleanups on public properties owned by the City of Portland, and for Phase II environmental site assessments and remediation/cleanups on non-profit and privately owned properties.~~

5. Ownership Eligibility for Cleanup Subgrants and Loans

- (a) Publicly or privately owned by current or prospective property owners, banks, developers, etc.;
- (b) Privately-owned by current or prospective non-profit owners to seek loan and/or subgrant;
- (c) Applicant must own or be in the process of obtaining ownership at the time of application
- (d) Applicant cannot be potentially liable under CERCA Sec. 107 for contamination on the property.

56. Eligible Activities

Assessment activities and remediation/cleanup activities associated with removing, mitigating, or preventing the release or threat of a release of a hazardous substance, pollutant or contaminant including:

- (a) Preparation of a Department of Environmental Protection (MDEP) VRAP application and associated application fee;
- ~~(a)~~(b) Installation of fences, warning signs or other security or site control precautions;
- ~~(b)~~(c) Drainage controls associated with assessment and remediation/cleanup activities;
- ~~(c)~~(d) Stabilization of berms, dikes or impoundments or drainage or closing lagoons;
- ~~(d)~~(e) Capping of contaminated soils;
- ~~(e)~~(f) Using chemicals and other materials to retard the spread of the release or mitigate its effects;
- ~~(f)~~(g) Excavation, consolidation, or removal of contaminated soils from the site;
- ~~(g)~~(h) Abatement of hazardous building materials including asbestos, lead paint, mold and PCBs;
- ~~(h)~~(i) Removal of drums, barrels, tanks, or other bulk containers that contain or may contain hazardous substances, pollutants or contaminants;
- ~~(i)~~(j) Consolidation, containment, treatment, recycling, disposal, and/or incineration of hazardous materials, pollutants or contaminants;
- ~~(j)~~(k) Provision of alternative water supply where necessary immediately to reduce exposure to contaminated household water;

- ~~(k)~~(l) Site monitoring activities, including sampling and analysis, that are necessary during the cleanup process, including determination of effectiveness of a cleanup;
- (m) Costs associated with meeting public participation, worker health and safety, and interagency coordination requirements;
- ~~(n)~~(n) Costs associated with removal activities including demolition and/or site preparation that are part of site cleanup;
- ~~(m)~~(o) Phase I Environmental site assessments performed in accordance with EPA All Appropriate Inquiries Final Rule or most current version of ASTM E1527;
- ~~(n)~~(p) Phase II Environmental site assessments and remediation planning activities;
- ~~(o)~~(q) Programmatic costs for the City of Portland and its Qualified Environmental Professional (QEP) to manage and oversee the work being performed under this Program.

67. Ineligible Activities

Brownfields inventory activities and ~~D~~development activities that are not necessary to implement assessment or remediation activities (e.g., construction of a new facility or marketing of a property).

78. Financing Terms

The following terms will guide the actions of the Portland Development Corporation (PDC) on behalf of the City of Portland for cleanup/remediation loans and subgrants:

- (a) Loan and/or subgrant amount will generally be limited to ~~the balance of the loan fund but generally less than not exceed \$1200,000~~ but may be increased with approval of the PDC;
- (b) Maximum loan term will generally be 5 years but will be determined by the PDC;
- (c) Interest rate will be determined by the PDC;
- (d) Brownfields site itself, business assets or other real property, outside collateral, and/or personal guaranties may be required as security;
- ~~(e) Origination fee will generally be one percent (1%) but will be determined by the PDC~~

98. Requests for Amendment to Loan Terms:

A one (1) percent fee ~~will~~ may be applied to requests for amendments to loan terms, for consulting, legal and recording fees associated with preparing any additional loan documents/modifications. The one (1) percent fee will be based on the current loan balance at the time of the request.

The City's Economic Development Director (PDC Assistant Secretary) has the discretion to determine whether requested loan amendments should be brought to the PDC or addressed administratively, with follow-up communication to the Board.

10. Underwriting Criteria for Cleanup Loans and Subgrants

Project review will include, but not be limited to the following factors:

- (a) Necessity of loan and/or subgrant to make the project economically feasible with the least amount of public resources.
- (b) Analysis of credit reports and financial documents as well as budget feasibility analysis provided by the City contracted underwriter to assess that applicant is not a business risk.

~~Project review will include, but not be limited to the necessity of Brownfields funds from this Program to make the project economically feasible and at the same time have a high potential for economic success.~~

119. Overall Review Criteria

The application for City of Portland Brownfields funding will be evaluated using some or all of the following criteria:

- a) Cleanup activities are eligible
- b) Completeness of application
- c) Sufficient Brownfields funds available
- d) Economic/Financial benefits
 - 1. Potential for redevelopment;
 - 2. Developer interest in site;
 - 3. Potential for job creation, workforce/affordable housing and/or sustainable economic development;
 - 4. Financial feasibility for cleanup/remediation of contamination
 - 5. Ability to leverage additional funding or other resources for cleanup/remediation.
- e) Environmental benefits
 - 1. Potential reduction, elimination and/or control of threats/risks to human health and the environment;
 - 2. Creation, preservation and/or maintenance of greenspace.
- f) Community benefits
 - 1. Likelihood for successful redevelopment, reuse and/or revitalization
 - 2. Availability of existing infrastructure, transportation corridors and municipal services to support redevelopment;
 - 3. Potential to enable sustainable growth, use of green building design initiatives and green/renewable energy resources;

4. Interest and presence of a willing owner, buyer or other stakeholder to invest in the property and to provide access to the property for investigation.

12. Application Review ~~Criteria~~ Process

~~The City of Portland's Economic Development Department (EDD) will review project proposals to determine eligibility and work with applicant(s) to determine the viability of the project and the least amount of public resources necessary to make the project(s) feasible.~~

An eligibility form will be submitted to EPA for determination of project eligibility whether for assessment or remediation/cleanup. The site eligibility form will be prepared by the Applicant's QEP.

A) Assessments and/or Cleanup Planning

Closeout Funds will only be used to fund assessment activities if/when all funds from the Assessment Program have been depleted. At that point, any assessment funding requests will be submitted to the PDC as it will retain its full authority over the Closeout Funds.

Requests will be submitted via an Assessment Application to the EDD. Funding requests for assessment activities, including Phase I and Phase II Environmental Site Assessments, will be reviewed and approved by the PDC Board.

B) Loans/Subgrants

Remediation/cleanup plans should be implemented efficiently, cost effectively, and redevelopment projects completed on schedule ~~to maximize the community benefit goals of the projects.~~ The actions to be taken, including review by the PDC, are as include the following:

- (a) Applicants seeking funds for remediation/cleanup are required to be enrolled ~~submit the site to~~ in the Maine Voluntary Response Action Program (VRAP);
- (b) ~~Applicant will complete the City's The Brownfields RLF funding Part 1~~ Application and will be submit provide ted it to the ~~City of Portland~~ EDD, along with Environmental Site Assessments I and II, and evidence of VRAP submittal to the Maine ~~Department of Environmental Protection (MDEP);~~
- ~~(b)(c)~~ Applicant or QEP will prepare EPA Site Eligibility form; EDD submits to EPA for final eligibility approval;
- ~~(c)(d)~~ The EDD, with its The City's QEP, will review the ESA's and cleanup plan summary in addition to the Part 1 RLF application. If determine if the Applicant's site cleanup activities and preliminary project costs are eligible, the City's QEP will prepare a summary memo to the EDD, site and preliminary project costs are eligible for Brownfields funding;

- ~~(d)~~(e) ~~If Applicant, site and project costs are determined to be eligible,~~
~~Applicant submits Part II application (financial backup). The the EDD will have~~
~~its~~ underwriter prepares an analysis of the financial components of the application
~~(whether for loan or subgrant)~~ along with recommended terms and conditions for
the PDC's review and consideration approval;
- ~~(e) Project will be publicly noticed and notice will be provided to the appropriate~~
~~neighborhood organization;~~
- (f) When so advised by City Corporation Counsel, the PDC chair will accept public
comment on the project at the PDC meeting prior to its vote on whether to
approve the funding request;
- (g) Based on a favorable analysis of the financial qualifications of the applicant, and
the PDC's approval, a commitment letter or will be prepared and provided to the
applicant;
- (h) Based on the VRAP, the Applicant should prepare a detailed cleanup budget and
work schedule final budget of cleanup activities, work schedule, a Health and
Safety Plan and a Site Specific Quality Assurance Project Plan (SSQAPP), if
needed. The SSQAPP must be reviewed by Maine DEP and EPA, prior to
finalization; and a VRAP Work Plan;
- (i) The loan documents are prepared (e.g., loan agreement, promissory note,
mortgage agreement).

City Checklist for Applicants

The following is a checklist of information needed from Applicants:

Applicant Information

- a. Applicant Overview: name, location, principal owners/stockholders, type
of business and products or services, date established;
- b. Financial Overview: historical financial statements for the past three years,
most recent quarter and copies of appropriate IRS Tax Returns;
- c. Management Overview: resumes of principals; and
- d. Credit References: financial institutions and other creditors.

Site Related Conditions

- a. Environmental assessments (Phase I and II) in accordance with American
Society for Testing and Materials (ASTM) Standards;
- b. Status of the borrower as a potentially responsible party at the site;
- c. Environmental compliance history;
- d. Whether the Applicant is currently or ever has been subject to any
penalties resulting from environmental non-compliance at the site;
- e. Whether the Applicant is a generator or transporter of contamination at the
site; and
- f. Whether the Applicant falls under a statutory exemption from liability; or
that the EPA could use its enforcement discretion and not pursue the party
as a responsible party under CERCLA if the Applicant is currently the

owner/operator of the site.

Remediation/Cleanup Plan

Remediation/Cleanup Plan Summary: Remediation/Cleanup plan including a technical description of work to be done and costs estimates.

Redevelopment Plan

- a. Financing Project: a description of the cleanup project and the reuse plan;
- b. Business Plan: a description of the business goals, strategies and action plans; and
- c. Financial Plan: pro-forma financial statements which demonstrates the economic viability of the project and identifies the sources of repayment for the loan.

Community Benefits

- a. Employment Impact: number of current and new jobs, wage levels and job training anticipated to be generated from the cleanup and redevelopment of the site;
- b. Investment Impact: Serves as an incentive for investment in the City;
- c. Multi-Family Housing: Housing Units: Available for the creation of multi-family housing housing units located in on brownfields properties; the City;
- ~~e.~~d. Public open space and recreation acreage for cleanup on brownfields property;
- ~~d.~~e. Any other community benefits.

PORTLAND BROWNFIELDS CLOSEOUT FUND PROGRAM

Amended to be applicable City-wide and passed by the City Council on 7/16/07.

Amended by Corporator at 11-17-08 Meeting adding an amendment for Requests for Amendment to Loan Terms.

Amended by Corporator at 12-16-13 Meeting for Using Brownfields Closeout Fund

The Portland Brownfields Closeout Fund Program (Fund #278) is designed to encourage the environmental assessment and remediation/ cleanup of eligible sites and activities associated with removing, mitigating, or preventing the release, or threat of a release, of a hazardous substance, pollutant, or contaminant from Brownfields sites.

The purpose of the Program is to facilitate the assessment, cleanup and reuse of Brownfield properties for commercial, public open space and recreation, and multi-family residential of at least 10 units in a project. At least 50% of the residential units must be priced for households earning 100% or less of area median income (AMI), as determined by the Planning Authority.

Program assistance is provided through direct funding of assessment activities including but not limited to Phase I and II environmental site assessments and through low interest loans and subgrants for remediation/cleanups. Subgrants are available to non-profits. Per the EPA Revolving Loan Fund Terms and Conditions, the City may not provide a subgrant to itself or another component of its own unit of government or organization.

Brownfields Definition: A brownfield is a property whose expansion, redevelopment, or reuse is complicated by the presence or potential presence of a hazardous substance, pollutant or contaminant.

All work under this Program is to be completed in accordance with the requirements outlined in the Closeout Agreements between the U.S. Environmental Protection Agency (EPA) and the City of Portland. Program funding was provided by the EPA and authorized by the Portland City Council.

Use of Closeout Funds Relative to Other Brownfields Funds

Closeout Funds will be considered for RLF assessment projects and cleanup projects that are less than \$100,000. Closeout funds do not trigger the significant level of public involvement, review and reporting required by the active (current) RLF Brownfields Fund Program and will, thereby, facilitate faster project completion at lower consultant costs. As an example, use of Closeout Funds for a cleanup loan or subgrant do not

require a Community Relations Plan (CRP), an Analysis of Brownfields Cleanup Alternatives (ABCA) or utilization of Davis Bacon wages and associated regulations because of the size of the loan and/or subgrant (i.e., less than \$100,000).

1. Program Goal

Finance the assessment and remediation/cleanup of Brownfields properties, thereby making these properties available for redevelopment and contributing to the revitalization of the community, creation of jobs, improving the environment, and eliminating the public health risks associated with these sites. It is the intention of the City to continue to revolve (loan) these monies for remediation and cleanup however, Closeout Funds are flexible and can also be used for subgrants and assessment related activities.

2. Program Objectives

- (a) To create an incentive for private investment in Brownfields properties in the City of Portland;
- (b) To assess and safely clean up Brownfields properties in order to facilitate their sustainable reuse;
- (c) To foster development and implementation of financial and administrative approaches that can support self-sustaining efforts to facilitate Brownfields cleanup efforts; and
- (d) To prevent the exacerbation, creation or spread of contamination on or between properties to protect the public health by minimizing exposure to hazardous materials in the environment.

3. Eligible Project Applicants

- (a) The project applicant or owner is not considered potentially responsible for the contamination on the property ;
- (b) The project applicant or owner is not currently suspended, debarred or otherwise ineligible to participate in Federal financial assistance programs;
- (c) The project applicant or owner is not in environmental non-compliance with Federal or State agencies at the subject property;
- (d) The project applicant can be the City of Portland, non- profit or private property owner or prospective commercial property owner, bank, developer, etc.;
- (e) The project applicant or owner must owe no outstanding property taxes, fees, judgments, or liens to the City;

4. Property Threshold Requirements

- (a) The property is located within the City of Portland;

- (b) The property must be eligible to apply to the Maine Voluntary Response Action Program (VRAP) for site cleanup;
- (c) For cleanup, the property must have had adequate and recent (within the last 2-3 years) environmental assessments completed in order to understand site conditions and necessary remediation (e.g., Phase I and/or Phase II Environmental Site Assessments and Cleanup Planning, if applicable);
- (d) The property meets EPA eligibility requirements;

5. Ownership Eligibility for Cleanup Subgrants and Loans

- (a) Publicly or privately owned by current or prospective property owners, banks, developers, etc.;
- (b) Privately owned by current or prospective non-profit owners to seek loan and/or subgrant;
- (c) Applicant must own or be in the process of obtaining ownership at the time of application
- (d) Applicant cannot be potentially liable under CERCA Sec. 107 for contamination on the property.

6. Eligible Activities

Assessment activities and remediation/cleanup activities associated with removing, mitigating, or preventing the release or threat of a release of a hazardous substance, pollutant or contaminant including:

- (a) Preparation of a Department of Environmental Protection (MDEP) VRAP application and associated application fee;
- (b) Installation of fences, warning signs or other security or site control precautions;
- (c) Drainage controls associated with assessment and remediation/cleanup activities;
- (d) Stabilization of berms, dikes or impoundments or drainage or closing lagoons;
- (e) Capping of contaminated soils;
- (f) Using chemicals and other materials to retard the spread of the release or mitigate its effects;
- (g) Excavation, consolidation, or removal of contaminated soils from the site;
- (h) Abatement of hazardous building materials including asbestos, lead paint, mold and PCBs;
- (i) Removal of drums, barrels, tanks, or other bulk containers that contain or may contain hazardous substances, pollutants or contaminants;
- (j) Consolidation, containment, treatment, recycling, disposal, and/or incineration of hazardous materials, pollutants or contaminants;
- (k) Provision of alternative water supply where necessary immediately to reduce exposure to contaminated household water;

- (l) Site monitoring activities, including sampling and analysis, that are necessary during the cleanup process, including determination of effectiveness of a cleanup;
- (m) Costs associated with meeting public participation, worker health and safety, and interagency coordination requirements;
- (n) Costs associated with removal activities including demolition and/or site preparation that are part of site cleanup;
- (o) Phase I Environmental site assessments performed in accordance with EPA All Appropriate Inquiries Final Rule or most current version of ASTM E1527;
- (p) Phase II Environmental site assessments and remediation planning activities;
- (q) Programmatic costs for the City of Portland and its Qualified Environmental Professional (QEP) to manage and oversee the work being performed under this Program.

7. Ineligible Activities

Brownfields inventory activities and development activities that are not necessary to implement assessment or remediation activities (e.g., construction of a new facility or marketing of a property).

8. Financing Terms

The following terms will guide the actions of the Portland Development Corporation (PDC) on behalf of the City of Portland for cleanup/remediation loans and subgrants:

- (a) Loan and/or subgrant amount will generally be limited to less than \$100,000 but may be increased with approval of the PDC;
- (b) Maximum loan term will generally be 5 years but will be determined by the PDC;
- (c) Interest rate will be determined by the PDC;
- (d) Brownfields site itself, business assets or other real property, outside collateral, and/or personal guaranties may be required as security;

9. Requests for Amendment to Loan Terms:

A one (1) percent fee may be applied to requests for amendments to loan terms, for consulting, legal and recording fees associated with preparing any additional loan documents/modifications. The one (1) percent fee will be based on the current loan balance at the time of the request.

The City's Economic Development Director (PDC Assistant Secretary) has the discretion to determine whether requested loan amendments should be brought to the PDC or addressed administratively, with follow-up communication to the Board.

10. Underwriting Criteria for Cleanup Loans and Subgrants

Project review will include, but not be limited to the following factors:

- (a) Necessity of loan and/or subgrant to make the project economically feasible with the least amount of public resources.
- (b) Analysis of credit reports and financial documents as well as budget feasibility analysis provided by the City contracted underwriter to assess that applicant is not a business risk.

11. Overall Review Criteria

The application for City of Portland Brownfields funding will be evaluated using some or all of the following criteria:

- a) Cleanup activities are eligible
- b) Completeness of application
- c) Sufficient Brownfields funds available
- d) Economic/Financial benefits
 - 1. Potential for redevelopment;
 - 2. Developer interest in site;
 - 3. Potential for job creation, workforce/affordable housing and/or sustainable economic development;
 - 4. Financial feasibility for cleanup/remediation of contamination
 - 5. Ability to leverage additional funding or other resources for cleanup/remediation.
- e) Environmental benefits
 - 1. Potential reduction, elimination and/or control of threats/risks to human health and the environment;
 - 2. Creation, preservation and/or maintenance of greenspace.
- f) Community benefits
 - 1. Likelihood for successful redevelopment, reuse and/or revitalization
 - 2. Availability of existing infrastructure, transportation corridors and municipal services to support redevelopment;
 - 3. Potential to enable sustainable growth, use of green building design initiatives and green/renewable energy resources;
 - 4. Interest and presence of a willing owner, buyer or other stakeholder to invest in the property and to provide access to the property for investigation.

12. Application Review Process

An eligibility form will be submitted to EPA for determination of project eligibility whether for assessment or remediation/cleanup. The site eligibility form will be prepared by the Applicant's QEP.

A) Assessments and/or Cleanup Planning

Closeout Funds will only be used to fund assessment activities if/when all funds from the Assessment Program have been depleted. At that point, any assessment funding requests will be submitted to the PDC as it will retain its full authority over the Closeout Funds.

Requests will be submitted via an Assessment Application to the EDD. Funding requests for assessment activities, including Phase I and Phase II Environmental Site Assessments, will be reviewed and approved by the PDC Board.

B) Loans/Subgrants

Remediation/cleanup plans should be implemented efficiently, cost effectively, and redevelopment projects completed on schedule. The actions to be taken, including review by the PDC, are as follows:

- (a) Applicants seeking funds for remediation/cleanup are required to be enrolled in the Maine Voluntary Response Action Program (VRAP);
- (b) Applicant will complete the City's Brownfields RLF Part 1 Application and provide it to the EDD, along with Environmental Site Assessments I and II, and evidence of VRAP submittal to the Maine MDEP;
- (c) Applicant or QEP will prepare EPA Site Eligibility form; EDD submits to EPA for final eligibility approval;
- (d) The City's QEP, will review the ESA's and cleanup plan summary in addition to the Part 1 RLF application. If the Applicant's site cleanup activities and preliminary project costs are eligible, the City's QEP will prepare a summary memo to the EDD,
- (e) Applicant submits Part II application (financial backup). The underwriter prepares an analysis of the financial components of the application (whether for loan or subgrant) along with recommended terms and conditions for the PDC's review and approval;
- (f) When so advised by City Corporation Counsel, the PDC chair will accept public comment on the project at the PDC meeting prior to its vote on whether to approve the funding request;
- (g) Based on a favorable analysis of the financial qualifications of the applicant, and the PDC's approval, a commitment letter or will be prepared and provided to the applicant;
- (h) Based on the VRAP, the Applicant should prepare a detailed cleanup budget and work schedule, a Health and Safety Plan and a Site Specific Quality Assurance Project Plan (SSQAPP), if needed. The SSQAPP must be reviewed by Maine DEP and EPA, prior to finalization;
- (i) The loan documents are prepared (e.g., loan agreement, promissory note, mortgage agreement).

City Checklist for Applicants

The following is a checklist of information needed from Applicants:

Applicant Information

- a. Applicant Overview: name, location, principal owners/stockholders, type of business and products or services, date established;
- b. Financial Overview: historical financial statements for the past three years, most recent quarter and copies of appropriate IRS Tax Returns;
- c. Management Overview: resumes of principals; and
- d. Credit References: financial institutions and other creditors.

Site Related Conditions

- a. Environmental assessments (Phase I and II) in accordance with American Society for Testing and Materials (ASTM) Standards;
- b. Status of the borrower as a potentially responsible party at the site;
- c. Environmental compliance history;
- d. Whether the Applicant is currently or ever has been subject to any penalties resulting from environmental non-compliance at the site;
- e. Whether the Applicant is a generator or transporter of contamination at the site; and
- f. Whether the Applicant falls under a statutory exemption from liability; or that the EPA could use its enforcement discretion and not pursue the party as a responsible party under CERCLA if the Applicant is currently the owner/operator of the site.

Remediation/Cleanup Plan

Remediation/Cleanup Plan Summary: Remediation/Cleanup plan including a technical description of work to be done and costs estimates.

Redevelopment Plan

- a. Financing Project: a description of the cleanup project and the reuse plan;
- b. Business Plan: a description of the business goals, strategies and action plans; and
- c. Financial Plan: pro-forma financial statements which demonstrates the economic viability of the project and identifies the sources of repayment for the loan.

Community Benefits

- a. Employment Impact: number of current and new jobs, wage levels and job training anticipated to be generated from the cleanup and redevelopment of the site;
- b. Investment Impact: Serves as an incentive for investment in the City;
- c. Multi-Family Housing: : Available for the creation of multi-family housing on brownfields properties; the City;
- d. Public open space and recreation acreage for cleanup on brownfields

- property;
- e. Any other community benefits.

Portland Brownfields Assessment Program Guidelines

The Portland Brownfields Assessment Program (Fund #281) is designed to encourage the assessment of eligible Brownfields sites and activities associated with evaluating the potential for contamination on a property with either documented contamination or perceived contaminant conditions. Types of redevelopment projects that may seek assessment funds include commercial, public open space and recreation, and multi-family residential of no less than 10 units with at least 50% of the residential units priced for households earning 100% or less of area median income (AMI), as determined by the Planning Authority. Assistance is provided through covering the cost of assessment activities including but not limited to Phase I and Phase II Environmental Site Assessments and Cleanup Planning for properties that are deemed eligible by the U.S. Environmental Protection Agency (EPA).

Brownfields Definition: A Brownfield is a property whose expansion, redevelopment, or reuse is complicated by the presence or potential presence of a hazardous substance, pollutant or contaminant.

Requests will be submitted via an Assessment Application to the Economic Development Department (EDD).

1. Program Goal

Finance the assessment of Brownfields properties, thereby determining whether or not they are contaminated and will need remediation/cleanup. With this information identified, properties can be made available for redevelopment and contribute to the revitalization of the community, creation of jobs, improvement of the environment, and elimination of public health risks associated with those sites that are found to be Brownfields.

2. Program Objectives

- (a) To create an incentive for private investment in Brownfields properties in the City of Portland;
- (b) To assess properties to determine the level of contamination, if any, in order to facilitate their sustainable reuse;
- (c) To foster development and implementation of financial and administrative approaches that can support self-sustaining efforts to facilitate eventual Brownfields cleanup efforts; and
- (d) To prevent the exacerbation, creation or spread of contamination on or between properties to protect the public health by minimizing exposure to hazardous materials in the environment.

3. Eligible Project Applicants

- (a) The project applicant or owner must owe no outstanding property taxes, fees, judgments, or liens to the City;
- (b) The project applicant or owner is not considered potentially responsible for the contamination on the property ;
- (c) The project applicant or owner is not currently suspended, debarred or otherwise ineligible to participate in Federal financial assistance programs;
- (d) The project applicant or owner is not in environmental non-compliance with Federal or State agencies at the subject property;
- (e) The project applicant can be the City of Portland, non- profit or private property owner or prospective commercial property owner, bank, developer, etc.;

4. Property Threshold Requirements

- (a) The property to be assessed is located within the City of Portland;
- (b) The property meets EPA eligibility requirements;
- (c) Funds can be used for assessment activities including but not limited to Phase I and Phase II environmental site assessments and Cleanup Planning.

5. Eligible Activities

- (a) Phase I Environmental Site Assessments performed in accordance with EPA All Appropriate Inquiries Final Rule and most current version of ASTM E1527;
- (b) Phase II Environmental Site Assessments and remediation/cleanup planning activities;
- (c) VRAP applications and fees;
- (d) Programmatic costs for the City of Portland and its Qualified Environmental Professional (QEP) to manage and oversee the work being performed under this Program.

6. Ineligible Activities

Brownfields inventory activities (with the exception of a City-initiated Brownfields inventory), remediation and or cleanup activities and development activities (e.g. construction of a new facility or marketing of a property).

7. Review Criteria

The project/property for which an applicant is applying for City of Portland Brownfields Assessment Program funds may be evaluated using any or all of the following criteria:

- A) Economic/Financial Benefit
 - 1. Potential for redevelopment;

2. Developer interest in the site;
3. Potential for job creation, workforce/affordable housing, and/or sustainable economic development;
4. Financial feasibility for additional assessment and/or future cleanup/remediation of contamination;
5. Ability to leverage additional funding or other resources for cleanup and remediation after the assessment activities have been completed.

B) Environmental Concerns/Benefits

1. Understanding of the potential reduction, elimination and/or control of threats/risks to human health and the environment based on the assessment activities conducted;
2. Anticipated creation, preservation and/or maintenance of open space once assessment activities have been completed;

C) Feasibility/Sustainability of Project

1. Likelihood for successful redevelopment, reuse and/or revitalization;
2. Availability of existing infrastructure, transportation corridors and municipal services to support redevelopment;
3. Potential to enable sustainable growth, use of green building design initiatives and green/renewable energy resources;
4. Interest and presence of a willing owner, buyer, or other stakeholder to invest in the property and to provide access to the property for investigation.

8. Application Review Process

Requests will be submitted via an Assessment Application to the Economic Development Department (EDD). All requests will be reviewed and approved by EDD staff and the City's Qualified Environmental Professional (QEP). At every PDC meeting, the Board will be provided with updates on the status of the Assessment Program Funds and the projects that are being assisted by them.

Minutes are draft until approved at the next City Council meeting.

PLEDGE OF ALLEGIANCE:

ROLL CALL:

Mayor Strimling called the meeting to order at 5:30 P.M.(Councilor Duson and Councilor Cook arrived during Proclamation 22, Councilor Ray absent).

ANNOUNCEMENTS:

RECOGNITIONS:

PRESENTATIONS:

ANNUAL MEETING:

SPECIAL MEETING:

APPROVAL OF MINUTES OF PREVIOUS MEETING:

Approval of the January 23, 2019 Draft City Council Minutes

Motion was made by Councilor Batson and seconded by Councilor Thibodeau for approval of the minutes of the January 23, 2019 City Council Meeting. Passage 8-0.

PROCLAMATIONS:

Proclamation 22-18/19 Honoring Officer Zachary Theriault as Officer of the Month for November 2018 – Sponsored by Mayor Ethan K. Strimling.

Motion as made by Councilor Ali and seconded by Councilor Duson to suspend the rules and take up an un-agenda item. Passage 8-0.

PROCLAMATION 23- 18/19 Recognizing Black History Month 2019 -Sponsored by Mayor Ethan K. Strimling.

APPOINTMENTS:

CONSENT ITEMS:

Order 142-18/19 Declaring March 17, 2019 the St. Patrick's Day Parade Festival - Sponsored by Jon P. Jennings, City Manager.

Order 143-28/29 Declaring June 27, 28, & 29, 2019 the Greek Heritage Food Festival - Sponsored by Jon P. Jennings, City Manager

Order 144-18/19 Declaring June 21, 2019 the Make Music Portland Festival - Sponsored by Jon P. Jennings, City Manager

Order 145-18/19 Declaring June 29, 2019 the Dance Mile Portland Festival - Sponsored by Jon P. Jennings, City Manager

Motion was made by Councilor Batson and seconded by Councilor Thibodeau for passage of the Consent Items. Passage 8-0.

Mayor Strimling took Order 141 out of Order.

Order 141-18/19 Amendment to Portland City Code Chapter 14 Re: Affordable Housing in Island Residential Zones - Sponsored by the Planning Board, Sean Dundon, Chair.

Motion was made by Councilor Dusen and seconded by Councilor Batson for passage. Passage 8-0.

LICENSES:

Order 146-18/19 Granting Municipal Officers' Approval of 20 Island Ave dba Island Lobster Company. Application for a Class I-A Hotel with Outdoor Dining on Private Property at 20 Island Avenue - Sponsored by Jon P. Jennings, City Manager.

Motion was made by Councilor Batson and seconded by Councilor Costa for passage. Passage 8-0.

Order 147-18/19 Granting Municipal Officers' Approval of The Whiskey Barrel LLC dba The Whiskey Barrel. Application for a Class A Lounge with Entertainment with Dancing and Outdoor Dining at Private Property at 82 Hanover Street - Sponsored by Jon P. Jennings, City Manager.

Motion was made by Councilor Costa and seconded by Councilor Thibodeau for passage. Passage 8-0.

Order 148-18/19 Granting Municipal Officers' Approval of Royale Lunch Bar dba Royale Lunch Bar. Application for a Class I FSE at 50 Wharf Street - Sponsored by Jon P. Jennings, City Manager.

Motion was made by Councilor Batson and seconded by Councilor Costa for passage. Passage 8-0.

BUDGET ITEMS:

COMMUNICATIONS:

RESOLUTIONS:

Resolve 8-18/19 Upholding Municipal Energy Priorities - Sponsored by Ethan K. Strimling, Mayor.

Motion was made by Councilor Thibodeau and seconded by Councilor Batson for passage. Passage 8-0.

Resolution 9-18/19 Supporting the Paris Climate Agreement and Seeking Support from the United States House of Representatives - Sponsored by Ethan K. Strimling, Mayor

Motion was made by Councilor Thibodeau and seconded by Councilor Batson for passage. Passage 8-0.

UNFINISHED BUSINESS:

Order 140-18/19 Amendment to Portland City Code Chapter 14 Re: Marijuana Medical and Adult Use Regulations - Sponsored by the Planning Board, Sean Dundon, Chair.

Motion was made by Councilor Dusen and seconded by Councilor Cook to postpone Order 140 to the February 20, 2019 City Council Meeting. Passage 8-0.

ORDERS:

Order 149-18/19 Approving Easement for Central Maine Power at Portland Ocean Terminal for Improved Traffic Flow at Casco Bay Road - Sponsored by Jon P. Jennings, City Manager.

Motion was made by Councilor Dusen and seconded by Councilor Ali for passage. Passage 8-0.

Order 150-18/19 Approving Two-Party Agreement between Portland and the Maine Department of Transportation Re: Washington Avenue Final Engineering and Construction - Sponsored by Jon P. Jennings, City Manager.

This is a first reading.

Order 151-18/19 Authorizing Adoption of Cultural Plan Update of 2018 - Sponsored by the Planning Board, Sean Dundon, Chair.

This is a first reading

Order 152-18/19 Authorizing General Obligation Bonds to Finance a Portion of the City's Fiscal Year 2020 Capital Improvement Program in an Amount not to Exceed

\$40,100,000 - Sponsored by the Finance Committee, Nicholas M. Mavodones, Chair

This is a first reading.

Order 153-18/19 Appropriating Bond Proceeds and Unassigned Fund Balance in an Amount not to Exceed \$42,100,000 for the City's Fiscal Year 2020 Capital Improvement Program - Sponsored by the Finance Committee, Nicholas M. Mavodones, Chair.

This is a first reading.

AMENDMENTS:

Order 154-18/19 Amendment to Portland City Code Chapter 12 Re: Abandoned Bicycles - Sponsored by Councilor Belinda Ray.

This is a first reading.

Order 155-18/19 Amendment to Portland City Code Chapter 12 Re: Expanding E-Card Program - Sponsored by the Sustainability and Transportation Committee, Councilor Spencer Thibodeau, Chair.

This is a first reading.

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

Motion was made by Councilor Thibodeau and seconded by Councilor Duson to suspend the rules and take up an un-agenda item. Passage 8-0.

City Manager, Jon Jennings, wanted to comment on a Letter to the Editor that was printed in the Portland Press Herald. The article stated that he changed City Policy and does not allow outside groups the ability to use City Hall Function Rooms.

Jon indicates that this is not a true statement, and he welcomes all groups. He also indicted that he will find out what was provided prior for groups using City Hall Function Rooms and see if groups had to pay for the use of the room.

Motion was made by Councilor Costa and seconded by Councilor Batson to adjourn Passage 8-0, 6:45 P.M.

MEMORANDUM
City Council Agenda Item

FROM: Kathy Jones

DATE: January 30, 2019

SUBJECT: **Order 158-18/19 Appointing Members to Various Boards and Commissions - Sponsored by the Nominating Committee, Councilor Pious Ali, Chair**

SPONSOR: The Nominating Committee Chair, Councilor Pious Ali.
(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 Nominating Committee met on January 29, 2019 and voted (3-0) to send forward the following recommendations to the Various Boards and Committees:

Name	Board and Commission	Expiration
Bob Dunfey	Planning Board	02/28/2022
Maggie Stanley	Planning Board	02/28/2022
Kenneth Lewis	Police Citizen Review Sub Committee	03/30/2022
	Pesticide Management Advisory Committee (PMAC)	
Jesse O'Brien	PMAC-Agronomist	03/30/2022
	PMAC- NOFA Certified	03/30/2022
Carol Laboissonniere		
Karen Snyder	PMAC-Resident	03/30/2020
Priscilla Skerry	PMAC-Resident	03/30/2020
Avery Kamila	PMAC-Resident with Organic Exp.	03/30/2021
Tim Lindsay	PMAC-Applicator	03/30/2021

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. Appointing Various Boards and Committees 2.20.2019
2. Memo to City Council for appointments January 2019
3. January Resumes 2019

Prepared by:

Kathy Jones

Date: 01/30/2019

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (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 APPOINTING MEMBERS TO VARIOUS BOARDS AND COMMITTEES

ORDERED, that the following are hereby appointed to the Boards and Committees indicated for the stated term:

Name	Board or Committee	Term Expires
Bob Dunfey	Planning Board	02/28/2022
Maggie Stanley	Planning Board	02/28/2022
Kenneth Lewis	Police Citizen Review	03/30/2022
Carol Laboissonniere	Pesticide Management Advisory Committee ("PMAC")	
	NOFA Certified	03/30/2022
Jesse O'Brien	PMAC- Agronomist	03/30/2022
Karen Snyder	PMAC-Resident	03/30/2020
Priscilla Skerry	PMAC-Resident	03/30/2020
Avery Kamila	PMAC-Resident with Organic Experience	03/30/2021
Tim Lindsay	PMAC-Applicator	03/30/2021



Office of the City Clerk
Katherine L. Jones, CMC

MEMORANDUM

TO: Mayor Ethan Strimling, and Members of City Council
FROM: Katherine L. Jones
DATE: January 31, 2019
RE: Appointments

The Nominating Committee met on January 29, 2019 and voted (3-0) to send forward the following recommendations to the Various Boards and Committees.

Name	Board and Committee	Expiration
Bob Dunfey	Planning Board	02/28/2022
Maggie Stanley	Planning Board	02/28/2022
Kenneth Lewis	Police Citizen Review	03/30/2022
Carol Laboissonniere	PMAC- NOFA Certified	03/30/2022
Jesse O'Brien	PMAC- Agronomist	03/30/2022
Karen Snyder	PMAC-Resident	03/30/2020
Priscilla Skerry	PMAC-Resident	03/30/2020
Avery Kamila	PMAC-Resident with Organic Experience	03/30/2021
Tim Lindsay	PMAC-Applicator	03/30/2021

December 14, 2018

Bob Dunfey
[REDACTED]
[REDACTED]
[REDACTED]

Appointments Committee Chairman
c/o City Clerk
Portland City Hall
389 Congress Street
Portland, ME 04101

Re: Planning Board opening

Dear Appointment Committee Members:

I seek a position on the Planning Board. This position offers me the challenge and opportunity to use my extensive real estate development experiences and knowledge from my private businesses and from my work in the Federal government to be active member on the Planning Board. It is important for me to be passionate for the causes where I volunteer my time. I am a proud resident of the City of Portland. As a planning board member, I can help Portland grow with the appropriate sensitivity to retain and improve its status as one of the best cities in the country to live, work, play and visit for all types of people and incomes.

As you will discover on my resume, I have very broad range of experience as a real estate developer. In my company, projects included ocean view condominium developments, apartment conversions, office parks, retail shopping centers, hotels and a marina. A couple of examples in Portland is the Portland House which I converted to condominiums and the Embassy Suites Hotel at the Jetport, which I conceived, built and opened. As the Regional Administrator of US General Services Administration, I oversaw many projects all over New England including the renovation, rehabilitation and new construction. The most significant one was the construction and opening of the \$235 million Moakley US Courthouse in Boston.

This experience helps me ask more probing questions about design, engineering and financial for projects being presented to the planning board. I was pleased to learn from planning board member, David Eaton that the planning staff does an excellent job, which makes the work of the planning board much easier.

I welcome the opportunity to interview with those involved in the selection process and look forward to hearing from you soon.

Thank you for your time and consideration.

Sincerely,

Bob Dunfey

Bob Dunfee



My resume is organized chronologically under two headings
"Private Sector" and "Nonprofit and Public Sector."

Private Sector Experience

DUNFEY HOSPITALITY GROUP OF MAINE, York, Maine

2001 – 2010

Provided clients consulting services for real estate development projects and management services for operating hotels and restaurants.

President and Owner

- Work for clients included:
 - Responsible for gaining community support and approvals for a 200 acre mixed use project in a difficult Southern Maine community for a national developer
 - Responsible for the development and opening of the Hotel Providence which was an historic rehabilitation tax credit project opened in 2005 and named as one of the top 100 hotels in the world by Expedia.com
 - Persuaded a nationally recognized Providence gourmet restaurant to relocate in the Hotel Providence
 - Conceived and developed for a client a high-end ocean view mixed use project in an historic building with residences, retail spaces and a signature restaurant co-owned and operated by a nationally known celebrity chef who I introduced to the developer
 - Responsible for the development and opening of the Mountain View Grand Resort Hotel in Whitefield, NH, an historic rehabilitation tax credit project
 - Produced feasibility studies for hotel developers as well as the City of Calais, Maine

SINGH HOTELS AND RESORTS, Marathon, FL

2005

A new four-diamond luxury resort hotel condominium company.

President

- Started up the management company operations to staff and run corporate office and first of five resorts at various stages from preplanning through construction being developed by a major Florida Keys developer

EMBASSY SUITES HOTEL, Portland, ME

1989 – 1992

Portland's first all suite and first airport hotel.

President, General Partner, General Manager, Co-owner

- Developed, financed, constructed, opened and operated Portland's first all-suites and airport hotel.
- Successfully marketed the hotel's restaurant and lounge to the Greater Portland region. The restaurant enjoyed an untypical greater volume of sales from the local customers than from hotel guests

DUNFEY, COLLINS, MANNING HOSPITALITY GROUP, Boston, MA

1985 – 1990

The Hospitality Group initially acquired a Maine oceanfront inn and grew to 17 properties, 4 owned and 13 management contracts with 2,000 employees.

Chair and Co-owner

- The managed hotels were owned by individuals, partnerships, corporations and banks, examples:
 - Mt Washington Hotel, Bretton Woods, NH for a Boston based bank
 - An ocean front Florida hotel for a New Jersey based bank
 - 6 hotels in northeastern United States for a company based in Great Britain

DUNFEY PROPERTIES, Portland, ME

1985 – 1990

Real estate development and property management company.

Managing Partner, Executive Director and Co-owner

- Real estate developer and partner of 12 projects responsible for all aspects of development: conceptual planning, acquisition, architectural and site planning, financing, obtaining local, state and federal approvals, negotiating with city officials and local groups, resolving lawsuits, environmental planning, interior design, overseeing construction contractors, marketing, public relations, sales and leasing, and property management. Projects included ocean view condominium developments, apartment conversions, office parks, retail shopping centers, hotels and a marina. The value of the largest projects exceeded \$100 million.
- A priority responsibility was gathering and studying data to determine project feasibility plus preparing project financial projections.
- Managing projects' budgets
- Preparing monthly financial reports and analysis for bank officials and partners
- Since most of the projects were high profile I frequently dealt with the print, radio and TV media on issues raised during the approval process

Nonprofit and Public Sector Experience

KALER-VAILL, Scarborough, ME

2018 – present

Kaler-Vaill, a gracious residence of private rooms with baths and attractively furnished common areas for fifteen retired women.

Board of Directors

MAINE TRACK CLUB, Portland, ME

2018 – present

The Maine Track Club is a nonprofit organization with over 600 members. It puts on several well-known running events including the Maine Marathon.

Board of Directors

MAINE MARATHON, Portland, ME

2017 – present

The Maine Marathon, Half Marathon and Relay is an all-volunteer destination running event with runners coming from 49 states and 9 countries. Almost 4,000 runners registered this year. The 27 year old event has raised over \$4 million for charities. In 2018 over \$360,000 was raised. My team of 50 volunteer race coordinators help me plan the event over the weeks and months before race day. One race weekend about 800 volunteer help put on the event.

Volunteer Race Director

PEAKS TO PORTLAND SWIM, Portland, ME

2016 – present

The Peaks to Portland Swim is a fundraising event to raise funds for children's programs at YMCA of Southern Maine, which has facilities in Portland, Freeport, New Gloucester and Biddeford. In 2018 we raised over \$200,000.

Volunteer Race Director

SOUTHERN MAINE AGENCY FOR THE AGING, Scarborough, ME

2016 – present

The Southern Maine Agency on Aging's mission is to improve the quality of life for older adults, adults with disabilities, and the people who care for them.

Board of Directors and President of Advisory Board

YMCA, Portland, ME 2015 – 2017
YMCA is committed to building strong kids, individuals, families, and communities through programs and services that promote a healthy spirit, mind, and body for all, regardless of ability to pay.
Advisory Board

WAYFINDER SCHOOLS, New Gloucester and Camden, ME 2014 – 2015
Wayfinder Schools offer relational learning programs that transform the nature of a high school education by providing students with the skills and experience necessary to discover their strengths, connect with their families, practice personal responsibility, and contribute to their communities, and which culminate in awarding a high school diploma from the State of Maine.
Chief Operating Officer

ITNPORTLAND, Westbrook, ME 2010 - 2013
ITNPortland is a nonprofit, which provides affordable, dignified transportation for seniors and the visually impaired 24/7 for any purpose. The goal is to keep seniors safe as well as making the roads safer for all users.
Executive Director

TD BEACH TO BEACON 10K, Cape Elizabeth, ME 2012 - present
Annual world class road race founded by Olympic Gold Medalist, Joanie Benoit Samuelson
Board of Directors and Vice President

SUSAN L. CURTIS CHARITABLE FOUNDATION, Portland, ME 2012 - 2014
Its mission is to build the character, self-confidence and self-esteem of economically disadvantaged Maine children through tuition-free high-quality educational, camping and social experiences.
Board of Directors

LEARNING WORKS, Portland, ME 2011 - 2012
Provides the best learning opportunities in Southern Maine for at risk youth, the immigrant community, and low income families
Board of Directors

AVESTA HOUSING, Portland, ME 2007 - 2014
Avesta advocates for affordable housing, develops and manages high quality housing, and helps residents access other needed services.
Board of Directors

THE HOUSING PARTNERSHIP, Portsmouth, NH 2006
Nonprofit manager and developer of affordable housing in Greater Seacoast of New Hampshire and Maine.
Board of Directors

WORKFORCE HOUSING COALITION OF THE GREATER SEACOAST, Portsmouth, NH 2006
Advocacy organization for the development of a range of housing options for the diverse workforce in the Greater Seacoast region of New Hampshire and Maine.
Board of Directors and Co-chair

AMERICA'S CHARITIES, Chantilly, VA 1998 - present
One of the oldest national federations of human service charities which raises revenue for its member charities through workplace giving campaigns in the public, nonprofit and private sectors.
Member of Audit Committee, Former Member of Board of Directors and Treasurer

EARTH SHARE OF NEW ENGLAND, Boston, MA 1998 - present
A regional affiliate of Earth Share which is the largest national federation of environmental charities which raises revenue for its member charities through workplace giving campaigns in the public, nonprofit and private sectors.
Board of Directors and President

UNITED STATES GENERAL SERVICES ADMINISTRATION, Boston, MA

1993 - 2001

GSA oversees the business of the U.S. federal government. GSA's acquisition solutions supply federal purchasers with cost-effective high-quality products and services from commercial vendors. GSA provides workplaces for federal employees, and oversees the preservation of historic federal properties. Its policies covering travel, property and management practices promote efficient government operations.

Regional Administrator for New England

- Delivery of space acquisition and property management services for most federal agencies in over 400 owned and leased locations in the 6 New England states.
- Served as landlord for the First and Second Circuit Federal Courts
- Land planning and disposition of surplus Federal real estate for 25% of the US including Puerto Rico and the Virgin Islands
- Engaged almost 250 white collar employees in decision making; focused management on strategic issues, ensuring that we were doing innovative stuff; placed capable folks in the advance levels and let them run the business effectively; provided good recognition opportunities
- Building rehabilitation and new construction projects throughout New England. The most notable construction project was the \$225 million Joseph Moakley US Courthouse in Boston

GREATER BOSTON FEDERAL EXECUTIVE BOARD, Boston, MA

1994 - 2000

An organization for communication and collaboration among Federal agencies outside of Washington, DC.

Chair

- During my leadership the Greater Boston Federal Executive Board (GBFEB) was recognized a premiere organization nationally by the Office of Personnel Management in Washington, the oversight agency, for the volume of its initiatives, projects and accomplishments.
- Regularly I would facilitate the assembly and participation of multiple Federal agencies necessary for a new initiative at the request by a Member of Congressman, Mayor or other official
- Acted as the spokesperson for the Federal agencies for Boston and New England

GLOBAL CITIZENS CIRCLE, Portsmouth, NH

1996 - 2005

*Sponsors town meeting-style discussions led by a diverse community of world dignitaries, which focus on current **global** issues, with a goal of constructive change.*

Board of Directors

THE HOUSING PARTNERSHIP, Portsmouth, NH

1986 - 1993

Nonprofit manager and developer of affordable housing in Greater Seacoast of New Hampshire and Maine.

Board of Advisors

STATE OF MAINE COMPENSATION COMMISSION

1984 - 1990

Provides the legislature proposals new or revised compensation and benefits for all non-union legislative, executive and judicial employees. Appointed by the Speaker of the House.

CHEVERUS HIGH SCHOOL, Portland, ME

1984 - 1990

Jesuit college preparatory high school

Board of Trustees

Education

U.S. OPM, FEDERAL EXECUTIVE INSTITUTE, Charlottesville, VA

The Federal Executive Institute is dedicated to high-performing supervisors, managers, and executives who come to enhance their leadership and management skills.

UNIVERSITY OF NEW HAMPSHIRE, Durham, NH Bachelor's Degree Business Administration

DARTMOUTH COLLEGE, Hanover, NH

Honors and Other Activities

1999 Distinguished Public Administrator Award by the Massachusetts Chapter of The American Society for Public Administration

TOWN OF YORK TAX TASK FORCE COMMITTEE, York, ME 2009 - 2010
Provides Town and School administrators spending guidelines prior to and following draft of new fiscal year budget.

TOWN OF YORK CAPITAL BUDGET COMMITTEE, York, ME 2006 – 2007
Provides Town and School administrators guidance regarding proposed capital projects.

BRETTON WOODS ADAPTIVE SKI PROGRAM, Bretton Woods, NH 2007 - 2011
Provides instruction to enable persons with physical or developmental challenges to participate in recreational sports.

Volunteer Instructor

COASTAL SAVINGS BANK, Portland, ME 1986 – 1993
A community commercial bank serving southern and mid coast Maine.
Board of Directors

AMERICAN RED CROSS

Volunteer Blood Donor given 13 gallons as of October 2018.

Endurance runner; Completed over 135 marathons in 28 years. Won many awards. This year I completed my 28th consecutive Boston Marathon, one of 83 in the world with 25 or more. Also compete in trail ultra marathons over mountains at distances up to 100 miles.

Maggie Stanley

December 28, 2018

Nominating Committee
City of Portland
389 Congress St.
Portland, ME 04101

Dear Mr. Chairman and Members,

I would like to express my interest in a second term as a Portland planning board member. I have now lived in Portland for 10 years and have an added knowledge of the nuances of city government and politics that I was not so acutely aware of before my time on the board.

I've enjoyed my roll on the board in working with the applicants to make sure that their developments are adhering to our current zoning ordinances and that they are in line with our newly adopted comprehensive plan. I've particularly enjoyed when the board makes recommendations to the council. Although those meetings can be more heated, having a place to vet out those governing decisions without the added political environment of the council is an added step to the process that provides a worthwhile discussion of ideas and another forum that the public can present their opinions and wisdom.

In the past three years, we've seen a lot of development and zone changes come before us. The comprehensive plan and the outreach that was done, was extensive and I will always be proud to have taken part in that. I really look forward to the re-code to update and simplify our current zoning in a way that follows the comprehensive plan.

In short, I think I will be a value to continue on the board with my knowledge of architecture and planning and my understanding of the roll of the board, how the legal system around it works, and the influence that urban planning has on all people in their everyday lives.

Sincerely,

Maggie Stanley

Maggie Stanley

work

Registered Architect, Maine (since 2015)

Nov. 2018 – Present **CWS Architects**, Scarborough, ME
Construction Administrator

2010-2018 **Goduli/Thomas Architects**, Portland, ME
Project manager on historic preservation, adaptive re-use projects.
Facilitated design development and construction documents on ski resort facilities including the *Alfond Family Competition Center* at Sugarloaf Mountain.
Collaborated with consultants, engineers and clients including Auburn, Brunswick and Brewer Housing Authority, Maine State Housing Authority, National Park Service and historic consultants on multifaceted affordable housing projects.
Project management and design development of single-family summer homes with traditional vernacular and modern elements to complement the context of the neighborhood.
Project manager and designer on multi-use historic preservation, adaptive re-use projects including, 117 Lofts, Somerset Place, The Gerald and Campus Commons.
Rehabilitation and historic preservation of the occupied *Butler School Apartments* and Payson house in Portland's West End historic district.

Maine Preservation Honor Awards:

117 Lofts, for adaptive re-use of the John Calvin Steven's designed, five story, *Schlatterbeck and Foss* warehouse and manufacturing building into 56 market rate micro lofts and 1 bedroom apartments.

Webster School Apartments, for adaptive re-use of the Webster High School into a 28 unit, historic preservation, family housing project in Auburn, Maine.

The Gerald, for adaptive re-use of the Gerald Hotel in Fairfield, Maine into 32 affordable senior housing units helping to revitalize the downtown neighborhood.

Campus Commons for adaptive re-use of the Old Lisbon High into 12 affordable senior housing units.

Intern Architect

2009-2010 **Roc Caivano Architects**, Bar Harbor, ME
2006-2007 Assisted with design and construction admin with several houses and small projects with Acadia National Park.

2007-2009 **Stephen Blaff Architects**, Portland, ME
Documented existing conditions for residential and school renovations.
Assisted with design development of several single-family renovations.

Electricians Assistant

2004-2005 **MCM Electric**, Mount Desert, ME
Installed and roughed-in new devices in high end homes on Mount Desert Island as well as some commercial buildings, under the supervision of a licensed electrician.

education

2001-2006 **Syracuse University School of Architecture**, Bachelor of Architecture 2006, cum laude
2004-2005 International Study: Florence Italy

computer skills proficient in DataCAD 19, Sketch up 17, Photoshop Elements, Microsoft Office, Adobe Acrobat
working knowledge of Vectorworks 2010, AutoCAD 2010, and Revit 2019

organizations

2016-present Board Member
City of Portland Planning Board

2012-2018 Member
Portland Society for Architects, Bike Coalition of Maine, Maine Island Trails, Old Port Pub Run

Rev. Kenneth I. Lewis

Sent from my iPhone

Begin forwarded message:

Re-Submitted
11-26-2018

~~Kenneth Lewis <kil@portlandmaine.gov>~~
~~August 17, 2018 at 9:07:13 AM EDT~~
To: Katherine Jones <klj@portlandmaine.gov>
Subject: Kenneth Lewis Resume

Katherine Jones, City Clerk, CCM,
CMC, Registrar
City of Portland

Ms. Jones,

As per your instruction, I am expressing my interest in an appointment to the following boards & commissions of the City of Portland.

1. Civil Service Commission

~~2. Community Development Block Grant~~

Attached is my resume which outlines my diverse professional and community experience.

I am a former board member of the United Way, the Center for Cultural Exchange, NAACP Portland Chapter, and current member of Maine Boys to Men.

The combination of my professional, community, and pastoral experience makes me uniquely qualified, well suited, and well grounded to be a formal contributor to these important City functions.

I look forward to hearing about the process and prospects of my participation. If you have any questions or concerns, please do not hesitate to contact me.

Regards,

Kenneth I. Lewis, Jr.

Kenneth I. Lewis

QUALIFICATIONS SUMMARY:

Seventeen years of ministerial experience to include Pastoral, Christian Education, and Lay Ministries. An Ordained Elder of the African Methodist Episcopal Zion Church of America, Inc., one of the oldest African American Denomination in the United States. Over thirteen years of ordained and lay ministerial service in both urban and rural parish settings. I am a member in good standing of the Eastern District, New England Annual Conference of the African Methodist Episcopal Zion Church.

MINISTERIAL EXPERIENCE:

May 2003 - Present	Senior Pastor Green Memorial AME Zion Church, Portland, ME
May 1998 - May 2003	Senior Pastor Goodwin Memorial AME Zion Church, Amherst, MA

The oldest African American institution in the greater Amherst area. Provides pastoral oversight for over 150 congregates to include; weekly worship services, bible studies, church school, and missionary activities. Developed and implemented "My Brother's Keeper" Men's fellowship to promote mentoring and support for issues of parenting, relationships and anger management. Voted 1999 Pastor of the Year by the clergy of the Boston District A.M.E. Zion Church.

September 2000 - May 2003	Adjunct Protestant Religious Advisor Amherst College, Amherst, MA
----------------------------------	--

Provide counsel and support for a diverse student population for this liberal arts institution. Provides religious instruction and resources for all students as required. Serves on advisory boards as required and participates in campus religious exercises.

September 1992 - May 1998	Associate Pastor Rush Memorial AME Zion Church, Cambridge, MA
----------------------------------	--

As the Associate Pastor of the Rush Memorial AME Zion Church, I served as the Director of Christian Education with full responsibility for program development and implementation. Additionally, I held the position of Director of Evangelism with responsibilities for community outreach. During my tenure I also held positions of Worship Leader, Adult Teacher, and Trustee.

ORDINATIONS & LICENSES:

September 2000	Ordained as an Elder in the AME Zion Church
October 1998	Ordained as a Deacon in the AME Zion Church
May 1994	Licensed as a Conference Evangelist in the AME Zion Church
August 1992	Licensed as a Local Preacher in the AME Zion Church

QUALIFICATIONS SUMMARY:

Over twenty years of client-focused customer service and support management experience in business process improvement, strategy, design, and implementation within the Mutual Fund, Insurance, and Health Care industries. Strong management and development skills, a focused team player and consensus builder with operations planning and analytical skills in call center and transaction based operations.

PROFESSIONAL EXPERIENCE:

2003 – Present **MaineHealth Center for Tobacco Independence**
Portland, Maine
Executive Director

Directs the statewide system of tobacco dependence treatment as primary contractor of Maine CDC, Department of Health and Human Services. The Executive Director coordinates multiple program components to ensure access to effective treatment including project planning, management and evaluation of its core components: Statewide toll-free quit line, Statewide tobacco dependence treatment training, and tobacco treatment medication program. The Director also develops and implements MaineHealth corporate tobacco treatment initiatives. The Executive Director is supported by a Medical Director who provide clinical supervision to all program components.

2001 - 2003 **Health New England, Springfield, Massachusetts**
Director, Member Services and Enrollment

Directs the provision of customer services for members in the HMO, PPO, POS, and ASO product lines. Responsible for development, revision and implementation of standards for customer service based on industry best practices and internally developed objectives. Ensures continuous improvement of actual results that meet the standards developed.

Fully participates in plan-wide service improvement efforts. Oversees service data collection and analysis. Directs service improvement initiatives and integrates them into corporate QI efforts. Provides leadership in the NCQA preparation process. Provides Member Services expertise to senior management and consults on business activities with respect to Member Services delivery and member growth and retention.

1996 - 2000 **Blue Cross and Blue Shield of Massachusetts**
Senior Consultant, Business Consulting Group
Director, Clinical Care Call Center

Design, develop, and implement process improvement, technology, and call center redesign programs throughout the corporation. Redesigned the service operation to include initiatives span of control, operation management processes, performance metrics, and capacity planning.

Developed an implemented corporate redesign for member service, provider service, and medical operations call centers to include; metrics, standards, quality, and management training. Current responsibilities include the management of 60 person Clinical Care Call Center within the Health Affairs Division. Met or exceeded all operational and budgetary goals. Annual operating budget \$2 million.

Prudential Insurance Company of America, Inc. Plymouth, MN
Vice President & General Manager
Prudential Preferred Client Service Center

1994 - 1996

Boston, MA

1990 - 1994

Worcester, MA

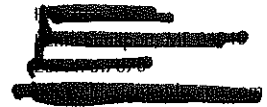
1988 - 1990

Quincy, MA

1985 - 1988

Boston, MA

Provided operations analysis and support to nationwide call center. Worked with Rockwell and Rolm Systems. Principle architect of the 800 number services network that controlled routing of 200,000 sales, service, and brokerage calls per day for 60 branches and four regional centers. Manager of Master Console Operations providing real-time call center network and routing administration.



Appointments Committee Chairman
C/o City Clerk
389 Congress Street
Portland, ME 04101

RE: Pesticide Management Advisory Committee
NOFA certified position

Dear Chairman:

This letter serves as formal application for the Pesticide Management Advisory Committee, and specifically for the Northeast Organic Farming Association Certified member.

Please find enclosed a resume which outlines my educational credentials in the landscape and organic land care industry. In addition to graduate certification in landscape design from the Landscape Institute of Harvard University and the Boston Architectural College, my certification includes Maine Master Gardener and completion of the program for the Accredited Organic Land Care Professional. Annual seminars are attended to maintain accreditation.

As Chair of the Kennebunkport Conservation Commission issues of organic land care are important discussion points for our Commission which has emphasize education about organic land care and how to monitor the commercial applicators and homeowners for best management practices.

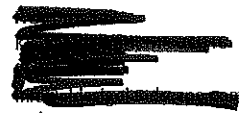
Organic principals are applied by CL Design & Landscape LLC, which I own and actively run as a landscape design and construction company, including maintenance of gardens and organic lawns.

Your review of this application is appreciated. It is my desire to support organic land care with a reasonable approach that warrants this application.

Sincerely,

A handwritten signature in cursive script that reads 'Carol Laboissonniere'.

Carol Laboissonniere



**RESUME FOR
CAROL LABOISSONNIERE**

EDUCATION:

Graduate Certification, Landscape Design, Landscape Institute of Arnold Arboretum/Harvard University
Accredited Organic Land Care Professional, NOFA
Maine Master Gardener, University of Maine Cooperative Extension
B.S. Computer Science, Boston University, Boston, MA
B.A. Economics, Emmanuel College, Boston, MA

EXPERIENCE:

CL DESIGN & LANDSCAPE LLC, Kennebunkport, ME

President and Owner

6/2007 - Present

CL Design & Landscape LLC specializes in design and construction of new landscapes, renovation of existing landscapes, and fine gardening maintenance. It is primarily a design/build landscape company. The company's philosophy is to create environmentally responsible landscapes. The company goal is to integrate the client's outdoor living space vision with their new or existing landscape. The company objective is to design and install beautiful landscapes that complement the client's lifestyle and house architecture. www.clDesignLandscape.com.

BRIGHAM AND ASSOCIATES, Portland, ME

Senior Impairment Specialist

1/2005 - 5/2007

Performed impairment evaluations according to the *AMA Guides to the Evaluation of Permanent Impairment*. Reviewed medical records, drafted detailed, analytical medical reports. Conferred with staff physicians, attorneys, and insurance clients in the evaluation of whole person impairment for law firms and insurance companies in the US and Canada.

KITTERY TRADING POST, Kittery, ME

Department Manager

9/2003 - 1/2005

Supervised Assistant Managers, Senior Sales and Associates in the Camping, Winter, and Water Sports Departments. Responsible for hiring and firing of employees, scheduling, and employee performance evaluations. Maintained communication with peer managers and store manager. Successfully transformed Camping, Winter and Water Sports department into integrated, motivated team with high morale and productivity.

WHITEHEAD INSTITUTE FOR BIOMEDICAL RESEARCH, Cambridge, MA

Database Manager

9/1998 - 8/2002

Managed team of Programmer/Analysts for development of web accessed Oracle databases, including management of project scheduling. Directed user requirement analysis meetings for proposed databases.

Senior Database Analyst

10/1993 - 8/1998

Developed user requirements for both Administrative and Biomedical database applications, based upon design meetings with biomedical scientists and administrative personnel. Performed logical and physical database design, database development, testing, and implementation.

MITRE CORPORATION, Bedford, MA

Information Systems Engineer

9/1989 - 9/1993

Designed database prototypes for Air Force command systems. Authored technical white papers. Developed databases for statistical analysis and graphical presentation of radar data. Used REFINER reverse engineering software to analyze legacy Air Force systems. TOP SECRET clearance.

METROPOLITAN INSURANCE, Warwick, RI

Senior Systems Analyst

1979 - 1989

Managed staff of computer programmers for information systems projects. Responsible for hiring, mentoring, and performance evaluations. Performed user requirement analysis and specification development. Designed, tested, and implemented databases.

ALLENDALE INSURANCE, Johnston, RI

Home Office Claims Examiner

1977 - 1979

Reviewed, researched, evaluated and prepared detailed analytical reports for multi-million dollar lawsuits involving Medical Malpractice and Products Liability. Performed audits. Worked closely with defense attorneys, reviewing interrogatories, witness and expert testimony for lawsuits throughout the United States. Prepared liability and damage analysis and recommendations.

HARTFORD INSURANCE, Johnston, RI

Senior Claims Supervisor

1973 - 1977

Managed staff of insurance adjusters. Responsible for hiring, firing, mentoring, and performance evaluations. Investigated, researched, evaluated and prepared detailed analytical reports for lawsuits involving Medical Malpractice, Products Liability, Professional Liability, and Commercial Liability. Responsible for average 300-400 lawsuit case load, including final evaluation of liability, damages, and recommendation for trial or settlement.

PROFESSIONAL MEMBERSHIPS:

Kennebunkport Conservation Commission, Chair
Kennebunkport Portside Rotary
Kennebunkport Chamber of Commerce
New England History and Landscape Design Association
Maine Organic Farmers and Gardeners Association
Association of Organic Landcare Professionals
Maine Landscape and Nursery Association
Ecological Landscape Alliance

REFERENCES:

Professional website: www.cldesignlandscape.com

Ms. Katherine Jones

City Clerk

City of Portland ME

RE: Portland PMAC

Ms. Jones

I would like to be considered as the agronomist for the Portland PMAC committee.

Presently I am the agronomist for the South Portland PMAC. I have participated in discussions concerning pesticides at both the State and local level for many years.

I have been an active member in the horticultural industry for my entire working life. I am a resident of Portland and Peaks Island.

Thank you.

Jesse O'Brien

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Jesse O'Brien

~~50 Label Ave~~

~~Portland, ME 04103~~

~~Phone: (207) 761-1111~~

~~Cell: (207) 761-1111~~

Education:

Cheverus High School 1976

SMVTI Plant and Soil Science 1977

UMaine Orono Plant and Soil Science B.S. 1981

Employment:

Down East Turf Farm, Kennebunk ME Partner

Adjunct Instructor SMTC , Plant and Soil Science 1982 – 1996

Adjunct Instructor UMaine Orono, Turf Management 2008 – 2015

Relevant Committees:

Presently a member of the Intergraded Pest Management Council IPM, Dept Ag

Agronomist South Portland PMAC

Treasure Ornamental Horticulture Council

Other Committee

Development of Best Management Practice BMP's Board of Pesticide Control

BMP's School Grounds – Board of Pesticide control

Task Force on Pesticide and fertilizer Ordinance City of Portland ME

Portland
Maine

Yes, Google's good here.

Katherine Jones <klj@portlandmaine.gov>

Citizen Position for PMAC1 message

Priscilla Skerry <~~priscilla.skerry@portlandmaine.gov~~>

Thu, May 3, 2018 at 12:34 AM

To: klj@portlandmaine.gov

Attn: Katherine L. Jones, City Clerk

Hello, Katherine. My name is Priscilla Skerry. I am a licensed Naturopathic Doctor (N.D.) practicing in S.Portland, and a resident of Portland, Maine. I am very interested in applying for one of the three resident positions on the Pesticide Management Advisory Committee (PMAC). I was very active with the Protect South Portland group in helping to pass their very comprehensive and well thought out organic pesticide ordinance, and also in voicing support with the Portland Protectors for passing the Portland pesticide ordinance. It is my concern that the intent of this ordinance not be weakened by those still unaware of the very real dangers pesticides pose to the health of humans—especially our children, to soil microorganism, pets, pollinators, birds and all of life on our planet. We are past the point where this must be dealt with and I am so proud of my City, City Councillors and Staff for all the effort that went into passing an ordinance based in organic principles and land care practices, and much like the one passed by S.Portland.

I have been a practicing Naturopathic Doctor for over 23 years now, graduated from the National College of Naturopathic Medicine (recently renamed the National University of Naturopathic Medicine), Portland, Oregon in 1994. Prior to that I was an x-ray technologist for over 30 years, and attended the University of New England, College of Osteopathic Medicine in Biddeford, Maine before completing my medical training and education at National College.

The medicine I practice is rooted in prevention, focuses on “doctor as teacher”. It has been my great privilege to help people understand how to care for themselves—and all of nature—via the principles this form of

medicine follows. Naturopathic Medicine is different from our present medical system, but complementary to it. Just as I understand that there is a time and place for acute care medicine (such as our present mechanistic medical model provides), I understand that there may be certain times when pesticides, under careful guidance—and upon determination that alternative practices will not suffice—and with proper and considerate application by licensed and trained applicators, may be necessary.

I am a mother, grandmother and great grandmother... and also an organic gardener, have been tending a plot with my life partner at the community gardens at Gilsland Farm, the Audubon in Falmouth for over 20 years. I can be reached by phone at

home (207) 742-5227

home (207) 742-5227

cell or cell phone (207) 410-1111

Thank you for consideration.

Patricia Okeny, M.D.

[REDACTED]

[REDACTED]

S.Portland, ME 04016

[REDACTED]

[REDACTED]

[REDACTED]

Portland
Maine

Yes, Google's good here.

Katherine Jones <klj@portlandmaine.gov>

Applying for PMAC

1 message

Karen Snyder [REDACTED]

Sun, Apr 29, 2018 at 12:38 PM

To: "klj@portlandmaine.gov" <klj@portlandmaine.gov>

Greetings,

I am applying for 1 of the 2 residents for the PMAC committee.

I feel like I am qualified for the following reasons:

- 1) I maintain my own vegetable garden at North Street Community Gardens.
- 2) I donate my vegetables to The Locker Project which feeds the school children with healthy vegetables.
- 2) I maintain several beehives on Munjoy Hill.
- 3) I maintain several perennial gardens on Munjoy Hill for aging neighbors.
- 4) I own multi-units in Portland where I rent to the working class and middle class Portlanders even though I could increase rents dramatically like larger property management companies are doing.
- 5) I volunteer annually doing trail maintenance on the Maine portion of the Appalachian Trail for MATC (Maine Appalachian Trail Club).
- 6) I also have a real "career" which I am a data migration consultant. Please see attached resume for career specifics.

Please do not hesitate to contact me with any questions or clarifications.

I hope I will be considered for this position.

Regards,
Karen Snyder

[REDACTED]
[REDACTED]

Attachment: Resume_KSnyder_PMAC.pdf



Resume_KSnyder_PMAC.pdf
183K

Karen Snyder, MS, MBA, PMP

~~Portland, ME 04101~~

~~Mobile: (207) 415-1096~~

Professional Profile

Certified consultant in PMP and over 13 years of data migration/data governance experience with proven data migration methodology and tools with extensive SAP experience in the Master Data, SD, MM, and FICO modules and completion of 7 lifecycle data migrations.

Skilled professional with a broad logistical and supply chain technical and functional background. This knowledge, along with ERP project implementation, data migrations, and data governance experience, allows me to communicate effectively with business and technical resources. I am also customer-focused team player with a demonstrated ability to communicate effectively with all levels of management. I also have a proven track record of continuous systems process improvement for various industries including Consumables, Medical Devices, Paper, Food, Construction Equipment, and Transportation, Utilities, and Marketing/Advertising.

Certifications/Professional Affiliations

- Certified Consultant in DMR and BackOffice Associates Data Migration Toolset™ and Methodology
- PMP (Project Management Professional) Certified/Project Management Institute Member
- EI Status with Oklahoma State Board of Licensure for Professional Engineers

Education

University of Tulsa

MBA - Masters of Business Administration

Oklahoma State University

MS - Masters of Science in Industrial Engineering and Management

Oklahoma State University

BS - Bachelors of Science in Industrial Engineering and Management

Citizenship: US Citizenship

Mobility: Current US passport

Languages: English written and spoken, intermediate written/spoken understanding of German and Spanish

Current Volunteering

- **MATC** (Maine Appalachian Trail Club) Annual Trail Maintenance Volunteer on the Maine portion of the Appalachian Trail
- Donate vegetables to **The Locker Project** <http://mainelockerproject.org/>

Professional Work Experience

Next Stage Consulting, LLC; SAP Data Migration Consulting Company, Portland, ME

Duration: October 2016 – February 2018

Client: Duracell

Role: SAP ERP Business/Data Governance/Data Migration Implementation Consultant

- Designing and developing master data governance reports used globally at Duracell.
- Providing adhoc data loading expertise when needed in different SAP environments.
- Developing and implementing streamlined data governance business processes.
- Providing functional and technical SAP guidance to global MDM Duracell team

Data Migration Resources, Inc., Data Migration Consulting Company

Duration: September 2014 – July 2016

Client: Keurig Green Mountain Coffee Roasters

Role: SAP ERP Business/Data Governance/Data Migration Implementation Consultant

- Provided functional and technical expertise in SAP/ERP/IT project management, business process improvements, data migration, data governance, operational reporting, and report development/ analysis.
- Developed governance/operational reports utilizing SAP tools/functionality for MDM team which entailed auditing material/customer master data, daily monitoring reports, data profiling, ad hoc analytics, etc.
- Performed data conversion activities such as extracting, mapping, and transforming legacy data for loading into SAP using BODS and SQL Server. This involved material master, BOM, Routings, product versions and various customized data objects.
- Provided post Go-Live support in modifying production data to ensure company could work successfully.

Next Stage Consulting, LLC; SAP Data Migration Consulting Company, Portland, ME

Duration: September 2012 – December 2013

Client: IPG/McCann Worldwide

Role: SAP/ERP/Technical/Business/ Data Migration Implementation Consultant

- Provided functional and technical expertise in SAP/ERP/IT project management, business process improvements, data migration, cutover project time line, and or report development/ analysis.
- Extracted, mapped, and transformed legacy data for loading into SAP using BODS and SQL Server. This involved customer master, vendor master, GL, AP, AR, jobs, purchase orders, WIP, estimates, assets, and various customized data objects.
- Worked with Business SMEs and Functional Consultants in ensuring that the translation from the functional specifications to the technical specifications was accurate.
- Analyzed data and developed reports for optimum business processing and reducing operating costs.
- Provided post Go-Live support in modifying or reloading production data to ensure agencies could work successfully.

BackOffice Associates, LLC; Consulting Company, Cape Cod, MA

Duration: February 2010 – September 2012

Clients: Amtrak,

American Waters

Role: SAP/ERP/IT Data Migration Consultant

- Provided functional and technical expertise in SAP data migration objects for: material master, inventory, vendor master, assets, asset depreciation, project wbs, project history, AP, AR, and purchase orders.
- Worked with Business SMES and Functional Consultants in ensuring that the translation from the functional specifications to the technical specifications was accurate.
- Developed data load programs using various Cransoft and SAP load methods.
- Developed Cransoft data cleansing/ analysis reports prior and post loads to facilitate the data cleansing process or data construction of the data objects.
- Worked with Business SMES in developing Cransoft web applications to facilitate source enrichment data construction.
- Monitored, managed, and validated the loading of the data objects into SAP.

Pragmatek Consulting Group; Consulting Company, Minneapolis, MN

Duration: March 2006 – March 2009

Client: St. Jude Medical, Medical Device Manufacturing, Minnetonka, MN

Project Description / Scope: SAP R/3 ECC 6.0, CRM 6.0, GTS 6.0, SCM 6.0

Project Duration: September 2007 – February 2009

Role: SAP Data Migration Project Lead

- Project lead for data migration using Cransoft software and data governance activities.
- Initiated and managed with data governance the convergence of the data quality, change control, data validation, and business process management during the data migration.
- Developed functional specifications and user requirements and translated into technical specifications for mapping processes and data from Legacy to SAP for data migration involving all PP, MM, SD, CRM, GTS data objects.
- Trained project team in how to map data, validate data, and create change control data defects using Mercury software.
- Coordinated data cleansing activities with Business, Cransoft/SAP developers.
- Configured SAP MM/SD/PP applications as necessary in order to maintain data migration schedule.
- Facilitated stake holders in requirements and setting clear project deliverables.
- Facilitated in developing wbs/activities for data migration plan using SDLC methodology.
- Coordinated documenting business flow activity and business processes.
- Developed key delivery metrics to track project status and provided status to steering team for on-time project completion.
- Data mined and created reports when necessary to validate data mapping rules using WinShuttle.
- Logged SAP support issues when necessary and followed through from initiation to closure.
- Coordinated with Basis and project manager in developing a data migration client landscape.

Client: The Schwan Food Company, Food Manufacturing, Marshall, MN

Project Description / Scope: SAP R/3 ECC 6.0 System

Project Duration: March 2007 – August 2007

Role: SAP MM Applications Consultant/Project Lead

- Developed project plan with stakeholders alternatives for how products are handled in SAP and Manugistics regarding: temporary quality hold durations and stop shipment functionality for batch-controlled food products.
- Developed and/or modified functional/technical specifications for over 8 interfaces, 1 functional module, and 1 report to support the client's chosen alternative.
- Facilitated "walk-through" meetings involving the project manager, ABAP developers, other functional developer peers to make sure solutions are understood by all.
- Configured SAP MM/SD/PP applications as necessary
- Coordinated with ABAP developers in unit and system testing of modified interfaces.
- Developed Ecatts for loading new master data to support this new functionality.
- Validated SAP interface output flat files using various methods such as: SAP Query and MS Access using SQL.
- Coordinated with other functional developers, Manugistics application consultants, and end users to test new functionality in systems.
- Developed project cutover checklist in coordinating the various activities required for go-live of this project.

Client: Skyline Display, Inc., Trade Show Display Manufacturing, Eagan, MN

Project Description / Scope: SAP R/3 ECC 6.0 System

Project Duration: December 2006 – March 2007

Role: *SAP Data Migration Consultant*

- Defined and assisted in mapping fields from Legacy to SAP for data migration involving: material master, customer master, vendor master, bom, routings, and all purchasing master data.
- Worked and coordinated with other SAP Application consultants in making sure configuration data was integrated with the mapping of the fields.
- Facilitated with Legacy system developers in developing solutions to extracting data from legacy system.
- Created and/or with another ABAP developer in assisting with development of LSMW programs.
- Developed various SAP migration methods to upload data into SAP such as: LSMW data migration programs, ECATTs, BAPIs, ALE, PL/SQL, etc.
- Coordinated the timing and validated date objects migrated into SAP.
- Worked with other functional project leads and application consultants to test application functionality in system.

Client: Burrows Paper Corporation, Paper Manufacturing, Franklin, Ohio

Project Description / Scope: SAP R/3 ECC 5.0

Project Duration: April 2006 – November 2006

Role: *SAP SD/MM Application Consultant / Upgrade SAP Project Manager*

- Upgrade manager for upgrading from SAP R/3 4.5B to ECC 5.0.
- Utilized SDLC methodology to monitor daily project tasks, schedule, and scope.
- Considered all integration points with other SAP modules, project teams, and external systems for upgrade viability.
- Configured SD/MM module during implementation and corrected any configuration "broken" during upgrade.
- Coordinated adoption of new business procedures resulting from system improvement including the development of documentation, training and communication plans.
- Developed training material for SAP end users in MM and SD modules.
- Worked with other functional project leads to test apps functional in system and scheduled jobs for Stress Test(s) and Go-Live.

Hilti, Inc., Manufacturing Fastening/Anchoring Systems

Duration: March 1999 – April 2006

Operations and Project Experience:

Project Location/ Scope: Tulsa, OK, Vaduz, Liechtenstein, FL, Europe/ SAP R/3 4.6c, BW -V3.0, CRM3.0,

Project Duration: January 2002 – April 2006

Role: *SAP MM/SD Application Lead Analyst / Supply Chain Planning Systems Project Manager*

- Involved as stakeholder in full-cycle SDLC methodology SAP international project based in Liechtenstein, Europe for North America and Canada company codes.
- Defined and mapped fields for data migration involving material master, vendor master, purchase orders, intransits, and purchase info records master data.
- Considered all integration points with other SAP modules, project teams, and external systems such as Manugistics and validated interfaces.
- Configured MM/SD/WM modules during implementation.
- Developed training documents for SAP end users in MM and SD modules and trained end users.

- Worked with functional project leads to test apps in system and scheduled jobs for Stress Test(s) and Go-Live.
- Designed operational reporting requirements and developed MM/SD operational reports with SAP Query/BW.
- Developed Batch Job requirements in Go-Live and submitted to operational support team.
- Provided Intensive Care Support after Go-Live for each company code and production functional issues as needed.

Project Location / Scope: Tulsa, Ok/ Planning Systems Manager for Manugistics 5.1 to 6.1 version

Project Duration: March 1999 - January 2003

Role: *North America Supply Chain Planning Systems Project Manager*

- Managed and supported the supply chain planning system that forecasts and distributes annual product sales of over \$550 million for North America (US and Canada) locations.
- Responsible for providing business operation and system support within Manugistics Applications Release 6.1.2.
- Managed the computer projects to upgrade/migrate to new Manugistics application releases using SDLC methodology.
- Developed with stake holders the project scope and deliverables.
- Monitored project daily tasks, schedule, and delivery metrics.
- Developed interface specifications with ERP system (Oracle and SAP) and Manugistics.
- Developed reporting tools using SAS/MS Access with PL/SQL for eight material managers to enable them to analyze, reduce inventory and month-on hand levels for products within the supply chain network.

Project Location / Scope: Tulsa, OK/; Manufacturing-Industrial Engineering Projects

Operations Duration: March 1994 – March 1997

Role: *Industrial Engineer*

- Developed time studies for over 200 finished good products.
- Worked with manufacturing engineers in upgrading the manufacturing process line.
- Maintained all manufacturing materials, bill of materials, and routings within Oracle manufacturing module.
- Worked with Plant manager in various continuous improvement processes.
- Worked with costing department to develop and simulated manufacturing costs us MS Access/MS Excel.

Portland
Maine

Yes, Google's good here.

Katherine Jones <klj@portlandmaine.gov>

PMAC

1 message

Avery Yale Kamila <[REDACTED]> Mon, Apr 30, 2018 at 9:26 AM

To: klj@portlandmaine.gov

Cc: Troy Moon <thm@portlandmaine.gov>

Appointments Committee Chairman
389 Congress Street
Portland, ME 04101

Dear Appointments Committee Chair and Members,

I read with interest the posting for the Pesticide Management Advisory Committee. I would like to be considered for one of the three resident seats.

For the past three years, I have helped educate residents of Greater Portland about organic land care. I've spoken about organic land care at the Portland March for Science; the Beyond Pesticides 34th annual National Pesticide Forum at the University of Southern Maine; the Common Ground Country Fair Public Policy Teach-In on Local Pesticide Control; and the 350 Maine Statewide Gathering.

In addition, I work as a journalist, and I hold a B.S. in environmental science from the SUNY, College of Environmental Science and Forestry at Syracuse University. I am a long-standing member of the Maine Organic Farmers and Gardeners Association.

I grew up in Litchfield, Maine on a small, organic farm. I moved to the West End of Portland in 1997, later moving to Deering Center and then the Eastern Prom. My family and I now live in the Bayside neighborhood.

EVERY YALE KAMILA

Selected resume

Co-founder, Portland Protectors, Portland, Maine, 2015 to present

- Promote organic land care practices and organize community support for organic land care through networking, presentations to community groups and social media
- Supported the passage by the City Council of one of the country's strongest organic land care ordinances

Citizen representative, Portland Pesticide & Fertilizer Task Force, May 2016 to Feb. 2017

- Reviewed all the pesticide ordinances in Maine and dozens in other states
- Contacted land care professionals to find out how they determine what products are allowed under the National Organic Program
- Attended every meeting

Columnist, Portland Press Herald, Portland, Maine, 2014 to present

- Write the Vegan Kitchen column for the Wednesday food & dining section, covering the latest news about plant-based food

Staff writer, Portland Press Herald/Maine Sunday Telegram, Portland, Maine, 2009 to 2013

- Wrote the award-winning Natural Foodie column for the Wednesday food section covering organic food and farming
- Wrote the Society Notebook column for the Sunday audience section, and handled general feature writing including for the weekly entertainment magazine and a variety of blogs

Staff writer, MaineToday Media, Community Publications, Falmouth, Maine, 2004 to 2009

- Covered arts and entertainment for The Maine Switch magazine
- Wrote local news pieces about Falmouth, Cumberland, Yarmouth, North Yarmouth and Freeport for The Community Leader

Director of Communications, Sustainable North Carolina, Raleigh, N.C., 2002 to 2003

- Edited North Carolina's only sustainable business publication
- Ghost wrote op eds, speeches and articles for president and board members

Thank you for considering my application. My resume is attached as a PDF.

Sincerely,

Avery Yale Kamila

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]



resume - organic land care.pdf

78K

Manager, Community Relations, Maine Medical Center, Portland, Maine, 1999 to 2002

- Developed and accounted for a yearly budget of \$300,000+ ; worked with community groups; served as co-chair of MMC's United Way campaign
- Wrote new releases, speeches, web content and ad copy; shared 24 hour on-call duty

Conference Services Manager, United Publications, Yarmouth, Maine., 1997 to 1998

- Managed a customer service and registration operation with three full time staff members and up to 15 temporary staff members that served more than 10,000 attendees a year

Events Coordinator, Institute for Global Ethics, Camden, Maine., 1995 to 1997

- Coordinated programs for business and education audiences; handled bookings for four national speakers

EDUCATION

SUNY, College of Environmental Science and Forestry at Syracuse University, Syracuse, New York

Environmental Policy and Management, BS with honors, Magna Cum Laude
September 1993 - May 1995, GPA 3.5

S. I. Newhouse School of Public Communication, Syracuse University, Syracuse, New York

Writing for Television, Radio and Film
September 1991- May 1993, GPA 3.8

Honors: Syracuse University's Honors Program, Phi Kappa Phi and Phi Eta Sigma honor societies

TIM LINDSAY

EXPERIENCE

- 06/1975 to 1984** **Owner operator**
Morong and Lindsay Treecare and Landscaping — South Portland, ME
Sales
Crew leader
Training
- 1984 to 1994** **Owner Operator**
Lindsay Tree Care and Landscaping — Scarborough, ME
Job estimating
Design work
Manager
Crew leader
Over saw daily operations
Safety training
- 1994 to 2015** **Manager**
F.A.Bartlett Tree experts — Scarborough, ME
Established the first Bartlett Tree Experts office here in Maine
Manager
Oversaw safety training program
Sales for the state of Maine
Established projections for the office.
Developed IPM program both organic and traditional approach for my office
I am now retired from Bartlett Tree Experts

EDUCATION AND TRAINING

- 1974** 1 year of Plant and Soils
Souther Maine Vocational Technical Institute — South Portland, ME
Each year of employment with Bartlett Tree Experts I obtained 30 + CEU's
Bartlett Tree Experts — Scarborough

ACTIVITIES AND HONORS

- Past President of the New England Chapter of ISA
Past President of the Maine Arborist Association
Maine Certified Maine Landscaper

CERTIFICATIONS

- Maine state Master Pesticide Applicator
ISA Certified Arborist
Tree Risk Certified
Lic. Maine Arborist

MEMORANDUM
City Council Agenda Item

FROM: Jessica Hanscombe

DATE: January 29, 2019

SUBJECT: **Order 103-18/19 Granting Municipal Officers' Approval of Pig Exchange, LLC dba Thirsty Pig. Renewal application for an Entertainment without Dance at 37 Exchange Street with the Condition of No Amplified Entertainment Outdoors - 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:

I. SUMMARY

II. AGENDA DESCRIPTION

Applicant holds a current Class A Lounge License with Entertainment without Dance and Outdoor Dining on Private Property with the condition of no amplified entertainment outdoors. At its November 19, 2018 meeting, the City Council requested that this business come back before them for renewal.

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

VIII. LIST ATTACHMENTS

1. The Thirsty Pig City Council Order
2. The Thirsty Pig
3. Thirsty Pig Letter to City Council 2019 1 29 (P1600647x9F873)

Prepared by:

Jessica Hanscombe

Date: 01/29/2019

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

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

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

Pig Exchange, LLC dba Thirsty Pig. Renewal application for an Entertainment without Dance at 37 Exchange Street with the condition of no amplified entertainment outdoors.



City of Portland

Permitting and Inspections Department

Business Name: THIRSTY PIG

Business Location: 37 EXCHANGE ST
Portland, ME 04101

Owner:

License Number: 4670

Issued Date: 12/19/2017

Expiration Date: 12/13/2018

Classification: Class A Lounge

Description: ONLY UNAMPLIFIED ENTERTAINMENT ON
DECK/
OUTDOOR DINING ON PRIVATE PROPERTY.

Entertainment Type: Entertainment without Dance

After Hours Entertainment: No

Outdoor Dining: Private

Bottle Club: No

Michael A. Russell, Director

THIS LICENSE IS NOT TRANSFERRABLE
PLEASE POST IN A CONSPICUOUS PLACE

BILLING CONTACT

PIG EXCHANGE, LLC
37 Exchange St
Portland, Me 04101

Date: 9/21/2018

Noise Complaints

Call Nbr	DateTime	Address	Name	Type of Call
182440537	9/1/2018 10:42PM	133 FREE ST	MATTHEWS	LOUD MUSIC
181600023	6/9/2018 12:32AM			LOUD MUSIC
Total Calls 2				
181310604	5/11/2018 10:59PM	37 EXCHANGE ST	THE THIRSTY PIG	LOUD MUSIC
172870388	10/14/2017 06:14PM			LOUD MUSIC
172870289	10/14/2017 02:38PM			LOUD MUSIC
172710599	9/28/2017 08:47PM			LOUD MUSIC
172660337	9/23/2017 04:43PM			LOUD MUSIC
172450477	9/2/2017 06:57PM			LOUD MUSIC
Total Calls 6				
181480523	5/28/2018 11:33PM	625 CONGRESS ST	GENOS PUB	LOUD MUSIC
181480501	5/28/2018 10:26PM			LOUD MUSIC
180820563	3/23/2018 10:30PM			LOUD MUSIC
180820540	3/23/2018 09:22PM			LOUD MUSIC
180750536	3/16/2018 08:43PM			LOUD MUSIC
173080012	11/4/2017 12:39AM			LOUD MUSIC
173070686	11/3/2017 11:47PM			LOUD MUSIC
173070676	11/3/2017 11:24PM			LOUD MUSIC
173020028	10/29/2017 01:21AM			LOUD MUSIC
Total Calls 9				
Total Amount of Noise Related Calls 17				



Permitting and Inspections Department
Michael A. Russell, MS, Director

October 10, 2018

Thirsty Pig
37 Exchange Street
Portland ME 04101

Re: Thirsty Pig Entertainment Permit

To whom it may concern,

We are requesting to send your Entertainment Permit back to City Council for the renewal approval on November 19, 2018. Please complete the enclosed form and submit to me by October 29, 2018. Please also submit a diagram where all the entertainment will take place.

You will submit payment with your regular renewal please. You can email the application and diagram back to me if that is easier.

Please advise if you any questions.

Thank you,

Jessica B. Hanscombe
Licensing and Registration Coordinator
Room 307
389 Congress Street
Portland ME 04101
207-874-8783
jhanscombe@portlandmaine.gov

Portland, Maine



Yes. Life's good here.

Permitting and Inspections Department
Michael A. Russell, MS, Director

October 30, 2018

Pig Exchange LLC
37 Exchange Street
Portland ME 04101

Re: Pig Exchange, LLC dba Thirsty Pig. Renewal application for an Entertainment without Dance at 37 Exchange Street with the condition of no amplified entertainment outdoors.

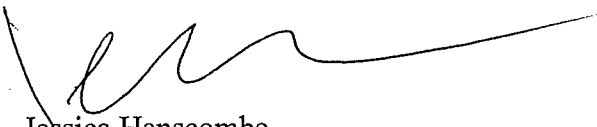
Dear Allison Stevens

This letter shall serve as a reminder of the public hearing before the Portland City Council on **Monday November 19, 2018 at 5:30 p.m.**, for the review of a Renewal application for an Entertainment without Dance at 37 Exchange Street with the condition of no amplified entertainment outdoors. The meeting will take place in Council Chambers on the 2nd floor of City Hall, 389 Congress Street, Portland, ME 04101.

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 Registration Coordinator

Legal Advertisement

Notice of Public Hearing City of Portland

A Public Hearing will be held on November 19, 2018 at 5:30 P.M., in City Council Chambers, 389 Congress St., Pig Exchange, LLC dba Thirsty Pig. Renewal application for an Entertainment without Dance at 37 Exchange Street with the condition of no amplified entertainment outdoors. Sponsored by Michael Russell, Director of Permitting and Inspections.

January 29, 2019

Mayor Ethan Strimling and Members of City Council
389 Congress Street
Portland, Maine 04101

Re: The Thirsty Pig Entertainment License

Dear Mayor Strimling and Members of the City Council:

This firm represents the The Pig Exchange LLC, d.b.a. The Thirsty Pig ("The Thirsty Pig"). We have been working with interested parties to develop a compromise to the restrictions placed on The Thirsty Pig's entertainment license.

As many of you are aware, The Thirsty Pig's 2018 entertainment license included a condition that prohibited any amplified outdoor music from being played. We appeared before you on November 19, 2018, at the time the license was to be renewed, and requested that the condition be removed. At that meeting you issued a temporary entertainment license with the understanding that we would work on a possible solution and return to the Council for further discussion.

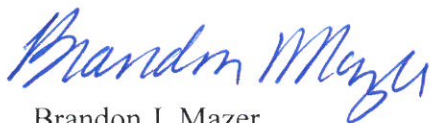
Since the November 19th meeting, our team has had a variety of meetings with interested parties in an attempt to work towards a solution. We met with the Sound Oversight Committee on December 18, 2018 (minutes attached) and also met with the City Manager, Michael Russell, and Anne Torregrossa on December 19, 2018. At both of these meetings a variety of solutions were discussed, many of which are incorporated in what we bring forward to you today. Additionally, I met with Beth Boepple on December 12, 2018, and we had additional follow up email correspondence, to get input from the neighboring condominiums as to possible compromises they would be agreeable to. Unfortunately, the general response has been less than supportive; however, we continue to commit to having an open dialogue with our neighbors regarding our outdoor entertainment, as you will see in some of our proposals.

To make adjustments, we need a reliable baseline to work from, therefore, The Thirsty Pig requests that the entertainment license be issued for 2019 (with our renewal being in November/December of 2019) with the following conditions and commitments, and with the understanding that certain adjustments may need to be made as the season progresses:

1. Live entertainment will be limited to 4 times per week (Sunday through Saturday). Any live entertainment Sunday through Wednesday would be limited to 12:00 PM to 7:00 PM; Thursday through Saturday would be limited to 12:00 PM to 9:00 PM.
2. The maximum decibel level will be 85 dB as measured 8 feet from the property line.
3. The Thirsty Pig will purchase two decibel meters, one to be used at the Thirsty Pig and one to be installed at 150 Middle Street. The installation at 150 Middle Street is conditioned on finding a resident that will allow us to install a meter. Our goal is to gather as much data as possible to help understand the decibel levels residents are experiencing and make adjustments based on those levels.
4. The Thirsty Pig will maintain a log book for each outdoor musical performance which will include the date, the performer, the hours, the decibels recorded 8 feet from the property line and 150 Middle Street, and any comments received from neighbors.
5. The Thirsty Pig will purchase a sound system for performers to ensure a consistent level of sound and to allow management to change the location of speakers to determine the ideal location as the season progresses.
6. Co-owner Dave Nowers will provide his personal cellphone number to any neighbors who request it for direct communication regarding any concerns about performances.
7. All outdoor performances will be published on The Thirsty Pig's Facebook page as far in advance as possible.
8. The Thirsty Pig has retained a third party independent contractor to hire and promote bands. The goal is to bring the highest quality music to the venue.
9. Finally, as the Thirsty Pig gathers sound data throughout the season, we have committed to continuing to work with the Sound Oversight Committee and other sound engineers to explore other possible sound dampening systems, if needed, which can be affordably installed with Historic Preservation permission.

We look forward to answering any questions the Council may have on February 20th and hope that these conditions are unnecessary when we return for our 2020 license later this year.

Respectfully,



Brandon J. Mazer

Sound Oversight Committee meeting with management from The Thirsty Pig.

Portland Police Department – 12/18/18

SOC members: Lt. Kevin Cashman (PPD), Chuck Fagone (Portland Inspections), Robert R Waitkevitch (Owner – Fore Play), Jack Murray (sound engineer)

Thirsty Pig management – Allison Stevens and Dave Nowers (owners), Mandy Lacourse (manager)

The goal of this meeting was to develop a plan that will allow some use of amplified music on the outdoor deck of the Thirsty Pig (37 Exchange). It should be noted that deck is on the Market St. side of the establishment. All members of the committee and Thirsty Pig agreed to focus on several potential ideas to mitigate sound in order to reduce the calls for service concerning noise from the establishment. Allison Stevens stressed to the committee that she wanted to be a good neighbor.

The first issue to be addressed was the 92 decibels that are allowed under the current city of Portland noise ordinance. Jack Murray pointed out that for each increment of 10; the perceived sound to the human ear approximately doubles. Thirsty Pig management offered to have 85 DB as their maximum allowed. They told us that they wouldn't expect to even come close to that number (85 DB) and would have an employee, for every performance on the deck, monitor the sound with a sound meter they plan to acquire. They would document their readings in a log in order to compare them from performer to performer and identify which may be too loud and have to limit their sound output.

It was also discussed that Thirsty Pig obtains a dedicated amplification system. Each performer would use this system so that there is little to no variation each time someone plays. Staff would be in charge of the sound output from this system. Angles of speakers and physical location/placement of the band would be tested in order to identify the spot that projects the least sound in the direction of Market St.

Thirsty Pig staff is also willing to identify and erect sound dampening materials to decrease noise from their deck.

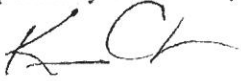
The Thirsty Pig is hoping to have outdoor amplified music a maximum 4 times a week. They are looking for outdoor amplified sound from 12pm-7pm on Thursdays and Sundays and from

12pm-9pm on Fridays and Saturdays. They were hoping to have flexibility on days (replace one of these four with another from that week) in case a special event arises or an unexpected performer is available on short notice.

They also expressed a desire to make neighborhood notifications via their website and social media platforms about when they will be having outdoor amplification so that there are no surprises for all involved.

It was clear that the management is willing to work with the neighbors and the city to provide a resolution that works for all stakeholders.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'K. Cashman', written over the closing text.

Lt. Kevin Cashman

MEMORANDUM
City Council Agenda Item

FROM:

DATE: January 29, 2019

SUBJECT: Order 159-18/19 Granting Municipal Officers' Approval of Austin Street Brewery LLC dba Austin Street Brewery LLC. Application for a Class III & IV FSE with Entertainment without Dancing and Outdoor Dining on Private Property at 109 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

Austin Street Brewery LLC dba Austin Street Brewery LLC. Application for a Class III & IV FSE with Entertainment without Dancing and Outdoor Dining on Private Property at 109 Fox Street.

Application was filed on 1/25/2019. Applicant currently holds a Brewery License at this location.

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. 20190129111508391

2. Austin Street-Class III & IV.docx

Prepared by:

Date: 01/29/2019



January 23, 2019

Mayor Ethan K. Strimling
Portland City Council
389 Congress Street
Portland, ME 04101

**Re: Application for Food Establishment with Alcoholic Beverages License
Austin Street Brewery, LLC (the "Company")**

Dear Mayor Strimling and City Council Members:

I am writing to inform you that the Company intends to apply for, and receive, a City Food Service Establishment with Alcoholic Beverages License in connection with the Company's second brewery location in Portland's East Bayside at 109 Fox Street. The Company also intends to apply for a State On-Premises Retail Liquor License, a City Entertainment License, and a City Outdoor Dining Permit on Private Property.

The Company applied for these state and local licenses a few months ago but, because certain local zoning restrictions limit the types of alcoholic beverages that the Company may serve at the Company's second brewery location, the City Council denied the Company's earlier application for a City Food Service Establishment with Alcoholic Beverages License that included beer, wine, and spirits. The Company was encouraged to reapply for the same license to include beer and wine – and not spirits. We understand that this local liquor license is commonly referred to as a Malt & Vinous License (Class III & IV).

The Company plans to sell its own beer for on-premises consumption and off-premises consumption, and to sell other manufacturers' beer and wine for on-premises consumption, at the second brewery location. The Company also plans to sell limited food offerings, as required by applicable state and local law. The Company's tentative food menu will include a variety of snacks.

Accordingly, please find enclosed for your review, consideration, and anticipated approval the following documents in connection with the application for the City Food Service Establishment with Alcoholic Beverages License, together with the applications for the related state and local licenses and permits:

**1. Application for City Food Service Establishment with Alcoholic Beverages License
(Malt & Vinous License)**

- (a) Diagram of Brewery Premises and Retail Premises (8 ½" x 11")
- (b) Lease Agreement
- (c) Payment of Fees – New Application (\$45), Health Inspection (\$150), Criminal History Check (\$21/person), Malt & Vinous License Fee (Class III & IV) (\$906), and Legal Advertisement Deposit (\$100)

2. Supplemental Application for Entertainment License

- (a) Payment of Fees – License Fee (\$295)

3. Supplemental Application for Outdoor Dining Permit on Private Property

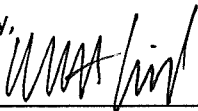
- (a) Plot Plan (8 ½" x 11") – Lot Lines and Street Location
- (b) Location of Proposed Outdoor Dining Area and its Components
 - (i) Space Dimensions, including Square Footage
 - (ii) Tables/Chairs
 - (iii) Fences/Barriers
 - (iv) Egress Dimensions
- (c) Drawing, Photo, or Specifications of Any Proposed Barrier
- (d) Payment of Fees – License Fee (\$125), Legal Advertisement Deposit (\$100)

4. Application for State On-Premises Retail Liquor License (Restaurant) (Class III and Class IV)

- (a) Diagram of Brewery Premises and Retail Premises (8 ½" x 11")
- (b) Corporate Information Supplemental Form – Austin Street Brewery, LLC
- (c) Corporate Information Supplemental Form – Del Boca Vista
- (d) Payment of Fees – Filing Fee (\$10), License Fee (\$440)

Thank you very much for your time and consideration, and we very much look forward to receiving your anticipated approval of the enclosed applications.

Sincerely,



William Fisher, Manager of Austin Street Brewery, LLC

Portland, Maine



Yes. Life's good here.

Permitting and Inspections Department
 Michael A. Russell, MS, Director
 389 Congress St. Room 307 • Portland, ME 04101 • (207) 874-8557
www.portlandmaine.gov

Application for Food Service Establishment with Alcoholic Beverages License

Business Information			
Business Name (d/b/a):	Austin Street Brewery, LLC	Phone:	207-200-1994
Location Address:	109 Fox Street, Portland, ME 04101		
If new, what was formerly at this location:			
Mailing Address:	1 Industrial Way, Unit 8, Portland, ME 04103		
Contact Person:	William Fisher	Phone:	207-837-4376
Contact Person Email:	will@austinstreetbrewery.com		
Manager of Establishment:	William Fisher	Date of Birth: 1-6-83	Phone: 207-837-4376
Owner of Premises (Landlord):	Fox Street Realty, LLC		
Address of Premises Owner:	332 Fore Street, 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	
Austin Street Brewery, LLC		1 Industrial Way, Unit 8, Portland, ME 04103	
Contact Person:	William Fisher	Phone:	207-837-4376
Principal Officers	Title	Date of Birth	Residence Address
William Fisher	Manager	1-6-83	1380 Westbrook Street, Portland, ME 04102
Jacob Austin	Manager	1-15-80	217 Yarmouth Road, Gray, ME 04039

About Your Establishment

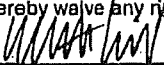
Class of Liquor License:	Malt & Vinous License (Class III & IV)		
Type of food served:	<u>Snacks</u>		
Please circle all that will be served:	☒ Beer	☒ Wine	☐ Liquor
Projected percentage of sales:	Generated from Food:	10%	Generated from Alcohol: 90%
Hours & days of operation:	Monday, Wednesday - Saturday, 12 p.m. to 7 p.m.; Sunday 12 p.m. to 5 p.m.		

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 ☐ N
If No, please explain: N/A	
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
Will you permit dancing on the premises?	☒ 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 <u>PRIVATE</u> property (circle one).	
Will you have any amusement devices (pinball, video games, juke box)?	☒ Y ☐ N
If yes, please list: # of pinball machines: <u>1</u> # of amusements: _____ # of pool tables: _____	
What is your targeted opening date? <u>11.11.18</u>	
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): Austin Street Brewery, LLC, 1 Industrial Way, Unit 8, Portland, ME 04101	
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, William Fisher, 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 Manager Date 1/18/19

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.

Portland, Maine



Yes. Life's good here.

Permitting and Inspections Department

Michael A. Russell, MS, Director

389 Congress St. Room 307 • Portland, ME 04101 • (207) 874-8557

www.portlandmaine.gov

Supplemental Application for Dancing and Entertainment License

License accompanies a City of Portland Food Service Establishment or Food Service Establishment with Alcohol license.

☒ Entertainment without Dancing: \$295 ☐ Entertainment with Dancing: \$529 ☐ After-Hours (1 a.m. to 3 a.m.): \$595

Business Information			
Business Name (d/b/a):	Austin Street Brewery, LLC	Phone:	207-200-1994
Location Address:	109 Fox Street, Portland, ME 04101		

About Your Establishment

Describe in detail the type and nature of the business and proposed entertainment: Brewery	
Will music be electric, acoustical, or both? (Circle)	
Will amplification be used?	(Y/N)
If yes, where and at what level?	Indoors and outdoors, less than 92 decibels measured from 8 feet
Will music be played (Circle all that apply):	Inside Outside
Will you permit dancing on the premises?	(Y/N)
Will you permit dancing after 1:00 a.m.?	(Y/N)
What is your targeted opening date?	11.11.18
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):	N/A

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.

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: Manager Date: 1/18/19

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

Portland, Maine



Yes. Life's good here.

Permitting and Inspections Department
 Michael A. Russell, MS, Director
 389 Congress St. Room 307 • Portland, ME 04101 • (207) 874-8557
www.portlandmaine.gov

**Outdoor Dining Permit on Private Property
 Supplemental Application**

License accompanies a City of Portland Food Service Establishment or Food Service Establishment with Liquor License
 Valid April 1-November 15

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

Business Information			
Business Name (d/b/a):	Austin Street Brewery, LLC	Phone:	207-200-1994
Location Address:	109 Fox Street, Portland, ME 04101		
Mailing Address:	1 Industrial Way, Unit 8, Portland, ME 04103		
Contact Person:	William Fisher	Phone:	207-837-4376
Contact Person Email:	will@austinstreetbrewery.com		
Manager of Establishment:	William Fisher	Date of Birth: 1-6-83	Phone: 207-837-4376
Owner of Premises (Landlord):	Fox Street Realty, LLC		
Address of Premises Owner:	332 Fore Street, Portland, ME 04101		

Owner Information

Corporate Name		Corporate Mailing Address	
Austin Street Brewery, LLC		1 Industrial Way, Unit 8, Portland, ME 04103	
Contact Person:	William Fisher	Phone:	207-837-4376
Principal Officers	Title	Date of Birth	Residence Address
William Fisher	Manager	1-6-83	1380 Westbrook, Street, Portland, ME 04102
Jacob Austin	Manager	1-15-80	217 Yarmouth Road, Gray, ME 04039

About Your Establishment

Class of License:	Malt & Vinous License (Class III & IV)
Type of food served:	Snacks
Please circle all that will be served:	Beer (X) Wine (X) Liquor
Hours & days of operation:	Monday, Wednesday - Saturday 12 p.m. to 7 p.m.; Sunday 12 p.m. to 5 p.m.
Number of Tables	46
Number of Chairs	92

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 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 WMAH/in/ Title Manager _____ Date 1/18/19

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: _____		

BUREAU OF ALCOHOL BEVERAGES AND LOTTERY OPERATIONS
DIVISION OF LIQUOR LICENSING AND ENFORCEMENT
8 STATE HOUSE STATION, AUGUSTA, ME 04333-0008
10 WATER STREET, HALLOWELL, ME 04347
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:	

PRESENT LICENSE EXPIRES _____

NEW application: ☒ Yes ☐ No

If business is NEW or under new ownership, indicate starting date: 11.11.18

Requested inspection date: 11.9.18

Business hours: Mon, Wed-Sat 12 pm to 7 pm; Sunday 12 pm to 5 pm

INDICATE TYPE OF PRIVILEGE: ☒ MALT ☒ VINOUS ☐ SPIRITUOUS

INDICATE TYPE OF LICENSE:

- | | | |
|--|---|--|
| ☒ RESTAURANT (Class I,II,III,IV) | ☐ 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) |
| ☐ CLUB w/o Catering (Class V) | ☐ CLUB with CATERING (Class I) | ☐ GOLF COURSE (Class I,II,III,IV) |
| ☐ TAVERN (Class IV) | ☐ QUALIFIED CATERING | ☐ OTHER: _____ |

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

Corporation Name: Austin Street Brewery, LLC	Business Name (D/B/A)
APPLICANT(S) --(Sole Proprietor):	Physical Location: 109 Fox Street
DOB:	City/Town: Portland State: ME Zip Code: 04101
Address:	Mailing Address: 1 Industrial Way, Unit 8
City/Town: State: Zip Code:	City/Town: Portland State: ME Zip Code: 04103
Telephone Number: Fax Number	Business Telephone Number: 207-22-1994 Fax Number
Federal I.D. # 46-3400660	Seller Certificate #: <u>1194813</u> or Sales Tax #:
Email Address: will@austinstreetbrewery.com Please Print	Website: austinstreetbrewery.com

- If premise is a Hotel or Bed & Breakfast, indicate number of rooms available for transient guests: N/A
- State amount of gross income from period of last license: ROOMS \$ N/A FOOD \$ N/A LIQUOR \$ N/A
- Is applicant a corporation, limited liability company or limited partnership? ☒ YES ☐ NO
If Yes, please complete the Corporate Information required for Business Entities who are licensees.

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

BRW-2014-SMB-7 Austin Street Brewery, LLC (Use an additional sheet(s) if necessary.)

License # _____ Name of Business _____
1 Industrial Way, Unit 8, Portland, ME 04103
Physical Location _____ City / Town _____

5. Do you permit dancing or entertainment on the licensed premises? YES ☒ NO ☐
6. If manager is to be employed, give name: William Fisher
7. Business records are located at: 1 Industrial Way, Unit 8, Portland, ME 04103
8. Is/are applicant(s) citizens of the United States? YES ☒ NO ☐
9. Is/are applicant(s) residents of the State of Maine? YES ☒ NO ☐
10. List name, date of birth, and place of birth for all applicants, managers, and bar managers.

Full Name (Please Print)	DOB	Place of Birth
Austin Street Brewery, LLC	8-14-13	ME
William Fisher	1-6-83	Portland, ME
Jacob Austin	1-15-80	Lewiston, ME
Residence address on all of the above for previous 5 years (Limit answer to city & state)		
Austin Street Brewery, LLC - Portland, ME		
William Fisher - Portland, ME		
Jacob Austin - Westbrook, ME, Portland, ME, Gray ME		

11. Has/have applicant(s) or manager 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 additional sheet(s) if necessary)

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

Yes ☐ No ☒ If Yes, give name: _____

13. Has/have applicant(s) formerly held a Maine liquor license? YES ☐ NO ☒

14. Does/do applicant(s) own the premises? Yes ☐ No ☒ If No give name and address of owner:

Fox Street Realty, LLC, 332 Fore Street, Portland, ME 04103

15. Describe in detail the premises to be licensed: (On Premise Diagram Required) See Attached

16. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services?

YES ☐ NO ☐ Applied for: 10.31.18

17. 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? 0.5 Miles

Which of the above is nearest? Church (The Cathedral of the Immaculate Conception)

18. 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: Androscoggin Savings Bank - Commercial Financing; Finance Authority of Maine - Commercial Financing

The Division of Liquor Licensing & Enforcement is hereby authorized to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also such books, records and returns during the year in which any liquor license is in effect.

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 \$2,000 or both."

Dated at: Portland, ME on _____, 1/18/19

Date

Please sign in blue ink



Signature of Applicant or Corporate Officer(s)

Signature of Applicant or Corporate Officer(s)

Print Name: William Fisher

Print Name:

FEE SCHEDULE

FILING FEE: (must be included on all applications)	\$ 10.00
Class I Spirituous, Vinous and Malt	\$ 900.00
CLASS I: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Vessels; Qualified Caterers; OTB.	
Class I-A Spirituous, Vinous and Malt, Optional Food (Hotels Only)	\$1,100.00
CLASS I-A: Hotels only that do not serve three meals a day.	
Class II Spirituous Only	\$ 550.00
CLASS II: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; and Vessels.	
Class III Vinous Only	\$ 220.00
CLASS III: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.	
Class IV Malt Liquor Only	\$ 220.00
CLASS IV: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Taverns; Pool Halls; and Bed and Breakfasts.	
Class V Spirituous, Vinous and Malt (Clubs without Catering, Bed & Breakfasts)	\$ 495.00
CLASS V: Clubs without catering privileges.	
Class X Spirituous, Vinous and Malt – Class A Lounge	\$2,200.00
CLASS X: Class A Lounge	
Class XI Spirituous, Vinous and Malt – Restaurant Lounge	\$1,500.00
CLASS XI: Restaurant/Lounge; and OTB.	

UNORGANIZED TERRITORIES \$10.00 filing fee shall be paid directly to County Treasurer. All applicants in unorganized territories shall submit along with their application evidence of payment to the County Treasurer.

All applications for **NEW** or **RENEWAL** liquor licenses must contact their Municipal Officials or the County Commissioners in unincorporated places for approval and signatures for liquor licenses prior to submitting them to the bureau.

All fees must accompany application, make check payable to the **Treasurer, 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**

For Office Use Only:

License #: _____

SOS Checked: _____

100% Yes ☐ No ☐

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: Austin Street Brewery, LLC
2. Doing Business As, if any: N/A
3. Date of filing with Secretary of State: 8-14-13 _____ 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 and list the percentage ownership: (attach additional sheets as needed)

NAME	ADDRESS (5 YEARS)	Date of Birth	TITLE	Ownership %
Del Boca Vista (Maine business corporation)	State of Maine	12-13-17	Member	100%
William Fisher	1380 Westbrook Street Portland, ME 04102	1-6-83	Manager	0%
Jacob Austin	See attached	1-15-80	Manager	0%

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

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

7. 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 ☒

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

Name: N/A _____

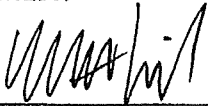
Date of Conviction: _____

Offense: _____

Location of Conviction: _____

Disposition: _____

Signature:



1/18/19

Signature of Owner or Corporate Officer

Date

William Fisher, Manager

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)
Telephone Inquiries: (207) 624-7220 Fax: (207) 287-3434
Email Inquiries: MaineLiquor@Maine.gov



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

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

For Office Use Only:

License #: _____

SOS Checked: _____

100% Yes ☐ No ☐

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: Del Boca Vista
2. Doing Business As, if any: N/A
3. Date of filing with Secretary of State: 12-13-17 _____ 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 and list the percentage ownership: (attach additional sheets as needed)

NAME	ADDRESS (5 YEARS)	Date of Birth	TITLE	Ownership %
William Fisher	1380 Westbrook St., Portland, ME 04102	1-6-83	President/ Shareholder	50%
Jacob Austin	See Attached	1-15-80	Treasurer/ Shareholder	50%

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

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

7. 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 ☒

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

Name: N/A

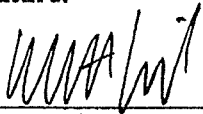
Date of Conviction: _____

Offense: _____

Location of Conviction: _____

Disposition: _____

Signature:



1/18/19

Signature of Owner or Corporate Officer

Date

William Fisher, President

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)
Telephone Inquiries: (207) 624-7220 Fax: (207) 287-3434
Email Inquiries: MaineLiquor@Maine.gov

Jacob Austin

Addresses for past five years (current first):

217 Yarmouth Road
Gray, ME 04039

22 Madison Street
Portland, ME 04101

70 Bramhall Street
Portland, ME 04102

64 Austin Street
Westbrook, ME 04092



12/2017 RYAN SEDOR ARCHITECTURE

AUSTIN STREET BREWERY
109 FOX STREET
PORTLAND, MAINE

RSA
RYAN SEDOR
ARCHITECTURE
PORTLAND, MAINE 04101
www.rsasedor.com

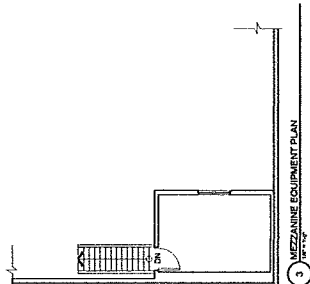
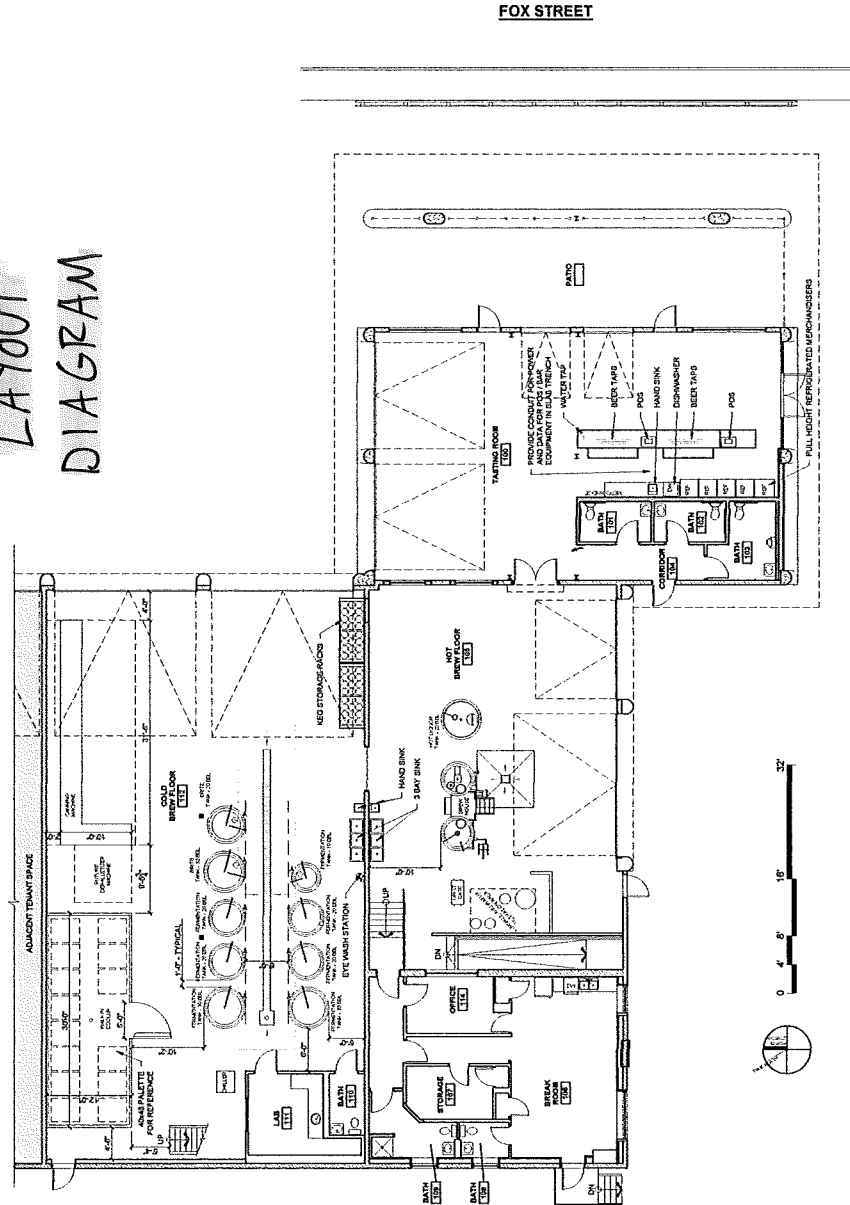
CONSULTANTS:

REVISIONS:

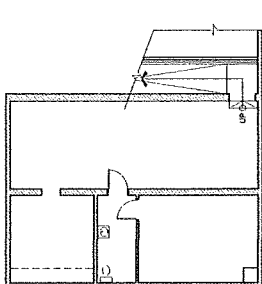
DATE: JANUARY 16, 2018
PROJECT No. 1702
DRAWN BY: JPS
CHECKED BY: RLS
SCALE: AS NOTED
SHEET TITLE:
EQUIPMENT
PLAN

A1-3

LAYOUT
DIAGRAM



3 MEZZANINE EQUIPMENT PLAN



2 BASEMENT EQUIPMENT PLAN

1 FIRST FLOOR EQUIPMENT PLAN

OUTDOOR DINING

BARRIER

EXIT

9.22

EGRESS 1
3' x 68'

EGRESS 2
3' x 44'

EX 17 24'6"

1 ENLARGED TASTING ROOM FLOOR PLAN

A1-2

AUSTIN STREET BREWERY

109 FOX STREET
PORTLAND, MAINE

SR

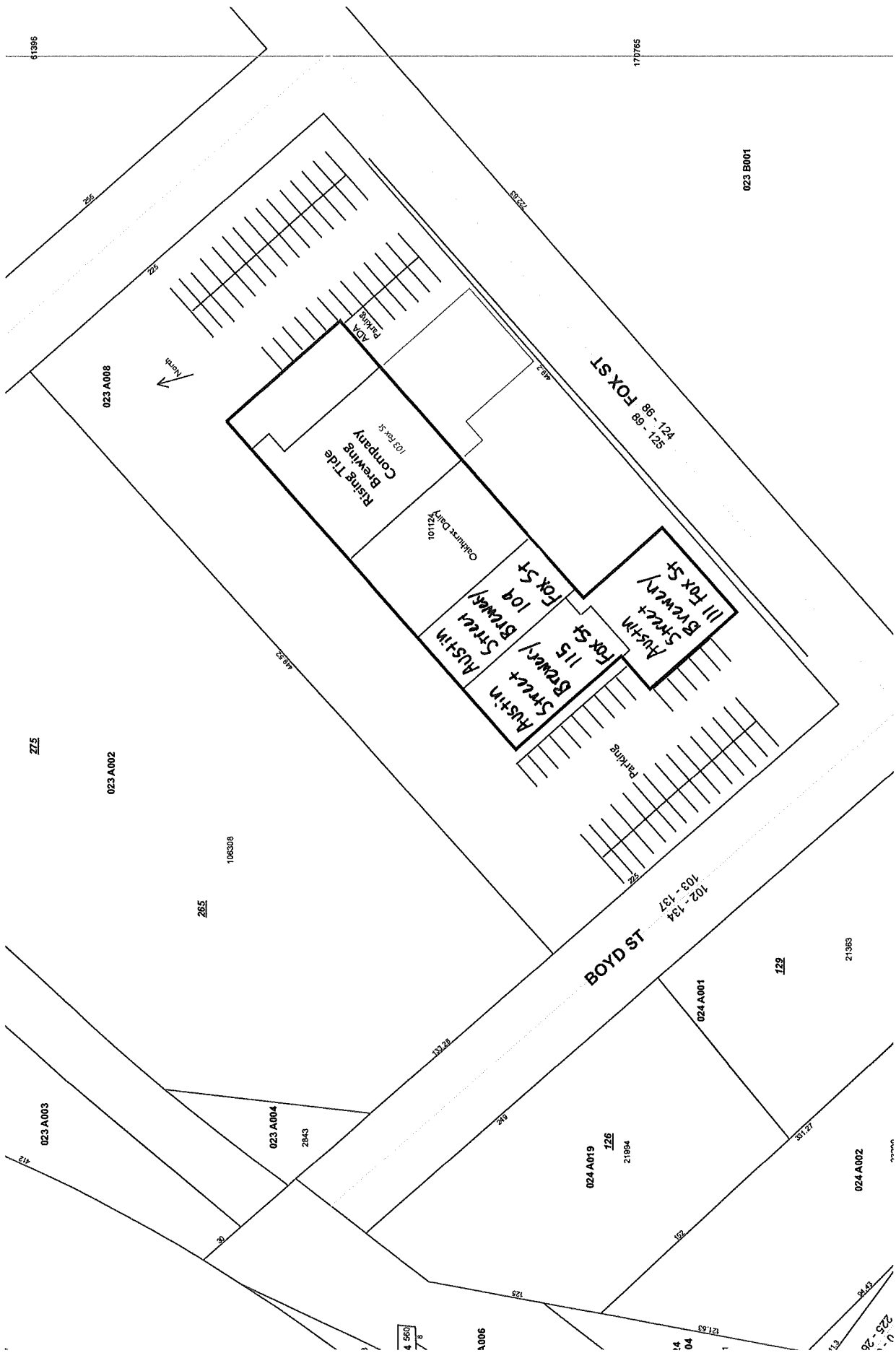
RYAN SENATORE
ARCHITECTURE
600 CONGRESS STREET
PORTLAND, ME 04101
703-465-5434
senatore@architect.com

REVISED:
A - 800000 - 240712

DATE	JANUARY 05, 2016
PROJECT NO.	1768
DRAWN BY	JPS
CHECKED BY	RJS
SCALE	AS NOTED
SHEET TITLE	
ENLARGED	
FLOOR PLAN	

ENLARGED
FLOOR PLAN

PLOT PLAN



OUTDOOR DINING 3,042.5² ft

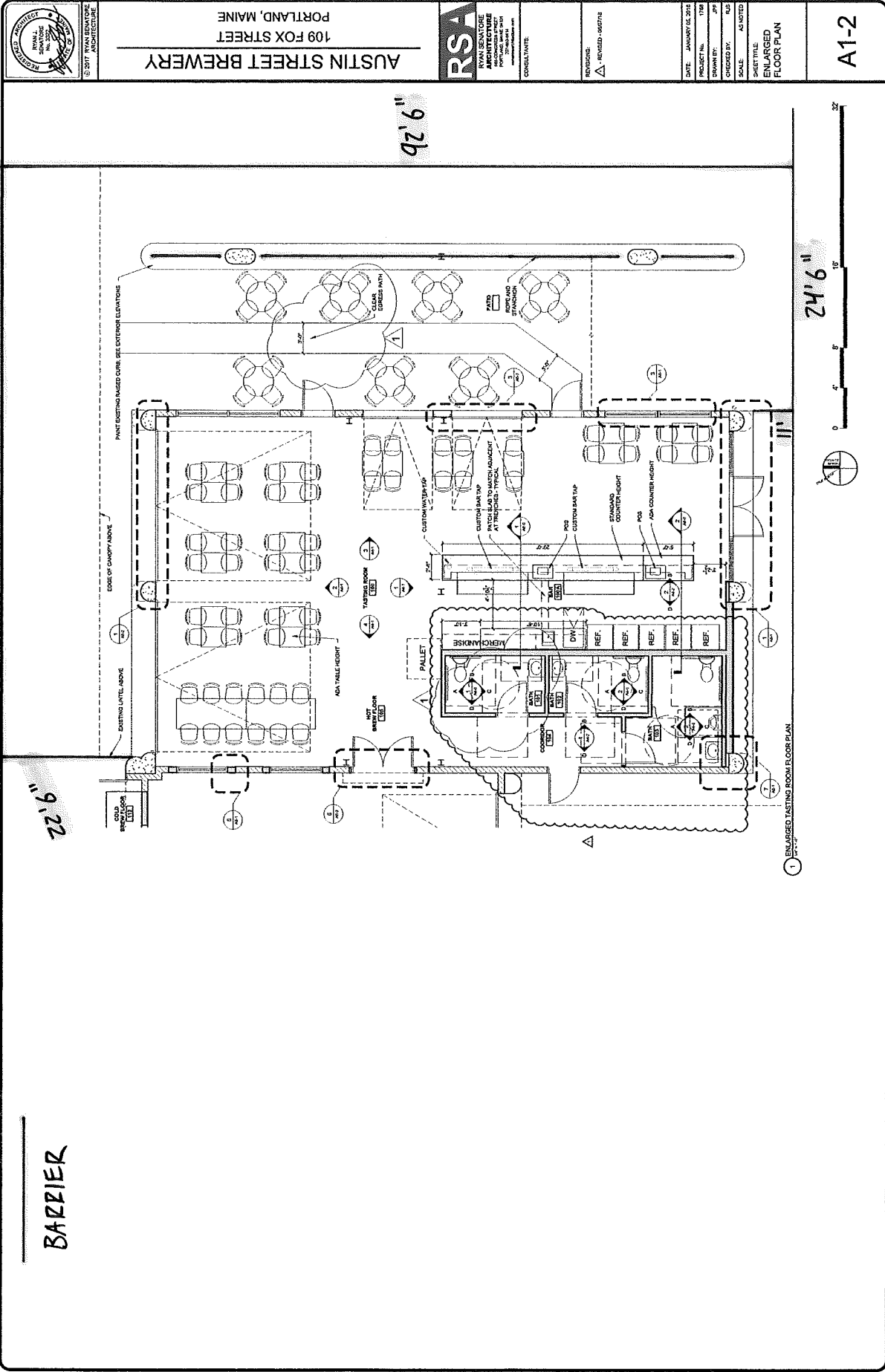
59'

BARRIER

22'6"

9'26"

24'6"



AUSTIN STREET BREWERY
109 FOX STREET
PORTLAND, MAINE

RSA
RYAN SENATORE
ARCHITECTURE
PORTLAND, MAINE
CONTRACTOR

REVISIONS:
Δ REVISED - 08/27/12

DATE: JANUARY 12, 2012
PROJECT No.: 1204
DRAWN BY: JPH
CHECKED BY: RJS
SCALE: AS NOTED
SHEET TITLE: ENLARGED LISTING ROOM FLOOR PLAN



AUSTIN STREET BREWERY
109 FOX STREET
PORTLAND, MAINE

RSA
RYAN ESPOSITO
ARCHITECTURE
ARCHITECT
2000 BROAD STREET
PORTLAND, MAINE 04101
207.850.1234
rsaarchitect.com

CONSULTANT:

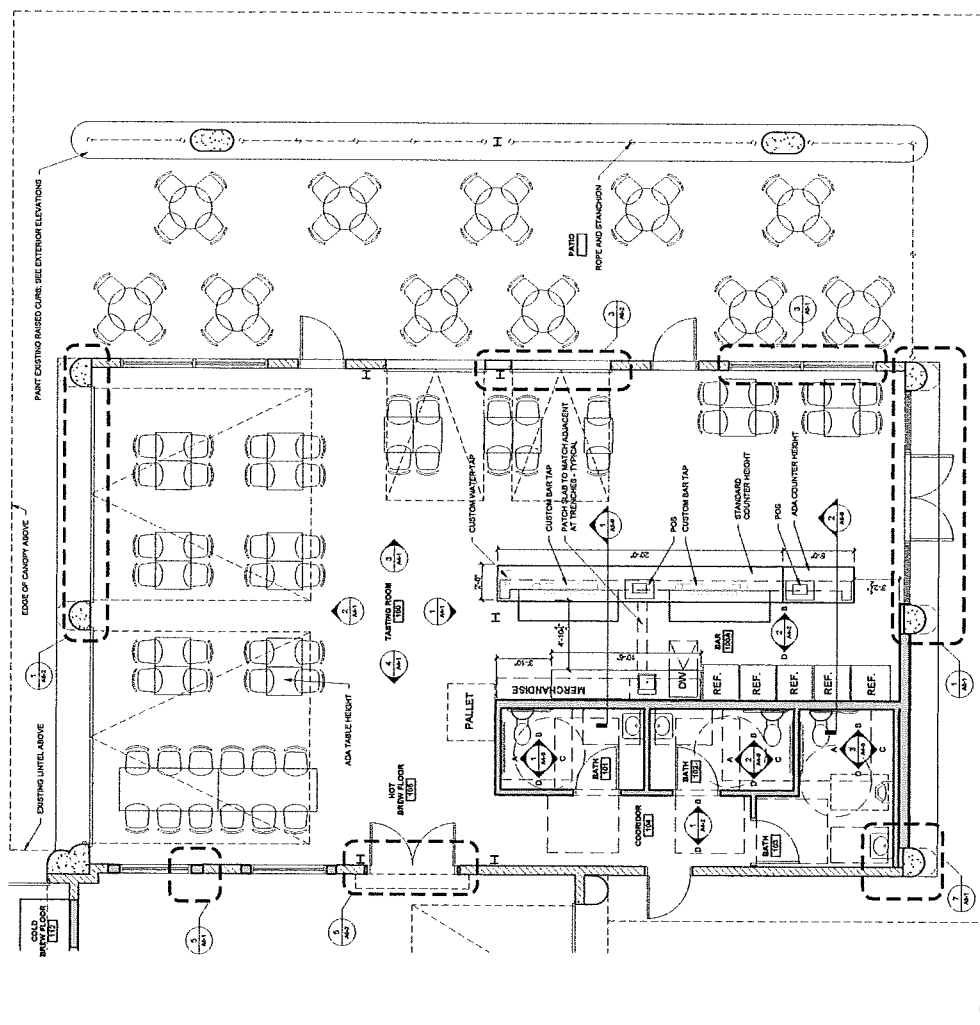
REVISIONS:

DATE: JANUARY 05, 2018
PROJECT NO: 1708
DRAWN BY: JPE
CHECKED BY: SAS
SCALE: AS NOTED

SHEET TITLE:
ENLARGED
FLOOR PLAN

A1-2

LAYOUT DIAGRAM







AUSTIN STREET BREWERY



115 Fox Street
Portland, ME 04101

Draft Beer

Patina - American Pale Ale - 5.3%

Our flagship beer – grapefruit and citrus notes, with a full body and a dry finish. Hopped with Chinook, Centennial, Columbus, and Simcoe. Complex, yet crushable

Florens - American IPA - 6.9%

This IPA is loaded with Citra, Mosaic, and Ekuanot hops, which provide huge notes of grapefruit and juicy pineapple. A carefully crafted malt bill maintains drinkability, while providing a foundation for the hops

Six Grain - Milk Stout - 6.4%

A robust, roasty stout, with dark chocolate undertones, which we add lactose sugar to for a creamy mouthfeel and a semi sweet finish

Neverender - Double IPA - 8.0%

This light bodied and heavily dry-hopped Double IPA features Topaz and Galaxy, which showcase all of the overripe and tropical fruit notes Australian hops have to offer. Big aroma, big flavor, and supreme drinkability

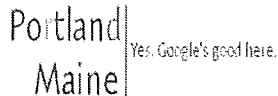
Food

Chips - \$2

House Made Dip - \$4

House Made Soup - \$5

Italian Sandwich - \$8



Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Re: Austin Street Brewery

Ann Machado <amachado@portlandmaine.gov>

Tue, Jan 29, 2019 at 10:26 AM

To: Jessica Hanscombe <jhanscombe@portlandmaine.gov>

A brewery with an ancillary tasting room is a permitted use in the ILb zone under sections 14-232(a) and (q). A Class III & IV FSE license is permitted as part of the ancillary tasting room use.

Ann Machado
Zoning Administrator
Permitting and Inspections Department
City of Portland, Maine
(207) 874-8709
amachado@portlandmaine.gov

On Tue, Jan 29, 2019 at 9:05 AM Jessica Hanscombe <jhanscombe@portlandmaine.gov> wrote:

Hi

I need this approval by tomorrow please. Thanks

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

----- Forwarded message -----

From: **Kevin Cashman** <kevindc@portlandmaine.gov>

Date: Mon, Jan 28, 2019 at 5:16 PM

Subject: Re: Austin Street Brewery

To: Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Cc: 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>, John Brennan <brennanj@portlandmaine.gov>, Laurie Carlson <lac@portlandmaine.gov>, Tom Williams <tw@portlandmaine.gov>, Vernon Malloch <vwm@portlandmaine.gov>, Zoning <zoning@portlandmaine.gov>

PD has no objections.

Kevin C.

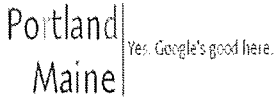
On Mon, Jan 28, 2019 at 10:44 AM Jessica Hanscombe <jhanscombe@portlandmaine.gov> wrote:

Good Morning

Please see the attached application. They are upgrading from a Brewery to a Class III & IV FSE. This will go before City Council on 2/20/2019. Please advise. Thanks Jessica

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

--



Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Re: Austin Street Brewery

Kevin Cashman <kevindc@portlandmaine.gov>

Mon, Jan 28, 2019 at 5:16 PM

To: Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Cc: 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>, John Brennan <brennanj@portlandmaine.gov>, Laurie Carlson <lac@portlandmaine.gov>, Tom Williams <tw@portlandmaine.gov>, Vernon Malloch <vwm@portlandmaine.gov>, Zoning <zoning@portlandmaine.gov>

PD has no objections.

Kevin C.

On Mon, Jan 28, 2019 at 10:44 AM Jessica Hanscombe <jhanscombe@portlandmaine.gov> wrote:

Good Morning

Please see the attached application. They are upgrading from a Brewery to a Class III & IV FSE. This will go before City Council on 2/20/2019. Please advise. Thanks Jessica

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

--

Lt. Kevin Cashman
Portland Police Department
Patrol Division
109 Middle St
Portland, Maine 04101
(O) 207-756-8294
kevindc@portlandmaine.gov.
Hours - Saturday thru Tuesday (4pm-2am)



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

JESSICA HANSCOMBE
889 CONGRESS ST.
PORTLAND, ME 04101

Transaction Response #: MIQ99D801700

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2018-11-15) :

Inquiries Name(s) WILLIAM FISHER (1983-01-06)

NO MATCH WAS FOUND FOR YOUR REQUEST.



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 #: MIQ99D801709

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2018-11-15) :

Inquiries Name(s) JACOB AUSTIN (1980-01-15)

NO MATCH WAS FOUND FOR YOUR REQUEST.

Portland, Maine



Yes. Life's good here.

Permitting and Inspections Department
Michael A. Russell, MS, Director

January 29, 2019

Austin Street Brewery LLC
1 Industrial Way Unit 8
Portland ME 04103

Re: Austin Street Brewery LLC dba Austin Street Brewery LLC. Application for a Class III & IV FSE with Entertainment without Dancing and Outdoor Dining on Private Property at 109 Fox Street.

Dear Will Fisher

This letter shall serve as a reminder of the public hearing before the Portland City Council on **Wednesday February 20, 2019 at 5:30 p.m.**, for the review of application for a Class III & IV FSE with Entertainment without Dancing and Outdoor Dining on Private Property at 109 Fox Street. The meeting will take place in Council Chambers on the 2nd floor of City Hall, 389 Congress Street, Portland, ME 04101.

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 Registration Coordinator

Legal Advertisement

Notice of Public Hearing City of Portland

A Public Hearing will be held on February 20, 2019 at 5:30 P.M., in City Council Chambers, 389 Congress St., Austin Street Brewery LLC dba Austin Street Brewery LLC. Application for a Class III & IV FSE with Entertainment without Dancing and Outdoor Dining on Private Property at 109 Fox Street. Sponsored by Michael Russell, Director of Permitting and Inspections.

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

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

ORDER
GRANTING MUNICIPAL OFFICERS’
APPROVAL OF:

Austin Street Brewery LLC dba Austin Street Brewery LLC. Application for a Class III & IV FSE with Entertainment without Dancing and Outdoor Dining on Private Property at 109 Fox Street.

MEMORANDUM
City Council Agenda Item

FROM:

DATE: February 6, 2019

SUBJECT: Resolution 10-18/19 Calling upon the United States Congress to Propose a Constitutional Amendment to Restore Fair Elections - Sponsored by Ethan K. Strimling, Mayor

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

States and towns and cities in the United States have supported a request to the United States Congress to propose a 28th Constitutional Amendment in response to the Supreme Court ruling in *Citizens United v. Federal Elections Commission*, which overturned campaign finance laws and other democratically enacted laws by finding that spending money to influence elections is protected by the Free Speech Clause of the First Amendment, and that corporations have many of the same constitutional rights as people.

The proposed 28th Amendment would end the restriction on the ability of Congress and the States to impose legal limits on political contributions and spending. The non-profit organization American Promise is in charge of this effort.

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. Resolve 28th Amendment re Campaign Financing 2.20.2019
2. 28th Amendment Background Info

Prepared by:

Date: 02/06/2019

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (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)

**RESOLUTION CALLING UPON THE UNITED STATES CONGRESS TO
PROPOSE A CONSTITUTIONAL AMENDMENT
TO RESTORE FAIR ELECTIONS**

WHEREAS, fair and free elections are essential to democracy and effective self-governance;
and

WHEREAS, campaign finance laws, including limits on campaign contributions, are tools for
combating political corruption; and

WHEREAS, the Supreme Court rulings in *Citizens United v. Federal Elections Commission*,
130 S. Ct. 876 (2010), and related cases overturned campaign finance laws and
other democratically enacted laws by finding that spending money to influence
elections is protected by the Free Speech Clause of the First Amendment, and that
corporations have many of the same constitutional rights as people; and

WHEREAS, restricting the ability of Congress and the States to impose legal limits on political
contributions and spending may allow corporations and wealthy individuals to
unduly influence elections, candidate selection, and policy decisions, and
potentially drowns out the voices of ordinary citizens; and

WHEREAS, Article V of the United States Constitution allows for the use of the Constitutional
amendment process to correct the aforementioned decision of the United States
Supreme Court;

NOW, THEREFORE, BE IT RESOLVED, that we, the members of the Portland City
Council, call upon the United States Congress to propose and send to the states
for ratification a Constitutional amendment to make clear that Congress and the
States shall have the power to regulate and set limits on all election contributions
and expenditures; and the rights protected by the Constitution are the rights of
natural persons; that corporations are subject to sound regulation by the people
through the legislative process so long as the regulations are consistent with the
powers of Congress and the States and do not limit freedom of the press; and

BE IT FURTHER RESOLVED, that a suitable copy of this resolution be prepared and
submitted to the Speaker of the United States House of Representatives, the
Minority Leader of the House of Representatives, the Majority Leader of the
United States Senate, the Minority Leader of the United States Senate, and to each
member of the Maine Congressional delegation.



Restoring Our Republic

Government of the People to Secure Free and Fair Elections

Since 2010, election spending has skyrocketed - with more than \$40 billion spent to define the outcomes of federal and state elections. Most of that money comes from less than 1% of Americans. A new, self-selected, wealthy donor class now calls the shots, not the people.

Too many of our representatives are spending half or more of their time calling wealthy donors and raising money. And almost all Americans are locked out of this new big money political system.

The 28th Amendment will protect the integrity of American elections and secure equal rights of Americans as citizens in our republic by addressing the the root cause of our political dysfunction: money in politics.

Constitutional Crisis: How did we get here?

In a series of decisions over the past few decades, the Supreme Court abandoned traditional Constitutional cautions of checks and balances in favor of a reckless experiment that now allows unlimited money to be raised and spent in elections.

"The original framers were highly distrustful of the power of corporations. I suspect that the framers would be appalled at Citizens United. We the People— each of us—are only the most recent generation of Americans who have been called upon to defend the framers' vision of a Constitutional government Of the People, By the People, and For and the People. That responsibility is now ours." - James Nelson - Justice, Montana Supreme Court (Ret.)

Americans Are United for the 28th Amendment

American trust in our institutions -- and in each other -- is collapsing. Powerful interests profit from dividing voters and preventing practical solutions that will help hard-working Americans.

Across the board, in every state, Americans - regardless of party affiliation - agree that we must pass and ratify the 28th Amendment. Poll after poll, year in and year out, shows how united Americans are on the call for the 28th Amendment.

As of early 2018, nineteen states have formally enacted a 28th Amendment resolution either through citizen ballot initiatives or by legislative action. Twenty more states had resolutions pending in 2017. More than 800 cities and towns across the nation have passed 28th Amendment resolutions. Communities have acted regardless of whether they are in so-called "red states" or "blue states," and when they have done so through the voice of the voters in ballot initiatives, the cross-partisan support is overwhelming, with results of over 80% in favor of a common result.

- Billions of dollars now are flooding our elections at an unprecedented rate.
- Most of the money comes from less than 1% of Americans.

Impacts of Unlimited Election Spending and FAQs

“It is time to accept the historical gravity of our situation. It is time for Americans of all political viewpoints to come together to win the 28th Amendment — and to renew U.S. democracy again.”

-Doris Kearns Goodwin, Presidential Historian, Pulitzer Prize-winning Author

- Foreign money and influence has infiltrated the election process through corporate subsidiaries and dark-money Super PACs.
- The “speech” of most Americans has been drowned out by the bullhorn of dark money.
- Well-intended legislators are forced to participate in a money arms race each election cycle, abandoning the people they serve and the important issues for which they fight.
- Time spent raising money takes away from the important task of running our government.
- More and more, public needs and the national interest are being neglected.
- Citizens are justifiably dispirited and angry. They are beginning to distrust all institutions and dismiss even well intentioned individuals as “elites.”
- Many citizens are simply checking out or being lured further and further to the extremes.
- The problem transcends party affiliation. Front groups and dark money are well documented on all sides of the aisle.

A Few Unfortunate Consequences of Many in this Post *Citizens United* World:

- Pharmaceutical companies lobby for legislation that bolsters profits from illicit drug sales while fueling the opioid addiction crisis. They deploy hundreds of millions of dollars in political spending to make billions by keeping drug prices the highest in the world.
- Wall Street donors lobby for and receive preferential financial and tax regulations, resulting in some of the people who make the most money in our country paying fewer taxes than the hard-working American middle class.
- Big money donors fuel gerrymandering strategies that divide Americans into Congressional and State legislative districts such that many votes don’t matter and moderate views on both sides are unrepresented.

MEMORANDUM
City Council Agenda Item

FROM: Lori Paulette, Senior Executive Assistant

DATE: December 11, 2018

SUBJECT: **Order 96-18/19 Approving Purchase and Sale Agreement with Waterstone Properties Group, Inc. - Sponsored by the Economic Development Committee, Councilor Justin Costa, Chair.**

SPONSOR: Economic Development Committee, Councilor Costa, Chair; meeting held on October 16, 2018, and vote was unanimous (3-0).

(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: Greg Mitchell, Economic Development Director/5 Minutes.

I. SUMMARY

A Purchase and Sale Agreement between the City of Portland and Waterstone Properties Group, Inc. is proposed to sell a City-owned 4.82 acre vacant non-access parcel for \$11,220.

II. AGENDA DESCRIPTION

The Economic Development Committee met on October 16, 2018 and voted unanimously (3-0) to forward this item to the City Council with a recommendation for passage.

The City has determined that the 4.82 acre vacant parcel, located in Portland between the Maine Turnpike and the proposed large scale mixed use project in Westbrook, is not needed for municipal use and should be sold. The interested buyer for this property is the Westbrook mixed-use project developer Waterstone Properties Group, Inc.

The subject site is not a legal conforming parcel to develop because it lacks street frontage, and there is no access to public utilities. Additionally, the site is encumbered by 1.81 acres of wetlands and two CMP easements (including 1.48 acres), which prohibit erecting or maintaining structures of any kind.

The upland areas, estimated to be 1.53 acres (excluding the no-build CMP easements), are not contiguous, and access to these areas would require crossing wetlands on-site and wetlands located on the adjacent, privately owned Westbrook mixed-use project property.

The proposed purchase price is \$11,220, as determined by the City Assessor. It is noted that the property appraisal determined the value of this property to be \$0.

The Buyer agrees to indemnify the City regarding any environmental issues, and acknowledges that the property will be sold in an "AS IS WHERE IS" condition.

At the December 17, 2018 City Council meeting, this item was postponed to the February 20, 2019 meeting.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

The subject 4.82 acre vacant parcel, located in Portland between the Maine Turnpike and the proposed large scale mixed use project in Westbrook, is not needed for municipal use and should be sold. The interested buyer for this property is the Westbrook mixed use project developer Waterstone Properties Group, Inc.

The subject site is also not a legal conforming parcel to develop because it lacks street frontage and there is no access to public utilities. Additionally, the site is encumbered by 1.81 acres of wetlands and two CMP easements (including 1.48 acres) which prohibit erecting or maintaining structures of any kind.

The proposed purchase price is \$11,220, as determined by the City Assessor. It is noted that the property appraisal determined the value of this property to be \$0.

The Buyer agrees to indemnify the City regarding any environmental issues, and the property is sold in an “AS IS WHERE IS” condition.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

City Council approval for the Proposed Purchase and Sale Agreement between the City of Portland and Waterstone Properties Group, Inc.

V. FINANCIAL IMPACT

An overview of the Proposed Purchase and Sale Agreement includes the following:

Parcel Size: 4.82 acres.

Parcel Location and Environmental Constraints. The parcel is located in Portland, between the Maine Turnpike and the proposed large scale mixed use project in Westbrook. The developer of the mixed use project (Waterstone Properties Group, Inc.) is the buyer for this property. The site is not a legal conforming parcel to develop because it lacks street frontage and there is no access to public utilities. Additionally, the site is encumbered by 1.81 acres of wetlands and two CMP easements (including 1.48 acres) which prohibit erecting or maintaining structures of any kind. Also, it is noted that the upland areas, estimated to be 1.53 acres (excluding the no-build CMP easements), are not contiguous, and access to these areas would require crossing wetlands on-site and wetlands located on the adjacent privately owned Westbrook mixed use project property. See attached map showing the location of wetlands, CMP no-build easements, and uplands.

Property Value and Sale Price. \$11,220 was determined by the City Assessor. It is noted that the property appraisal determined the value of this property to be \$0. See attached excerpt of the Property Appraisal.

Environmental Indemnification. Buyer agrees to indemnify the City regarding any environmental issues, and the property is sold in an “AS IS WHERE IS” condition.

It is noted that the Buyer paid for the costs of the property survey and appraisal.

VI. STAFF ANALYSIS AND BACKGROUND

City Council approval for the Proposed Purchase and Sale Agreement between the City of Portland and

Waterstone Properties Group, Inc.

VII. RECOMMENDATION

The Economic Development Committee reviewed this item at its October 16, 2018, meeting and voted unanimously (3-0) to forward it to the City Council with a recommendation of approval.

VIII. LIST ATTACHMENTS

1. Order 96-FY19 Waterstone Properties Group P&S 2.20.2019
2. Costa amendment to Order 96 P&S to Waterstone Properties Group, Inc. 11.5.2018
3. 10-22-2018 Memo to CC - Waterstone PSA Att Only

Prepared by:

Lori Paulette, Senior Executive Assistant

Date: 12/11/2018

Order 96-18/19

Motion to postpone to December 17, 2018: 9-0 on 11/5/2018

Motion to postpone to February 20, 2019: 8-0 (Batson absent) on 12/17/2018

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (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 PURCHASE AND SALE AGREEMENT WITH
WATERSTONE PROPERTIES GROUP, INC.**

ORDERED, that the Purchase and Sale Agreement with Waterstone Properties Group, Inc. for 4.82 acres of city land at Westbrook Arterial and along the Maine Turnpike, is hereby approved in substantially the form attached hereto; and

BE IT FURTHER ORDERED, that the City Manager is hereby authorized to execute the Purchase and Sale Agreement and whatever other documents are necessary to effect the intent and purpose of the Purchase & Sale Agreement.

**AMENDMENT TO ORDER 96-18/19
PREPARED BY CORPORATION COUNSEL FOR COUNCILOR COSTA
RE: CHANGE TO P&S ATTACHMENT INCREASING SALE PRICE**

ORDERED, that the Purchase and Sale Agreement with Waterstone Properties Group, Inc. for 4.82 acres of city land at Westbrook Arterial and along the Maine Turnpike, is hereby approved in substantially the form attached hereto; and

BE IT FURTHER ORDERED, that the City Manager is hereby authorized to execute the Purchase and Sale Agreement and whatever other documents are necessary to effect the intent and purpose of the Purchase & Sale Agreement.

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT IS made this ____ day of _____, 201~~98~~ by and between the **CITY OF PORTLAND**, a body politic and corporate located in Cumberland County, Maine (hereinafter referred to as “Seller” or “City”), and **WATERSTONE PROPERTIES GROUP, INC.**, a Massachusetts corporation having a mailing address of 322 Reservoir Street, Needham, MA 02494 or nominee or designee (hereinafter referred to as “Buyer”).

RECITALS

WHEREAS, the City is the owner of approximately 4.82 acres of land at Westbrook Arterial and along the Maine Turnpike, Portland, Maine as generally depicted on the boundary survey attached hereto as Exhibit A (the “Survey”) and incorporated herein, and more particularly described in Exhibit B attached hereto and incorporated herein (the “Premises”); and

WHEREAS, Buyer desires to purchase the Premises, and the City desires to convey the Premises to Buyer.

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties, intending to be legally bound, hereby agree as follows:

1. **SALE.** City agrees to sell the Premises to Buyer, and Buyer agrees to purchase the Premises in accordance with the terms and conditions set forth in this Agreement. This Agreement is for the sale of land only.
2. **CONSIDERATION.** The purchase price for the Premises shall be ~~One Hundred Eleven~~ Thousand ~~Two Hundred Twenty~~ Dollars (\$~~100,000~~~~1,220~~.00) (the “Purchase Price”), subject to the following cost adjustments and conditions:
 - a. The Buyer shall pay the City for the cost of the City’s appraisal for the Premises (“Appraisal Cost”) within 3 business days after the full execution of this Agreement; and
 - b. The Buyer shall pay the Purchase Price to the City by wire transfer (or as otherwise reasonably requested by the City) at closing.
3. **TITLE AND DUE DILIGENCE.**
 - a. **Due Diligence Period.** Buyer will have from the date of this Agreement until 4:00 PM Eastern Daylight Savings Time on the day that is one hundred eighty (180) days after the date of this Agreement (the “Due Diligence Period”) to complete any survey, environmental review and title examinations.
 - b. **Title and Survey Objections.** Buyer will have until the end of the Due Diligence Period to deliver to City any written objections to title, environmental, or survey matters (other than the permitted exceptions identified in subsection d below) that

affect Buyer's intended use of the Premises as contemplated by this Agreement, including the terms of Section 12 below. Objections not made prior to the end of the Due Diligence Period will be deemed waived; provided, however, that objections pertaining to matters of record first appearing after the end of the Due Diligence Period may be made at any time prior to the closing.

- c. Option to Cure. In the event of a title or survey objection, City will have the option, but not the obligation, to cure the objection and will notify Buyer of its election within ten (10) business days after receipt of the objection. In the event that the City elects to cure the objection, it will have thirty (30) days from the date of the notice of election, or such other reasonable time as the parties may agree, to cure the objection. In the event that the City does not elect to cure the objection, or, having elected to cure the objection fails to timely do so to Buyer's reasonable satisfaction, Buyer will have the option to (i) terminate this Agreement (after which neither party will have any further obligation or liability to the other under this Agreement), (ii) waive the objection and close, or (iii) undertake the cure of such objection at its own expense (in which case it shall have thirty (30) days to do so).
- d. City shall convey the Premises to Buyer at the closing in fee simple by a municipal quitclaim deed without covenant. Title shall be good and insurable title, free and clear of all encumbrances except (i) the easements on the Survey or otherwise described herein; (ii) easements for all public improvements now on, under or over the Premises and for utilities servicing the property, (iii) zoning ordinances, and (iv) real estate taxes not yet due and payable. Further, Buyer acknowledges that the deed shall contain a restriction stating that in the event that the Premises or any portion thereof shall be exempt from real and personal property taxes, by transfer, conversion, or otherwise, then the then-owner of the exempt portion shall make annual payments to the City in lieu of taxes in the amount equal to the amount of property taxes that would have been assessed on the exempt portion of the real and personal property situated on the Premises had such property remained taxable. Such restriction shall also confirm that Buyer and its successors and assigns shall possess and be vested with all rights and privileges as to abatement and appeal of valuations, rates, and the like as are accorded owners of real and personal property in Maine. All of the laws and regulations applicable to the payment of real estate taxes and personal property taxes, except those governing property tax exemptions, shall apply to any such payments in lieu of taxes including, without limitation, how such taxes are calculated and the right to seek abatements and appeals.

4. INSPECTIONS

- a. During the Due Diligence Period, Buyer and its employees, consultants, contractors and agents shall have the right, at Buyer's expense, to enter on the Premises at reasonable times in order to (i) inspect the same, (ii) conduct engineering studies, percolation tests, geotechnical exams, environmental assessments, and other such studies, tests, exams, and assessments, and (iii) do such other things as Buyer determines, it is sole discretion, to be required to

determine the suitability of the Premises for Buyer's intended use (collectively, the "Inspections"). The City acknowledges that such Inspections may include the digging of test pits, which the City hereby approves.

- b. Buyer agrees to defend, indemnify and hold harmless the City against any mechanics liens that may arise from the activities of Buyer and its employees, consultants, contractors and agents on the Premises.
- c. Buyer shall exercise the access and inspection rights granted hereunder at its sole risk and expense, and Buyer hereby releases the City from, and agrees to indemnify, defend, and hold the City harmless against, any and all losses, costs, claims, expenses and liabilities (including without limitation reasonable attorney fees and costs) (collectively, "Damages") suffered by the City on account of any injury to person or damage to property arising out of the exercise by Buyer of its rights hereunder, except to the extent that such Damages result from the act or omission of the City.
- d. Buyer shall cause any contractors, consultants or any other party conducting the Inspections to procure automobile insurance, if applicable, and commercial general liability insurance coverage in amounts of not less than Four Hundred Thousand Dollars (\$400,000.00) per occurrence for bodily injury, death and property damage, listing the City as an additional insured thereon, and also Workers' Compensation Insurance coverage to the extent required by law; the forms of all such insurance to be subject to City's Corporation Counsel's reasonable satisfaction.
- e. In the event that Buyer does not purchase the Premises, Buyer agrees to either return the Premises as nearly as possible to its original condition after conducting the Inspections, or, at the City's option, reimburse the City for any physical damage caused to the Premises in connection with the Inspections; provided, however, the City hereby acknowledges and agrees that the term "physical damage" does not include any disturbance of any pre-existing environmental contamination on the Premises caused by such inspections, studies, tests, exams, and assessments, and that Buyer shall have no obligation to clean-up, remove or take any other action with respect to any pre-existing environmental contamination disturbed thereby.
- f. The parties hereto acknowledge and agree that it is a condition to Buyer's obligations under this Agreement that the results of the Inspections be acceptable to Buyer in its sole discretion. If the results of such due diligence are not acceptable to Buyer in its sole discretion, and if Buyer exercises its right to terminate this Agreement, then neither party shall have any further obligations or liabilities under this Agreement except as expressly set forth in this Agreement. The City acknowledges and agrees that Buyer shall be entitled to terminate this Agreement for any reason or for no reason during the Due Diligence Period by providing written notice of such election to the City during the Due Diligence Period.

5. **REAL ESTATE TAXES, PRORATIONS AND TRANSFER TAX.** Buyer shall be liable for all real estate taxes beginning as of the start of fiscal year following the closing and continuing thereafter. Because the Premises is currently owned by the City of Portland, which is exempt from real estate taxes, no taxes were assessed or will be due for any portion of the current fiscal year, and no taxes will be prorated at the closing. Any utilities for the Premises shall be prorated as of the closing. Buyer's fifty percent (50%) share of the Maine real estate transfer tax shall be paid for by Buyer in accordance with 36 M.R.S.A. § 4641-A. City is exempt from paying the transfer tax pursuant to 36 M.R.S.A. § 4641-C. The recording fee for the deed of conveyance and any expenses relating to Buyer's financing or closing shall be paid for by Buyer.
6. **DEFAULT AND REMEDIES.** In the event that Buyer defaults hereunder for a reason other than the default of the City, City shall retain the Appraisal Cost as its sole remedy. In the event City defaults under this Agreement, and if Buyer is not then in default hereunder, Buyer shall have the right to pursue specific performance.
7. **RISK OF LOSS.** The risk of loss or damage to the Premises by fire, eminent domain, condemnation, or otherwise, until transfer of title hereunder, is assumed by the City. The Premises is to be delivered in substantially the same condition as of the date of this Agreement unless otherwise stated and excluding any alterations made to the Premises by Buyer. In the event City is not able to deliver the Premises as stated, Buyer may terminate this Agreement, and neither party shall have any further obligations or liabilities under this Agreement except as expressly set forth in this Agreement.
8. **PROPERTY SOLD "AS IS, WHERE IS."** Buyer acknowledges that Buyer, at Closing, will have had an opportunity to inspect the Premises, and to hire professionals to do so, and that Premises will be sold "as is, where is" and "with all faults." City, and its agents, make no representations or warranties with respect to the accuracy of any statement as to boundaries or acreage, or as to any other matters contained in any description of the Premises, or as to the fitness of the Premises for a particular purpose, or as to development rights, merchantability, habitability, or as to any other matter, including without limitation, land use, zoning and subdivision issues or the environmental, mechanical, or structural condition of the Premises. Acceptance by Buyer of the deed at closing and payment of the purchase price shall be deemed to be full performance and discharge by the City of every agreement and obligation contained herein.
9. **ENVIRONMENTAL INDEMNIFICATION.** Buyer covenants and agrees to indemnify, defend, and hold the City harmless from and against any and all claims, damages, losses, liabilities, obligations, settlement payments, penalties, assessments, citations, directives, claims, litigation, demands, defenses, judgments, costs, or expenses of any kind, including, without limitation, reasonable attorneys', consultants', and experts' fees incurred in investigating, defending, settling, or prosecuting any claim, litigation or proceeding, that may at any time be imposed upon, incurred by or asserted or awarded against Buyer or the City and relating directly or indirectly to the violation of or compliance with any federal, state, or local environmental laws, rules, or regulations governing the release, handling or storage of

hazardous wastes or hazardous materials and affecting all or any portion of the Premises, except to the extent that such a claim results directly from the City's release, handling or storage of hazardous wastes or hazardous materials on the Premises. This duty to indemnify, defend, and hold harmless shall be included in a covenant in the deed and shall run with the land conveyed and be binding upon Buyer's successors, assigns, and transferees.

10. INTENTIONALLY OMITTED.

11. CLOSING. Time is of the essence in the performance of this Agreement. The closing shall be held at the offices of Buyer's counsel in Portland, Maine at a time agreeable to the parties on the date that is thirty (30) days following the expiration of the Due Diligence Period or such other date as is mutually agreed upon by the parties.

At the Closing:

- a. the City shall execute, acknowledge and deliver to Buyer a municipal quitclaim deed conveying to Buyer good and marketable title to the Premises, free and clear of all encumbrances except as otherwise set forth herein.
- b. Buyer shall deliver the Purchase Price to the City by wire transfer (or as otherwise reasonably requested by the City); and
- c. Each party shall deliver to the other such other documents, certificates and the like as may be required herein or as may be necessary to carry out the obligations under this Agreement.
- d. Buyer shall deliver evidence, reasonably satisfactory to City's Corporation Counsel, that the entity receiving title to the Premises is in good standing under Maine law, and that the individuals closing and executing documents on behalf of Buyer are authorized to do so.

12. ENTIRE AGREEMENT. This Agreement represents the entire and complete Agreement and understanding between the parties and supersedes any prior agreement or understanding, written or oral, between the parties with respect to the acquisition or exchange of the Premises hereunder. This Agreement cannot be amended except by written instrument executed by City and Buyer.

13. NON-WAIVER. No waiver of any breach of any one or more of the conditions of this Agreement by either party shall be deemed to imply or constitute a waiver of any succeeding or other breach hereunder.

14. HEADINGS AND CAPTIONS. The headings and captions appearing herein are for the convenience of reference only and shall not in any way affect the substantive provisions hereof.

15. BINDING EFFECT. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, administrators, successors and assigns.

16. TIME. The City and Buyer each confirm and agree that each of the time periods set forth herein are essential provisions of the terms of this Agreement.

17. GOVERNING LAW. This Agreement shall be construed in all respects in accordance with, and governed by, the laws of the State of Maine. All parties hereto hereby consent to the exclusive jurisdiction of the Superior Court for the County of Cumberland in the State of Maine, for all actions, proceedings and litigation arising from or relating directly or indirectly to this Agreement or any of the obligations hereunder, and any dispute not otherwise resolved as provided herein shall be litigated solely in said Court. If any provision of this Agreement is determined to be invalid or unenforceable, it shall not affect the validity or enforcement of the remaining provisions hereof.

18. NOTICE. All notices, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given on the date of service if served personally on the party to whom notice is to be given, or on the first business day after mailing if mailed to the party to whom notice is to be given by first class mail, postage prepaid, certified, return receipt requested, addressed to the recipient at the addresses set forth below. Either party may change addresses for purposes of this paragraph by giving the other party notice of the new address in the manner described herein.

FOR The City: City of Portland
ATTN: City Manager
389 Congress Street
Portland, ME 04101

With a copy to: The Office of the Corporation Counsel at the same address.

FOR Buyer: Waterstone Properties Group, Inc.
322 Reservoir Street
Needham, MA 02494

With a copy to: Hinckley Allen
650 Elm Street, Suite 500
Manchester, NH 03101
Attention: John H. Sokul, Esq.

19. SIGNATURES; MULTIPLE COUNTERPARTS. This Agreement may be executed in any number of counterparts and by different parties in separate counterparts. Each counterpart when so executed shall be deemed to be an original and all of which together shall constitute one and the same agreement.

20. BROKERS. City and Buyer represent and warrant to each other that no brokerage fees or real estate commissions are or shall be due or owing in connection with this

transaction or in any way with respect to the Premises. Subject to the limitations of liability set forth in the Maine Tort Claims Act, City agrees to defend, indemnify, and hold Buyer harmless from any claims, costs, judgments, or liabilities of any kind advanced by persons claiming real estate brokerage fees through City. Buyer agrees to defend, indemnify and hold City harmless from any claims, costs, judgments, or liabilities of any kind advanced by persons claiming real estate brokerage fees through Buyer. The foregoing indemnities shall include all legal fees and costs incurred in defense against any such claim, and shall survive closing.

21. RECITALS INCORPORATED BY REFERENCE. The recitals set forth above are incorporated herein by reference and made a part of this Agreement.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals on the day and year first written above.

CITY OF PORTLAND

WITNESS

Jon P. Jennings
Its City Manager

**WATERSTONE PROPERTIES GROUP,
INC.**

WITNESS

Its:

Approved as to Form:

Approved as to Funds:

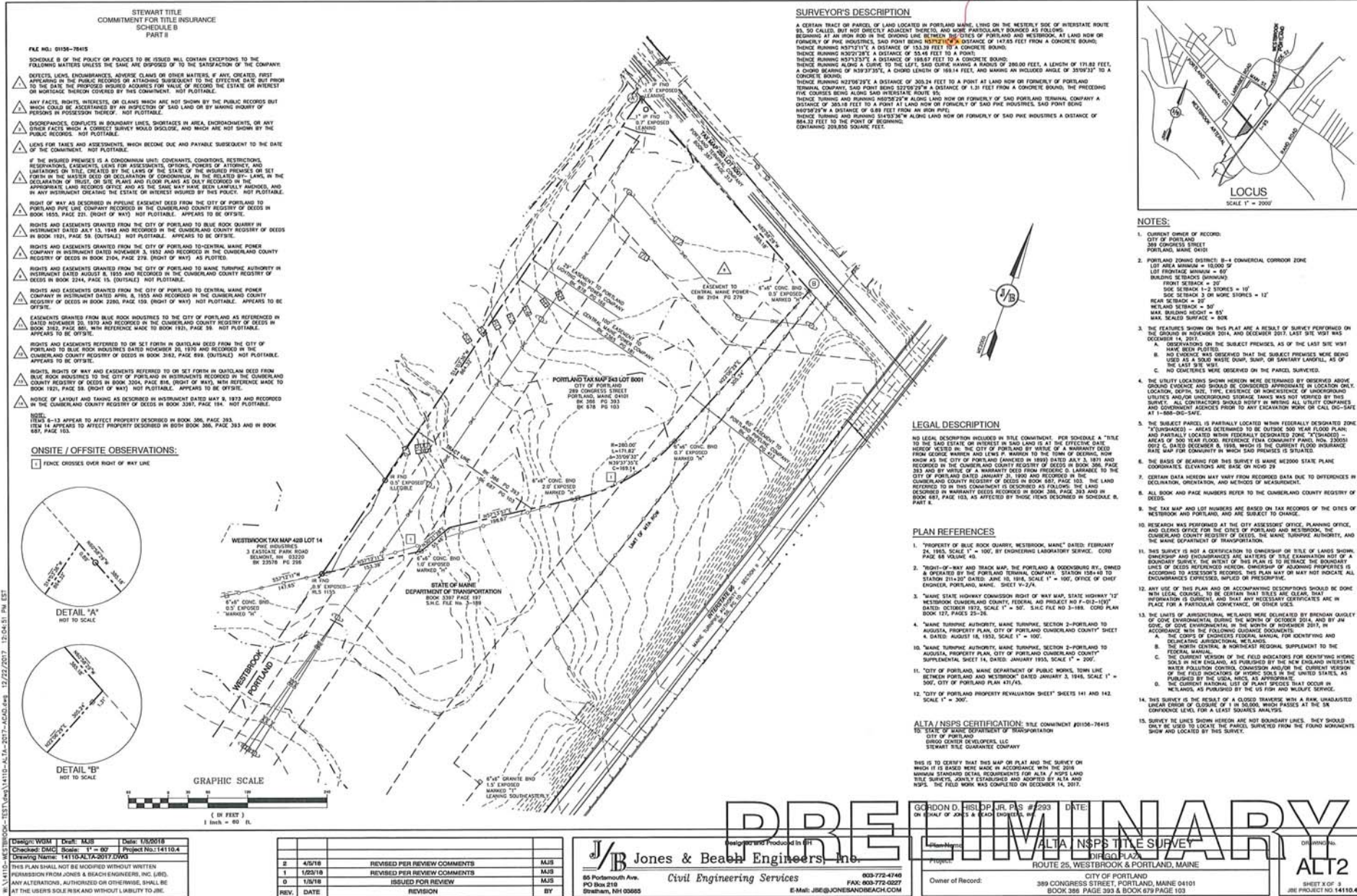
City Corporation Counsel's Office

City Finance Department

Exhibit A
Survey

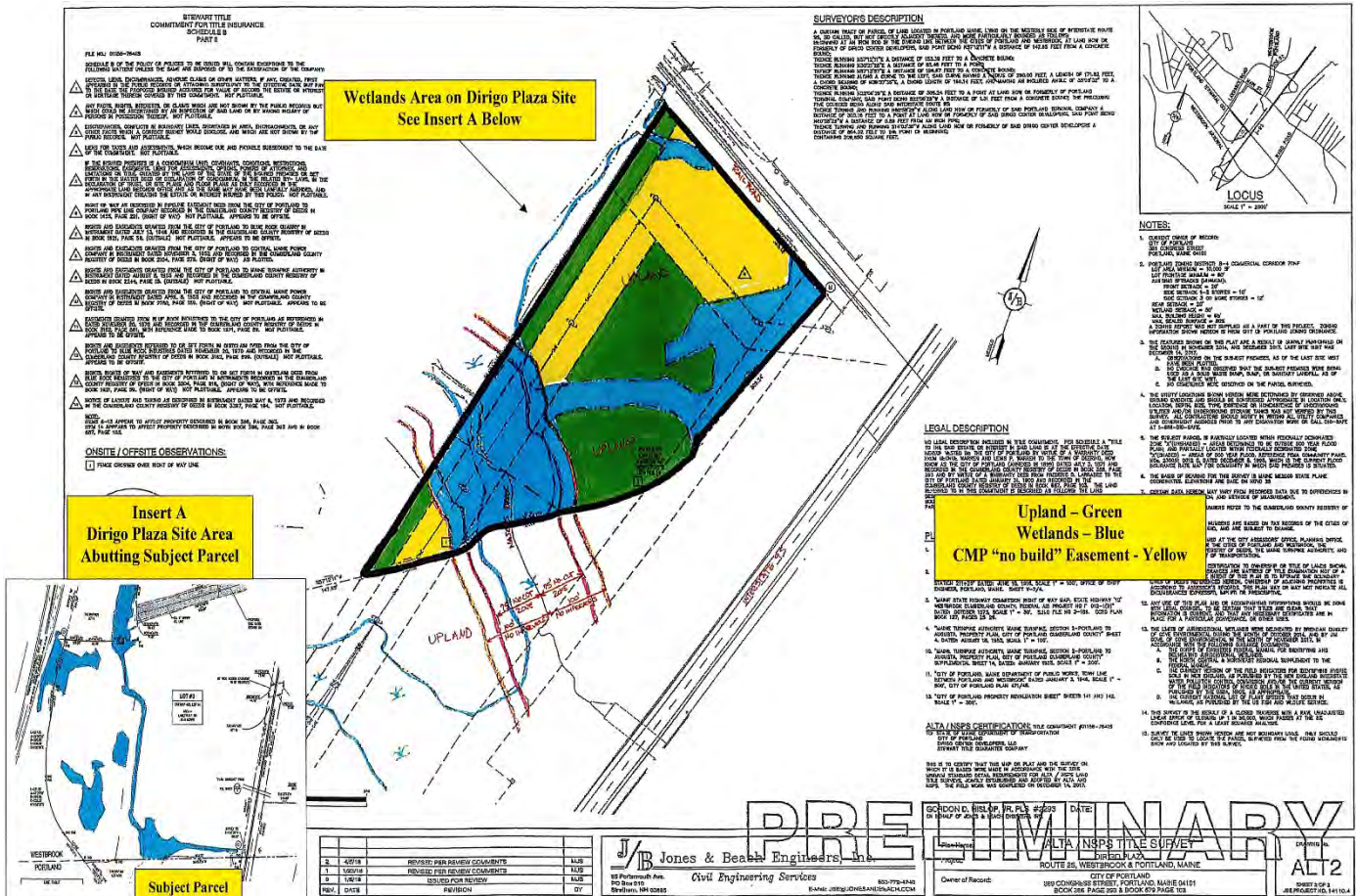
Exhibit B
Legal Description

The land described in Warranty Deeds recorded in Book 386, Page 393 and in Book 687, Page



Appraisal Report

Appraisal Report of the contributory value of a 4.82± acre non-access land parcel in the City of Portland, Maine. This parcel is located adjacent to a development site referred to as the Dirigo Plaza which is referenced on Map 42B, Lot 14 and located in the City of Westbrook. GA File Reference: 2753.



Effective Date of Contributory Market Value Estimate
July 10, 2018

Prepared for:
City of Portland
389 Congress Street
Portland, Maine 04101

Prepared by:
Goulet & Associates, Inc.
183 Main Street
Lewiston, Maine 04240

Summary of Salient Facts and Conclusions

Appraisal Purpose:	The purpose of this appraisal report is to estimate the bulk contributory value of the subject property in light of its assemblage with the abutting Dirigo Plaza site. The intended use is to aid our named client, the City of Portland, in formulating a purchase price for the subject property.
Date of Inspection:	July 10, 2018.
Date of Value:	July 10, 2018.
Date of the Report:	August 8, 2018.
Property Rights Appraised:	Fee Simple Estate.
Property Location:	The property is an interior lot located to the north of Rand Road and to the west of the Maine State Turnpike in the City of Portland. The site represents a portion of Map 243, Lot B-1, Map 244, Lot A-1, Map 252, Lot A-1 and Map 253, Lot A-1. However, the City of Portland's map and lot references are not accurate as they do not reflect the land areas that were previously acquired by the Maine DOT. Refer to extraordinary assumptions.
Title/Owner of Record:	Title to the subject property is referenced to the City of Portland per Cumberland County Registry of Deeds (CCRD) as a portion of Book 386, Page 393 dated July 3, 1871 and CCRD Book 687, Page 103 dated January 31, 1900 per the submitted survey. The subject parcel is the portion of the land area remaining to the north of the 10.33± acres previously acquired by the State of Maine by condemnation by way of a Notice of Layout and Taking recorded in CCRD Book 3397, Page 194 dated May 17, 1973. No specific legal description of the subject parcel is available therefore, the submitted survey was relied upon.

Land Area:	The subject property contains 4.82± acres and has no road frontage. The site has 1.81± acres of wetland areas and 3.01± acres of uplands areas based on the wetlands survey provided by Jones & Beach Engineers, Inc. The site is also subject to two easements granted to Central Maine Power (CCRD Book 2104, Page 279 dated November 3, 1952 and CCRD Book 2365, Page 181 dated July 12, 1957). Both of these CMP easements prohibit erecting or maintaining any structure of any kind on the easement. Based on the submitted site survey, the upland areas are estimated to be 1.53± acres excluding areas within the no-build CMP easements.
Zoning:	The site is located in the Industrial (I-L) zoning district in Portland. The site has no minimum lot size requirement. However, the minimum road frontage requirement is not met as the subject has no road frontage. The City of Portland does not currently map the subject site. For the purpose of this analysis, it is assumed the site is in a lawful status. Assemblage of the same would be legal and appropriate given the site's Highest and Best use.
Highest and Best Use:	As Vacant – assemblage as open space with the abutting development land parcel, or retention for open space by the local municipality or affiliated non-profits.
Conclusion of Value	Based on the analyses developed within this report, it is our opinion that, as of July 10, 2018, the subject property has <u>no determinable contributory market value</u>. Refer to extraordinary assumptions and scope of work detailed in the Transmittal Letter and engagement.

[illegible]

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT IS made this ____ day of _____, 2018 by and between the **CITY OF PORTLAND**, a body politic and corporate located in Cumberland County, Maine (hereinafter referred to as “Seller” or “City”), and **WATERSTONE PROPERTIES GROUP, INC.**, a Massachusetts corporation having a mailing address of 322 Reservoir Street, Needham, MA 02494 or nominee or designee (hereinafter referred to as “Buyer”).

RECITALS

WHEREAS, the City is the owner of approximately 4.82 acres of land at Westbrook Arterial and along the Maine Turnpike, Portland, Maine as generally depicted on the boundary survey attached hereto as Exhibit A (the “Survey”) and incorporated herein, and more particularly described in Exhibit B attached hereto and incorporated herein (the “Premises”); and

WHEREAS, Buyer desires to purchase the Premises, and the City desires to convey the Premises to Buyer.

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties, intending to be legally bound, hereby agree as follows:

1. **SALE.** City agrees to sell the Premises to Buyer, and Buyer agrees to purchase the Premises in accordance with the terms and conditions set forth in this Agreement. This Agreement is for the sale of land only.
2. **CONSIDERATION.** The purchase price for the Premises shall be Eleven Thousand Two Hundred Twenty Dollars (\$11,220.00) (the “Purchase Price”), subject to the following cost adjustments and conditions:
 - a. The Buyer shall pay the City for the cost of the City’s appraisal for the Premises (“Appraisal Cost”) within 3 business days after the full execution of this Agreement; and
 - b. The Buyer shall pay the Purchase Price to the City by wire transfer (or as otherwise reasonably requested by the City) at closing.
3. **TITLE AND DUE DILIGENCE.**
 - a. **Due Diligence Period.** Buyer will have from the date of this Agreement until 4:00 PM Eastern Daylight Savings Time on the day that is one hundred eighty (180) days after the date of this Agreement (the “Due Diligence Period”) to complete any survey, environmental review and title examinations.
 - b. **Title and Survey Objections.** Buyer will have until the end of the Due Diligence Period to deliver to City any written objections to title, environmental, or survey matters (other than the permitted exceptions identified in subsection d below) that

affect Buyer's intended use of the Premises as contemplated by this Agreement, including the terms of Section 12 below. Objections not made prior to the end of the Due Diligence Period will be deemed waived; provided, however, that objections pertaining to matters of record first appearing after the end of the Due Diligence Period may be made at any time prior to the closing.

- c. Option to Cure. In the event of a title or survey objection, City will have the option, but not the obligation, to cure the objection and will notify Buyer of its election within ten (10) business days after receipt of the objection. In the event that the City elects to cure the objection, it will have thirty (30) days from the date of the notice of election, or such other reasonable time as the parties may agree, to cure the objection. In the event that the City does not elect to cure the objection, or, having elected to cure the objection fails to timely do so to Buyer's reasonable satisfaction, Buyer will have the option to (i) terminate this Agreement (after which neither party will have any further obligation or liability to the other under this Agreement), (ii) waive the objection and close, or (iii) undertake the cure of such objection at its own expense (in which case it shall have thirty (30) days to do so).
- d. City shall convey the Premises to Buyer at the closing in fee simple by a municipal quitclaim deed without covenant. Title shall be good and insurable title, free and clear of all encumbrances except (i) the easements on the Survey or otherwise described herein; (ii) easements for all public improvements now on, under or over the Premises and for utilities servicing the property, (iii) zoning ordinances, and (iv) real estate taxes not yet due and payable. Further, Buyer acknowledges that the deed shall contain a restriction stating that in the event that the Premises or any portion thereof shall be exempt from real and personal property taxes, by transfer, conversion, or otherwise, then the then-owner of the exempt portion shall make annual payments to the City in lieu of taxes in the amount equal to the amount of property taxes that would have been assessed on the exempt portion of the real and personal property situated on the Premises had such property remained taxable. Such restriction shall also confirm that Buyer and its successors and assigns shall possess and be vested with all rights and privileges as to abatement and appeal of valuations, rates, and the like as are accorded owners of real and personal property in Maine. All of the laws and regulations applicable to the payment of real estate taxes and personal property taxes, except those governing property tax exemptions, shall apply to any such payments in lieu of taxes including, without limitation, how such taxes are calculated and the right to seek abatements and appeals.

4. INSPECTIONS

- a. During the Due Diligence Period, Buyer and its employees, consultants, contractors and agents shall have the right, at Buyer's expense, to enter on the Premises at reasonable times in order to (i) inspect the same, (ii) conduct engineering studies, percolation tests, geotechnical exams, environmental assessments, and other such studies, tests, exams, and assessments, and (iii) do such other things as Buyer determines, it is sole discretion, to be required to

determine the suitability of the Premises for Buyer's intended use (collectively, the "Inspections"). The City acknowledges that such Inspections may include the digging of test pits, which the City hereby approves.

- b. Buyer agrees to defend, indemnify and hold harmless the City against any mechanics liens that may arise from the activities of Buyer and its employees, consultants, contractors and agents on the Premises.
- c. Buyer shall exercise the access and inspection rights granted hereunder at its sole risk and expense, and Buyer hereby releases the City from, and agrees to indemnify, defend, and hold the City harmless against, any and all losses, costs, claims, expenses and liabilities (including without limitation reasonable attorney fees and costs) (collectively, "Damages") suffered by the City on account of any injury to person or damage to property arising out of the exercise by Buyer of its rights hereunder, except to the extent that such Damages result from the act or omission of the City.
- d. Buyer shall cause any contractors, consultants or any other party conducting the Inspections to procure automobile insurance, if applicable, and commercial general liability insurance coverage in amounts of not less than Four Hundred Thousand Dollars (\$400,000.00) per occurrence for bodily injury, death and property damage, listing the City as an additional insured thereon, and also Workers' Compensation Insurance coverage to the extent required by law; the forms of all such insurance to be subject to City's Corporation Counsel's reasonable satisfaction.
- e. In the event that Buyer does not purchase the Premises, Buyer agrees to either return the Premises as nearly as possible to its original condition after conducting the Inspections, or, at the City's option, reimburse the City for any physical damage caused to the Premises in connection with the Inspections; provided, however, the City hereby acknowledges and agrees that the term "physical damage" does not include any disturbance of any pre-existing environmental contamination on the Premises caused by such inspections, studies, tests, exams, and assessments, and that Buyer shall have no obligation to clean-up, remove or take any other action with respect to any pre-existing environmental contamination disturbed thereby.
- f. The parties hereto acknowledge and agree that it is a condition to Buyer's obligations under this Agreement that the results of the Inspections be acceptable to Buyer in its sole discretion. If the results of such due diligence are not acceptable to Buyer in its sole discretion, and if Buyer exercises its right to terminate this Agreement, then neither party shall have any further obligations or liabilities under this Agreement except as expressly set forth in this Agreement. The City acknowledges and agrees that Buyer shall be entitled to terminate this Agreement for any reason or for no reason during the Due Diligence Period by providing written notice of such election to the City during the Due Diligence Period.

5. **REAL ESTATE TAXES, PRORATIONS AND TRANSFER TAX.** Buyer shall be liable for all real estate taxes beginning as of the start of fiscal year following the closing and continuing thereafter. Because the Premises is currently owned by the City of Portland, which is exempt from real estate taxes, no taxes were assessed or will be due for any portion of the current fiscal year, and no taxes will be prorated at the closing. Any utilities for the Premises shall be prorated as of the closing. Buyer's fifty percent (50%) share of the Maine real estate transfer tax shall be paid for by Buyer in accordance with 36 M.R.S.A. § 4641-A. City is exempt from paying the transfer tax pursuant to 36 M.R.S.A. § 4641-C. The recording fee for the deed of conveyance and any expenses relating to Buyer's financing or closing shall be paid for by Buyer.
6. **DEFAULT AND REMEDIES.** In the event that Buyer defaults hereunder for a reason other than the default of the City, City shall retain the Appraisal Cost as its sole remedy. In the event City defaults under this Agreement, and if Buyer is not then in default hereunder, Buyer shall have the right to pursue specific performance.
7. **RISK OF LOSS.** The risk of loss or damage to the Premises by fire, eminent domain, condemnation, or otherwise, until transfer of title hereunder, is assumed by the City. The Premises is to be delivered in substantially the same condition as of the date of this Agreement unless otherwise stated and excluding any alterations made to the Premises by Buyer. In the event City is not able to deliver the Premises as stated, Buyer may terminate this Agreement, and neither party shall have any further obligations or liabilities under this Agreement except as expressly set forth in this Agreement.
8. **PROPERTY SOLD "AS IS, WHERE IS."** Buyer acknowledges that Buyer, at Closing, will have had an opportunity to inspect the Premises, and to hire professionals to do so, and that Premises will be sold "as is, where is" and "with all faults." City, and its agents, make no representations or warranties with respect to the accuracy of any statement as to boundaries or acreage, or as to any other matters contained in any description of the Premises, or as to the fitness of the Premises for a particular purpose, or as to development rights, merchantability, habitability, or as to any other matter, including without limitation, land use, zoning and subdivision issues or the environmental, mechanical, or structural condition of the Premises. Acceptance by Buyer of the deed at closing and payment of the purchase price shall be deemed to be full performance and discharge by the City of every agreement and obligation contained herein.
9. **ENVIRONMENTAL INDEMNIFICATION.** Buyer covenants and agrees to indemnify, defend, and hold the City harmless from and against any and all claims, damages, losses, liabilities, obligations, settlement payments, penalties, assessments, citations, directives, claims, litigation, demands, defenses, judgments, costs, or expenses of any kind, including, without limitation, reasonable attorneys', consultants', and experts' fees incurred in investigating, defending, settling, or prosecuting any claim, litigation or proceeding, that may at any time be imposed upon, incurred by or asserted or awarded against Buyer or the City and relating directly or indirectly to the violation of or compliance with any federal, state, or local environmental laws, rules, or regulations governing the release, handling or storage of

hazardous wastes or hazardous materials and affecting all or any portion of the Premises, except to the extent that such a claim results directly from the City's release, handling or storage of hazardous wastes or hazardous materials on the Premises. This duty to indemnify, defend, and hold harmless shall be included in a covenant in the deed and shall run with the land conveyed and be binding upon Buyer's successors, assigns, and transferees.

10. INTENTIONALLY OMITTED.

11. CLOSING. Time is of the essence in the performance of this Agreement. The closing shall be held at the offices of Buyer's counsel in Portland, Maine at a time agreeable to the parties on the date that is thirty (30) days following the expiration of the Due Diligence Period or such other date as is mutually agreed upon by the parties.

At the Closing:

- a. the City shall execute, acknowledge and deliver to Buyer a municipal quitclaim deed conveying to Buyer good and marketable title to the Premises, free and clear of all encumbrances except as otherwise set forth herein.
- b. Buyer shall deliver the Purchase Price to the City by wire transfer (or as otherwise reasonably requested by the City); and
- c. Each party shall deliver to the other such other documents, certificates and the like as may be required herein or as may be necessary to carry out the obligations under this Agreement.
- d. Buyer shall deliver evidence, reasonably satisfactory to City's Corporation Counsel, that the entity receiving title to the Premises is in good standing under Maine law, and that the individuals closing and executing documents on behalf of Buyer are authorized to do so.

12. ENTIRE AGREEMENT. This Agreement represents the entire and complete Agreement and understanding between the parties and supersedes any prior agreement or understanding, written or oral, between the parties with respect to the acquisition or exchange of the Premises hereunder. This Agreement cannot be amended except by written instrument executed by City and Buyer.

13. NON-WAIVER. No waiver of any breach of any one or more of the conditions of this Agreement by either party shall be deemed to imply or constitute a waiver of any succeeding or other breach hereunder.

14. HEADINGS AND CAPTIONS. The headings and captions appearing herein are for the convenience of reference only and shall not in any way affect the substantive provisions hereof.

15. BINDING EFFECT. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, administrators, successors and assigns.

16. TIME. The City and Buyer each confirm and agree that each of the time periods set forth herein are essential provisions of the terms of this Agreement.

17. GOVERNING LAW. This Agreement shall be construed in all respects in accordance with, and governed by, the laws of the State of Maine. All parties hereto hereby consent to the exclusive jurisdiction of the Superior Court for the County of Cumberland in the State of Maine, for all actions, proceedings and litigation arising from or relating directly or indirectly to this Agreement or any of the obligations hereunder, and any dispute not otherwise resolved as provided herein shall be litigated solely in said Court. If any provision of this Agreement is determined to be invalid or unenforceable, it shall not affect the validity or enforcement of the remaining provisions hereof.

18. NOTICE. All notices, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given on the date of service if served personally on the party to whom notice is to be given, or on the first business day after mailing if mailed to the party to whom notice is to be given by first class mail, postage prepaid, certified, return receipt requested, addressed to the recipient at the addresses set forth below. Either party may change addresses for purposes of this paragraph by giving the other party notice of the new address in the manner described herein.

FOR The City: City of Portland
ATTN: City Manager
389 Congress Street
Portland, ME 04101

With a copy to: The Office of the Corporation Counsel at the same address.

FOR Buyer: Waterstone Properties Group, Inc.
322 Reservoir Street
Needham, MA 02494

With a copy to: Hinckley Allen
650 Elm Street, Suite 500
Manchester, NH 03101
Attention: John H. Sokul, Esq.

19. SIGNATURES; MULTIPLE COUNTERPARTS. This Agreement may be executed in any number of counterparts and by different parties in separate counterparts. Each counterpart when so executed shall be deemed to be an original and all of which together shall constitute one and the same agreement.

20. BROKERS. City and Buyer represent and warrant to each other that no brokerage fees or real estate commissions are or shall be due or owing in connection with this

transaction or in any way with respect to the Premises. Subject to the limitations of liability set forth in the Maine Tort Claims Act, City agrees to defend, indemnify, and hold Buyer harmless from any claims, costs, judgments, or liabilities of any kind advanced by persons claiming real estate brokerage fees through City. Buyer agrees to defend, indemnify and hold City harmless from any claims, costs, judgments, or liabilities of any kind advanced by persons claiming real estate brokerage fees through Buyer. The foregoing indemnities shall include all legal fees and costs incurred in defense against any such claim, and shall survive closing.

21. RECITALS INCORPORATED BY REFERENCE. The recitals set forth above are incorporated herein by reference and made a part of this Agreement.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals on the day and year first written above.

CITY OF PORTLAND

WITNESS

Jon P. Jennings
Its City Manager

**WATERSTONE PROPERTIES GROUP,
INC.**

WITNESS

Its:

Approved as to Form:

Approved as to Funds:

City Corporation Counsel's Office

City Finance Department

Exhibit A
Survey

Exhibit B
Legal Description

The land described in Warranty Deeds recorded in Book 386, Page 393 and in Book 687, Page 103.

MEMORANDUM
City Council Agenda Item

FROM: Jeff Levine, Director Planning & Urban Development Department

DATE: February 5, 2019

SUBJECT: **Order 140-18/19 Amendment to Portland City Code Chapter 14 Re: Marijuana Medical and Adult Use Regulations - Sponsored by the Planning Board, Sean Dundon, Chair.**

SPONSOR: Sean Dundon, Chair, Planning Board
(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: Sean Dundon, Planning Board Chair and Jeff Levine, Director of Planning and Urban Development, will make a five-minute presentation.

I. SUMMARY

The Planning Board has unanimously recommended proposed zoning text amendments, which update the City's medical marijuana standards, provide a unified zoning framework for both medical and adult use marijuana, define permitted uses, identify zoning districts for marijuana uses, establish use standards and location criteria, and set size caps for marijuana cultivation and marijuana retail stores.

II. AGENDA DESCRIPTION

On November 27, 2018 the Planning Board met and voted unanimously (6-0) to forward this item to the City Council with a recommendation for passage.

The Planning Board has unanimously recommended proposed zoning text amendments, which update the City's medical marijuana standards, provide a unified zoning framework for both medical and adult use marijuana, define permitted uses, identify zoning districts for marijuana uses, establish use standards and location criteria, and set size caps for marijuana cultivation and marijuana retail stores.

This item must be read on two separate days. It was given a first reading on January 23, 2019. At the February 4, 2019 City Council meeting, this item was postponed to the February 20, 2019 meeting. Five affirmative votes are required for passage after public comment.

III. BACKGROUND

Portland has had regulations in place for medical marijuana since 2010, consisting of two defined uses and zones where those uses are permitted or conditionally permitted. The two definitions are *Registered medical marijuana dispensary* and *Registered medical marijuana cultivation facility*. Changes to State law since 2010, in particular statutes enacted by the state legislature in July 2018, necessitate changes to existing medical marijuana standards, and changes that address the legalization of adult use (recreational) marijuana. In October 2018, the Council adopt a moratorium on new caregiver medical marijuana retail stores, manufacturing

facilities, testing facilities, and grow facilities to provide time for the City to develop appropriate regulations.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

The proposed amendments strive to be responses to changing state law as well as to balance the needs of a burgeoning new sector of the local economy with reasonable limits on location, size, and performance standards.

V. FINANCIAL IMPACT

There are no financial impacts of adopting zoning amendment. New proposed uses will have some costs associated with enforcement, building permit and licensing fees for applicants to the City, and the financial impact to Portland's economy of new business creation.

VI. STAFF ANALYSIS AND BACKGROUND

In addition to the Planning Board's deliberations, the process for developing the recommended zoning changes included an internal working group of City staff, which met for several months to discuss future zoning, permitting, enforcement, and licensing needs. Staff also met with industry representatives to gather diverse perspectives on the needs of new uses in the marijuana industry.

VII. RECOMMENDATION

On November 27, 2018, the Planning Board held a public hearing to review the zoning text amendments for medical and adult use marijuana. At that hearing, the Board voted unanimously (6-0) to find the ordinance and amendment consistent with the City's Comprehensive Plan and recommend adoption to the City Council.

VIII. LIST ATTACHMENTS

1. Ch. 14 Marijuana Regulations 1.23.2019 revised
2. 1. Councilor Cook and Councilor Ray Amendment to Order 140-FY19 2.4.2019
3. 2. Councilor Ray and Councilor Cook Amendment to Order 140-FY19 Measurement Method for Marijuana Facilities 2.4.2019
4. 3. Councilor Ray and Councilor Cook Amendment to Order 140-FY19 Allowable sales at retail stores 2.4.2019
5. Att 1 draft marijuana zoning amendment 12-13-2018
6. Att 2 Marijuana Proposed Zoning 11202018
7. Att 3 PB Report Marijuana 11-21-2018
8. 2018-01-16 Comparison table of marijuana regulations
9. Memo PB Marijuana Changes 1-16-2019
10. 2018-01-15 Memo re food at retail establishments

Prepared by:

Jeff Levine, Director Planning & Urban Development Department

Date: 02/05/2019

Order 140-18/19

Motion to postpone to February 20, 2019: 8-0 (Ray absent) on 2/4/2019

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (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: MARIJUANA MEDICAL AND ADULT USE REGULATIONS

WHEREAS, the State of Maine has enacted statutes allowing registered caregiver retail stores, registered dispensaries, marijuana testing facilities, and manufacturing facilities (collectively, the "medical marijuana uses");

WHEREAS, pursuant to 22 M.R.S. § 2429-D(3), a municipality may not allow such medical marijuana uses to operate in the municipality unless the municipality "has voted to adopt or amend an ordinance" allowing such uses;

WHEREAS, the State of Maine has also enacted statutes allowing adult use marijuana establishments;

WHEREAS, pursuant to 28-B § 402(1)(A), a municipality may not license adult use marijuana establishments unless the municipality "has voted to adopt or amend an ordinance" allowing such uses;

WHEREAS, such medical marijuana uses and adult use marijuana establishments are not allowed in the City of Portland unless and until they are licensed by the City, and the passage of this amendment is not the adoption or amendment of an ordinance allowing medical marijuana uses or adult use marijuana establishments; and

WHEREAS, medical marijuana uses and adult use marijuana establishments shall not be allowed in the City until the City passes a comprehensive licensing ordinance for such uses:

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

That Chapter 14, Sections 14-47, 14-182, 14-217, 14-229.11, 14-232, 14-247, 14-262, 14-295, 14-410, and 14-411 are hereby amended to read as follows:

Sec. 14-47. Definitions.

The following words shall be defined as set forth below for use in this article. Definitions set forth in the building code of the city shall apply to words not herein defined:

...

Manufactured housing subdivision or development: A parcel of land approved by the Planning Board under 30-A M.R.S.A. Section 4358 for the placement of single-component manufactured housing on individual owned lots.

Marijuana cultivation facility: A cultivation facility required to be licensed pursuant to 22 M.R.S. § 201 or any other facility engaged primarily in the business of planting, propagation, growing, harvesting, drying, curing, grading, trimming or other processing of marijuana, including mature marijuana plants, immature marijuana plants, seedlings and marijuana seeds, for use or sale.

Marijuana manufacturing facility: A manufacturing facility required to be licensed pursuant to 22 M.R.S. § 2423-F or 28-B M.R.S. § 201.

Marijuana product: As defined by 22 M.R.S.A. §2422 or 28-B M.R.S.A., §102.

Marijuana retail store: A retail establishment licensed to sell marijuana, marijuana products, immature marijuana plants and seedlings to adult use or medical marijuana customers. A marijuana retail store is only authorized as a principal use, and is not permitted as an accessory use. Accessory sales of incidental accessories are permitted, but no food or beverage that is not a marijuana product may be sold on the premises. A marijuana retail store may not exceed a maximum gross floor area of 2,000 square feet.

Marijuana testing facility: A facility licensed to develop, research and test marijuana, marijuana products and other substances as defined by 22 M.R.S.A. §2422 or 28-B M.R.S.A., §102.

...

Plant canopy: As defined by 28-B M.R.S.A., §102.

...

~~Registered medical marijuana dispensary: "Registered medical marijuana dispensary" or "dispensary" means a not-for-profit entity registered under 22 M.R.S.A. section 2428 that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana or related supplies and educational materials to registered patients who have designated the dispensary to cultivate marijuana for their medical use, and the registered primary caregivers of those patients.~~

~~Registered medical marijuana cultivation facility: "Registered medical marijuana cultivation facility" means a facility registered under 22 M.R.S.A. section 2428 that cultivates and manufactures marijuana or related supplies for a "registered medical marijuana dispensary" under common management and operating under the same state and local license(s).~~

Registered dispensary: A registered medical marijuana dispensary as defined by 22 M.R.S.A. §2422.

Registered patient: As defined by 22 M.R.S.A. §2422.

...

Small-scale marijuana caregiver: A registered caregiver who sells or dispenses marijuana to no more than five individual registered patients in any one calendar month; does not process or manufacture marijuana using chemicals or solvents; and cultivates no more than 1) 250 square feet of plant canopy where located in a single-family dwelling or commercial space; or 2) 125 square feet of plant canopy where located in a dwelling unit within a two-family or multi-family building.

Sec. 14-182. Table of uses.

Group1	Use	B-2 ²	B-2b	B-2c
--------	-----	------------------	------	------

...

B	Expansion of existing dairies	Y	Y	Y
<u>B</u>	<u>Marijuana retail store</u>	<u>Y</u>	<u>C</u>	<u>C</u>
B	Registered medical marijuana dispensaries <u>dispensary</u>	Y	C	C

B	<u>Small-scale marijuana caregiver</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>
I	Long term, extended and intermediate care facility	Y	Y	Y

...

Sec. 14-217. Permitted uses.

(a) The following uses are permitted in the B-3, B-3b and B-3c zones:

...

2. *Business:*

...

r. Registered ~~medical marijuana dispensaries~~dispensary;

s. Marijuana retail store;

t. Small-scale marijuana caregiver.

...

Sec. 14-229.11. Permitted uses.

The following uses are permitted in the B-4 zone:

(a) *Business:*

...

23. ~~Registered medical marijuana Marijuana cultivation facilities~~facility (maximum 7,000 square feet of plant canopy);

24. Marijuana manufacturing facility;

25. Marijuana testing facility;

26. Marijuana retail store;

27. Registered dispensary;

28. Small-scale marijuana caregiver.

...

Sec. 14-232. Permitted uses.

The following uses are permitted whether provided by private or public entities in the ~~low-impact industrial~~I-L zone and the I-Lb zone:

...

- (r) ~~Registered medical marijuana~~Marijuana cultivation ~~facilities~~facility (maximum 2,000 square feet of plant canopy).

...

- (w) Marijuana manufacturing facility.

- (x) Marijuana testing facility.

...

Sec. 14-247. Permitted uses.

The following uses are permitted whether provided by private or public entities in the I-M moderate impact industrial zone, the I-Ma and the I-Mb zone:

...

- (v) ~~Registered medical marijuana~~Marijuana cultivation ~~facilities~~facility (maximum 7,000 square feet of plant canopy).

...

- (z) Marijuana manufacturing facility.

- (aa) Marijuana testing facility.

...

Sec. 14-262. Permitted uses.

The following uses are permitted whether provided by private or public entities in the ~~high-impact industrial~~I-H zone and the I-Hb zone:

...

(t) Registered medical marijuana cultivation facilities.

...

(x) Marijuana manufacturing facility

(y) Marijuana testing facility

...

Sec. 14-295. Permitted uses.

The following uses are permitted in the B-7 zone:

(a) *Commercial*:

...

22. Registered ~~medical-marijuana~~
~~dispensaries~~dispensary;

...

28. Marijuana retail store; and

29. Small-scale marijuana caregiver.

...

Sec. 14-410. Home occupation.

Purpose. The purpose of home occupations is to allow the secondary and incidental use of a residence for the conduct of appropriate occupations whose external activity levels and impacts are so limited as to be compatible with the residential character of the neighborhood.

...

(b) No residence shall be occupied, altered or used for any home occupation except the following:

1. Accountants and auditors;

...

29. Small-scale marijuana caregiver, except that no more than one small-scale caregiver may operate out of any one dwelling unit.

Sec. 14-411. Marijuana Use Regulations.

The following standards apply to the following marijuana-related uses: Marijuana cultivation facilities, Marijuana manufacturing facilities, Marijuana product, Marijuana retail store, Marijuana testing facility, Small-scale marijuana caregiver and Registered dispensaries. Marijuana-related uses shall comply with all other applicable local and state requirements in addition to the standards below.

(a) Location Criteria

1. No marijuana cultivation facility, marijuana manufacturing facility, marijuana testing facility, small-scale marijuana caregiver, marijuana store or registered dispensary may be located within 500 feet of a preexisting public school, private school, or a public preschool program, as defined by 20-A M.R.S.A. §1. Distance shall be measured from nearest property line of the respective marijuana-related use and the property line of the lot containing the public school, private school, or public preschool program.
2. No marijuana cultivation facility, marijuana manufacturing facility, or marijuana testing facility may be located within 200 feet of the following residential zones: R-1, R-2, R-3, R-4, R-5, R-5A, R-6, R-6A, or R-7. Distance shall be measured from nearest property line of the respective marijuana-related use and the nearest applicable residential zone boundary.

(b) Supplemental Standards

1. Marijuana-related uses may only be permitted within a fully enclosed building.
2. No outside storage of marijuana, marijuana products, or related supplies is permitted.
3. No drive-through service is permitted for marijuana-related uses.
4. No marijuana or marijuana product shall be smoked, eaten or otherwise consumed or ingested on the premises where sold.

5. An operating plan for marijuana cultivation facilities and marijuana manufacturing facilities shall be provided that at a minimum addresses the following:
 - a. wastewater;
 - b. disposal of waste; and
 - c. security at the premises.
6. A ventilation plan shall be included for marijuana cultivation facilities, marijuana manufacturing facilities, and small-scale marijuana caregivers that provides for adequate ventilation so as to prevent pesticides, insecticides or other chemicals used in the cultivation or processing of marijuana or marijuana related products from being dispersed or released outside the premises. The plan shall further provide for resulting smoke, vapor, fumes, gases and particulate matter from marijuana or its processing or cultivation to be effectively confined to the premises.
7. Marijuana-related uses shall provide odor control measures so that odor generated on site is mitigated at the property line of the lot containing the marijuana-related use. Applications must demonstrate appropriate measures, such as carbon filtration, ventilation and exhaust systems, facility plans or other additional practices adequate to mitigate odors for the scale of operations for the uses proposed.

Sec. 14-~~411~~. 412- Sec. 14-420. Reserved.

**AMENDMENT 1 TO ORDER 140-18/19
PREPARED BY CORPORATION COUNSEL
FOR COUNCILOR COOK AND COUNCILOR RAY
RE: MARIJUANA MEDICAL AND ADULT USE REGULATIONS**

WHEREAS, the State of Maine has enacted statutes allowing registered caregiver retail stores, registered dispensaries, marijuana testing facilities, and manufacturing facilities (collectively, the "medical marijuana uses");

WHEREAS, pursuant to 22 M.R.S. § 2429-D(3), a municipality may not allow such medical marijuana uses to operate in the municipality unless the municipality "has voted to adopt or amend an ordinance" allowing such uses;

WHEREAS, the State of Maine has also enacted statutes allowing adult use marijuana establishments;

WHEREAS, pursuant to 28-B § 402(1)(A), a municipality may not license adult use marijuana establishments unless the municipality "has voted to adopt or amend an ordinance" allowing such uses;

WHEREAS, such medical marijuana uses and adult use marijuana establishments are not allowed in the City of Portland unless and until they are licensed by the City, and the passage of this amendment is not the adoption or amendment of an ordinance allowing medical marijuana uses or adult use marijuana establishments; and

WHEREAS, medical marijuana uses and adult use marijuana establishments shall not be allowed in the City until the City passes a comprehensive licensing ordinance for such uses:

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

That Chapter 14, Sections 14-47, 14-182, 14-217, 14-229.11, 14-232, 14-247, 14-262, 14-295, 14-410, and 14-411 are hereby amended to read as follows:

Sec. 14-47. Definitions.

The following words shall be defined as set forth below for use in this article. Definitions set forth in the building code of the city shall apply to words not herein defined:

...

Manufactured housing subdivision or development: A parcel of land approved by the Planning Board under 30-A M.R.S.A. Section 4358 for the placement of single-component manufactured housing on individual owned lots.

Marijuana cultivation facility: A cultivation facility required to be licensed pursuant to 22 M.R.S. § 201 or any other facility engaged primarily in the business of planting, propagation, growing, harvesting, drying, curing, grading, trimming or other processing of marijuana, including mature marijuana plants, immature marijuana plants, seedlings and marijuana seeds, for use or sale.

Marijuana manufacturing facility: A manufacturing facility required to be licensed pursuant to 22 M.R.S. § 2423-F or 28-B M.R.S. § 201.

Marijuana product: As defined by 22 M.R.S.A. §2422 or 28-B M.R.S.A., §102.

Marijuana retail store: A retail establishment licensed to sell marijuana, marijuana products, immature marijuana plants and seedlings to adult use or medical marijuana customers. A marijuana retail store is only authorized as a principal use, and is not permitted as an accessory use. Accessory sales of incidental accessories are permitted, but no food or beverage that is not a marijuana product may be sold on the premises. A marijuana retail store may not exceed a maximum gross floor area of 2,000 square feet.

Marijuana testing facility: A facility licensed to develop, research and test marijuana, marijuana products and other substances as defined by 22 M.R.S.A. §2422 or 28-B M.R.S.A., §102.

...

Plant canopy: As defined by 28-B M.R.S.A., §102.

...

Registered dispensary: A registered medical marijuana dispensary as defined by 22 M.R.S.A. §2422.

Registered patient: As defined by 22 M.R.S.A. §2422.

...

Small-scale marijuana caregiver: A registered caregiver who sells or dispenses marijuana to no more than five individual registered patients in any one calendar month; does not process or manufacture marijuana using chemicals or solvents; and cultivates no more than 1) 250 square feet of plant canopy where located in a single-family dwelling or commercial space; or 2) 125 square feet of plant canopy where located in a dwelling unit within a two-family or multi-family building.

Sec. 14-182. Table of uses.

Group1	Use	B-2 ²	B-2b	B-2c
--------	-----	------------------	------	------

...

B	Expansion of existing dairies	Y	Y	Y
B	Marijuana retail store	Y	C	C
B	Registered dispensary	Y	C	C
B	Small-scale marijuana caregiver	Y	Y	Y
I	Long term, extended and intermediate care facility	Y	Y	Y

...

Sec. 14-217. Permitted uses.

(a) The following uses are permitted in the B-3, B-3b and B-3c zones:

...

2. *Business:*

...

r. Registered dispensary;

- s. Marijuana retail store;
- t. Small-scale marijuana caregiver.

...

Sec. 14-229.11. Permitted uses.

The following uses are permitted in the B-4 zone:

- (a) *Business:*

...

- 23. Marijuana cultivation facility (maximum 7,000 square feet of plant canopy);
- 24. Marijuana manufacturing facility;
- 25. Marijuana testing facility;
- 26. Marijuana retail store;
- 27. Registered dispensary;
- 28. Small-scale marijuana caregiver.

...

Sec. 14-232. Permitted uses.

The following uses are permitted whether provided by private or public entities in the I-L zone and the I-Lb zone:

...

- (r) Marijuana cultivation facility (maximum 2,000 square feet of plant canopy).

...

- (w) Marijuana manufacturing facility.
- (x) Marijuana testing facility.

...

Sec. 14-247. Permitted uses.

The following uses are permitted whether provided by private or public entities in the I-M moderate impact industrial zone, the I-Ma and the I-Mb zone:

...

(v) Marijuana cultivation facility (maximum 7,000 square feet of plant canopy).

...

(z) Marijuana manufacturing facility.

(aa) Marijuana testing facility.

...

Sec. 14-262. Permitted uses.

The following uses are permitted whether provided by private or public entities in the I-H zone and the I-Hb zone:

...

(t) Registered medical marijuana cultivation facilities.

...

(x) Marijuana manufacturing facility

(y) Marijuana testing facility

...

Sec. 14-295. Permitted uses.

The following uses are permitted in the B-7 zone:

(a) *Commercial:*

...

22. Registered dispensary;

...

28. Marijuana retail store; and

29. Small-scale marijuana caregiver.

...

Sec. 14-410. Home occupation.

Purpose. The purpose of home occupations is to allow the secondary and incidental use of a residence for the conduct of appropriate occupations whose external activity levels and impacts are so limited as to be compatible with the residential character of the neighborhood.

...

- (b) No residence shall be occupied, altered or used for any home occupation except the following:

1. Accountants and auditors;

...

29. Small-scale marijuana caregiver, except that no more than one small-scale caregiver may operate out of any one dwelling unit.

Sec. 14-411. Marijuana Use Regulations.

The following standards apply to the following marijuana-related uses: Marijuana cultivation facilities, Marijuana manufacturing facilities, Marijuana product, Marijuana retail store, Marijuana testing facility, Small-scale marijuana caregiver and Registered dispensaries. Marijuana-related uses shall comply with all other applicable local and state requirements in addition to the standards below.

- (a) Location Criteria

1. No marijuana cultivation facility, marijuana manufacturing facility, marijuana testing facility, small-scale marijuana caregiver, marijuana store or registered dispensary may be located within 500 feet of a preexisting public school, private school, or a public preschool program, as defined by 20-A M.R.S.A. §1. Distance shall be measured from nearest property line of the respective marijuana-related use and the property line of the lot containing the public school, private school, or public preschool program.
2. No marijuana cultivation facility, marijuana manufacturing facility, or marijuana testing facility

may be located within 200 feet of the following residential zones: R-1, R-2, R-3, R-4, R-5, R-5A, R-6, R-6A, or R-7. Distance shall be measured from nearest property line of the respective marijuana-related use and the nearest applicable residential zone boundary.

(b) Supplemental Standards

1. Marijuana-related uses may only be permitted within a fully enclosed building.
2. No outside storage of marijuana, marijuana products, or related supplies is permitted.
3. No drive-through service is permitted for marijuana-related uses.
4. No marijuana or marijuana product shall be smoked, eaten or otherwise consumed or ingested on the premises where sold.
5. An operating plan for marijuana cultivation facilities and marijuana manufacturing facilities shall be provided that at a minimum addresses the following:
 - a. wastewater;
 - b. disposal of waste; and
 - c. security at the premises.
6. A ventilation plan shall be included for marijuana cultivation facilities, marijuana manufacturing facilities, and small-scale marijuana caregivers that provides for adequate ventilation so as to prevent pesticides, insecticides or other chemicals used in the cultivation or processing of marijuana or marijuana related products from being dispersed or released outside the premises. The plan shall further provide for resulting smoke, vapor, fumes, gases and particulate matter from marijuana or its processing or cultivation to be effectively confined to the premises.
7. Marijuana-related uses shall provide odor control measures so that odor generated on site is mitigated at the property line of the lot containing the

marijuana-related use. Applications must demonstrate appropriate measures, such as carbon filtration, ventilation and exhaust systems, facility plans or other additional practices adequate to mitigate odors for the scale of operations for the uses proposed.

Sec. 14-412. Approvals and required permits.

For purposes of Chapter 14, any approval issued for a marijuana cultivation facility, marijuana manufacturing facility, or marijuana testing facility operated pursuant to 22 M.R.S. § 2421 et seq. shall be deemed to constitute approval for the same corresponding marijuana cultivating, manufacturing or testing facility use operating under 28 M.R.S. § 101 et seq. Notwithstanding the above, no marijuana cultivation facility, marijuana manufacturing facility, or marijuana testing facility may operate without the applicable state and City license.

Sec. 14-413-14-420. Reserved.

AMENDMENT 2 TO ORDER 140-18/19
FOR COUNCILOR BELINDA RAY AND COUNCILOR COOK
RE: CHANGE TO METHOD OF MEASUREMENT FOR LOCATION OF MARIJUANA
MANUFACTURING, CULTIVATION, AND TESTING FACILITIES IN 14-411(A)(2).

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

WHEREAS, the State of Maine has enacted statutes allowing registered caregiver retail stores, registered dispensaries, marijuana testing facilities, and manufacturing facilities (collectively, the "medical marijuana uses");

WHEREAS, pursuant to 22 M.R.S. § 2429-D(3) a municipality may not allow such medical marijuana uses to operate in the municipality unless the municipality "has voted to adopt or amend an ordinance" allowing such uses;

WHEREAS, the State of Maine has also enacted statutes allowing adult use marijuana establishments;

WHEREAS, pursuant to 28-B § 402(1)(A), a municipality may not license adult use marijuana establishments unless the municipality "has voted to adopt or amend an ordinance" allowing such uses;

WHEREAS, such medical marijuana uses and adult use marijuana establishments are not allowed in the City of Portland unless and until they are licensed by the City, and the passage of this amendment is not the adoption or amendment of an ordinance allowing medical marijuana uses or adult use marijuana establishments; and

WHEREAS, medical marijuana uses and adult use marijuana establishments shall not be allowed in the City until the City passes a comprehensive licensing ordinance for such uses.

That Chapter 14, Sections 14-47, 14-182, 14-217, 14-229.11, 14-232, 14-247, 14-262, 14-295, 14-410, and 14-411 are hereby amended to read as follows:

Sec. 14-47. Definitions.

The following words shall be defined as set forth below for use in this article. Definitions set forth in the building code of the city shall apply to words not herein defined:

...

Manufactured housing subdivision or development: A parcel of land approved by the Planning Board under 30-A M.R.S.A. Section 4358 for the placement of single-component manufactured housing on individual owned lots.

Marijuana cultivation facility: A cultivation facility required to be licensed pursuant to 22 M.R.S. § 201 or any other facility engaged primarily in the business of planting, propagation, growing, harvesting, drying, curing, grading, trimming or other processing of marijuana, including mature marijuana plants, immature marijuana plants, seedlings and marijuana seeds, for use or sale.

Marijuana manufacturing facility: A manufacturing facility required to be licensed pursuant to 22 M.R.S. § 2423-F or 28-B M.R.S. § 201.

Marijuana product: As defined by 22 M.R.S.A. §2422 or 28-B M.R.S.A., §102.

Marijuana retail store: A retail establishment licensed to sell marijuana, marijuana products, immature marijuana plants and seedlings to adult use or medical marijuana customers. A marijuana retail store is only authorized as a principal use, and is not permitted as an accessory use. Accessory sales of incidental accessories are permitted, but no food or beverage that is not a marijuana product may be sold on the premises. A marijuana retail store may not exceed a maximum gross floor area of 2,000 square feet.

Marijuana testing facility: A facility licensed to develop, research and test marijuana, marijuana products and other substances as defined by 22 M.R.S.A. §2422 or 28-B M.R.S.A., §102.

...

Plant canopy: As defined by 28-B M.R.S.A., §102.

...

Registered dispensary: A registered medical marijuana dispensary as defined by 22 M.R.S.A. §2422.

Registered patient: As defined by 22 M.R.S.A. §2422.

...

Small-scale marijuana caregiver: A registered caregiver who sells or dispenses marijuana to no more than five individual registered patients in any one calendar month; does not process or manufacture marijuana using chemicals or solvents; and cultivates no more than 1) 250 square feet of plant canopy where located in a single-family dwelling or commercial space; or 2) 125 square feet of plant canopy where located in a dwelling unit within a two-family or multi-family building.

Sec. 14-182. Table of uses.

Group1	Use	B-2 ²	B-2b	B-2c
--------	-----	------------------	------	------

...

B	Expansion of existing dairies	Y	Y	Y
B	Marijuana retail store	Y	C	C
B	Registered dispensary	Y	C	C
B	Small-scale marijuana caregiver	Y	Y	Y
I	Long term, extended and intermediate care facility	Y	Y	Y

...

Sec. 14-217. Permitted uses.

(a) The following uses are permitted in the B-3, B-3b and B-3c zones:

...

2. *Business:*

...

- r. Registered dispensary;
- s. Marijuana retail store;

t. Small-scale marijuana caregiver.

...

Sec. 14-229.11. Permitted uses.

The following uses are permitted in the B-4 zone:

(a) *Business:*

...

23. Marijuana cultivation facility (maximum 7,000 square feet of plant canopy);

24. Marijuana manufacturing facility;

25. Marijuana testing facility;

26. Marijuana retail store;

27. Registered dispensary;

28. Small-scale marijuana caregiver.

...

Sec. 14-232. Permitted uses.

The following uses are permitted whether provided by private or public entities in the I-L zone and the I-Lb zone:

...

(r) Marijuana cultivation facility (maximum 2,000 square feet of plant canopy).

...

(w) Marijuana manufacturing facility.

(x) Marijuana testing facility.

...

Sec. 14-247. Permitted uses.

The following uses are permitted whether provided by private or public entities in the I-M moderate impact industrial zone, the I-Ma and the I-Mb zone:

...

(v) Marijuana cultivation facility (maximum 7,000 square feet of plant canopy).

...

(z) Marijuana manufacturing facility.

(aa) Marijuana testing facility.

...

Sec. 14-262. Permitted uses.

The following uses are permitted whether provided by private or public entities in the I-H zone and the I-Hb zone:

...

(t) Registered medical marijuana cultivation facilities.

...

(x) Marijuana manufacturing facility

(y) Marijuana testing facility

...

Sec. 14-295. Permitted uses.

The following uses are permitted in the B-7 zone:

(a) *Commercial:*

...

22. Registered dispensary;

...

28. Marijuana retail store; and

29. Small-scale marijuana caregiver.

...

Sec. 14-410. Home occupation.

Purpose. The purpose of home occupations is to allow the secondary and incidental use of a residence for the conduct of appropriate occupations whose external activity levels and impacts are so limited as to be compatible with the residential character of the neighborhood.

...

- (b) No residence shall be occupied, altered or used for any home occupation except the following:

- 1. Accountants and auditors;

...

- 29. Small-scale marijuana caregiver, except that no more than one small-scale caregiver may operate out of any one dwelling unit.

Sec. 14-411. Marijuana Use Regulations.

The following standards apply to the following marijuana-related uses: Marijuana cultivation facilities, Marijuana manufacturing facilities, Marijuana product, Marijuana retail store, Marijuana testing facility, Small-scale marijuana caregiver and Registered dispensaries. Marijuana-related uses shall comply with all other applicable local and state requirements in addition to the standards below.

- (a) Location Criteria

- 1. No marijuana cultivation facility, marijuana manufacturing facility, marijuana testing facility, small-scale marijuana caregiver, marijuana store or registered dispensary may be located within 500 feet of a preexisting public school, private school, or a public preschool program, as defined by 20-A M.R.S.A. §1. Distance shall be measured from nearest property line of the respective marijuana-related use and the property line of the lot containing the public school, private school, or public preschool program.
- 2. No marijuana cultivation facility, marijuana manufacturing facility, or marijuana testing facility may be located within ~~200~~ 300 feet of the following

residential zones: R-1, R-2, R-3, R-4, R-5, R-5A, R-6, R-6A, or R-7. Distance shall be measured from nearest property line of the respective marijuana-related use and the marijuana related facility to the nearest applicable residential zone boundary.

(b) Supplemental Standards

1. Marijuana-related uses may only be permitted within a fully enclosed building.
2. No outside storage of marijuana, marijuana products, or related supplies is permitted.
3. No drive-through service is permitted for marijuana-related uses.
4. No marijuana or marijuana product shall be smoked, eaten or otherwise consumed or ingested on the premises where sold.
5. An operating plan for marijuana cultivation facilities and marijuana manufacturing facilities shall be provided that at a minimum addresses the following:
 - a. wastewater;
 - b. disposal of waste; and
 - c. security at the premises.
6. A ventilation plan shall be included for marijuana cultivation facilities, marijuana manufacturing facilities, and small-scale marijuana caregivers that provides for adequate ventilation so as to prevent pesticides, insecticides or other chemicals used in the cultivation or processing of marijuana or marijuana related products from being dispersed or released outside the premises. The plan shall further provide for resulting smoke, vapor, fumes, gases and particulate matter from marijuana or its processing or cultivation to be effectively confined to the premises.
7. Marijuana-related uses shall provide odor control measures so that odor generated on site is mitigated

at the property line of the lot containing the marijuana-related use. Applications must demonstrate appropriate measures, such as carbon filtration, ventilation and exhaust systems, facility plans or other additional practices adequate to mitigate odors for the scale of operations for the uses proposed.

Sec. 14-412- Sec. 14-420. Reserved.

AMENDMENT 3 TO ORDER 140-18/19
FOR COUNCILOR BELINDA RAY AND COUNCILOR COOK
RE: CHANGE TO ALLOWABLE SALES AT MARIJUANA RETAIL STORES.

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

WHEREAS, the State of Maine has enacted statutes allowing registered caregiver retail stores, registered dispensaries, marijuana testing facilities, and manufacturing facilities (collectively, the "medical marijuana uses");

WHEREAS, pursuant to 22 M.R.S. § 2429-D(3) a municipality may not allow such medical marijuana uses to operate in the municipality unless the municipality "has voted to adopt or amend an ordinance" allowing such uses;

WHEREAS, the State of Maine has also enacted statutes allowing adult use marijuana establishments;

WHEREAS, pursuant to 28-B § 402(1)(A), a municipality may not license adult use marijuana establishments unless the municipality "has voted to adopt or amend an ordinance" allowing such uses;

WHEREAS, such medical marijuana uses and adult use marijuana establishments are not allowed in the City of Portland unless and until they are licensed by the City, and the passage of this amendment is not the adoption or amendment of an ordinance allowing medical marijuana uses or adult use marijuana establishments; and

WHEREAS, medical marijuana uses and adult use marijuana establishments shall not be allowed in the City until the City passes a comprehensive licensing ordinance for such uses.

That Chapter 14, Sections 14-47, 14-182, 14-217, 14-229.11, 14-232, 14-247, 14-262, 14-295, 14-410, and 14-411 are hereby amended to read as follows:

Sec. 14-47. Definitions.

The following words shall be defined as set forth below for use in this article. Definitions set forth in the building code of the city shall apply to words not herein defined:

...

Manufactured housing subdivision or development: A parcel of land approved by the Planning Board under 30-A M.R.S.A. Section 4358 for the placement of single-component manufactured housing on individual owned lots.

Marijuana cultivation facility: A cultivation facility required to be licensed pursuant to 22 M.R.S. § 201 or any other facility engaged primarily in the business of planting, propagation, growing, harvesting, drying, curing, grading, trimming or other processing of marijuana, including mature marijuana plants, immature marijuana plants, seedlings and marijuana seeds, for use or sale.

Marijuana manufacturing facility: A manufacturing facility required to be licensed pursuant to 22 M.R.S. § 2423-F or 28-B M.R.S. § 201.

Marijuana product: As defined by 22 M.R.S.A. §2422 or 28-B M.R.S.A., §102.

Marijuana retail store: A retail establishment licensed to sell marijuana, marijuana products, immature marijuana plants and seedlings to adult use or medical marijuana customers. A marijuana retail store is only authorized as a principal use, and is not permitted as an accessory use. Accessory sales of incidental accessories are permitted, but no food or beverage that is not a marijuana product may be sold on the premises. A marijuana retail store may sell products in accordance with 28-B M.R.S.A. §504. A marijuana retail store may not permit entry to a person under 21 years of age and must ensure that persons under 21 years of age do not enter its licensed premises. A marijuana retail store may not sell any item to a person under 21 years of age. A marijuana retail store may not exceed a maximum gross floor area of 2,000 square feet.

Marijuana testing facility: A facility licensed to develop, research and test marijuana, marijuana products and other substances as defined by 22 M.R.S.A. §2422 or 28-B M.R.S.A., §102.

...

Plant canopy: As defined by 28-B M.R.S.A., §102.

...

Registered dispensary: A registered medical marijuana dispensary as defined by 22 M.R.S.A. §2422.

Registered patient: As defined by 22 M.R.S.A. §2422.

...

Small-scale marijuana caregiver: A registered caregiver who sells or dispenses marijuana to no more than five individual registered patients in any one calendar month; does not process or manufacture marijuana using chemicals or solvents; and cultivates no more than 1) 250 square feet of plant canopy where located in a single-family dwelling or commercial space; or 2) 125 square feet of plant canopy where located in a dwelling unit within a two-family or multi-family building.

Sec. 14-182. Table of uses.

Group1	Use	B-2 ²	B-2b	B-2c
--------	-----	------------------	------	------

...

B	Expansion of existing dairies	Y	Y	Y
B	Marijuana retail store	Y	C	C
B	Registered dispensary	Y	C	C
B	Small-scale marijuana caregiver	Y	Y	Y
I	Long term, extended and intermediate care facility	Y	Y	Y

...

Sec. 14-217. Permitted uses.

(a) The following uses are permitted in the B-3, B-3b and B-3c zones:

...

2. *Business:*

...

r. Registered dispensary;

- s. Marijuana retail store;
- t. Small-scale marijuana caregiver.

...

Sec. 14-229.11. Permitted uses.

The following uses are permitted in the B-4 zone:

- (a) *Business:*

...

- 23. Marijuana cultivation facility (maximum 7,000 square feet of plant canopy);
- 24. Marijuana manufacturing facility;
- 25. Marijuana testing facility;
- 26. Marijuana retail store;
- 27. Registered dispensary;
- 28. Small-scale marijuana caregiver.

...

Sec. 14-232. Permitted uses.

The following uses are permitted whether provided by private or public entities in the I-L zone and the I-Lb zone:

...

- (r) Marijuana cultivation facility (maximum 2,000 square feet of plant canopy).

...

- (w) Marijuana manufacturing facility.
- (x) Marijuana testing facility.

...

Sec. 14-247. Permitted uses.

The following uses are permitted whether provided by private or public entities in the I-M moderate impact industrial zone, the I-Ma and the I-Mb zone:

...

(v) Marijuana cultivation facility (maximum 7,000 square feet of plant canopy).

...

(z) Marijuana manufacturing facility.

(aa) Marijuana testing facility.

...

Sec. 14-262. Permitted uses.

The following uses are permitted whether provided by private or public entities in the I-H zone and the I-Hb zone:

...

(t) Registered medical marijuana cultivation facilities.

...

(x) Marijuana manufacturing facility

(y) Marijuana testing facility

...

Sec. 14-295. Permitted uses.

The following uses are permitted in the B-7 zone:

(a) *Commercial:*

...

22. Registered dispensary;

...

28. Marijuana retail store; and

29. Small-scale marijuana caregiver.

...

Sec. 14-410. Home occupation.

Purpose. The purpose of home occupations is to allow the secondary and incidental use of a residence for the conduct of appropriate occupations whose external activity levels and impacts are so limited as to be compatible with the residential character of the neighborhood.

...

- (b) No residence shall be occupied, altered or used for any home occupation except the following:

- 1. Accountants and auditors;

...

- 29. Small-scale marijuana caregiver, except that no more than one small-scale caregiver may operate out of any one dwelling unit.

Sec. 14-411. Marijuana Use Regulations.

The following standards apply to the following marijuana-related uses: Marijuana cultivation facilities, Marijuana manufacturing facilities, Marijuana product, Marijuana retail store, Marijuana testing facility, Small-scale marijuana caregiver and Registered dispensaries. Marijuana-related uses shall comply with all other applicable local and state requirements in addition to the standards below.

- (a) Location Criteria

- 1. No marijuana cultivation facility, marijuana manufacturing facility, marijuana testing facility, small-scale marijuana caregiver, marijuana store or registered dispensary may be located within 500 feet of a preexisting public school, private school, or a public preschool program, as defined by 20-A M.R.S.A. §1. Distance shall be measured from nearest property line of the respective marijuana-related use and the property line of the lot containing the public school, private school, or public preschool program.

2. No marijuana cultivation facility, marijuana manufacturing facility, or marijuana testing facility may be located within 200 feet of the following residential zones: R-1, R-2, R-3, R-4, R-5, R-5A, R-6, R-6A, or R-7. Distance shall be measured from nearest property line of the respective marijuana-related use and the nearest applicable residential zone boundary.

(b) Supplemental Standards

1. Marijuana-related uses may only be permitted within a fully enclosed building.
2. No outside storage of marijuana, marijuana products, or related supplies is permitted.
3. No drive-through service is permitted for marijuana-related uses.
4. No marijuana or marijuana product shall be smoked, eaten or otherwise consumed or ingested on the premises where sold.
5. An operating plan for marijuana cultivation facilities and marijuana manufacturing facilities shall be provided that at a minimum addresses the following:
 - a. wastewater;
 - b. disposal of waste; and
 - c. security at the premises.
6. A ventilation plan shall be included for marijuana cultivation facilities, marijuana manufacturing facilities, and small-scale marijuana caregivers that provides for adequate ventilation so as to prevent pesticides, insecticides or other chemicals used in the cultivation or processing of marijuana or marijuana related products from being dispersed or released outside the premises. The plan shall further provide for resulting smoke, vapor, fumes, gases and particulate matter from marijuana or its processing or cultivation to be effectively confined to the premises.

7. Marijuana-related uses shall provide odor control measures so that odor generated on site is mitigated at the property line of the lot containing the marijuana-related use. Applications must demonstrate appropriate measures, such as carbon filtration, ventilation and exhaust systems, facility plans or other additional practices adequate to mitigate odors for the scale of operations for the uses proposed.

Sec. 14-412- Sec. 14-420. Reserved.

Division 1. Generally

...

Sec. 14-47, Definitions

Marijuana cultivation facility. A cultivation facility required to be licensed pursuant to 22 M.R.S. § 201 or any other facility engaged primarily in the business of planting, propagation, growing, harvesting, drying, curing, grading, trimming or other processing of marijuana, including mature marijuana plants, immature marijuana plants, seedlings and marijuana seeds, for use or sale.

Marijuana manufacturing facility. A manufacturing facility required to be licensed pursuant to 22 M.R.S. § 2423-F or 28-B M.R.S. § 201.

Marijuana product. As defined by 22 M.R.S.A. §2422 or 28-B M.R.S.A., §102.

Marijuana retail store. A retail establishment licensed to sell marijuana, marijuana products, immature marijuana plants and seedlings to adult use or medical marijuana customers. A marijuana retail store is only authorized as a principal use, and is not permitted as an accessory use. Accessory sales of incidental accessories are permitted, but no food or beverage that is not a marijuana product may be sold on the premises. A marijuana retail store may not exceed a maximum gross floor area of 2,000 square feet.

Marijuana testing facility. A facility licensed to develop, research and test marijuana, marijuana products and other substances as defined by 22 M.R.S.A. §2422 or 28-B M.R.S.A., §102.

~~Registered medical marijuana cultivation facility:~~ “Registered medical marijuana cultivation facility” means a facility registered under 22 M.R.S.A. §2428 that cultivates and manufactures marijuana or related supplies for a “registered medical marijuana dispensary” under common management and operating under the same state and local license(s).

~~Registered medical marijuana dispensary:~~ “Registered medical marijuana dispensary” or “dispensary” means a not-for-profit entity registered under 22 M.R.S.A. section 2428 that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana or related supplies and educational materials to registered patients who have designated the dispensary to cultivate marijuana for their medical use, and the registered primary caregivers of those patients.

Plant Canopy. As defined by 28-B M.R.S.A., §102.

Small-scale marijuana caregiver. A registered caregiver who sells or dispenses marijuana to no more than five individual registered patients in any one calendar month; does not process or manufacture marijuana using chemicals or solvents; who cultivates no more than 1) 250 square feet of plant canopy where located in a single-family dwelling or commercial space; or 2) 125 square feet of plant canopy where located in a dwelling unit within a two-family or multi-family building.

Registered dispensary. A registered medical marijuana dispensary as defined by 22 M.R.S.A. §2422.

Registered patient. As defined by 22 M.R.S.A. §2422.

...

Division 10. B-2, B-2b and B-2c Community Business Zones

Draft Medical and Adult Use Zoning Text Amendment

Date of Draft: December 13, 2018

...

Sec. 14-182. Use Table

....

Group ¹	Use	B-2 ²	B-2b	B-2c
B	<u>Marijuana retail store</u>	Y	C	C
B	Registered <u>dispensary</u> medical marijuana dispensaries	Y	C	C
<u>B</u>	<u>Small-scale marijuana caregiver</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>

...

Division 12. B-3, B-3b and B-3c Downtown Business Zones

Sec. 14-217. Permitted uses

(a) The following uses are permitted in the B-3, B-3b and B-3c zones:

...

2. Business:

...

r. Registered dispensary ~~medical marijuana dispensaries~~.

s. Marijuana retail store

t. Small-scale marijuana caregiver

...

Division 12.5. B-4 Commercial Corridor Zone

...

Sec. 14-229.11. Permitted uses.

The following uses are permitted in the B-4 zone:

(a) Business:

27. Registered medical Marijuana cultivation facilities (maximum 7,000 square feet of plant canopy)

24. Marijuana manufacturing facility

25. Marijuana testing facility

26. Marijuana retail store

27. Registered dispensary

28. Small-scale marijuana caregiver

...

Division 13. I-L and I-Lb Industrial Zones

...

Sec. 14-232. Permitted uses

Draft Medical and Adult Use Zoning Text Amendment

Date of Draft: December 13, 2018

The following uses are permitted whether provided by private or public entities in the ~~I-L low impact industrial zone~~ and the I-Lb zone:

...

- (r) ~~Registered medical Marijuana cultivation facilities~~ (maximum 2,000 square feet of plant canopy).

...

(x) Marijuana manufacturing facility

(y) Marijuana testing facility

...

Division 14. I-M, I-Ma and I-Mb Industrial Zones

...

Sec. 14-247. Permitted uses

The following uses are permitted whether provided by private or public entities in the I-M moderate impact industrial zone, the I-Ma and the I-Mb zone:

...

- (v) ~~Registered medical Marijuana cultivation facilities~~ (maximum 7,000 square feet of plant canopy).

...

(z) Marijuana manufacturing facility

(z+) Marijuana testing facility

...

Division 17. B-7 Mixed Development District Zone

...

Sec. 14-295. Permitted uses

The following uses are permitted in the B-7 zone:

- (a) Commercial:

...

22. Registered dispensary ~~medical marijuana dispensaries~~

...

27. Marijuana retail store

28. Small-scale marijuana caregiver

...

Division 15. I-H and I-Hb Industrial Zones

Sec. 14-262. Permitted uses

Draft Medical and Adult Use Zoning Text Amendment

Date of Draft: December 13, 2018

The following uses are permitted whether provided by private or public entities in the ~~high impact industrial~~ **I-H** zone and the I-Hb zone:

- (t) ~~Registered medical Marijuana cultivation facilities~~ (maximum 7,000 square feet of plant canopy)

...

(x) Marijuana manufacturing facility

(y) Marijuana testing facility

...

Division 24. Use Regulations and Exceptions

Sec. 14-401. Generally

The requirements of this article shall be subject to the use regulations and exceptions of this division.

...

Sec. 14-410. Home occupation.

Purpose. The purpose of home occupations is to allow the secondary and incidental use of a residence for the conduct of appropriate occupations whose external activity levels and impacts are so limited as to be compatible with the residential character of the neighborhood.

- (a) In connection with the operation of a home occupation, within a dwelling unit, the following requirements shall be met:
1. A home occupation shall not occupy more than five hundred (500) square feet of floor area or more than twenty-five (25) percent of the total floor area of such a dwelling unit, whichever is less, or in the case of licensed family day care homes, or home babysitting services, to accommodate not more than six (6) children plus two (2) children after school and having no nonresidential employees;
 2. There shall be no outside storage of goods and materials nor shall there be exterior displays, or display of goods visible from the outside;
 3. Storage of materials related to the home occupation shall count as a part of the occupancy limitations in subsection (a)1 above, but shall not constitute a dominant part of such occupancy provided, however, storage of such materials or products in garages or other accessory structures is prohibited;
 4. Exterior signs shall be limited to one (1) nonilluminated sign not exceeding a total area of two (2) square feet, affixed to the building and not projecting more than one (1) foot beyond the building;
 5. Any exterior alterations to the residence shall be compatible with the architecture of the building and maintain the residential appearance by virtue of exterior materials, lighting, and signs;
 6. *Off-street parking:* Off-street parking is required as provided in division 20 (off-street parking) of this article;
 7. The home occupation shall not produce offensive noise, vibration, smoke, dust or other particulate matter, odorous matter, heat, humidity, glare or other objectionable effects;

8. There shall be no more than one (1) nonresident employed in the home occupation, provided, however, family day care or home babysitting services shall have no nonresident employees;
 9. No traffic shall be generated by the home occupation in greater volumes than would normally be expected in a residential neighborhood;
 10. No motor vehicle exceeding a gross vehicle weight of six thousand (6,000) pounds shall be stored on the property in connection with the home occupation.
- (b) No residence shall be occupied, altered or used for any home occupation except the following:
1. Accountants and auditors;
 2. Answering services (telephone);
 3. Architects;
 4. Artists and sculptors;
 5. Authors and composers;
 6. Computer programming;
 7. Custodial services;
 8. Custom furniture repair and upholstery;
 9. Dentists, doctors, therapists, and health care practitioners;
 10. Direct mail services;
 11. Dressmakers, seamstresses and tailors;
 12. Engineers;
 13. Family planning services;
 14. Hairdressers (limited to no more than two (2) hair dryers);
 15. Home crafts, such as model making, rug weaving, lapidary work, cabinet making, weaving, ceramics;
 16. Interior decorators;
 17. Lawyers, justices of the peace and notary publics;
 18. Licensed family day care home or babysitting services;
 19. Musicians or music teachers, including group instruction not to exceed six (6) students at any time but not including performances or band rehearsals, which shall meet the following requirements in addition to those set forth in subsection (a) of this section:
 - a. Electronic amplification is prohibited;
 - b. The applicant shall demonstrate that noise attenuation is provided which minimizes perception of sound at property lines at all times during the use. Noise attenuation measures may include, but are not limited to, insulation, double-pane windows, air conditioners or any combination of these or similar noise attenuation measures;
 - c. Hours of operation shall be limited to 8:30 a.m. to 9:30 p.m.
 20. Office facility of a minister, rabbi, or priest;
 21. Photographic studios;
 22. Professional counseling and consulting services;
 23. Professional research services;
 24. Sales persons provided that no retail or wholesale transactions are made on the premises;
 25. Small appliance repair;
 26. Snow plowing provided that only one (1) snow plow vehicle is stored on or generated from the site;
 27. Special tutoring or instruction (not to exceed three (3) pupils at any given time);

28. Stenographic and other clerical services.
 29. Small-scale marijuana caregiver, except that no more than one small-scale caregiver may operate out of any one dwelling unit.
- (c) A home occupation that is not listed in paragraph (b) of this section but is similar to and no more objectionable than those home occupations listed in that paragraph, shall be permitted as a conditional use subject to the requirements of paragraph (a) of this section and section 14-474 (conditional use) of this article. This provision shall not include veterinarians, kennels, animal raising, funeral homes, retail uses including antique shops, restaurants, dancing studios, towing services, repair and painting of automobiles as home occupations.

Sec. 14-411. Marijuana Use Regulations

The following standards apply to the following marijuana-related uses: Marijuana cultivation facilities, Marijuana manufacturing facilities, Marijuana product, Marijuana retail store, Marijuana testing facility, Small-scale marijuana caregiver and Registered dispensaries. Marijuana-related uses shall comply with all other applicable local and state requirements in addition to the standards below.

(a) Location Criteria

1. Neither a marijuana cultivation facility, a marijuana manufacturing facility, a marijuana testing facility, a small-scale marijuana caregiver, a marijuana store or a registered dispensary may be located within 500 feet of a preexisting public school, private school, or a public preschool program, as defined by 20-A M.R.S.A. §1. Distance shall be measured from nearest property line of the respective marijuana-related use and the property line of the lot containing the public school, private school, or public preschool program.
2. Neither a marijuana cultivation facility, a marijuana manufacturing facility, or a marijuana testing facility may be located within 200 feet of the following residential zones: R-1, R-2, R-3, R-4, R-5, R-5A, R-6, R-6A, or R-7. Distance shall be measured from nearest property line of the respective marijuana-related use and the nearest applicable residential zone boundary.

(b) Supplemental Standards

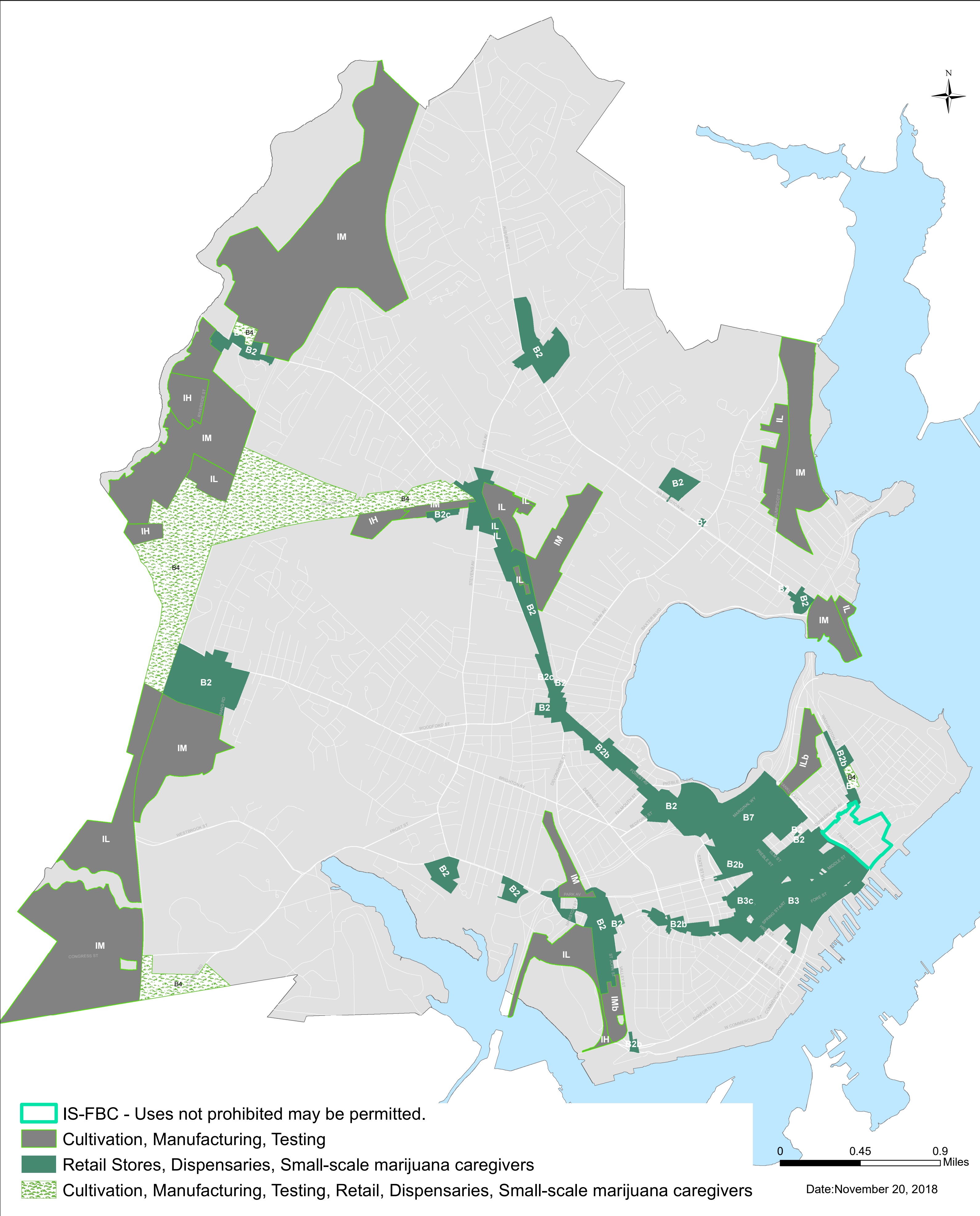
1. Marijuana-related uses may only be permitted within a fully enclosed building.
2. No outside storage of marijuana, marijuana products, or related supplies is permitted.
3. No drive-through service is permitted for marijuana-related uses.
4. No marijuana or marijuana product shall be smoked, eaten or otherwise consumed or ingested on the premises where sold.
5. An operating plan for marijuana cultivation facilities and marijuana manufacturing facilities shall be provided that at a minimum addresses the following:
 - a. wastewater;
 - b. disposal of waste;
 - c. security at the premises;
6. A ventilation plan shall be included for marijuana cultivation facilities, marijuana manufacturing facilities, and small-scale marijuana caregivers that provides for adequate ventilation so as to prevent pesticides, insecticides or other chemicals used in the cultivation or processing of marijuana or marijuana related products from being dispersed or released outside the premises. The plan shall further provide for resulting smoke, vapor, fumes, gases

- and particulate matter from marijuana or its processing or cultivation to be effectively confined to the premises.
7. Marijuana-related uses shall provide odor control measures so that odor generated on site is mitigated at the property line of the lot containing the marijuana-related use. Applications must demonstrate appropriate measures, such as carbon filtration, ventilation and exhaust systems, facility plans or other additional practices adequate to mitigate odors for the scale of operations for the uses proposed.

Sec. 14-411~~14-412~~. – Sec. 14-420. Reserved.

DRAFT

Areas Proposed for Marijuana-Related Uses





PLANNING BOARD REPORT PORTLAND, MAINE

Medical and Adult Use Zoning Text Amendments

Submitted to: Chair Dundon and Members of the Planning Board Public Hearing Date: November 27, 2018	Prepared by: Christine Grimando, Senior Planner Date: November 21, 2018
---	--

I. Introduction

The State of Maine recently legalized adult use (recreational) marijuana and made significant changes to the Medical Use of Marijuana Act, both of which have land use implications. In response to these changes are enclosed zoning amendments for both medical and adult use marijuana. The draft amendment (Attachment 1) includes proposed new uses, locations, dimensional standards as well as supplemental use standards. Zoning districts impacted by the text amendment include the B-2, B-2b, B-2c, B-3, B-3c, B-7, B-4, I-H, I-L, I-Lb, I-M and I-Mb. Provisions for small-scale marijuana caregivers as home occupations would also regulate activities within residences.

In addition to being responsive to changes in state law, the proposed amendments strive to balance both the needs and wishes of a burgeoning new sector of the local economy with reasonable limits on location, size, and performance standards. The zoning amendments serve to significantly update the City's medical marijuana standards and provide a unified zoning framework for both medical and adult use marijuana.

An overview of existing regulations, the proposed amendments, as well as revisions since the November 13th workshop, follows.

II. BACKGROUND

Portland has had regulations in place for medical marijuana since 2010. It's a simple framework, consisting of defined uses and zones where those uses are permitted or conditionally permitted. The two definitions are *Registered medical marijuana dispensary* and *Registered medical marijuana cultivation facility*:

Registered medical marijuana dispensary: "Registered medical marijuana dispensary" or "dispensary" means a not-for-profit entity registered under 22 M.R.S.A. section 2428 that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana or related supplies and educational materials to registered patients who have designated the dispensary to cultivate marijuana for their medical use, and the registered primary caregivers of those patients.

Registered medical marijuana cultivation facility: "Registered medical marijuana cultivation facility" means a facility registered under 22 M.R.S.A. section 2428 that cultivates and manufactures marijuana or related supplies for a "registered medical marijuana dispensary" under common management and operating under the same state and local license(s).

These two existing uses are currently permitted in the following zones (in Table I and associated map):

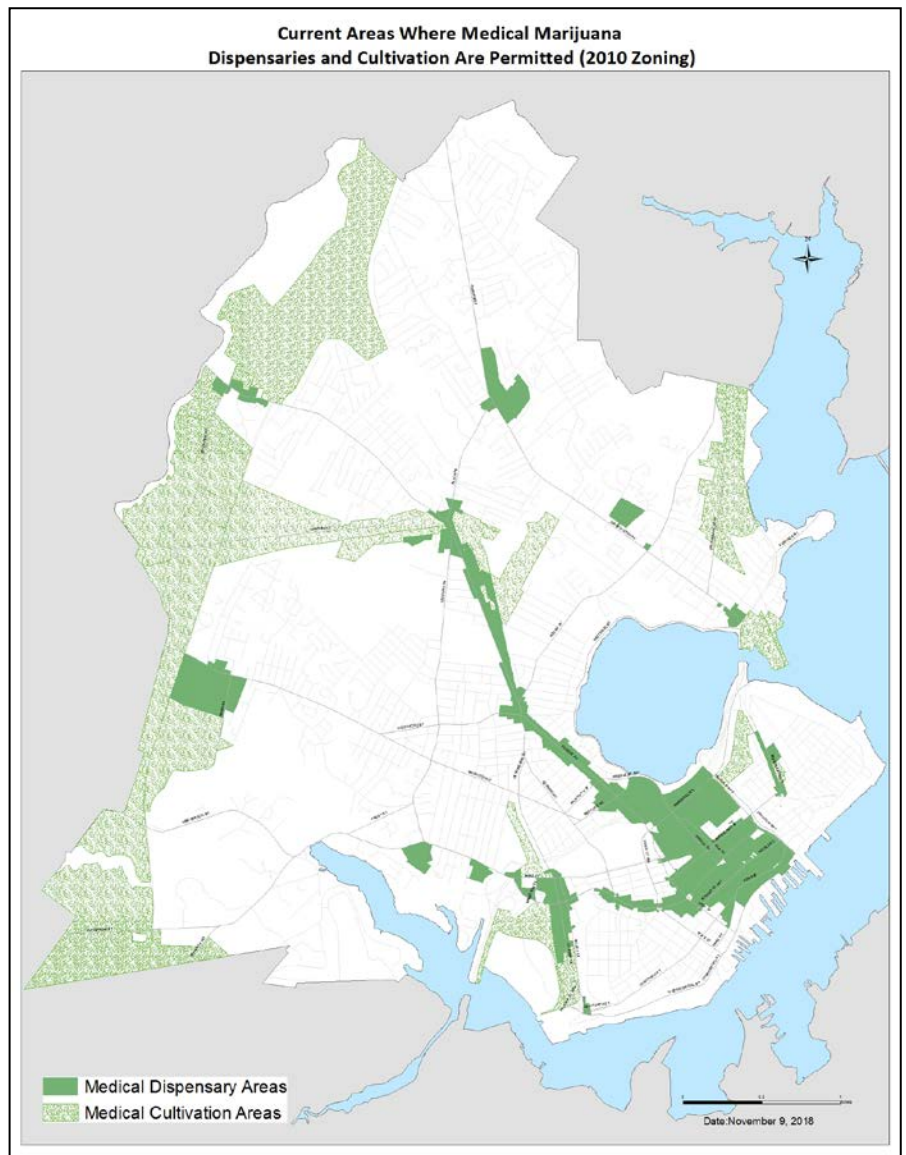
Table 1, Existing medical marijuana uses/zones

Use	Zones Permitted
Registered medical marijuana dispensaries	B2, B2b (conditional use), B2c (conditional use), B3, B3c, B7
Registered medical marijuana cultivation facilities	B4, IH, IL, ILb, IM, IMb

There have been changes to State law since 2010 that necessitate changes both to Maine medical marijuana law and to address the legalization of adult use (recreational) marijuana. In October 2018, the Council adopted a moratorium on new caregiver medical marijuana retail stores, manufacturing facilities, testing facilities, and grow facilities (see Attachment 4 for a summary of state marijuana law and considerations that informed the moratorium and Attachment 5 for the adopted moratorium) to provide time for the City to develop appropriate standards. The goal is to have a zoning framework in place by expiration by the time of the moratorium's expiration on December 13th.

III. PROCESS

Planning staff has participated in an internal working group to consider the multi-disciplinary implications of local regulation of both adult use and medical marijuana, including, life safety, code enforcement, permitting, licensing, and zoning. There has also been a council workshop and a public hearing on the moratorium, which included a discussion on the overall approach to zoning amendments. Staff has also met with various individuals within the medical and adult use



Map of areas permitting existing medical marijuana uses (2010 zoning)

marijuana industry, including representatives of dispensaries, caregivers, testing facilities, cultivation and manufacturing.

In addition to developing a zoning framework, the City is developing a licensing framework, the ultimate timing and final substance of which is contingent on state rulemaking. Recreational marijuana will not become effective until the State and City pass a comprehensive licensing scheme. Implementing adult use marijuana zoning prior to licensing allows the City create a land use framework for adult use marijuana that will be effective as soon as licensing is implemented and that will provide clarity and guidance for those planning to pursue adult use marijuana-related businesses.

The Planning Board held a workshop on this item on November 13th. Feedback was received during public comment at the workshop that included concerns about prohibition of accessory uses to retail, visibility of business activities, and regulation of deliveries.

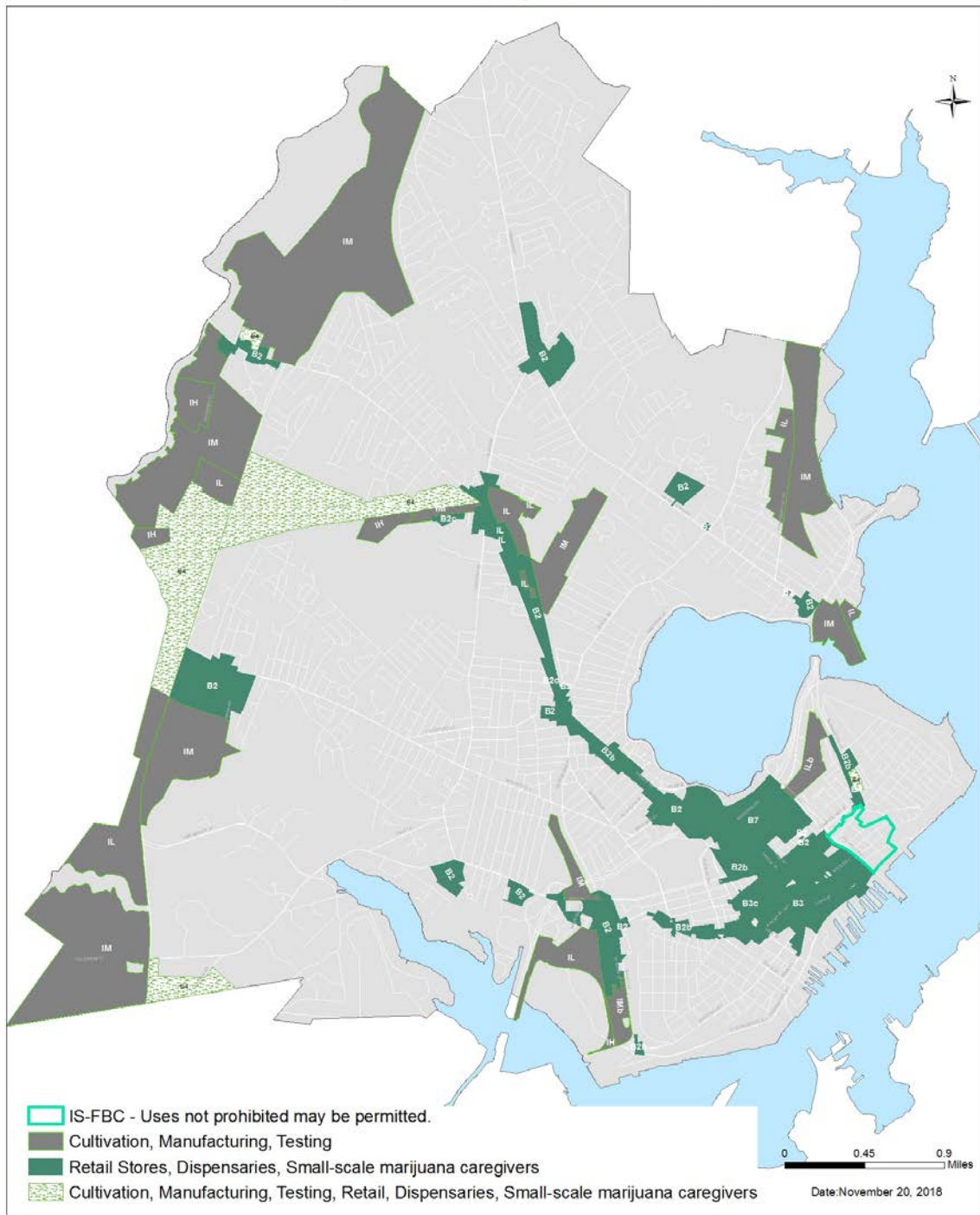
IV. PROPOSED AMENDMENTS

Our recommended approach for implementation of adult use and expanded medical marijuana zoning is to build off of the existing geographic framework for dispensaries and cultivation, adding new definitions and use categories to supplement the existing two marijuana-related definitions in the Land Use Code. These include *Marijuana*, *Marijuana Cultivation*, *Testing Facility*, *Marijuana Manufacturing Facility*, *Marijuana Retail Store*, *Registered Patient* and *Small-scale marijuana caregiver*. Added since November 13th is a definition of *Plant Canopy*. Retail stores are proposed where dispensaries are currently permitted, and testing, cultivation and manufacturing are proposed for the same zones as the current use of *Registered medical marijuana cultivation facility*, which currently encompasses manufacturing as well as cultivation. One change of permitted uses by zone, following discussion at the November workshop, is to allow marijuana retail stores and registered dispensaries in the B-4 zone. Another is to allow small-scale marijuana caregivers in commercial spaces in multiple B zones, in addition to allowing them as home occupations. Though not a change to the zoning text, the IS-FBC permits uses not prohibited, and so could potentially accommodate marijuana-related uses if they are able to meet the form and related requirements of the zone. The uses proposed as part of the current text amendment are proposed for the following zones:

Table 2, Proposed marijuana uses by zone:

Use	Zones Permitted
Marijuana cultivation facility	B4, IH, IL, ILb, IM, IMb
Marijuana manufacturing facility	B4, IH, IL, ILb, IM, IMb
Marijuana retail store	B2, B2b (conditional use), B2c (conditional use), B3, B3c, B4, B7
Marijuana testing facility	B4, IH, IL, ILb, IM, IMb
Registered dispensary	B2, B2b (conditional use), B2c (conditional use), B3, B3c, B4, B7
Small-scale marijuana caregiver	B2, B2b, B2c, B3, B3c, B4, B7, and as Home Occupation

Areas Proposed for Marijuana-Related Uses



Map of proposed marijuana uses by zone

Though the existing medical marijuana zoning forms the geographic framework for where new uses would be permitted, recommendations for new zoning regulations include new size caps for certain uses, such as a maximum retail store size and maximum plant canopy areas for cultivation facilities to reflect the intended intensities of the

respective industrial zones. Recommendations are included for regulating small scale caregivers as home occupations and as low impact commercial uses, a use previously regulated under State law but only recently something municipalities have the ability to regulate.

The draft zoning amendment does not distinguish between adult use and medical marijuana where the uses converge, creating unified performance standards and scale limits as much as possible – medical retail and adult use retail, for instance, though they may have different licensing requirements, are anticipated to have similar needs from a land use policy perspective, and warrant similar consideration of size limits and performance standards. Similarly, medical and adult use cultivation, manufacturing, and testing warrant similar treatment.

V. AMENDMENT UPDATES

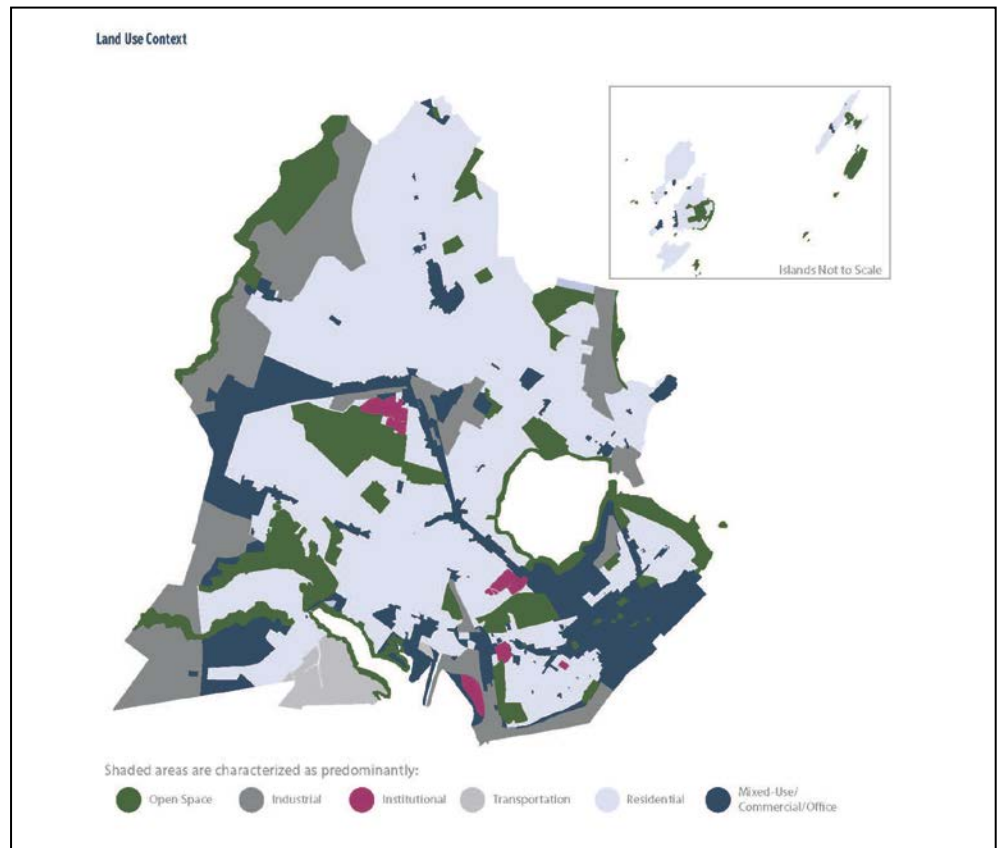
A number of revisions have been made to the ordinance amendment since the November 13th workshop, based on Planning Board feedback, public comment, and continued staff discussion. The Planning Board workshop discussion focused on location criteria, accessory uses in retail stores and performance standards such as odor, hours, and deliveries.

- Retail store and dispensary has been added to the B-4 zone. As a business zone that also allows for a number of industrial uses, it is the sole zone that is proposed to allow manufacturing, cultivation, testing, as well as retail and accessory uses.
- Small-scale marijuana caregivers have been added as permitted uses to the B2, B2b, B2c, B3, B3c, B4, B7 zones. Clarifying language about the time period for the five patient maximum and the sharing of common facilities have been added, as well.
- Size limits:
 1. A size cap of 2,000 square feet has been added to the definition of retail store.
 2. A maximum 2,000 square feet of plant canopy for cultivation has been added to the I-L/I-Lb zone.
 3. A maximum 7,000 square feet of plant canopy for cultivation has been added to the B4, IH, IM, IMb I-M, I-H, and B-4 zones. Canopy caps limit mature plant growing area, but do not limit related activities within a cultivation facility, such as office and storage areas ancillary to the cultivation.
 4. Small-scale marijuana caregiver maximum cultivation areas have been changed from a total maximum plant limit to maximum plant canopy areas of 250 square feet for single family homes or a commercial space, and 125 square feet for dwelling units in two-family or multi-family buildings. The intent of this change is to allow small-scale caregivers many possible areas to operate, while insuring the scale is limited in its impact.
- Accessory Uses in retail stores. The previous iteration of the definition of retail store prohibited all sales accessory to marijuana sales, but following the November 13th workshop this was amended to allow sales of incidental accessories but not food or beverages.
- Supplemental Use regulations:
 1. Small-scale marijuana caregiver has been added to the marijuana-related uses with a distance requirement from schools.
 2. Retail stores and dispensaries have been are not subject to the distance requirement from residential zones.
 3. Prohibition on visibility of marijuana-related activities is not included.
 4. Prohibition on deliveries is not included.
 5. Additional odor control language has been added.

6. Hours of operation limits are not included.
7. The requirement for a security plan is not included.

In regard to hours of operation, delivery restrictions, and security requirements, these are items that can be considered as the City develops local licensing requirements, but that aren't best addressed in the Land Use Code. In considering which of these items to not include in the zoning text amendment, but instead pass along for potential inclusion in licensing requirements, staff has evaluated what activities, standards, and land use impacts are best addressed by zoning and other, related tools of the Land Use Code (such as site plan review, where applicable), and these have to do with physical form, scale, intensity of uses, and location.

- Home occupations. The previous memo indicated that small-scale marijuana caregivers, proposed as a home occupation, would be permitted in the R-zones. The City's Land Use Code specifies home occupations as permitted uses in the residential zones (and is mentioned as an accessory use in the I-B). Section 14-404 of the code indicates that home occupations are considered accessory uses, which would make them permitted accessory uses in residences city-wide, regardless of zone. No change has been made to the home occupations section included in the draft to indicate this, but this serves to clarify the geographic implications of where home occupations may occur.



Land Use Context from Portland's Plan 2030

VI. COMPREHENSIVE PLAN POLICIES

Marijuana isn't addressed specifically in [Portland's Plan 2030](#), but the plan is encouraging to new areas of economic growth. The plan's vision supports *creating a resilient economy through innovation, investment, and commitment to diversity* (p.6). The Economy Policy Guide *supports creating economic prosperity by growing Portland's tax and employment base and promoting an economic climate that increases job opportunities and overall economic well-*

being (p.43). Future Land Use reinforces the continued importance of City's industrial and mixed-use areas (p.81, see inset).

VII. NEXT STEPS

Following Planning Board recommendations on the enclosed text amendments, the recommendations will be forwarded to the City Council for consideration.

VIII. MOTIONS FOR THE BOARD TO CONSIDER

On the basis of the information contained in the Planning Report and testimony presented at the Public Hearing, the Board finds:

The proposed Zoning text amendments to Division 1, Sec. 14-47, Definitions; Division 10, B-2, B-2b and B-2c Community Business Zones; Division 12, B-3, B-3b, B-3c Downtown Business Zones; Division 12.5, B-4 Commercial Corridor Zone; Division 13, I-L and I-Lb Industrial Zones; Division 14, I-M, I-ma and I-Mb Zones; Division 17, B-7 Mixed Development District Zone; Division 15, I-H and I-Hb Industrial Zones; Division 24, Use Regulations and Exceptions **[is or is not]** in conformance with the City of Portland's Comprehensive Plan and therefore **[recommends or does not recommend]** approval of the amendments to the City Council.

IX. ATTACHMENTS

1. Zoning Text Amendments 11-21-2018
2. Map of areas currently permitting medical marijuana uses (2010 Zoning)
3. Map of areas proposed for marijuana-related uses
4. Background Memo from Corporation Counsel
5. Adopted Moratorium

**COMPARISON OF PROPOSED MARIJUANA ZONING ORDINANCE
FOR THE CITY OF PORTLAND**

	Portland Proposed	Maine Medical	Maine Adult Use	South Portland
Definitions				
Marijuana cultivation facility	References state adult use definition	No definition; limits tracked by number of plants not canopy	Portland references state adult use definition	South Portland references state adult use definition.
Marijuana manufacturing facility	References State medical and adult use definitions			
Marijuana retail store	Sale of marijuana, marijuana products, and marijuana plants	No definition	An entity licensed to purchase adult use marijuana from a marijuana cultivation facility and to purchase adult use marijuana products from a marijuana products manufacturing facility and to sell adult use marijuana and adult use marijuana products to consumers.	Separate medical and adult use definitions. Medical: A retail establishment operated by a single medical marijuana registered caregiver where harvested marijuana is sold to qualifying patients. May include an area for consultation with patients. Two or more medical marijuana registered caregivers are prohibited from forming, owning or operating as a single retail store. Adult use: references state adult use definition of a store.
	May not be accessory use	Accessory use generally allowed if licensed and can meet other criteria	Accessory use generally allowed if licensed and can meet other criteria	Both medical and adult use definitions are only authorized as principal uses, and not as accessory uses, and only where expressly allowed as permitted or as special exceptions.
	No sale of non-marijuana food and beverage	No limitation	Sale of non-marijuana food and beverage allowed	
	Max floor area of 2,000 sq. ft.	No limitation	No limitation	

	Portland Proposed	Maine Medical	Maine Adult Use	South Portland
Marijuana testing facility	References State medical and adult use definitions			South Portland references state adult use definition and adds some additional language. Only authorized as a principal use, not as an accessory use.
Plant canopy	References state adult use definition	No definition	Portland references state adult use definition	South Portland references state adult use definition.
Small-scale marijuana caregiver	No more than five patients in calendar month; no manufacturing using chemicals or solvents; limited plant canopy for cultivation	No category for small-scale caregiver. Registered caregiver may sell to unlimited patients; manufacture using chemicals and solvents; grow 30 mature plants, 60 immature plants, unlimited seedlings	N/A	No category for small-scale caregiver. References state medical definition for caregivers.
Registered dispensary	References state medical definition		N/A	References state medical definition
Registered patient	References state medical definition		N/A	References state medical definition
Allowable Zones				
Cultivation	Industrial zones; B-4	N/A	N/A	Multiple Mixed-Use/Commercial Districts
Manufacturing	Industrial zones; B-4	N/A	N/A	Multiple Mixed-Use/Commercial Districts
Testing	Industrial zones; B-4	N/A	N/A	Multiple Mixed-Use/Commercial Districts
Retail	B2, B2b, B2c, B3, B3c, B4, B7	N/A	N/A	Multiple Mixed-Use/Commercial Districts
Caregiver	Small-scale in business zones and as home occupation	N/A	N/A	Multiple Mixed-Use/Commercial Districts
Dispensary	B2, B2b, B2c, B3, B3c, B4, B7	N/A	N/A	Multiple Mixed-Use/Commercial Districts
Additional Limitations				

	Portland Proposed	Maine Medical	Maine Adult Use	South Portland
Cultivation caps	Max 7,000 sq. ft. of canopy in B-4, I-M, I-H; max 2,000 sq. ft. of canopy in I-L	30 mature plants, 60 immature plants, unlimited seedlings	Tiers of cultivation: 500, 2,000, 7,000, and 20,000 sq. ft. of plant canopy	Home cultivation: 3 mature marijuana plants, 12 immature marijuana plants and an unlimited number of seedlings on any one parcel. Cultivation: 10,000 sf of plant canopy.
Limitations on registered caregivers	No more than 1 small-scale caregiver per dwelling unit	No limitations per dwelling, but collectives prohibited	N/A	Caregivers and dispensaries may manufacture only in zones where medical marijuana products manufacturing is permitted or allowed by special exception.
Location limitations	No marijuana businesses w/in 500' of school property; measured lot line to lot line	No dispensaries w/in 500' of school; no signs for caregivers or dispensaries w/in 1,000' of school; measured from dispensary to lot line	No marijuana businesses w/in 1,000' of school property but municipality may reduce to 500'; measured from use to lot line (does not apply to medical uses)	Stores and dispensaries: 1,000' from schools, 300' from child care, community center, higher educational facility, large public outdoor recreational facility, houses of religious worship. Measured lot line to lot line except for leases of building(s) for marijuana uses on a parcel that contains additional buildings with non-marijuana uses, or for leases of a room or rooms for marijuana uses within a building containing other, non-marijuana uses, measurement is from the outer wall(s) of the buildings containing marijuana uses.
	No cultivation, manufacturing, or testing facility w/in 200' of	No restriction	No restriction	No marijuana store, medical marijuana retail store or medical

	Portland Proposed	Maine Medical	Maine Adult Use	South Portland
	residential zone; measured lot line to lot line			marijuana dispensary shall be sited within 300 feet of another, measured from main entry to main entry.
Enclosure requirements	All marijuana uses must be in fully enclosed building.	Cultivation may take place outside, but must be enclosed and secured	Cultivation may take place outside, but must be enclosed and secured	All marijuana uses, including storage, must be in fully enclosed building.
Storage	No outside storage permitted	Consistent with requirements	Consistent with requirements	All marijuana uses, including storage, must be in fully enclosed building.
On-premises consumption	No consumption on premises	No restrictions	May not consume adult use marijuana on premises	No consumption on premises. Social clubs explicitly prohibited.
Operating plan	Cultivation and manufacturing must provide operating plan addressing wastewater, waste disposal, security	Consistent with requirements	Consistent with requirements	All marijuana establishments must provide operating plan addressing wastewater, waste disposal. Security provisions required under separate standard.
Ventilation plan	Cultivation, manufacturing, and small-scale caregivers must provide ventilation plan to prevent pesticides, etc. from being dispersed, and to ensure smoke, fumes, etc. are contained to premises	No requirement	To be the subject of rulemaking	Manufacturing, cultivation and testing must meet ventilation, noxious gases, and fumes standards.
Odor control plan	All marijuana uses must provide odor control measures to contain to property	No requirement	To be the subject of rulemaking	All marijuana uses must provide odor control measures to contain to property



Memorandum
Planning and Urban Development Department
Planning Division

To: Portland City Council
From: Christine Grimando, Acting City Planning Director
Date: January 16, 2019
Re: Planning Board Review of Marijuana Zoning Text Amendments

At the January 7, 2019 City Council Workshop on Marijuana Zoning, the Council requested additional information on the Planning Board review process that resulted in the zoning amendments the Board recommended for approval. The following is a list of changes that occurred as a result of Planning Board deliberations between the first reviewed draft of the amendment and the final version forwarded to the City Council for consideration:

- Marijuana retail stores and marijuana dispensaries were added as permitted uses to the B-4 zone. The full range of proposed marijuana uses, including manufacturing, testing, cultivation, retail store, dispensary, and small-scale marijuana caregiver were seen as compatible with the B-4, a zone that currently permits commercial, institutional, and light industrial uses.
- The first iteration of the zoning text amendment presented to the Planning Board proposed small-scale marijuana caregivers be permitted as home occupations. The Planning Board's recommendation includes adding small-scale marijuana caregivers as a commercial use permitted in the City's Business zones also.
- Small-scale marijuana caregivers were added to the marijuana-related uses having distance requirements from schools under Location Criteria (14-411.(a)). Earlier drafts had required that marijuana cultivation facilities, marijuana manufacturing facilities, marijuana product, marijuana retail store, marijuana testing facility, and registered dispensaries be subject to the distance requirement.
- Additional clarification was added to small-scale marijuana caregivers requirements, including cultivation areas for residential and commercial spaces, a limit of one per dwelling unit, and a five patient limit in any calendar month.
- Size limits for uses were added over the course of the Planning Board's review, including a 2,000 sf maximum to the definition of a marijuana retail store, a 2,000 sf maximum of plant canopy for marijuana cultivation in the I-L and I-Lb zones, and a 7,000 sf maximum plant canopy for cultivation to the IH, IM, IMb I-M, I-H, and B-4 zones.
- Accessory uses to marijuana retail stores, and marijuana retail stores as accessory uses were both prohibited in earlier drafts of the definition of a marijuana retail store. Over the course of the Planning Board's review the definition was changed to permit a marijuana retail store only as

a principal use, and to allow incidental sales of accessories within a marijuana retail store, but no sales of food or beverages (aside from marijuana-related products that may be sold as edibles).

- A distance requirement of 200 feet for marijuana cultivation, manufacturing, and testing from Residential zones was added.
- Several of the Supplemental Use Standards were changed: additional language around odors and ventilation requirements was strengthened; several standards were eventually removed, such as language prohibiting visibility of marijuana-related activities, prohibition on deliveries, hours of operations limits, and security plans.
- The Planning Board recommended that the provisions with respect to distance requirements from preexisting public schools, private schools, or public preschool programs for marijuana cultivation facilities, marijuana manufacturing facilities, marijuana testing facilities, small-scale marijuana caregiver, marijuana retail stores and registered dispensaries be shared with the Portland Public Schools so that they had an opportunity to comment. Staff met with Jeanne Crocker, Assistant Superintendent of School Management in January to share background and details of the proposed amendment. Feedback was received that greater setbacks from marijuana-related uses from schools was preferable, with particular concern for marijuana odors near schools, high visibility of marijuana-related uses, and proximity of sales to areas where students gather (similar to concerns about liquor sales in close proximity to schools).

MEMORANDUM

TO: City of Portland City Council; Mayor Strimling
FROM: Anne Torregrossa, Associate Corporation Counsel
DATE: January 15, 2019
RE: Sales of food and drink at marijuana retailers

At the Council workshop on the proposed marijuana zoning, several councilors had questions on the proposed prohibition of selling non-marijuana food and drink. This memo will clarify the current protections for minors at marijuana retail establishments at the state level.

Medical marijuana retail stores. Minors under the age of 18 years old can acquire medical marijuana for a specific list of disorders. Minors have several options for acquiring medical marijuana, but generally may not purchase marijuana directly from a retail store.

However, the State rules currently in place for medical marijuana only require that an individual furnishing marijuana verify the purchaser's credentials "prior to providing that person with marijuana or product containing marijuana." There are no rules yet at the state level governing medical marijuana retail stores, including any restrictions on allowing access to minors or individuals who are not patients. This means that there are no rules at the state level prohibiting a minor from entering a medical marijuana retail store.

Adult use marijuana retail stores. Under the adult-use marijuana statutes, individuals under the age of 21 may not purchase marijuana. However, similar to the rules in place for sales of medical marijuana, adult use retail stores will only be required to verify that a purchaser is 21 "prior to initiating a sale." There is no prohibition about individuals under age 21 entering a retail store or purchasing goods not containing marijuana.

MEMORANDUM
City Council Agenda Item

FROM:

DATE: February 7, 2019

SUBJECT: **Order 150-18/19 Approving Two-Party Agreement between Portland and the Maine Department of Transportation Re: Washington Avenue Final Engineering and Construction - 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: Yes

PRESENTATION:

I. SUMMARY

The Department of Public Works requests that the City Council approve a modification to a previous agreement with MaineDOT agreement to fund final design and construction of Washington Avenue from Congress Street to Oxford Street (MaineDOT WIN 22134).

II. AGENDA DESCRIPTION

This project received initial funding from Portland Area Comprehensive Transportation System (PACTS) and was approved by the City Council in 2016 for the preliminary design of the southernmost portion of Washington Avenue beginning at Congress Street and terminating between Cumberland Avenue and Oxford Street, inclusive of roadway, sidewalk and signal design. This project then became a locally managed project, receiving City Council approval in 2017.

The preliminary design was reviewed and approved by the Maine Department of Transportation (MaineDOT) at the end of 2018. Funding has been approved by PACTS for final design and construction. Final design and associated MaineDOT approvals are expected to be completed in early 2020, with bidding and construction likely to occur later that year.

The agreement increases the total funding from \$175,600 to \$1,880,000, or an increase of \$1,705,000. Of that total, the City is responsible for 25%, or \$470,150.00. The remaining 75% will be provided by MaineDOT/PACTS. Final design and related costs prior to construction are anticipated to be approximately \$200,000, so the Department of Public Works has requested \$50,000 in the Fiscal Year 2020 Capital Improvement Program request. The remaining part of the City's share, for construction only, will be requested in the Fiscal Year 2021 Capital Improvement Program .

This item must be read on two separate days. It was given a first reading on February 4, 2019. Five affirmative votes are required for passage after public comment.

III. BACKGROUND

This work has been a goal for about five years, starting with a funding application made to PACTS. This

agreement allows the City to complete desired outcomes for this goal.

In addition, during discussions with MaineDOT, the original project end point, at the 7-11/Coffee by Design Frontage was determined to be a high crash location and had other access management concerns, so design work has been extended slightly to include the intersection with Oxford Street

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

The intended result of this action is to allow staff to continue on with design and construction of this project, providing a boost to an area seeing increased economic development.

V. FINANCIAL IMPACT

Please see attached fiscal impact note.

VI. STAFF ANALYSIS AND BACKGROUND

This agreement stipulates that costs above and beyond the construction total, or ineligible for federal participation will be the City's share. This is likely to include utility work such as stormwater/sewer, funded through Water Resources funds, and any streetscape work above and beyond those identified in the original funding application, such as pocket parks, or other public spaces.

VII. RECOMMENDATION

DPW staff recommends approval of this Agreement to allow staff to proceed with final design and then proceed to construction.

VIII. LIST ATTACHMENTS

1. MDOT and Portland Two-Party Washington Ave Final Engineering 2.4.2019
2. Fiscal Impact Note Washington Streetscape 1-24-19
3. Agreement WIN 22134.00 Portland Washington Avenue Mod 1
4. WashingtonAveStreetscape

Prepared by:

Date: 02/07/2019

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (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 TWO-PARTY AGREEMENT BETWEEN PORTLAND
AND THE MAINE DEPARTMENT OF TRANSPORTATION
RE: WASHINGTON AVENUE FINAL ENGINEERING AND CONSTRUCTION**

ORDERED, that the two-party Partnership Agreement between the Maine Department of Transportation and the City of Portland for the final engineering and construction of construction of Washington Avenue with Federal Project Number 22134.00 is hereby approved in substantially the form attached hereto; and

BE IT FURTHER ORDERED, that the City Council hereby authorizes the City Manager or his or her designee to execute said documents and any other related documents necessary or convenient to carry out the intent of said documents and this Order.

FISCAL IMPACT NOTE New Program Cost Data:	FY20		FY21		FY22	
	City Rate	City / Sch Combined Rate	City Rate	City / Sch Combined Rate	City Rate	City / Sch Combined Rate
Example:						
ADD: NEW ITEM ANNUAL EXPENDITURES		\$0		\$3,750		\$35,250
LESS: TOTAL NEW ITEM ANNUAL REVENUES		\$0		\$0		\$0
=NEW ITEM NET TAX RATE IMPACT PROJECTION	\$0	\$0	\$3,750	\$3,750	\$35,250	\$35,250
New Program Impact to the Mil Rate	\$0.0000	\$0.0000	\$0.0005	\$0.0005	\$0.0045	\$0.0045
New Program % Impact on Tax Rate	0.0000%	0.0000%	0.0042%	0.0021%	0.0393%	0.0198%
Mil Rate Including New Program	\$11.3400	\$22.4800	\$11.3405	\$22.4805	\$11.3445	\$22.4845

Notes: The overall agreement obligates the City for \$470,150.00 in these agreements, but the City pays a small share – 25% - of the overall project cost. The project will replace aging signal equipment and sidewalk in poor repair, as well as improve drainage, so should reduce the load on future operational and capital budgets for some time.



MaineDOT use only

AMS ID: CTM20170508000000000616

CSN: 37413

TEDOCS #: _____

Modification 1 to an Agreement for a Locally Administered Project
With the
City of Portland
Regarding
Reconstruction of a portion of Washington Avenue: WIN 22134.00

MaineDOT Use Only

Agreement Amount: \$1,880,600.00

Federal Share: \$1,410,450.00 (75%)

Municipal Share: \$470,150.00 (25%)

Agreement Begin Date: 05/01/2017

Agreement End Date: 12/31/2021

Federal Project Number: 2213400

Federal Authorization Date: 02/15/2017

City's Vendor ID: VC1000073476

City's DUNS® Number: 07-174-7802

CFDA #20.205: Highway Planning & Construction

Modification 1 hereby amends an Agreement with the City of Portland for improvements to a portion of Washington Avenue that took effect on May 1, 2017. This modification, when executed, will increase the Agreement by \$1,705,000 – to a new total of \$1,880,600 – to reflect additional funding from the MPO, as shown below.

ARTICLE 1. ROLES AND RESPONSIBILITIES

The Project contact for MaineDOT shall be amended as follows:

- ☐ Project Manager for MaineDOT: Gerald Dostie
Email: Gerald.P.Dostie@maine.gov
Phone: (207) 624-3218

ARTICLE 2. FINANCIAL PROVISIONS

- ☐ Section 2A UPSET LIMIT shall be modified to read as follows: "The MPO programmed for all stages of the Project a total of **\$1,880,600.00**. Project costs eligible for federal participation shall not exceed this total amount without written approval from the MPO and MaineDOT, which will further modify this Agreement if additional funds are approved."
- ☐ Section 2B MAINE DOT SHARE shall be modified to read as follows: "MaineDOT, using federal funding programmed by the MPO, will share in all Project costs eligible for federal participation at the rate of 75 percent, up to a maximum at this rate of **\$1,410,450.00**."
- ☐ Section 2C LOCAL SHARE shall be modified to read as follows: "The City shall share in all costs eligible for federal participation at the rate of 25 percent, or **\$470,150.00**. Additionally, the City shall be fully responsible for any expenditures:
 1. Exceeding \$1,880,600.00;
 2. Incurred before May 1, 2017; and
 3. Deemed ineligible for federal participation."

All other terms and conditions of the original Agreement shall remain in effect with no gap. **MaineDOT** and the **City of Portland**, by their duly authorized representatives, have executed this modification to the original Agreement on the date last signed below.

City of Portland

Maine Department of Transportation

By: _____
Jon P. Jennings, City Manager *

By: _____
Richard J. Crawford, P.E., Director *
Bureau of Project Development

Date: _____

Date: _____

** I certify that the foregoing signature is true and accurate. I further certify – pursuant to 10 M.R.S.A. §9407 and §9502 – that the signature, if electronic: (a) is intended to have the same force as my manual signature; (b) is unique to me; (c) is capable of verification; and (d) is under my control.*



Legend

 Project Area



CITY OF PORTLAND, MAINE
DEPT. OF PUBLIC WORKS
212 CANCO RD SUITE B
PORTLAND, MAINE 04101
PHONE (207) 874-8846 FAX (207) 874-8852

WASHINGTON AVENUE STREETSCAPE

January 2019



1 inch = 100 feet
0 50 100
 Feet

MEMORANDUM
City Council Agenda Item

FROM: Jeff Levine, Director Planning & Urban Development Department

DATE: February 7, 2019

SUBJECT: **Order 151-18/19 Authorizing Adoption of Cultural Plan Update of 2018 - Sponsored by the Planning Board, Sean Dundon, Chair.**

SPONSOR: Sean Dundon, Chair, Planning Board (voted 7-0 on 1/22/2019 to recommend adoption to the City Council).
(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

February 20th coincides with a proposed amendment to Creative Portland's by-laws.

PRESENTATION:

Christine Grimando, Acting City Planning Director, will make a brief presentation. Dinah Minot, Executive Director, Creative Portland, will also be available for questions.

I. SUMMARY

The *Cultural Plan Update of 2018: A Living Action Plan* is proposed for adoption by the City Council to establish strategic priorities and an action plan to support Portland's creative economy.

II. AGENDA DESCRIPTION

The Planning Board met on January 22, 2019 and recommended by a vote of 7-0 the adoption of the Cultural Plan Update of 2018 to the City Council.

The Cultural Plan Update of 2018: A Living Action Plan is proposed for adoption by the City Council to establish strategic priorities and an action plan to support Portland's creative economy. The Planning Board has recommended the Cultural Plan Update of 2018, A Living Action Plan, for adoption as a City plan, and as an update to the 1998 plan, Celebrating Community: A Cultural Plan for Portland, Maine.

This item must be read on two separate days. It was given a first reading on February 4, 2019. Five affirmative votes are required for passage after public comment.

III. BACKGROUND

The 1998 Celebrating Community plan established a mission to: celebrate Portland's cultural diversity; promote awareness of and access to the arts; encourage greater community participation in the arts; and to strengthen community through arts and culture. It also includes a series of goals and action ideas. Over two decades old, Creative Portland facilitated a process to develop new priorities and recommendations for 2019 and the coming years. These include objectives for Congress Street enhancements to help celebrate downtown Portland as an arts center, advocating for affordable living, working and performance space for artists, and offering professional development opportunities for artists and creative entrepreneurs.

In 2017, Creative Portland contracted with Civic Moxie to lead a process on the needs and concerns of the arts,

cultural, and creative economy of Portland. The effort was enabled by financial assistance from the Maine Arts Commission, the City of Portland, and local businesses. The process included an assessment of the strategic plans of multiple organizations, a review of City policy documents, and dozens of interviews with key stakeholders. These findings were summarized (Attachment 2), and directly informed the action items of the Cultural Plan Update.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

The intended result of the plan is to provide up-to-date priority action items to help guide programming, planning, and investments in the arts. The City's comprehensive plan, Portland's Plan 2030, recognizes both the cultural and economic importance of the arts to Portland's present and future. One of the principles of the Future Land Use section is Reinforce the Center, recognizing that downtown Portland remains an important center for arts, culture, and economic and civic health (p. 79-80). The Economy Policy Guide of Portland's Plan includes a section on the creative economy (pg. 45), with strategies that include: Continue marketing and branding programs and refine recruitment strategies and Support policies that foster innovation, entrepreneurship, and the creative economy. Recognition of the importance of the arts city-wide is also woven into multiple narrative sections of the plan.

V. FINANCIAL IMPACT

There is no fiscal impact in adopting the Plan.

VI. STAFF ANALYSIS AND BACKGROUND

The 1998 Cultural Plan was originally appended to the City's previous Comprehensive Plan. With the adoption of Portland's Plan 2030, the prior Comprehensive Plan was superseded, and a new approach to City policy documents was outlined. The Putting Portland's Plan to Work chapter addresses how policy documents that are not part of the Comprehensive Plan should work together. This chapter applies to both policy documents that had been adopted as part of the previous comprehensive plans, and future ones, such as the Cultural Plan Update. Portland's Plan is the City's guiding policy document, establishing the City's vision, city-wide goals, and strategies. It is meant to inform and support other, more granular planning efforts, including: implementation of new tools such as impact fees; studies to further city-wide goals, such as transit studies and a climate action plan; and area plans for particular neighborhoods or open spaces. The Relationship of City Plans graphic gives a snapshot of how each category of plan should relate to other studies, regulations, and investments. The role of a subject area plan like the Cultural Plan Update is to be consistent with Portland's Plan's vision and goals and to give the subject more detail and elaboration than a broad vision document like a comprehensive plan allows for.

In presenting a series of strategies and action items specific to supporting the creative economy in Maine, the Cultural Plan update is consistent with the goals of the comprehensive plan and the intended application of subject area plans.

VII. RECOMMENDATION

On January 22, 2019, the Planning Board found that the proposed Cultural Plan Update is consistent with the comprehensive plan and recommended adoption to the City Council.

VIII. LIST ATTACHMENTS

1. Cultural Plan Update of 2018 2.4.2019
2. 1-25-2019 Grimando Cover Memo
3. Att 1 Cultural Plan Update of 2018

4. Att 2 CivicMoxie Summary Report

Prepared by:

Jeff Levine, Director Planning & Urban Development Department

Date: 02/07/2019

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (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 ADOPTING THE CULTURAL PLAN UPDATE OF 2018

ORDERED, that the Cultural Plan Update of 2018, as described in the document attached hereto as Exhibit A, is hereby adopted as a city plan.

MEMORANDUM
City Council Agenda Item

DISTRIBUTE TO: City Manager, Mayor, Sonia Bean, Nancy English, Danielle West-Chuhta, Deivy Periana

FROM: Christine Grimando, Acting City Planning Director

DATE: 1/25/2019

SUBJECT: Proposed Cultural Plan Update of 2018: A Living Action Plan for Portland, Maine

SPONSOR: Sean Dundon, Chair, Planning Board (voted 7-0 on 1/22/2019 to recommend adoption to the City Council).

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading 2-4-2019 **Final Action** 2-20-2019

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

February 20th coincides to a proposed amendment to Creative Portland's by-laws.

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

Christine Grimando, Acting City Planning Director, will make a brief presentation. Dinah Minot, Executive Director, Creative Portland, will also be available for questions.

I. ONE SENTENCE SUMMARY

The *Cultural Plan Update of 2018: A Living Action Plan* is proposed for adoption by the City Council to establish strategic priorities and an action plan to support Portland's creative economy.

II. AGENDA DESCRIPTION (This is all that will be included of the agenda.)

The *Cultural Plan Update of 2018: A Living Action Plan* is proposed for adoption by the City Council to establish strategic priorities and an action plan to support Portland's creative economy. The Planning Board has recommended the *Cultural Plan Update of 2018, A Living Action Plan*, for adoption as a City plan, and as an update to the 1998 plan, [*Celebrating Community: A Cultural Plan for Portland, Maine*](#).

III. BACKGROUND

The 1998 *Celebrating Community* plan established a mission to: celebrate Portland's cultural diversity; promote awareness of and access to the arts; encourage greater community participation in the arts; and to strengthen community through arts and culture. It also includes a series of goals and action ideas. Over two decades old, Creative Portland facilitated a process to develop new priorities and recommendations for 2019 and the coming years. These include objectives for Congress Street enhancements to help celebrate downtown Portland as an arts center, advocating for affordable living, working and performance space for artists, and offering professional development opportunities for artists and creative entrepreneurs.

In 2017, Creative Portland contracted with CivicMoxie to lead a process on the needs and concerns of the arts, cultural, and creative economy of Portland. The effort was enabled by financial assistance from the Maine Arts Commission, the City of Portland, and local businesses. The process included an assessment of the strategic plans of multiple organizations, a review of City policy documents, and dozens of interviews with key stakeholders. These findings were summarized (Attachment 2), and directly informed the action items of the *Cultural Plan Update*.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

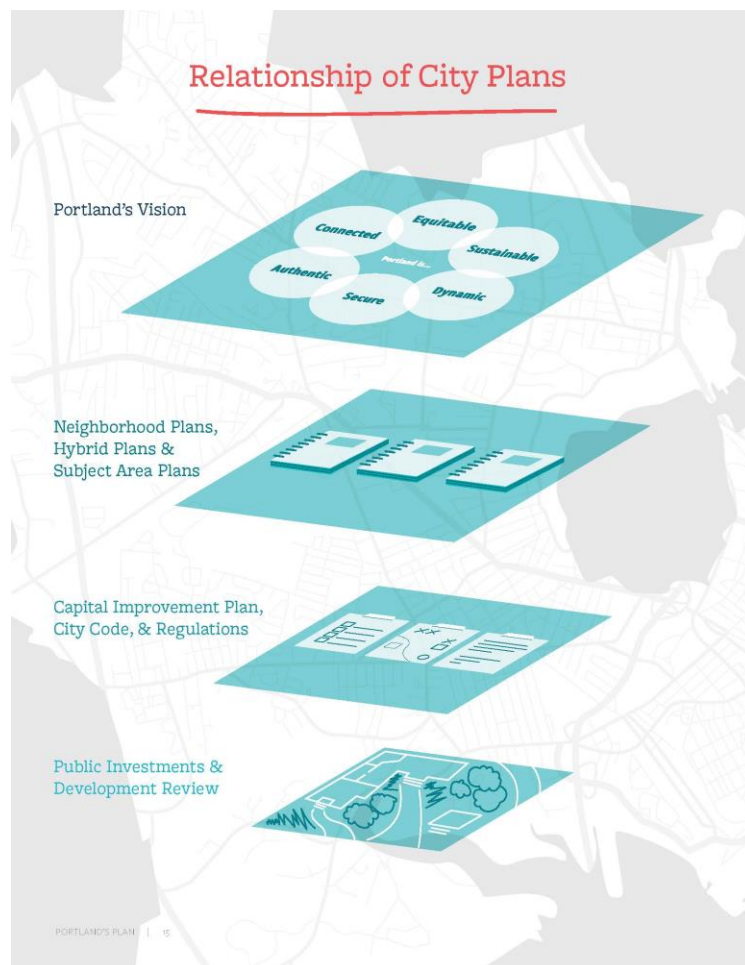
The intended result of the plan is to provide up-to-date priority action items to help guide programming, planning, and investments in the arts. The City's comprehensive plan, [Portland's Plan 2030](#), recognizes both the cultural and economic importance of the arts to Portland's present and future. One of the principles of the *Future Land Use* section is Reinforce the Center, recognizing that downtown Portland remains an important center for arts, culture, and economic and civic health (p. 79-80). The *Economy Policy Guide* of *Portland's Plan* includes a section on the creative economy (pg. 45), with strategies that include: *Continue marketing and branding programs and refine recruitment strategies and Support policies that foster innovation, entrepreneurship, and the creative economy*. Recognition of the importance of the arts city-wide is also woven into multiple narrative sections of the plan.

IV. FINANCIAL IMPACT

There is no fiscal impact in adopting the plan.

VI. STAFF ANALYSIS AND BACKGROUND THAT WILL NOT APPEAR IN THE AGENDA DESCRIPTION

The 1998 Cultural Plan was originally appended to the City's previous comprehensive plan. With the adoption of Portland's Plan 2030, the prior comprehensive plan was superseded, and a new approach to city policy documents was outlined. The *Putting Portland's Plan to Work* chapter addresses how policy documents that are not part of the comprehensive plan should work together. This chapter applies to both [policy documents](#) that had been adopted as part of previous comprehensive plans, and future ones, such as the Cultural Plan Update.



Portland's Plan is the City's guiding policy document, establishing the City's vision, city-wide goals, and strategies. It is meant to inform and support other, more granular planning efforts, including: implementation of new tools such as impact fees; studies to further city-wide goals, such as transit studies and a climate action plan; and area plans for particular neighborhoods or open spaces. The *Relationship of City Plans* graphic gives a snapshot of how each category of plan should relate to other studies, regulations, and investments. The role of a subject area plan like the *Cultural Plan Update* is to be consistent with *Portland's Plan's* vision and goals and to give the subject more detail and elaboration than a broad vision document like a comprehensive plan allows for.

In presenting a series of strategies and action items specific to supporting the creative economy in Maine, the Cultural Plan update is consistent with the goals of the comprehensive plan and the intended application of subject area plans.

VII. RECOMMENDATION

On January 22, 2019, the Planning Board found that the proposed *Cultural Plan Update* is consistent with the comprehensive plan and recommended adoption to the City Council.

VIII. LIST ATTACHMENTS

1. Cultural Plan Update of 2018: A Living Action Plan
2. Civic Moxie Executive Summary

Prepared by: Christine Grimando

Date: 1/25/2019

Bean/agendarequestmemo/rev 9/24/18

Cultural Plan Update of 2018

A Living Action Plan



Presented by Creative Portland
on behalf of the Portland arts & cultural community
December 2018

Cultural Plan Update of 2018 - A Living Action Plan

SUMMARY

In 2016, Creative Portland began the process of updating the cultural plan of 1998 - Celebrating Community: A Cultural Plan for Portland, Maine - to develop a vision and plan for the creative economy in Portland and the region.

Phase 1: Laying the Groundwork consisted of interviews with 50 community leaders and stakeholders, conducted by a Boston-based urban design consulting company, CivicMoxie. In addition, over a half dozen community meetings were convened by CivicMoxie and Creative Portland to address successes, concerns, and gaps that need attention in the arts & culture sector. Phase 1 established the goal for the Cultural Plan update:

Make the collective arts, culture, and creative economy of Portland more visible and provide more support to arts organizations, individuals and creative businesses through collaborations and other means.

Phase 2: Getting Down to Action involved workgroups convening individually to tackle priority initiatives, and an Arts & Culture Summit to present feedback on what was learned and shared to date.

Phase 3: Putting it all Together consists of this written report that provides a framework for the Cultural Plan's strategic priorities for ongoing conversation, as well as recommendations for tracking implementation of an action plan.

Some strategic goals, such as securing affordable public-supported spaces for artists' public use, exhibition and work space, were identified a decade earlier at the first Creative Economy Summit in Portland in 2008, and still remain a priority. One goal of the report is for the City to acknowledge and support the Action Plan recommendations, which highlight a community desire to convene an annual summit to address progress, measure success, and tackle issues and priorities.

STRATEGIC PRIORITIES

1. **Celebrate Portland as a creative city with Congress Street as the spine.** Elevate Congress Street as an arts destination with signage, maps, tours that connect to other "hot spots," etc. Envision Congress Street as the spiritual home of the creative economy and use that home to give visibility to the broader creative community and to provide a magnet for art buyers, audiences, and organizational members.
 - 1a. **Focus on "experience design."** Ensure that the arts, culture, and creative economy of the city (and region) are visible and user-friendly to navigate, visit, and enjoy. This might include addressing parking and transportation, website

access and visitor information, signage, and on-the-ground experiences. The experience of enjoying music, dance, fine art, dining, and entertainment should be easy and joyful.

2. **Provide visibility and professional development/support for artists and creative entrepreneurs.** This could include: a website gallery of artists and entrepreneurs, a website of events, maps of art centers within the city and region, and professional supports including services to help performing and visual artists professionalize their craft and create a strong image of the city as a destination for buyers of art and audiences for performances and museums.
3. **Advocate for maintaining and growing affordable live, work, and performance space in Portland.** Explore incentives, policies, and zoning tools. Facilitate extended collaborations with the public, non-profit, and private sectors to create affordable space.

ACTION PLAN PRIORITY RECOMMENDATIONS

PLAN PRIORITY	OBJECTIVE	PROGRESS
PRIORITY 1 Celebrate Portland as a creative city with Congress Street as the spine.	Develop a plan for Congress Street enhancements	Creative Portland (CP) and Portland's cultural anchors have started meeting to discuss street safety issues, Congress Street enhancement, and economic development activity
	Market & brand Portland's artistic talents and cultural assets.	CP produced a one-minute sizzle reel to highlight the cultural life of Portland.
PRIORITY 1A Focus on "experience design."	Address and enhance the visitor's cultural experience on Congress Street and throughout the City.	CP will work closely with City planners and other partners to coordinate and avoid overlap. In October 2018, Portland Development Corporation awarded CP a PEDPIP grant of \$15K to undertake this work by hiring an "experience design" consultant.
PRIORITY 2 Provide visibility and professional development/support for artists and creative entrepreneurs.	Host an annual summit focusing on internal planning strategies - a workshop environment to address strategic priorities with best practice consultants.	First summit was held in May 2018 with approximately 75 arts and cultural leaders, steering committee members, and stakeholders in attendance to hear cultural plan community feedback.
PRIORITY 2 Provide visibility and	Create a multi-genre talent showcase opportunity to	In June 2018, Creative Portland presented "Art Outta the Park," a local showcase of arts and

professional development/support for artists and creative entrepreneurs.	expand audience reach, to attract arts patrons, to solicit opportunities from foundations, and to bring private investors and stakeholders to the table.	cultural organizations in an arts fair format at Hadlock Field. Participants integrated and addressed a large audience of 5000 stadium fans who don't necessarily go to the theater, museum, or art galleries. A local performing arts talent showcase, HEAR, HERE! is in development for February 2019 at Merrill Auditorium. These events attract new audiences and private investors.
	Provide a clearinghouse of information and a space for FREE 'community arts exhibitions, pop-up exhibitions and professional development workshops.	Public space to showcase art exhibitions - In January 2017, CP opened a vibrant new office space and street presence, allowing for community exhibitions and performances at 84 Free Street. CP has increased its volunteer base with a volunteer curatorial team to oversee bi-annual in-house art exhibitions as well as curate for other organizations. Professional Development Workshops - CP presented five community professional development workshops in 2018. All were free and open to the public and presented to a full house of over two dozen participants. Artist Meetups - In May 2017, CP started convening groups of artists by genre. These gatherings have provided artists a time and space to come together, discuss areas of concern, and share opportunities with others in their industry. Creative Portland Website - A Resource page is in development on CP's website. The social media impact on cross-promoting and re-posting existing events throughout the cultural sector has driven traffic and increased engagement at community cultural events. Increased visibility of CP has led to broader vision conversations with other arts administrators and leaders in the state of Maine, to collectively pool resources to brand Maine as an arts hub.

PRIORITY 2 Provide visibility and professional development/support for artists and creative entrepreneurs.	Provide a public forum inviting public comment, focused on the arts sector with an opportunity for Q & A and to share ideas to promote the creative economy through the arts.	An opportunity for public comment will be incorporated as part of the planning process for an annual arts and cultural summit.
	Provide public opportunities to utilize City structures, facilities, and/or parks to develop opportunities to showcase talent representing multiple arts sectors and to attract private investors and engage new audiences.	CP is working with the City to utilize Merrill Auditorium for a cross-discipline talent showcase in February 2019. The City also provides space and time for artists to showcase in the Arts in the Chamber program at the beginning of City Council meetings, and discussions for curated spaces during First Friday Art Walk are underway.
	Build arts engagement and tourism synergy	
PRIORITY 3 Advocate for maintaining and growing affordable live, work, and performance space in Portland.	Creative Portland provides fiscal sponsorship opportunities for independent initiatives in alignment with our mission, including live, work, and performance space creation.	Indigo Arts Alliance, an artist development space for artists of color in East Bayside, is supported by a CP fiscal sponsorship and has received startup funding from the Maine Community Foundation.

ROLE OF CREATIVE PORTLAND

Creative Portland will facilitate the establishment of a work group structure to focus on strategic priorities and to report on existing initiatives. CP will assume the role as leader in convening arts & cultural stakeholders on an annual basis, in a format to be determined each year, inspired by work group progress and depending on available budget to address internal and external planning initiatives, advocacy, arts patronage, and audience expansion and engagement.

If this Cultural Plan update is approved by the city council, Creative Portland will:

- Distribute and share cultural plan report and recommendations directly with arts & culture stakeholders and via social media channels.
- Apply for a cultural plan implementation grant, administered by Maine Arts Commission, with a focus on one initiative that has been identified in the cultural plan update.

Refer to Appendix A for information on how the cultural planning process has shaped Creative Portland's role and priorities.

BACKGROUND ON CULTURAL PLANNING PROCESS

GOAL

Our cultural planning goal was to assess where we are today and to take advantage of alignments of missions, goals, and interests of arts and cultural organizations, city agencies, and stakeholders to make the best use of community assets and achieve ambitious goals for the community.

FINANCIAL SUPPORT

A \$10,000 planning grant from the Maine Arts Commission led to a \$15,000 grant from the City of Portland and an additional \$5,000 from local businesses. The impetus for applying for cultural planning funding was Creative Portland's desire to mark the ten-year anniversary of the City of Portland's Creative Economy Summit of 2008 by making an assessment of what has been accomplished and what new endeavors should be undertaken. In addition, the City's most recent cultural plan, *Celebrating Community: A Cultural Plan for Portland, Maine*, was almost 20 years old and required updating to keep pace with new goals and changing circumstances in the city.

THE PROCESS

Creative Portland received early feedback that the community was exhausted from multiple surveys and community meetings, and that there was real concern about launching an ambitious planning process. People wanted top priorities and action, much more than widely inclusive planning and public discussion. A secondary concern was confidence in the community's ability to follow through. Creative Portland was reminded several times of the lack of action following the 1998 cultural plan, as well as several other well-meaning initiatives that ended up on the shelf. Below, we outline the three phases of the cultural planning process.

Phase 1: Laying the Groundwork

In early 2017, Creative Portland contracted Susan Silberberg of CivicMoxie to develop a snapshot of the needs and concerns of the arts, cultural, and creative economy organizations, businesses, and individuals in the City of Portland. Phase 1 included an in-depth review of past cultural plans as well as all of Portland's major arts organizations' current strategic plans, the city's comprehensive plan, and other relevant documents. This analysis was augmented with targeted individual interviews and several small focus groups spanning the arts and culture community, including representatives from large arts/cultural organizations, creative businesses and entrepreneurs, small/informal arts/cultural organizations, city hall, and individual artists. The first task was assessing response, interest, and commitment, and we were pleased with the unanticipated agreement and cohesion that was apparent.

50 key stakeholders were interviewed and 100% of the data feedback reinforced the conviction that the arts and cultural industry is a pivotal economic engine and the core of the creative economy. Interviews delved into the role and perception of the Cultural Planning process as well

as of Creative Portland itself so that the organization could assess how to lead creative economy efforts forward (Refer to Appendix A).

These interviews reinforced a universal recognition that Portland's arts and culture assets (and the marketing of them) is an important element of economic development, can attract a strong workforce and successful firms, and help sustain a positive quality of life. Although recent data¹ indicate growth and economic impact (\$75 million in expenditures for nonprofit arts in 2015), CivicMoxie interviews indicated that visibility and recognition of the impact of the arts and cultural community has not increased city budget allocated to the arts. In fact, some said that, in part because of economic growth, there are new pressures on the sustainability of the arts and cultural core of the creative economy.

One concern that was expressed in the interviews was whether or not Portland is leveraging the momentum of the growth in the arts sector at a time where many US cities are seeing a resurgence in residence and interest in "moving back to the city" for the benefits brought by walkable neighborhoods and the proximity of arts, culture, dining, and entertainment. The city's major arts and cultural institutions are doing well, but we have little quantitative data on smaller arts organizations and venues, for-profit organizations, and individual artists. Through interviews conducted by CivicMoxie, as well as Creative Portland Executive Director Dinah Minot's conversations with constituents, we know that many individuals cannot find affordable housing and studio space, there are limited venues for exhibiting work, and there is growing pressure amongst multiple organizations competing for a slice of the funding pie.

The good news is that there is a pervasive feeling that action is required now to celebrate the rich creative culture of Greater Portland and to take advantage of the abundant opportunities that exist. The arts and culture sector, which includes creative entrepreneurs and creative industries, is an economic driver deeply embedded in the economy and in need of constant reinforcement and validation through educational programs, lectures and initiatives to spread awareness on the value and necessity of the makers economy.

Phase 1 resulted in the development of five strategic priorities which became the focus of the cultural planning effort going forward:

- 1. Celebrate Congress Street and the Arts District.**
- 2. Provide visibility and professional development/support for artists and creative entrepreneurs.**
- 3. Focus on cultural tourism and coordinated marketing efforts.**
- 4. Focus on "experience design."**
- 5. Advocate for maintaining and growing affordable live, work, and performance space.**

¹ Americans for the Arts (2017). *Arts & Economic Prosperity V in the City of Portland, ME*. PDF available - please email your request to info@creativeportland.com.

Phase 2: Getting Down to Action

Goals for Phase 2:

1. Reach agreement among the various constituent groups on key issues brought up in Phase 1: Laying the Groundwork, and to arrive at a draft working agenda to share with a broader group for input and buy-in.
2. Engage steering committee members to assess data, highlight community progress addressing strategic priorities, and incorporate feedback from workgroup leaders in a living Action Plan with recommendations for tackling those strategies.

The workgroups in Phase 2 embraced three community-driven initiatives, a combination of the five strategic priorities identified in Phase 1, with the greatest support and momentum towards implementation:

1. **Celebrate Portland as a creative city with Congress Street as the spine.**
 - 1a. **Focus on “experience design.”**
2. **Provide visibility and professional development/support for artists and creative entrepreneurs.**
3. **Advocate for maintaining and growing affordable live, work, and performance space in Portland.**

The steps and progress taken to date are included in the Action Plan Priority Recommendations Chart above.

At the end of Phase 2, Creative Portland convened the city’s arts and cultural stakeholders at a summit in May 2018 to present cultural planning process results to date. A recap of the Arts & Culture Summit can be found in Appendix B.

Phase 3: Putting it all Together

Phase 3, completed in December 2018, is this finalized report and action plan recommendations. Throughout the planning process, groups built on momentum and/or splintered off with separate interests and initiatives, even though specific priorities remain the same. Identifying indicators for measuring success and taking responsibility for each action will lead to a more sustainable working group structure. An annual check-in is recommended to review the progress of smaller groups and to revisit plan implementation. The challenge will lie in community engagement, as cultural leaders and stakeholders turn their immediate focus back on their own organizations, which can result in waning participation.

CLOSING STATEMENT

The goal of the 2018 cultural planning process was to update the cultural plan of 1998, call attention to the arts community, and to make the collective arts, culture, and creative economy of Portland more visible by providing more support to arts organizations, individuals, and creative businesses through collaborations and shared resources. The process inspired increased community collaboration and conversations on a regular basis, a desire within the arts and cultural community to cross-promote and partner with each other on programming and improvement initiatives, and a recognition that arts and cultural organizations are extremely active.

The action plan recommendations presented in this report represent concrete objectives in line with community priorities to make the collective arts, culture, and creative economy of Portland more visible and provide more support to arts organizations, individuals and creative businesses.

This completed report compliments aspirations defined in the City's newly adopted comprehensive plan, *Portland's Plan 2030*, and will be adopted as an update to the cultural plan of 1998, *Celebrating Community: A Cultural Plan for Portland, Maine*.

APPENDIX A

Informing Creative Portland's Role & Priorities

Creative Portland served as the facilitator of Portland's cultural planning process. Creative Portland was the lead organization for the Maine Arts Commission (MAC) *Creative Communities = Economic Development (CCED) Phase I: Cultural Plan* grant application and administration and will also take the lead on the *Phase II: Implementation* grant application.

From the Phase 1 interviews and assessment of existing strategic plans of the cultural organizations, Creative Portland determined it would focus on continuing to attract and connect creatives while also strategically addressing some of the unintended consequences of growth. With the increased number of arts organizations, we also wanted to work together and think strategically about Portland's economic growth and creative sustainability.

Specifically, Creative Portland's role that emerged during the 2018 planning process is as a community convener, a promoter of cultural activity including the hosting of art exhibitions and pop-up performances, and as a clearinghouse of shared information. Embracing this role as collaborator and connector, Creative Portland convened an Arts & Culture summit in May 2018, marking the tenth anniversary of the first creative economy steering committee report of 2008.

As part of this altered strategic direction, Creative Portland reworded its mission statement:

Creative Portland's mission is to support the creative economy through the arts by providing essential resources, by fostering partnerships, and by promoting Portland's artistic talents and cultural assets. As the official nonprofit arts agency, we support economic development efforts by strengthening and stimulating our workforce, creative industries, and enterprises.

The three strategic priorities as defined in Phase 2 and presented in this report are ongoing pursuits and have informed the direction of Creative Portland's work plan, including outreach efforts for networking and connectivity, while also providing immediate response to community needs by hosting an assortment of popular professional development workshops, made possible in large part by the new street presence.

On the verge of engaging in co-promotion and branding initiatives with the City, Creative Portland is making headway toward the goals of 2006, where the city planners and mayor at that time identified three goals, including recognition of Portland as an international creative center, developing increased communication and collaboration in the form of establishing an arts czar (Creative Portland), and securing affordable public space for artists. The challenge of securing public investment of a public space for artists, including performance space, studio space, housing and exhibition space, still remains a unified goal and desire within the arts community, yet lacks a unified vision and leadership commitment within the community to build momentum for this pursuit.

Creative Portland sees opportunities to accomplish the above, in part, by:

- Collaborating and building connections among and between arts and cultural organizations to support artists and creative organizations.

- Looking at regional collaborations that build on the already expanding geographical region that supports the arts and culture in Portland.

Although most of the priority strategies for celebrating the arts and promoting the creative economy are similar today to those identified ten years ago, progress has been made with the establishment of a city commitment to support a nonprofit organization that has the ability to leverage the city's investment in the pursuit of grants and private sponsorships. After two years since the initiation of the cultural planning process, Creative Portland is an organization that is building capacity to become a clearinghouse of information for the arts community and a catalyst for forging partnerships and marketing opportunities to cross-promote the artistic talents and cultural assets of Portland.

APPENDIX B

Recap & Summary of 2018 Arts & Culture Summit

Creative Economy Summit of 2006

The first creative economy summit was organized by the City in 2006. Mayor Jim Cohen and representatives from city planning and development convened approximately 200 stakeholders from the creative economy in the Merrill Auditorium Rehearsal Hall. After introductory remarks, the participants divided into three groups: creative individuals, creative organizations, and creative enterprises. Each group worked to develop three action steps for enhancing Portland's creative economy; and at the end of the Summit, this list of nine steps was reduced by the full group to three final recommendations.

These three recommendations focused on the following strategies to support and grow the creative economy:

1. Build Portland's identity as an international creative center.
2. Develop publicly supported and/or affordable public space for artists, including performance space, office space, studio space, housing, exhibition space.
3. Increase collaboration, coordination, and communication (Establish Arts Czar or Office of Arts & Cultural Affairs).

2018 Arts & Culture Summit

Creative Portland convened approximately 75 arts and cultural leaders, steering committee members, and stakeholders at One Longfellow Square on May 30, 2018 to celebrate the American for the Arts Economic Impact Survey 2017 (AEP5) data on the arts & culture sector and to present cultural plan feedback to participants.

A brief synopsis of the history of Portland's arts district and the formation of Creative Portland began opening remarks, followed by an explanation on how the current cultural planning

initiative will update the city's 1998 Cultural Plan. Creative Portland debuted a one-minute "sizzle reel" highlighting Portland's cultural life beyond lobsters and lighthouses.

Program Director of Research & Creative Economy at the New England Foundation for the Arts (NEFA), spoke about NEFA's report *The Jobs in New England's Creative Economy and Why They Matter*, including what constitutes the Creative Economy, a recap of Americans for the Arts *Arts & Economic Prosperity 5* study results for Portland compared to similar study regions, and the Creative Economy in Maine.

A senior planner at the City of Portland presented on *Portland's Plan 2030*, the recently adopted comprehensive plan for the City of Portland. She shared the process that the planning department had enacted to collect feedback, provided a quick breakdown of top concerns, and highlighted where the arts & culture sector was represented within the plan, including emphasizing that link between arts and culture and Portland's economy.

Creative Portland presented the Cultural Planning process to date, recapping the seven priorities that were part of the 1998 plan, and describing Phases 1 & 2 of the update process.

Seven Priorities from the 1998 Plan:

1. Promote appreciation for our diverse cultures within the City
2. Develop and enhance opportunities for students
3. Build audiences & arts patronage
4. Encourage and safeguard artists' presence in the community
5. Improve civic support of arts and culture throughout the City
6. Apply arts and cultural solutions to the community's social issues
7. Strengthen neighborhood identity through cultural programming & connections between neighborhoods and the Arts District

A hired facilitator introduced the three initiatives that emerged out of the identified strategies mentioned above and leaders for the workgroups in progress,

A Q&A followed the three presentations, which was then followed by a call to action, asking attendees to sign up to take part in one (or more) of the three initiatives, as well as to fill out two ballots: 1) desire for an annual arts & culture summit and interest in participating on the steering committee to organize a summit, and 2) a brief assessment of Creative Portland's programs.

Summit ballot response recap:

1. Desire for developing an annual summit with workgroups and possible "best practice" presentations was unanimous among respondents, yet fewer were willing to commit to a steering committee.
2. On average, Creative Portland programs that were most highly valued by the community were First Friday Art Walk and Professional Development Workshops, closely followed

by Monday Morning Drop By and providing community showcases for marketing & branding Portland's cultural life.

Creative Portland Cultural Plan

Phase 1 - Executive Summary of Work and Moving Forward

7/31/17

This executive summary of Phase 1 Tasks is intended to offer a snapshot of the needs and concerns of the arts, cultural, and creative economy organizations, businesses, and individuals in the City of Portland. As the first phase of the Cultural Plan initiative, these tasks also delve into the role and perception of the Cultural Planning process as well as of Creative Portland itself so that the organization can get feedback that will be helpful in moving forward.

Cultural planning seeks to take advantage of alignments of missions, goals, and interests of arts and cultural organizations, city agencies, and individuals to make the best use of community assets and achieve ambitious goals for residents and businesses. Cultural plans have power in the information and data provided through the planning process (what do we have, where do we want to go, what is our impact?) as well as the collaborations that grow from planning (what can we do together?), and the attention put on endeavors (this is what we are doing, this is how we make positive impacts in our communities).

The context for this current cultural planning effort includes the recent comprehensive planning initiative for the city, the recent Maine Arts Commission plan (2015), and the 1998 Celebrating Community Portland Cultural Plan which is the last comprehensive arts and cultural plan produced for Portland.

Portland's Comprehensive Plan 2017 provides support for arts and culture by focusing on two primary strategies - leveraging a creative economy and creative placemaking.

The plan for the City of Portland, much like many cities across the US, is to take advantage of the Creative Economy movement. As stated in the plan, a creative economy is economic activity created by creative pursuits (see page 43). Portland has recognized that leveraging the synergies of entrepreneurial activities and artist expressions is beneficial to the local community. The other way that Portland is growing its art and culture is through creative placemaking. The placemaking program focuses on five goals:

1. arts and culture
2. community engagement
3. partnerships to rejuvenate open space
4. stewardship over parks
5. equity in access to all of the community initiatives

Arts and culture, however, are given very little space in the 2017 plan and are referenced in implicit rather than explicit ways. The arts and cultural community is keenly interested in how mention of arts and culture in the Comprehensive Plan will translate into action and support in the coming years.

The 2015 Maine Arts Commission Five Year Cultural Plan sets priorities (but no funding or detailed implementation plan) for:

1. Attract and leverage greater investment in Maine's arts, culture, and creative economy.

2. Increase awareness of creative opportunities and their value to communities and local economies
3. Build on and further strengthen PK-12 arts education and lifelong learning programs.
4. Build arts and tourism synergy.
5. Strengthen Maine Arts Commission's capacity and stewardship.

In 1998 the Celebrating Community Cultural Plan was completed and contained seven goals and 24 main action ideas. The Plan did not designate who would be specifically responsible for implementation of each of the action ideas but states that the Cultural Plan was incorporated into the City's Comprehensive Plan and indicates that PACA would take the lead in implementation. The goals are quite broad and the action steps are extensive, with each step having multiple possible initiatives. There are no prioritization of actions, specific responsibilities identified, nor funding resources identified or allocated. PACA is identified as the lead on implementation but was then incorporated into Creative Portland in 2008, leaving the Cultural Plan without its key "owner."

Of the 24 main action ideas, only a few were implemented.

Summary of Interviews and Focus Groups

CivicMoxie conducted focus groups with small arts organizations, entrepreneurs in the creative industries, and artists. One-on-one interviews were conducted with the leaders of larger arts organizations in the City, artists, creative professionals, and other organizations. CivicMoxie met with the City Manager and City of Portland Planning staff and also participated in Creative Portland board meetings. Questions were focused on three main areas:

1. The overall state of arts, culture, and creative economy in the city
2. The potential role of a cultural plan
3. The perception and role of Creative Portland

Answers are summarized below:

Arts, Culture, and the Creative Economy in Portland

Overall State of Arts and Culture and Creative Economy

- There is too much supply for the existing demand
- All individual pieces...no greater whole
- Arts and culture hasn't done a good job of articulating its value
- Need to measure/develop indicators for success
- Red tape burying everyone
- Community needs most:
 - Vision and direction
 - Affordable housing and resources...
 - Help in integrating into the economy

Challenges faced by arts and cultural organizations:

- A lot going on for a city of Portland's size. Don't create more!
- Organizations are cannibalizing themselves - need to figure out a way to share resources.
- Need one voice with which to lobby the city and advocate for arts and culture.
- Need a better relationship with the tourism industry...an untapped market for artists and organizations.
- This is not a culture that buys art.

- Difficult to get the city to say “yes” about anything.
- Arts are leaving...if you can't retain the artists and the vibe that go with it, it's really hard to attract the talent you need to support a creative economy.

Immigrant Populations -outreach and inclusion

- Schools program is best way of reaching them.
- Challenges include lack of support systems that help kids get to events...no rides, no support.
- This can't be superficial...this takes intentionality, patience and lots of time.

Cultural Plan

Questions to understand the need, concerns, and possibilities for a new cultural plan for the city.

What are your general thoughts about the Cultural Plan?

- Feel like there needs to be an accounting of implementation of previous cultural plan - what was accomplished?
- If there is no City buy-in it isn't worth it.
- A lot riding on this Plan...can Creative Portland pull this off? Should it pull this off?
- City touts arts as a recruitment tool but arts is really being used by the City without support in return.
- Really worried nothing will come of this. Creative Portland doesn't have resources.
- Figure out relationship between cultural plan, Creative Portland and City

Power/Usefulness of a Cultural Plan

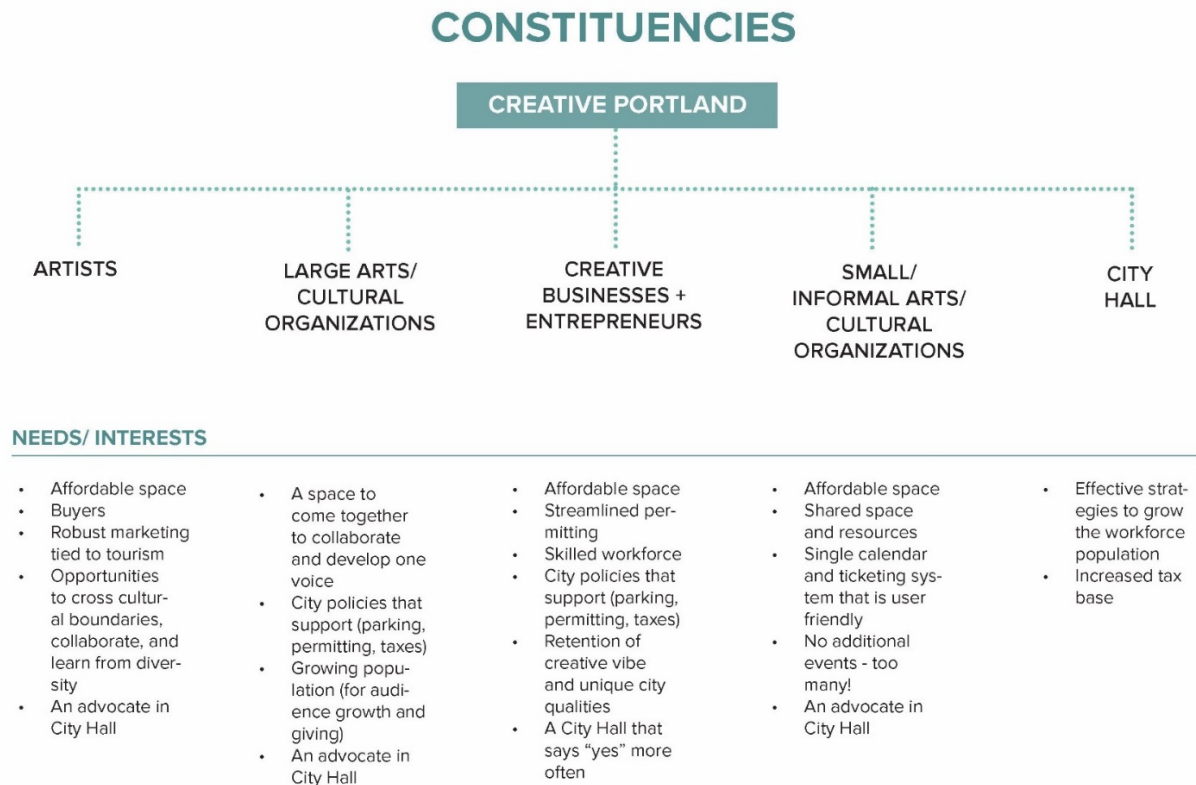
- It would be great if Creative Portland would take on role of City liaison.
- City advocacy and solving nuts and bolts issues.
- Clarifying and supporting the arts district...it doesn't work as a visible entity now.
- Address affordability for artists.
- Can create a real eco-system for the arts.
- Bring the benefits of immigrant and refugee populations to light.
- Get all the creatives in the same room.
- Create City buy-in regarding streamlined permitting, shared rehearsal space, tax breaks for Arts District purchases, etc.
- Identify things that can be done that are larger than the stakeholders individually
- Focus on a few clear things that address challenges that everyone can work on together.

What should the Plan include?

- Tourism...is a big part of this.
- Identifying bold moves that everyone can get behind...lobby for it, make it happen.
- Creating opportunities for public-private and non-profit...fighting the fight together.
- Strategies for building a gallery economy and maker space economy.
- Affordable space
- A clear argument for the Arts District
- Articulate very clearly what sets Portland apart.
- Gallery space plan
- Cross-sector - People want to go to the museum, go to stage, eat food.
- Cultural tourism
- Parking strategies/solutions
- Thinking about experience design from the first to last encounter of every audience member, museum goer, perspective resident, or business.
- Clear plan for what Creative Portland and others will do
- Affirm that the arts are the soul and economic center of Portland

- Space for a serious conversation about why the City’s policies aren’t working for artists
- MOU between organizations to commit to working together
- Policies in place to bring artists/creatives in early on City projects instead of at the end
- Identify all City programs and initiatives where arts might be incorporated/introduced

A summary of needs of the various stakeholders is provided below:



Creative Portland

Summary of Findings Regarding Perception, Roles, and Potential Role in Cultural Plan and Arts, Culture, and the Creative Economy of the City

Creative Portland was formed in 2008 and PACA was merged into the organization. The Mission of the organization, as stated on its website, is as follows:

Creative Portland leverages, grows, and sustains Portland’s creative industries, enterprises, and workforce. As the City’s official local arts agency, we also support artists and cultural institutions that are central to Portland’s identity, economy, and community.

The City of Portland website describes the role of The Creative Portland Corporation as follows:

The Creative Portland Corporation (CPC), established November 2008, is a nonprofit organization created to receive donations, grants, and contributions in support of the City of Portland's economic development efforts, which enhance and create business in the creative economy, arts district development, and employment opportunities.

According to the Creative Portland website (accessed May 2017), current programs include:

- First Friday Art Walk
- 2 Degrees Portland
- Creative Spaces data base
- Artist Professional Development Series

The following are the questions posed during interviews and focus groups, with aggregated answers.

What is your understanding of the mission and role of Creative Portland?

- No momentum in any direction
- Creative Portland is ALWAYS in the process of figuring out what it is.
- Unclear about mission...no sense of what Creative Portland does.
- Quasi municipal arts
- Elitist
- Serves downtown/Old Port - speaks for larger organizations
- Hasn't articulated how it adds value
- Was clear in the past, but not sure what policies are anymore. Seems like Creative Portland is trying to get a handle on what it is.

There was overwhelming consensus among all groups interviewed that Creative Portland's message and mission are not clear. It is also interesting to note that many acknowledge the impossible task of being all things to all people, particularly with limited resources:

- It's a Catch 22 - can't do it all with limited resources but Creative Portland can't get more resources until it proves its worth
- Creative Portland can't do both - advocate for artists and support economic development through creative economy. They are two very different tasks and constituencies...there needs to be two organizations.

What would you like Creative Portland to take on in the future? How do you think Creative Portland could support your organization?

Most stakeholders have very definite ideas of possible roles for Creative Portland which fit into the following categories:

- Advocate/Liaison with City Hall
- Resource
- Connector
- Program help/Programming leadership
- Marketing

The role of advocate was the one most often cited when stakeholders were asked about possible future roles of Creative Portland. Details of what that role entails include:

- Need a larger emissarial presence for creativity and arts and culture
- Convene everyone (City, organizations) to align efforts, make the most of limited resources

- Create the “space” to ensure that the missed opportunities everyone sees are addressed and that the most is made of this moment in time
- Build support from City Council
- Cheerleader for the arts; it’s the only thing saving us from a tourism-based economy.
- Interpreter...City Hall and artists don’t speak the same language
- Help the City say “yes” more often.
- Serve as one umbrella for all the arts.
- Be an advocate for affordable space:
- Creative Portland could act as a clearinghouse for regulatory issues/permitting for events, public art, space development.
- Be a strong advocate for shared space for performance/making.

A consistent message from most stakeholders, including the large arts and cultural organizations, is that Creative Portland take a strong leadership role in shaping policy at City Hall:

- Need to be more proactive to lead City officials, government, arts and culture, businesses...what Portland should look like in 10 years.
- The City doesn’t have a plan and someone needs to be leader...it could be Creative Portland. Feel the City is in reactive planning mode and not looking at bigger picture things that can really pull everyone together and make a difference.

Key Takeaways

This cultural planning effort has uncovered two areas of concern for Creative Portland. The first area of concern is focused on the very idea of a cultural plan. Many see the issue of “ownership” as a question that must be answered before a cultural plan can be undertaken; who “owns the plan” in terms of a commitment and the necessary resources for implementation? The second concern is a strategic plan question, “What is Creative Portland and how can it have a positive impact on the city’s arts, culture, and creative industries?”

These questions about Creative Portland’s ability to lead the planning process to successful implementation, and City Hall’s commitment to arts and culture are deep concerns for almost everyone interviewed as part of this Task 1 process.

Creative Portland

There is remarkable unanimity regarding perceptions of Creative Portland, wishes for its future role, and concerns about arts, culture, and creative enterprise in the city. Key takeaways from this stakeholder outreach include five major points:

Identity, focus, value, policy, and advocacy

1. Creative Portland must develop a strong identity that is easy to convey and that clearly defines its role and relationships with varied constituents and City Hall.
2. Creative Portland cannot be all things to all constituents. The reasons for this are varied and include:
 - a. Creative Portland doesn’t have the resources (not enough staff and funding)
 - b. Advocating for artists and cultural organizations and recruiting creative economy workers and businesses are two very different things (with some overlap) with different tasks, skillsets, and resources needed.
3. Creative Portland must decide how it will add value to the city and identify ways to measure success so it can demonstrate its worth.
4. The organization should not focus on creating new things until it determines what its

- focus is but rather, should focus on being a leader in policy and City Hall advocacy.
5. There is a strong desire for Creative Portland to lead by gathering everyone together, setting an agenda, and advocating for this in City Hall.

Cultural Plan

A single question was posed by every stakeholder: “Who will be responsible for implementation of the Cultural Plan and is City Hall really supportive of this effort?” Many stakeholders expressed reluctance to get involved with the planning process, and to commit time and resources to the cultural plan without understanding the level of the City’s commitment to implementation. Other comments included key elements that should be included in a plan. A summary of takeaways includes:

1. It is not worth embarking on a cultural planning process without complete buy-in from City Hall and a commitment to implementing plan elements. Many pointed to the 1998 Cultural Plan as an example of what happens when resources and clear responsibilities are absent.
2. Many organizations, businesses, and individuals will not devote additional time or resources to the cultural planning effort unless there is a real sense of commitment on the part of the City.
3. A Cultural Plan must address policy issues that include support of the Arts District, parking/transportation in the Arts District and beyond, permitting and tax policies, marketing and tourism links, and affordable space.
4. The City is at a critical time of opportunity and there is a general feeling that this is something that is not to be missed. Many feel a sense of urgency to get everything in alignment so that everyone can stop reacting and start planning in proactive ways for big, bold things.

Arts, Culture, and the Creative Economy in Portland

Things are rapidly changing in the city and stakeholders had a surprisingly unified message about what they need and what the stressors are:

1. Affordable space is desperately needed. Artists and creatives are leaving for Biddeford, Westbrook and other places and the city is in danger of losing enough of the arts and cultural scene to affect its uniqueness and “authenticity.” Everyone believes that losing these qualities will also affect the City’s ability to attract and retain businesses and skilled workers.
2. There are too many organizations, initiatives, events, and programs for a city the size of Portland. Groups need to find a way to share or everyone will cannibalize each other.
3. Everyone is competing for the same finite pot of money. Without growth in business and population, the audience/buyer base is stagnant.
4. Arts and cultural initiatives/organizations are not taking advantage of the tourism economy in the city and better marketing that connects these two sectors together would enhance the visitor experience and support arts and culture through increased audiences and a larger buyer pool.
5. It’s a struggle to get the City to collaborate on important issues and also frustrating when it often says “no.” There is a sense that because the City often acts alone, there are missed opportunities. There is also no sense that there is a bold plan...everything is approached piecemeal. Artists and creatives are problem solvers and want to be at the table (not at end of the discussions but at the beginning) to make a difference.

Recommendations

Two major issues have been uncovered during this first phase of the cultural planning process.

Determining a role for Creative Portland

The Cultural Planning process can inform the question of Creative Portland's role. Stakeholders feel that the organization's role is unclear and that it doesn't have the resources to take on all projects at once. Some feel it can't even begin to serve the varied constituencies it now represents—is it an economic development arm of the City or an advocacy and programming organization for arts and culture? If the cultural planning effort moves forward, Creative Portland can listen carefully to determine what roles it most needs to play. It is therefore recommended that Creative Portland make no major changes in its organizational structure, programming, or spending until either the cultural planning process is complete, or absent a cultural plan, that it embarks on a planning process to determine its future role and core stakeholders.

To plan or not to plan

To embark on the extensive effort and resources needed to create a cultural plan and to expend political capital in that process would be foolhardy if there is not a commitment from City Hall for implementation of the plan nor participation and buy-in from major stakeholders. This seems, then, to be the very next step in the cultural planning process - determining what resources and support are present for plan implementation to ensure that this effort is not an abstract exercise, and ensuring that there is significant enough buy-in from major stakeholders to move forward.

A comparison of the major non-profit arts organizations' strategic plans and interviews with leaders of those organizations reveals that there are certainly common interests that can be addressed by a cultural plan. Of particular note are the areas of alignment around concerns regarding physical facilities, visitor/audience experience (from web site exploration to parking to walking city streets, to engagement with the arts), and parking/transportation. All three of these things can be effectively addressed in a cultural plan and can inform the City's planning initiatives.

In summary, it is recommended that:

1. Creative Portland expand the tent to ensure that everyone understands that this is NOT Creative Portland's Cultural Plan. Creative Portland will have to articulate that it has no agenda other than to support arts, culture, and the creative economy in the city, and that it is open to shaping its path forward after hearing Cultural Plan feedback.
2. It be very clear what this cultural plan should include:
 - a. Clear next steps
 - b. Prioritization of issues and actions
 - c. Clearly defined responsibilities and buy-in from parties that must be involved
 - d. Identification of funding and other resources
 - e. Identification of measures for success and built in evaluation schedules and methods
3. Creative Portland consider the cultural planning process as the foundation for its own strategic planning process that will potentially reset its direction and clarify its roles and goals.
4. A new cultural plan should be incorporated into the City's comprehensive plan. The arts and cultural component of the 2017 Comprehensive Plan is very small, with no specifics to help guide moving forward. A cultural plan can address this void and offer the detailed road map needed to ensure that a key characteristic of the city be supported.

Moving Forward

Outreach was conducted at the end of Phase 1 and as a beginning to Phase 2 to gather the major organizations to the table to discuss concerns and potential benefits, as identified in this Task 1 report and to identify possible ways to move forward. In addition, a general meeting was held with a larger group of stakeholders, many of whom had participated in interviews or focus groups during this first phase. The outcome of these meetings had given shape to ways to move forward with the cultural planning process. The overall goal?

Make the collective arts, culture, and creative economy of Portland more visible and provide more support to arts organizations, individuals and creative businesses through collaborations and other means.

Five possible strategies have been identified to achieve this overall goal:

1. **Celebrate Congress Street and the Arts District.** Elevate Congress Street as an arts district with signage, maps, tours that connect to other “hot spots,” etc. Envision Congress Street as the spiritual home of the creative economy of the local and regional creative Portland community. Use the arts district to give visibility to the community and to provide a magnet for art buyers, audiences, and organizational members.
2. **Provide visibility and professional development/support for artists and creative entrepreneurs.** Provide a website gallery of artists and entrepreneurs, create maps of art centers within the city and region, and provide a host of professional supports including marketing, shipping, exhibition guidelines and actual services to help artists professionalize their craft and create a strong image of the city as a destination for buyers of art and audience for performances and museums.
3. **Focus on cultural tourism and coordinated marketing efforts.** Connect formally with Visit Portland, Portland Downtown and hotels, to focus on cultural tourism - package tours and promotions, weekend culture packages, website of events, etc. to encourage and better serve Portland visitors.
4. **Focus on “experience design.”** Ensure that the arts, culture, and creative economy of the city (and region) are visible, and user-friendly to navigate, visit, and enjoy. This includes addressing parking and transportation, website access and visitor information, signage, access to opportunities, and visibility and on-the-ground experiences. The experience of enjoying music, dance, fine art, dining, and entertainment should be easy and joyful.
5. **Advocate for maintaining and growing affordable live, work, and performance space** in Portland. Explore incentives, policies, and zoning tools. Facilitate extended collaborations with the public, non-profit, and private sectors to create affordable space.

Creative Portland sees opportunities to accomplish the above, in part, by:

- Consolidating resources by building connections among and between arts and cultural organizations to support artists and creative organizations. Shared work space is an already existing model that can be built on.
- Looking at regional collaborations, that build on the already expanding geographical region that supports the arts and culture.

Next Steps:

1. Creative Portland will work with its cultural plan group and board to codify and expand upon these five strategies and identify potential stakeholder involved in each one.
2. A Cultural plan leadership working group will be created to ensure that the cultural planning process is inclusive and that “ownership” is built through the involvement and commitment of a diverse group of individuals, organizations, and businesses in the greater Portland area.
3. Involve City Hall in this draft agenda for moving forward to get input and a commitment to implementation.
4. Explore case studies and examples to create a broader framework for possibilities and kick-start a discussion of best practices and how they relate to Portland.
5. A possible “cultural plan summit” that invites a large and diverse group of stakeholders (including businesses, non-profits, and civic leaders) to discuss the goals, explore best practices, and listen to outside experts.
6. Finalize a vision and priority action plan. This would be informed by outcomes of the summit. The priority action plan would align stakeholders with key implementation strategies so planning can move forward.
 - 1) Identify indicators for measuring success, and responsibility for each action.
 - 2) Launch/celebration/announcement of plan kickoff.

MEMORANDUM
City Council Agenda Item

FROM:

DATE: February 7, 2019

SUBJECT: **Order 152-18/19 Authorizing General Obligation Bonds to Finance a Portion of the City's Fiscal Year 2020 Capital Improvement Program in an Amount not to Exceed \$40,100,000 - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Chair**

SPONSOR: Nick Mavodones, Finance Committee Chair. (Passed by Finance Committee 1/24/2019, Vote 3-0.)

(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 Approval by 2/20 is essential for optimal project bid prices. Several 2019 construction season projects are in the process of being bid and can only be awarded if the CIP has been approved.

PRESENTATION: None

I. SUMMARY

This order authorizes, and the companion order appropriates, the issuance of general obligation bonds to fund the FY20 Capital Improvement Plan projects as recommended by the City Manager and unanimously approved by the Finance Committee.

II. AGENDA DESCRIPTION

The Finance Committee met on January 24, 2019 and voted 3-0 to forward the Fiscal Year ("FY") 2020-FY2024 Capital Improvement Program to the City Council for approval.

The FY2020-FY2024 Capital Improvement Program ("CIP") has been in development since summer 2018 and has been reviewed by the Finance Committee since their first meeting of 2019. The FY20 Capital Improvement Plan calls for \$17,000,000 of new bond authorization for general fund CIP projects and \$23,100,000 of new bond authorization for sewer and stormwater CIP projects. Two orders are required, one authorizing the FY20 CIP bonds, a second appropriating the proceeds and excess fund balance for several projects. A complete listing of the funds being appropriated is included within the orders. The City Manager recommended the FY20 projects at the 1/10/2019 Finance Committee meeting.

This item must be read on two separate days. It was given a first reading on February 4, 2019. Seven affirmative votes are required for passage after public comment.

III. BACKGROUND

The City Charter requires the City Manager "To prepare a five (5) year rolling capital improvement plan for annual presentation to the city council". Approval of these orders is a critical component of the one year CIP.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

Intended Result: Approval of the FY20 CIP will allow staff to move forward immediately with the included projects, including many City, School and Sewer/Storm water projects which are slated to begin during 2019.

The Finance Committee, after recommendation from City staff, has been working to bring the CIP forward for approval earlier in order to get projects out to bid prior to the construction window during the late winter. This should result in lower bid prices vs RFPs / bids put out in the spring when contractors may already have a fuller slate.

City Council Goal Addressed: As noted previously, the CIP is a requirement of the City Charter and a duty of the City Manager. These actions will trigger compliance with the City Charter requirements.

V. FINANCIAL IMPACT

Fiscal Impact Memo attached.

VI. STAFF ANALYSIS AND BACKGROUND

The Capital Improvement Plan is a comprehensive process which began back in summer 2018. Each Department (including the School Department) performs a comprehensive analysis of their capital needs over the upcoming five or ten years. Each Department then ranks their needs based on priority and submits each project. The complete list of City wide needs is then reviewed as a whole, compared to available funding, and a one and five year CIP recommendation is produced. The current FY20 CIP represents the City Manager's recommended CIP after review and presentation of all Department submissions and consideration of input submitted by elected officials.

VII. RECOMMENDATION

The Finance Committee recommends approval of the FY20 CIP Bond Authorization order and the FY20 CIP Bond Appropriation Order.

VIII. LIST ATTACHMENTS

1. Portland FY20 CIP Bonds - Authorization Order
2. Portland FY20 CIP - Exhibit A Project List
3. FY20 CIP Fiscal Impact Note - Fiscal Impact Note

Prepared by:

Date: 02/07/2019

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (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 AUTHORIZING GENERAL OBLIGATION BONDS
TO FINANCE A PORTION OF THE CITY'S FISCAL YEAR 2020 CAPITAL
IMPROVEMENT PROGRAM IN AN AMOUNT NOT TO EXCEED \$40,100,000**

FOLLOWING a public hearing of the City Council of the City of Portland, Maine, held upon due notice pursuant to Article VII, Section 9 of the City Charter, **IT IS HEREBY ORDERED THAT:**

There be and hereby is authorized and approved the incurring of indebtedness by the City of Portland and the issue and sale of general obligation bonds and notes in anticipation thereof in the aggregate principal amount not to exceed Forty Million One-Hundred Thousand Dollars (\$40,100,000) to finance the items identified in the City's 2020 Capital Improvement Program attached hereto as Exhibit A and all other costs (as defined herein) related and ancillary thereto (the "Projects").

BE IT FURTHER ORDERED:

1. That the Finance Director be and hereby is authorized to prepare, issue, and sell such bonds in the name of and on behalf of the City, in the aggregate amount of **\$40,100,000** (the "Bonds") at one time, or from time to time, as one or more separate bond issues, and to determine the date, form, minimum denomination, interest rates (as term bonds or serial bonds or some combination thereof), maturities (with the last maturity not to exceed the maximum term permitted by law) and all other details, terms and provisions, not inconsistent herewith, including the form and manner of their sale and award as he may approve, such approval to be conclusively evidenced by the execution thereof;
2. That the Finance Director be and hereby is authorized to borrow money in anticipation of said Bonds by the issuance and sale of notes or renewal notes in anticipation of said Bonds ("BANs"), and to determine the date, form, minimum denominations, interest rate, maturities (with the last maturity not to exceed 3 years from its date of issuance) and all other details of each issue of BANs, including the form and manner of their sale and award, subject to the provisions of the law, the City Charter and this Order;
3. That the Finance Director be and hereby is authorized to provide that any of the Bonds and BANs hereinbefore authorized be made subject to call for redemption, with or without premium, prior to their stated dates of maturity, as provided in 30-A M.R.S.A. §5772(6), as amended;
4. That the Bonds and BANs issued hereunder shall be signed by the Finance Director and by the Mayor, either or both of whose signatures may be by facsimile to the extent permitted by law, attested to by the City Clerk, under the seal of the City, and shall be in such form and contain such

terms and provisions not inconsistent herewith as they may approve, their approval to be conclusively evidenced by their execution thereof;

5. That the Finance Director is authorized to negotiate, execute, and deliver, in the name of and on behalf of the City such contracts, agreements, instruments and other documents and certificates as may be necessary or appropriate, as determined and approved by the Finance Director, in connection with the financing of the Projects, including a loan agreement in usual and customary form with the Maine Municipal Bond Bank (the “Bond Bank”), to the extent any of the Bonds or BANs authorized herein are issued pursuant to the State of Maine Clean Water Revolving Loan Fund (CWSRF) program established under 30-A M.R.S.A. §6006-A and administered by the Department of Environmental Protection, which contracts, agreements, loan agreements, instruments and other documents and certificates shall be in such form and contain such terms and conditions, not inconsistent herewith, as may be approved by the Finance Director, such approval to be conclusively evidenced by his execution thereof;

6. That the Finance Director be and hereby is authorized to select the underwriter for the Bonds or BANs heretofore authorized and the Finance Director be and hereby is authorized and empowered to execute and deliver such contracts or agreements as may be necessary or appropriate in connection therewith;

7. That the Finance Director be and hereby is authorized to prepare, or cause to be prepared, a Preliminary Official Statement and an Official Statement for use in the offering and sale of the Bonds or BANs heretofore authorized, such Preliminary Official Statement and Official Statement to be in such form and contain such information as may be approved by the Finance Director, with the advice of the bond counsel for the City, and that the use and distribution of the Preliminary Official Statement and the Official Statement in the name of and on behalf of the City in connection with offering the Bonds or BANs for sale be and hereby is approved;

8. That the Finance Director be and hereby is authorized to select the registrar, paying agent and transfer agent (the “Transfer Agent”) for the Bonds or BANs heretofore authorized and to execute and deliver such contracts and agreements as may be necessary or appropriate to secure their services;

9. That the Bonds or BANs heretofore authorized shall be transferable only on the registration books of the City kept by the Transfer Agent, and said principal amount of the bonds of the same maturity (but not of other maturity) in minimum denominations of \$5,000 and any integral multiple in excess thereof upon surrender thereof at the principal office of the transfer agent, with a written instrument of transfer satisfactory to the transfer agent duly executed by the registered owner or his attorney duly authorized in writing. Upon each exchange or transfer of a bond the City and the Transfer Agent shall make a charge sufficient to cover any tax, fee or any other governmental charge required to be payable with respect to such exchange or transfer, and with respect to such exchange or transfer, and subsequent to the first exchange or transfer, the cost of preparing new bonds upon exchanges or transfer thereof to be paid by the person requesting the same;

10. That the Finance Director be and hereby is authorized to undertake all acts necessary to provide for the issuance and transfer of such Bonds or BANs heretofore authorized in book-entry form pursuant to the Depository Trust Company Book-Entry Only System, as an alternative to the provisions of the foregoing paragraph above regarding physical transfer of Bonds or BANs, and the Finance Director be and hereby is authorized and empowered to enter into a Letter of Representation

or any other contract, agreement or understanding necessary or, in his opinion, appropriate in order to qualify the Bonds or BANs for and participate in the Depository Trust Company Book-Entry Only System;

11. That the Finance Director and Mayor from time to time shall execute such Bonds or BANs as may be required to provide for exchanges or transfers of Bonds or BANs as heretofore authorized, all such Bonds or BANs to bear the original signature of the Finance Director and Mayor, and in case any officer of the City whose signature appears on any Bond or BAN shall cease to be such officer before the delivery of said Bond or BAN, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery thereof;

12. That if the Bonds or BANs, or any part of them, are issued on a tax-exempt basis, the Finance Director be and hereby is authorized and directed to covenant and certify on behalf of the City that no part of the proceeds of the issue and sale of the Bonds or BANs authorized to be issued hereunder shall be used directly or indirectly to acquire any securities or obligations, the acquisition of which would cause such Bonds or BANs to be "private activity bonds" or "arbitrage bonds" within the meaning of Sections 141 and 148 of the Internal Revenue Code of 1986, as amended;

13. That if the Bonds or BANs, or any part of them, are issued on a tax-exempt basis, the officers or officials executing the Bonds or BANs be and hereby are individually authorized to covenant and agree, on behalf of the City, for the benefit of the holders of such Bonds or BANs, that the City will file any required reports and take any other action that may be necessary to insure that interest on the notes will remain exempt from federal income taxation, and that the City will refrain from any action that would cause interest on the Bonds or BANs to be subject to federal income taxation;

14. That the officers executing the Bonds or BANs be and hereby are individually authorized to covenant, certify and agree, on behalf of the City, for the benefit of the holders of such Bonds or BANs, that the City will file any required reports, make any annual financial or material event disclosure, and take any other action that may be necessary to insure that the disclosure requirements imposed by Rule 15c2-12 of the Securities and Exchange Commission, if applicable, are met;

15. That any or all of the Bonds or BANs issued hereunder may be consolidated with and become a part of any other issue of temporary notes or general obligation bonds authorized to be issued by any previous or subsequent order of the City Council of the City of Portland;

16. That the term "cost" or "costs" as used herein and applied to the Projects, or any portion thereof, includes, but is not limited to (1) the cost to design, acquire, construct, renovate, improve, furnish and equip the Project, or any portion thereof; (2) the cost of land, easements and other real property interests, landscaping and site preparation, including demolition and environmental remediation work on any existing building or structure and on the property where the Project is located, utility extensions and site improvements, and all appurtenances and other fixtures, facilities, buildings and structures either on, above, or under the ground which are used or usable in connection with the Project; (3) the cost of feasibility studies, surveys, environmental studies and assessments, engineering, plans and specifications, legal and other professional services associated with the Project; (4) issuance costs, including premiums for insurance, capitalized interest and other fees and expenses relating to the financing transaction.

17. That if the actual cost of any Project differs from the estimated cost on the attached Exhibit A, whether due to completion, delay or abandonment of the Project or for any other reason, the Finance Director is authorized, in his discretion, to reallocate proceeds of the Bonds to any other listed Project on the attached Exhibit A, or to any other project or improvement that the City Council has approved or may in the future approve as part of the City's annual capital improvement plan;

18. That the Finance Director, Mayor and Clerk and other proper officials of the City be, and hereby are authorized and empowered in its name and on its behalf to do or cause to be done all such acts and things, not inconsistent herewith, as may be necessary or desirable in order to effect the issuance, sale and delivery of the Bonds or BANs hereinabove authorized;

19. That if any of the officers or officials of the City who have signed or sealed the Bonds shall cease to be such officers or officials before the Bonds or BANs so signed and sealed shall have been actually authenticated or delivered by the City, such Bonds or BANs nevertheless may be authenticated, issued, and delivered with the same force and effect as though the person or persons who signed or sealed such Bonds or BANs had not ceased to be such officer or official; and also any such bonds or notes may be signed and sealed on behalf of the City by those persons who, at the actual date of the execution of such Bonds or BANs, shall be the proper officers and officials of the City, although at the nominal date of such Bonds or BANs any such person shall not have been such officer or official;

20. That if the Finance Director, Mayor or Clerk are for any reason unavailable to approve and execute the Bonds or BANs or any other documents necessary or convenient to the issuance, execution and delivery of the Bonds or BANs, the person or persons then acting in any such capacity, whether as an assistant, a deputy, or otherwise, is authorized to act for such official with the same force and effect as if such official had performed such act.

21. That the Bonds or BANs authorized by this Order are in addition to any bonds or notes previously authorized for the same or similar purposes;

22. That to the extent not payable from other funds, an amount sufficient for the payment of the annual payments of principal and interest on the Bonds or any BANs issued hereunder shall be included in the tax levy of each year until the debt represented by said Bonds or BANs is extinguished;

23. That the following resolutions required by Section C(4)(e) of the State of Maine Revolving Loan Fund Rules, Chapter 595, Department of Environmental Protection and Maine Municipal Bond Bank (the "SRF Regulations"), and governing the loan to be made to the City under the State Revolving Loan Fund Program be and hereby are adopted:

- a. That a Project Account shall be created for the Projects which shall be separate from all other accounts of the City. If operating revenues are to be used to retire the debt, a sub-account will be established;
- b. That the Project Account shall be maintained in accordance with standards set forth by the Bond Bank and in accordance with generally accepted government account standards;
- c. That a final accounting shall be made to the Bond Bank of the total cost of each Project upon completion of the Project performance certification as set out in Section G(3) of the

SRF Regulations and the City acknowledges that the Bond Bank reserves the right at its sole discretion to be provided with a cost certification of the Project as built;

- d. That an annual audit of the City, prepared by a certified public accountant or licensed public accountant be provided to the Bond Bank for the term of the loan;
- e. That the City shall maintain insurance coverage on the Projects in an amount adequate to protect the Bond Bank's interest for the term of the loan with the Bond Bank named as loss payee;
- f. That the City will comply with any special conditions specified by the Department of Environmental Protection's environmental determination until all financial obligations to the State have been discharged;
- g. That the City certify to the Bond Bank that it has secured all permits, licenses and approvals necessary and that it has a dedicated source of revenue for repayment;
- h. That the City establish a rate, charge or assessment schedule in order to pay principal and interest. Such rate change or schedule shall provide total operations and debt service coverage at a level at which the coverage for the Bond Bank is sufficient;
- i. That the City must demonstrate the ability to pay reasonably anticipated costs of operating and maintaining the financed Project;
- j. That the City abide by the SRF Regulations, as revised and amended and relevant State statutes of the State of Maine; and

24. That during the term any of the Bonds (or bonds issued to refund such Bonds) are outstanding, the Finance Director be and hereby is authorized to issue and deliver refunding bonds to refund some or all of the Bonds then outstanding, and to determine the date, form, interest rate, maturities and all other details of such refunding bonds, including the form and manner of their sale and award. The Finance Director be and hereby is further authorized to provide that any of such refunding bonds hereinbefore authorized be made callable, with or without premium, prior to their stated date(s) of maturity, and each refunding bond issued hereunder shall be signed by the Finance Director and by the Mayor, either or both of whose signatures may be by facsimile to the extent permitted by law, attested to by the City Clerk, under the seal of the City, and shall be in such form and contain such terms and provisions not inconsistent herewith as they may approve, their approval to be conclusively evidenced by their execution thereof.

FY20 CIP - General Fund

		CIP Amount	Bonded Amount	Other Funding
Equipment				
Health & Human Services - Barron Center	Replace Patient Call System Phase III	\$ 142,600	\$ 142,600	\$ -
Information Technology	Upgrade Network switches	150,000	150,000	-
Parking / Garages	Parking Meters Replacement	185,000	185,000	-
Parking / Garages	Multi space parking meters	15,000	15,000	-
Parks, Rec & Public Assembly	Walk Through Metal Detectors	55,000	55,000	-
Police Department	Records Management System	250,000	250,000	-
Public Buildings & Waterfront	State of Maine Room & Customer Service Areas A/C Installation - City Hall	200,000	200,000	-
Public Buildings & Waterfront	Passenger Elevator Modernization - City Hall	300,000	300,000	-
School Department	PATHS/CBHS Technology/Network Upgrade	200,000	-	200,000
Equipment Total		\$ 1,497,600	\$ 1,297,600	\$ 200,000
Facilities				
<i>Buildings / Garages</i>				
Fire Department	Fire Station Rehabilitation (Various Stations)	\$ 300,000	\$ 300,000	\$ -
Fire Department	Bramhall - Sprinkler System Feed	160,000	160,000	-
Health & Human Services - Barron Center	Generator Replacement-Phase II-Life Safety & Internal Wiring	170,000	170,000	-
Health & Human Services - Barron Center	BCI Basement Kitchen & Receiving Renovations	104,250	104,250	-
Library	Lower Level Flooring / Carpeting	35,000	35,000	-
Parking / Garages	Spring St Garage Steel Beam repairs	290,000	290,000	-
Parking / Garages	Temple St Garage Façade	700,000	700,000	-
Parks, Rec & Public Assembly	Reconstruction of Cart Path for ADA Access - Riverside Golf	50,000	50,000	-
Parks, Rec & Public Assembly	Flooring, Sound System and Rear Entryway - PIA	90,000	90,000	-
Public Buildings & Waterfront	Expo Exterior Masonry North Wall	200,000	200,000	-
Public Buildings & Waterfront	Fort Allen Gazebo	25,000	25,000	-
Public Buildings & Waterfront	Roof Replacement Exposition Building	50,000	50,000	-
Public Works	Ocean Avenue Landfill	300,000	300,000	-
<i>School Facilities</i>				
School Department	DHS Kitchen remodel	200,000	-	200,000
School Department	Pave multiple campuses	250,000	250,000	-
School Department	Replace retaining wall and iron railings	325,500	325,500	-
School Department	PATHS/CBS Replace windows	430,000	430,000	-
School Department	PIES Interior renovations	250,000	250,000	-
School Department	DHS Replace Windows	405,000	405,000	-
School Department	PHS Replace Windows	75,000	75,000	-
School Department	DHS Replace Air Handling Units	355,000	355,000	-
School Department	Riverton Replace A/C	660,000	60,000	600,000
School Department	Door access controls - DHS, PHS, and PATHS	115,000	115,000	-
<i>Marine</i>				
Public Buildings & Waterfront	Waterfront Fender System (POT)	1,050,000	1,050,000	-
Public Buildings & Waterfront	Compass Park Ongoing pile/pier work	100,000	100,000	-
Public Works	Stoudwater Dam	50,000	50,000	-
Public Buildings & Waterfront	Bollard / Bit Replacement (piers)	100,000	100,000	-
Facilities Total		\$ 6,839,750	\$ 6,039,750	\$ 800,000
Parks, Fields, Trails				
Parks, Rec & Public Assembly	Riverton Playground Replacement	\$ 250,000	\$ 250,000	\$ -
Parks, Rec & Public Assembly	Riverton Softball Drainage and Erosion Issues	65,000	65,000	-
Parks, Rec & Public Assembly	Dougherty Athletic Field	200,000	200,000	-
Parks, Rec & Public Assembly	Park Walkways and Road Paving	100,000	100,000	-
Parks, Rec & Public Assembly	Eastern Prom, Lyman Moore, Riverton Tennis/Basketball Courts Sealing/Painting	50,000	50,000	-
Parks, Fields, Trails Total		\$ 665,000	\$ 665,000	\$ -
Transportation				
Public Works	Sidewalk Rehabilitation/Accessibility	\$ 525,000	\$ 525,000	\$ -
Planning & Urban Development	West Commercial Street Pathway - Phases II and III	50,000	50,000	-
Planning & Urban Development	Neighborhood Byway Network Implementation	120,000	120,000	-
Public Works	CSO Compliance - SRF Ineligibles	500,000	500,000	-
Public Works	PACTS Collector Paving - Cumberland Avenue	249,000	249,000	-
Public Works	PACTS Collector Paving - Danforth Street	103,000	103,000	-
Public Works	India Street CPR and ADA Improvements	396,000	396,000	-
Public Works	PACTS MPI Brighton Ave. (Holm to Westbrook)	180,750	180,750	-
Public Works	PACTS Washington Avenue Road & Signals	50,000	50,000	-
Public Works	Congress Square Intersection Construction	150,000	150,000	-
Public Works	Pavement Preservation Program	1,800,000	800,000	1,000,000
Public Works	Traffic Signal Upgrades with Paving Programs	100,000	100,000	-
Public Works	PACTS RTMS - Traffic Signal Communications Systems	200,000	200,000	-
Public Works	Street Rehabilitation Program	250,000	250,000	-

Public Works	GDI to LDI Passageway	235,000	235,000	-
Public Works	Washington Avenue Rehabilitation (Cumberland to E. Prom)	50,000	50,000	-
Public Works	Rehabilitation of Cobblestone / Paver Streets	100,000	100,000	-
Public Works	Monument Way & Square Rehabilitation	100,000	100,000	-
Public Works	Arterial Street Ped Crossings	50,000	50,000	-
Public Works	Separated Bike Lanes	100,000	100,000	-
Public Works	Peaks Island Parking Lot	50,000	50,000	-
Public Works	Franklin Street Design Completion and Construction	200,000	200,000	-
Public Works	Traffic Signals Upgrade Program	400,000	400,000	-
Transportation Total		\$ 5,958,750	\$ 4,958,750	\$ 1,000,000
<u>Vehicles</u>				
Parks, Rec & Public Assembly	Twelve Passenger Van with Handicapped Lift	\$ 65,000	\$ 65,000	\$ -
Vehicle Maintenance	Add Steam Weed Removal Machine - DPW Districting	25,000	25,000	-
School Department	Replace one van and two ADA buses	234,900	234,900	-
Vehicle Maintenance	0272 Squad 301 Heavy Rescue PFD Fire	68,000	68,000	-
Vehicle Maintenance	0284 Engine 311 Replacment PFD Fire - Ocean Ave Station	750,000	750,000	-
Vehicle Maintenance	4057 - Rear Load Packer, Replace with Automated - DPW Solid Waste	325,000	325,000	-
Vehicle Maintenance	4052 - Rear Load Packer DPW Solid Waste	250,000	250,000	-
Vehicle Maintenance	2501 1 Ton Wrecker Replacement - DPW Fleet	100,000	100,000	-
Vehicle Maintenance	5097 Pulp Loader Replacement - Forestry - PRF	250,000	250,000	-
Vehicle Maintenance	Replace Patrol Vehicles PD Patrol (7 total including 2 hybrids)	280,000	280,000	-
Vehicle Maintenance	Plow Loader - DPW Winter	160,000	160,000	-
Vehicle Maintenance	3096 TA Dump Truck Wheeler Plow Replacement - Districting - DPW	215,000	215,000	-
Vehicle Maintenance	0931 Rechassis Medcu Ambulance PFD Medcu	150,000	150,000	-
Vehicle Maintenance	8104 Sidewalk Tractor DPW PDD	150,000	150,000	-
Vehicle Maintenance	8107 Sidewalk Tractor DPW PDD	150,000	150,000	-
Vehicle Maintenance	3121 1 Ton Dump Truck Replacement - Cemeteries - PRF	65,000	65,000	-
Vehicle Maintenance	0224 Command Car PFD Fire	40,000	40,000	-
Vehicle Maintenance	2185 3/4 ton pickup - PRF Ballfields	40,000	40,000	-
Vehicle Maintenance	3104 1 Ton PRF Ballfields	65,000	65,000	-
Vehicle Maintenance	3103 1 Ton Dump Truck Replacement - Parks - PRF	65,000	65,000	-
Vehicle Maintenance	3105 1 Ton Dump Truck Replacement - Districting - DPW	70,000	70,000	-
Vehicle Maintenance	Add Sanders to 2 DPW F550s for Winter - DPW	15,000	15,000	-
Vehicle Maintenance	0247 1/2 Ton Pickup w/ Liftgate PRF PAF	35,000	35,000	-
Vehicle Maintenance	0041 - Replace Taurus w/ Used SUV - DPW	20,000	20,000	-
Vehicle Maintenance	Pickup Truck Funding - DPW	100,000	100,000	-
Vehicle Maintenance	Purchase (2) Used Utility Vans - PRF Trades	36,000	36,000	-
Vehicle Maintenance	Replace Crown Vic w/ Used SUV PRF Parks Manager	20,000	20,000	-
Vehicle Maintenance	0186 Animal Control Officer Van Replacement - Police	35,000	35,000	-
Vehicle Maintenance	0140 Rechassis Arrest Truck PD Patrol - Police	40,000	40,000	-
Vehicle Maintenance	Smithco Turf RakeReplacement - Cemeteries 1046 - PRF	40,000	40,000	-
Vehicle Maintenance	Replace Fairway Mower(s) PRF Golf	60,000	60,000	-
Vehicles Total		\$ 3,918,900	\$ 3,918,900	\$ -
Public Art		60,000	60,000	-
Land Bank		60,000	60,000	-
Sub-Total FY20 CIP (General Fund)		\$ 19,000,000	\$ 17,000,000	\$ 2,000,000
<u>FY19 CIP - Sewer Fund</u>				
<u>Sewer / Stormwater</u>				
Vehicle Maintenance	3202 Dump Truck Replacement -DPW	\$ 210,000	\$ 210,000	\$ -
	5015 Toolcat DPW Water Resources	70,000	70,000	-
	Add 4x4 1/2 Ton Crew Cab DPW Water Res	30,000	30,000	-
Stormwater	Sagamore Village Green Infrastructure Project	40,000	40,000	-
	Thames St Stormwater Outfall	950,000	950,000	-
	Riverton Drive Culvert Replacement	900,000	900,000	-
	Stormwater Infrastructure Improvements	750,000	750,000	-
Wastewater	CWSRF - Back Cove South Storage Facility	3,500,000	3,500,000	-
	CWSRF - Mackworth Street and Ocean Avenue Sewer Separation Project	6,000,000	6,000,000	-
	CWSRF - Preble & Somerset St Sewer Separation	4,800,000	4,800,000	-
	CMOM - Pump Station Rehabilitation	2,000,000	2,000,000	-
	CMOM - Sewer System Renewal	1,100,000	1,100,000	-
	CSO - Close CSO #42	250,000	250,000	-
	PACTS USM Roundabout Sewer Separation	500,000	500,000	-
	Monument Way & Square Sewer / Storm	100,000	100,000	-
	Integrated Planning LTCP and Post Construction Monitoring Program	1,100,000	1,100,000	-
	Fore Street Sewer Separation	100,000	100,000	-
	Pearl Street Sewer Replacement	200,000	200,000	-
	Non SRF Sewer / Storm Consulting Services	500,000	500,000	-
Total Sewer / Stormwater Total (Sewer Fund)		\$ 23,100,000	\$ 23,100,000	\$ -
TOTAL CIP (General Fund & Sewer Fund)		\$ 42,100,000	\$ 40,100,000	\$ 2,000,000

FISCAL IMPACT NOTE FY20 Capital Improvement Plan	FY19		FY20		FY21	
	City Rate	City / Sch Combined Rate	City Rate	City / Sch Combined Rate	City Rate	City / Sch Combined Rate
Example:						
ADD: NEW ITEM ANNUAL EXPENDITURES		\$0		\$0		\$375,000
LESS: TOTAL NEW ITEM ANNUAL REVENUES		\$0		\$0		\$0
=NEW ITEM NET TAX RATE IMPACT PROJECTION	\$0	\$0	\$0	\$0	\$375,000	\$375,000
New Program Impact to the Mil Rate	\$0.0000	\$0.0000	\$0.0000	\$0.0000	\$0.0475	\$0.0475
New Program % Impact on Mil Rate	0.0000%	0.0000%	0.0000%	0.0000%	0.4186%	0.2112%
Mil Rate Including New Program	\$11.3400	\$22.4800	\$11.3400	\$22.4800	\$11.3875	\$22.5275

Notes: The FY20 Capital Improvement Plan authorizes \$17M of new general obligation bonds which will be repaid via the general fund. These bonds will not be issued until FY20, with first debt service payments not due until the FY21 budget. Therefore there is no fiscal impact to the FY19 budget or FY20 budget. The \$17M in new debt is offset by \$12M in CIP debt being retired resulting in a net increase in outstanding debt of approximately \$5M. This amounts to an increased debt service expense of approximately \$375,000. As these are 20 year bonds, this amount will be added to the City budget from FY21 - FY40.

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (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 BOND PROCEEDS AND UNASSIGNED FUND BALANCE IN
AN AMOUNT NOT TO EXCEED \$42,100,000 FOR
THE CITY'S FISCAL YEAR 2020 CAPITAL IMPROVEMENT PROGRAM**

IT IS HEREBY ORDERED THAT:

1. The sum of \$42,100,000 be and hereby is appropriated to finance the projects more particularly described in the project list for the City's 2020 Capital Improvement Program attached hereto as Exhibit A (the "2020 CIP Projects"), as follows:
 - a. Subject to paragraph 2 and 3 below, an amount not to exceed \$40,100,000 is appropriated from the proceeds of the City's general obligation bonds to be authorized by the City Council and issued to finance a portion of the costs of the 2020 CIP Projects; and
 - b. An amount not to exceed \$2,000,000 is appropriated from the City's Unassigned Fund Balance to finance a portion of the costs of a Citywide property revaluation and certain other vehicles, equipment and improvements included in the 2020 CIP Projects, as listed on Exhibit A;
2. The appropriation set forth in paragraph 1(a) above is and shall be contingent upon the approval by the City Council of general obligation bonds for such purposes (the amount appropriated in said paragraph 1(a) to be adjusted to reflect the principal amount of bonds so authorized) and the issuance and delivery of such bonds (or notes in anticipation thereof) for such purposes. The foregoing appropriations shall also be applied to issuance costs for such bonds (or notes in anticipation thereof).
3. That if the actual cost of any 2020 CIP Project differs from the estimated cost on the attached Exhibit A, whether due to completion, delay or abandonment of the Project or for any other reason, the Director of Finance is authorized, in his discretion, to reallocate proceeds of the bonds issued therefore or the funds appropriated from the Unassigned Fund Balance Funds therefore to any other project listed on the 2020 CIP Project List or to any other project or improvement that the City Council has approved or may in the future approve as part of the City's annual capital improvement plan.

FY20 CIP - General Fund

		CIP Amount	Bonded Amount	Other Funding
Equipment				
Health & Human Services - Barron Center	Replace Patient Call System Phase III	\$ 142,600	\$ 142,600	\$ -
Information Technology	Upgrade Network switches	150,000	150,000	-
Parking / Garages	Parking Meters Replacement	185,000	185,000	-
Parking / Garages	Multi space parking meters	15,000	15,000	-
Parks, Rec & Public Assembly	Walk Through Metal Detectors	55,000	55,000	-
Police Department	Records Management System	250,000	250,000	-
Public Buildings & Waterfront	State of Maine Room & Customer Service Areas A/C Installation - City Hall	200,000	200,000	-
Public Buildings & Waterfront	Passenger Elevator Modernization - City Hall	300,000	300,000	-
School Department	PATHS/CBHS Technology/Network Upgrade	200,000	-	200,000
Equipment Total		\$ 1,497,600	\$ 1,297,600	\$ 200,000
Facilities				
<i>Buildings / Garages</i>				
Fire Department	Fire Station Rehabilitation (Various Stations)	\$ 300,000	\$ 300,000	\$ -
Fire Department	Bramhall - Sprinkler System Feed	160,000	160,000	-
Health & Human Services - Barron Center	Generator Replacement-Phase II-Life Safety & Internal Wiring	170,000	170,000	-
Health & Human Services - Barron Center	BCI Basement Kitchen & Receiving Renovations	104,250	104,250	-
Library	Lower Level Flooring / Carpeting	35,000	35,000	-
Parking / Garages	Spring St Garage Steel Beam repairs	290,000	290,000	-
Parking / Garages	Temple St Garage Façade	700,000	700,000	-
Parks, Rec & Public Assembly	Reconstruction of Cart Path for ADA Access - Riverside Golf	50,000	50,000	-
Parks, Rec & Public Assembly	Flooring, Sound System and Rear Entryway - PIA	90,000	90,000	-
Public Buildings & Waterfront	Expo Exterior Masonry North Wall	200,000	200,000	-
Public Buildings & Waterfront	Fort Allen Gazebo	25,000	25,000	-
Public Buildings & Waterfront	Roof Replacement Exposition Building	50,000	50,000	-
Public Works	Ocean Avenue Landfill	300,000	300,000	-
<i>School Facilities</i>				
School Department	DHS Kitchen remodel	200,000	-	200,000
School Department	Pave multiple campuses	250,000	250,000	-
School Department	Replace retaining wall and iron railings	325,500	325,500	-
School Department	PATHS/CBS Replace windows	430,000	430,000	-
School Department	PIES Interior renovations	250,000	250,000	-
School Department	DHS Replace Windows	405,000	405,000	-
School Department	PHS Replace Windows	75,000	75,000	-
School Department	DHS Replace Air Handling Units	355,000	355,000	-
School Department	Riverton Replace A/C	660,000	60,000	600,000
School Department	Door access controls - DHS, PHS, and PATHS	115,000	115,000	-
<i>Marine</i>				
Public Buildings & Waterfront	Waterfront Fender System (POT)	1,050,000	1,050,000	-
Public Buildings & Waterfront	Compass Park Ongoing pile/pier work	100,000	100,000	-
Public Works	Stoudwater Dam	50,000	50,000	-
Public Buildings & Waterfront	Bollard / Bit Replacement (piers)	100,000	100,000	-
Facilities Total		\$ 6,839,750	\$ 6,039,750	\$ 800,000
Parks, Fields, Trails				
Parks, Rec & Public Assembly	Riverton Playground Replacement	\$ 250,000	\$ 250,000	\$ -
Parks, Rec & Public Assembly	Riverton Softball Drainage and Erosion Issues	65,000	65,000	-
Parks, Rec & Public Assembly	Dougherty Athletic Field	200,000	200,000	-
Parks, Rec & Public Assembly	Park Walkways and Road Paving	100,000	100,000	-
Parks, Rec & Public Assembly	Eastern Prom, Lyman Moore, Riverton Tennis/Basketball Courts Sealing/Painting	50,000	50,000	-
Parks, Fields, Trails Total		\$ 665,000	\$ 665,000	\$ -
Transportation				
Public Works	Sidewalk Rehabilitation/Accessibility	\$ 525,000	\$ 525,000	\$ -
Planning & Urban Development	West Commercial Street Pathway - Phases II and III	50,000	50,000	-
Planning & Urban Development	Neighborhood Byway Network Implementation	120,000	120,000	-
Public Works	CSO Compliance - SRF Ineligibles	500,000	500,000	-
Public Works	PACTS Collector Paving - Cumberland Avenue	249,000	249,000	-
Public Works	PACTS Collector Paving - Danforth Street	103,000	103,000	-
Public Works	India Street CPR and ADA Improvements	396,000	396,000	-
Public Works	PACTS MPI Brighton Ave. (Holm to Westbrook)	180,750	180,750	-
Public Works	PACTS Washington Avenue Road & Signals	50,000	50,000	-
Public Works	Congress Square Intersection Construction	150,000	150,000	-
Public Works	Pavement Preservation Program	1,800,000	800,000	1,000,000
Public Works	Traffic Signal Upgrades with Paving Programs	100,000	100,000	-
Public Works	PACTS RTMS - Traffic Signal Communications Systems	200,000	200,000	-
Public Works	Street Rehabilitation Program	250,000	250,000	-

Public Works	GDI to LDI Passageway	235,000	235,000	-
Public Works	Washington Avenue Rehabilitation (Cumberland to E. Prom)	50,000	50,000	-
Public Works	Rehabilitation of Cobblestone / Paver Streets	100,000	100,000	-
Public Works	Monument Way & Square Rehabilitation	100,000	100,000	-
Public Works	Arterial Street Ped Crossings	50,000	50,000	-
Public Works	Separated Bike Lanes	100,000	100,000	-
Public Works	Peaks Island Parking Lot	50,000	50,000	-
Public Works	Franklin Street Design Completion and Construction	200,000	200,000	-
Public Works	Traffic Signals Upgrade Program	400,000	400,000	-
Transportation Total		\$ 5,958,750	\$ 4,958,750	\$ 1,000,000
<u>Vehicles</u>				
Parks, Rec & Public Assembly	Twelve Passenger Van with Handicapped Lift	\$ 65,000	\$ 65,000	\$ -
Vehicle Maintenance	Add Steam Weed Removal Machine - DPW Districting	25,000	25,000	-
School Department	Replace one van and two ADA buses	234,900	234,900	-
Vehicle Maintenance	0272 Squad 301 Heavy Rescue PFD Fire	68,000	68,000	-
Vehicle Maintenance	0284 Engine 311 Replacment PFD Fire - Ocean Ave Station	750,000	750,000	-
Vehicle Maintenance	4057 - Rear Load Packer, Replace with Automated - DPW Solid Waste	325,000	325,000	-
Vehicle Maintenance	4052 - Rear Load Packer DPW Solid Waste	250,000	250,000	-
Vehicle Maintenance	2501 1 Ton Wrecker Replacement - DPW Fleet	100,000	100,000	-
Vehicle Maintenance	5097 Pulp Loader Replacement - Forestry - PRF	250,000	250,000	-
Vehicle Maintenance	Replace Patrol Vehicles PD Patrol (7 total including 2 hybrids)	280,000	280,000	-
Vehicle Maintenance	Plow Loader - DPW Winter	160,000	160,000	-
Vehicle Maintenance	3096 TA Dump Truck Wheeler Plow Replacement - Districting - DPW	215,000	215,000	-
Vehicle Maintenance	0931 Rechassis Medcu Ambulance PFD Medcu	150,000	150,000	-
Vehicle Maintenance	8104 Sidewalk Tractor DPW PDD	150,000	150,000	-
Vehicle Maintenance	8107 Sidewalk Tractor DPW PDD	150,000	150,000	-
Vehicle Maintenance	3121 1 Ton Dump Truck Replacement - Cemeteries - PRF	65,000	65,000	-
Vehicle Maintenance	0224 Command Car PFD Fire	40,000	40,000	-
Vehicle Maintenance	2185 3/4 ton pickup - PRF Ballfields	40,000	40,000	-
Vehicle Maintenance	3104 1 Ton PRF Ballfields	65,000	65,000	-
Vehicle Maintenance	3103 1 Ton Dump Truck Replacement - Parks - PRF	65,000	65,000	-
Vehicle Maintenance	3105 1 Ton Dump Truck Replacement - Districting - DPW	70,000	70,000	-
Vehicle Maintenance	Add Sanders to 2 DPW F550s for Winter - DPW	15,000	15,000	-
Vehicle Maintenance	0247 1/2 Ton Pickup w/ Liftgate PRF PAF	35,000	35,000	-
Vehicle Maintenance	0041 - Replace Taurus w/ Used SUV - DPW	20,000	20,000	-
Vehicle Maintenance	Pickup Truck Funding - DPW	100,000	100,000	-
Vehicle Maintenance	Purchase (2) Used Utility Vans - PRF Trades	36,000	36,000	-
Vehicle Maintenance	Replace Crown Vic w/ Used SUV PRF Parks Manager	20,000	20,000	-
Vehicle Maintenance	0186 Animal Control Officer Van Replacement - Police	35,000	35,000	-
Vehicle Maintenance	0140 Rechassis Arrest Truck PD Patrol - Police	40,000	40,000	-
Vehicle Maintenance	Smithco Turf RakeReplacement - Cemeteries 1046 - PRF	40,000	40,000	-
Vehicle Maintenance	Replace Fairway Mower(s) PRF Golf	60,000	60,000	-
Vehicles Total		\$ 3,918,900	\$ 3,918,900	\$ -
Public Art		60,000	60,000	-
Land Bank		60,000	60,000	-
Sub-Total FY20 CIP (General Fund)		\$ 19,000,000	\$ 17,000,000	\$ 2,000,000
<u>FY19 CIP - Sewer Fund</u>				
<u>Sewer / Stormwater</u>				
Vehicle Maintenance	3202 Dump Truck Replacement -DPW	\$ 210,000	\$ 210,000	\$ -
	5015 Toolcat DPW Water Resources	70,000	70,000	-
	Add 4x4 1/2 Ton Crew Cab DPW Water Res	30,000	30,000	-
Stormwater	Sagamore Village Green Infrastructure Project	40,000	40,000	-
	Thames St Stormwater Outfall	950,000	950,000	-
	Riverton Drive Culvert Replacement	900,000	900,000	-
	Stormwater Infrastructure Improvements	750,000	750,000	-
Wastewater	CWSRF - Back Cove South Storage Facility	3,500,000	3,500,000	-
	CWSRF - Mackworth Street and Ocean Avenue Sewer Separation Project	6,000,000	6,000,000	-
	CWSRF - Preble & Somerset St Sewer Separation	4,800,000	4,800,000	-
	CMOM - Pump Station Rehabilitation	2,000,000	2,000,000	-
	CMOM - Sewer System Renewal	1,100,000	1,100,000	-
	CSO - Close CSO #42	250,000	250,000	-
	PACTS USM Roundabout Sewer Separation	500,000	500,000	-
	Monument Way & Square Sewer / Storm	100,000	100,000	-
	Integrated Planning LTCP and Post Construction Monitoring Program	1,100,000	1,100,000	-
	Fore Street Sewer Separation	100,000	100,000	-
	Pearl Street Sewer Replacement	200,000	200,000	-
	Non SRF Sewer / Storm Consulting Services	500,000	500,000	-
Total Sewer / Stormwater Total (Sewer Fund)		\$ 23,100,000	\$ 23,100,000	\$ -
TOTAL CIP (General Fund & Sewer Fund)		\$ 42,100,000	\$ 40,100,000	\$ 2,000,000

MEMORANDUM
City Council Agenda Item

FROM:

DATE: February 7, 2019

SUBJECT: **Order 154-18/19 Amendment to Portland City Code Chapter 12 Re:
Abandoned Bicycles - Sponsored by Councilor Belinda Ray**

SPONSOR: Councilor Belinda Ray

(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?) Bikes are filling rack space on Peaks Island and they need to be removed.

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

I. SUMMARY

This amendment will enable city staff to remove abandoned bicycles from bike racks in the public way, clearing space for cyclists to use the currently cluttered and overcrowded racks as they were intended.

II. AGENDA DESCRIPTION

The Abandoned Bicycles Ordinance was passed in April of 2015 for the purpose of giving staff “the ability to handle abandoned bikes in an effort to make space available on the City’s limited bike racks, remove obstructions and clutter from public property, and ensure recovered bicycles are put to good use for the community” (4/6/2015 Council Agenda).

The ordinance allows for bikes to be removed if they have remained locked in one location for 30 days or longer and meet two of the following criteria:

- (1) no tires or wheels;
- (2) missing or warped wheels, handle bars, or seat;
- (3) missing, rusted, or broken chain in a state that renders it inoperative; or
- (4) visible layer of dust on the seat and/or handle bars.

The ordinance has worked reasonably well in locations where abandoned bicycles are stripped of parts or otherwise vandalized. However, in locations where abandoned bikes are not tampered with, they often remain in decent condition, which means they cannot be removed, even after sitting for years in the same location.

Additionally, many of the bicycles cluttering the bike rack in the Welch Street parking lot on Peaks Island are not locked, as the ordinance appears to require. These bikes have been left on the rack for long-term storage—some for months, others for years—resulting in a chronically overcrowded rack that cannot be used by new users due to lack of space. This amendment will enable city staff to remove abandoned bicycles from bike racks in the public way if they have remained in place for 30 days or longer, or if they have remained in place for 14 days or longer and meet two of the original ordinance criteria (see above).

This amendment has been reviewed and approved by members of the Bicycle Coalition of Maine and the Peaks

Island Safety Committee. This item must be read on two separate days. It was given a first reading on February 4, 2019. Five affirmative votes are required for passage after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

1. Free up space on bike racks in the public way.
2. Donate recovered abandoned bikes to programs such as Gear Hub, a local nonprofit that “takes in donations of used outdoor gear and fully inspects and repairs the equipment for resale at affordable prices,” and “...aim to lower the barrier of entry for those trying a sport for the first time or looking for an affordable mode of transportation.”
3. Make it easier for people to bike in and around Portland by providing better bicycle infrastructure, including accessible, uncluttered bike racks.
4. Through items 1, 2, and 3 above, encouraging active transportation and supporting the City’s sustainability goals.

V. FINANCIAL IMPACT

None anticipated.

While this change to the ordinance should make it easier for staff to remove abandoned bicycles, it does not place new or unreasonable demands on staff time or result in a need to hire new staff or equipment.

VI. STAFF ANALYSIS AND BACKGROUND

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

VII. RECOMMENDATION

The Amendment to the Bicycle Ordinance is approved by Corporation Counsel as to form.

VIII. LIST ATTACHMENTS

1. Abandoned bicycles back-up material from Councilor Ray 2.4.2019
2. Abandoned Bicycles 2.4.2019

Prepared by:

Date: 02/07/2019

**AMENDMENT TO CITY CODE CHAPTER 12
ARTICLE X. ABANDONED BICYCLES
SPONSORED BY: COUNCILOR BELINDA RAY**

Sec. 12-238. Authority and Purpose.

The purpose of this Article is to make space available on the City's limited bicycle parking facilities, remove obstructions to the public right of way, and ensure recovered bicycles are put to productive uses for the community.

(Ord. No. 183-14/15, 4-6-2015)

Section 12-239. Definitions.

- (a) *Abandoned ~~bicycle~~-Bicycle* means any bicycle that has ~~been locked~~remained in the same location within the public right of way for ~~one month~~30 days or longer, ~~and or~~ that has remained in the same location within the public right of way for 14 days or longer and meets two or more of the following criteria:
 - (1) no tires or wheels;
 - (2) missing or warped wheels, handle bars, or seats;
 - (3) missing, rusted, or broken chain in a state that renders it inoperative; or
 - (4) visible layer of dust on the seat and/or handle bars.
- (b) *Recovered ~~bicycle~~-Bicycle* means any bicycle tagged and removed as provided in this Article and as further detailed in the rules and regulations for said program established by the Department of Works.
- (c) *Removal ~~notice~~-Notice* means a physical tag placed on a bicycle deemed to be abandoned pursuant to subsection (a), above, by the Department of Public Works and demanding its removal.
- (d) *Non-profit ~~partner~~-Partner* means a local organization that specializes in refurbishing bicycles and that has expressed an interest and ability to put recovered bicycles back into productive uses for the community.

(Ord. No. 183-14/15, 4-6-2015; Ord. 108-15/16, 11-16-2015)

Section 12-240. Identification & Removal Process

- (a) Where the Department of Public Works concludes that a bicycle meets the definition of an abandoned bicycle outlined in section 12-239 (a), that bicycle may be tagged with a Removal Notice. The tag will list the date by which the bicycle must be removed, which will be within 72 hours (3 days) of being tagged.
- (b) City of Portland Garbage, Wastes and Junk Code of Ordinances Chapter 12 Sec. 12-239 Rev. 11-16-2015 Chapter 12 12-58 (b) Bicycles locked within the public right of way that are blocking the vehicular travel lane(s), the pedestrian way, a handicapped

- access ramp, or otherwise presenting a public safety hazard may be removed immediately without notice.
- (c) All bicycles tagged with a Removal Notice and remaining unclaimed after the 72-hour notice period will be removed and stored by the Department of Public Works for a minimum of 30 days.
 - (d) If unclaimed after 30 days, the Department of Public Works may donate unclaimed bicycles to a local nonprofit partner.

(Ord. No. 183-14/15, 4-6-2015; Ord. 108-15/16, 11-16-2015)

Section 12-241. Policy Implementation

This Article shall not alter the procedures or responsibilities of the Portland Police Department with respect to bicycles transferred to its possession and disposed of pursuant to 25 M.R.S. §§ 3501-3507. One (1) year after implementation, the Department of Public Works in conjunction with the Planning and Urban Development Department will evaluate the City's abandoned bicycle program and its current non-profit partner(s) to determine compliance with the purpose as stated in Section 12-238.

(Ord. No. 183-14/15, 4-6-2015; Ord. 108-15/16, 11-16-2015)

Attachment 2: Photos of bikes on the Welch Street parking lot bike rack on Peaks Island in November 2018.



Attachment 2: Public Comment received via email as of January 12, 2019

From: **Bill Hall** <wpeaks@earthlink.net>
Date: Wed, Jan 9, 2019 at 3:03 PM
Subject: Derelict bicycles
To: <lisap.pic@gmail.com>

I urge the City Council to amend the ordinance relating to removal of abandoned bicycles from public parking areas. The abandoned bikes at the parking lot on Peaks Island deny space to our active bicycle riders, who are usually commuting to and from the ferry, and discourage the use of this environmentally-friendly and healthy way of getting around. As a frequent rider myself, I have all too often been unable to find any spot to lock my bicycle, much of that inconvenience coming from the many bikes being left literally to decay in place. Bike parking should be time-limited, and removal should be allowed, with notice, after a reasonable period.

Thanks for the opportunity to comment.

Bill Hall
317 Pleasant Avenue
Peaks Island

Thu, Jan 10, 9:10 AM (2
days ago)

Mary Anne Mitchell

to me, Lisa

Hi Belinda,

I regularly ride my bike to the boat when the weather permits. It is very frustrating when you are at the bike racks and there is no where to put your bike. You can clearly see the same bikes that have not moved some of them in years that also have locks on them. It seems now that some people like storing their property on Peaks in the off season. The island really needs a solution to this problem. Bikes are also left on the street, down by the boat, and locked other places close to the boat that sometimes remain there for long periods of time sometimes blocking benches down by the boat.

Hopefully, there is some way to resolve this issue so that people stop storing or abandoning their bikes on the island particularly in the bike racks in the parking lot. Thank you for anything you can do to help this situation. As a member of PEAT we hope and encourage people to use bikes instead of vehicles when they travel on the island and go down to the boat.

Thanks. Mary Anne Mitchell, 31 Sterling St., Peaks Island

From: **ben mccanna** <ben.mccanna@gmail.com>
Date: Wed, Jan 9, 2019 at 11:09 AM
Subject: Bike racks
To: <lisap.pic@gmail.com>

I'm a year-round bike commuter from Ledgewood Street to the Peaks Island ferry dock.

The space constraints at the bike racks have gotten worse every year, and were comically bad last fall when the children returned to school. More than a dozen times, I had no choice but to lift my bike over the rack and leave it unlocked within the public plantings on the other side. There were simply no other options.

Either more racks need to be installed or — much more simply and sustainably — derelict bikes should be tagged and removed every year or more often.

Thank you for your consideration.

Ben McCanna
82 Ledgewood St.

Sent from my iPhone

From: **Laurie Macdonald** <lauriemacdonald23@gmail.com>
Date: Wed, Jan 9, 2019 at 4:06 PM
Subject: Bike racks
To: <lisap.pic@gmail.com>

Hello, I would be in favor of keeping the bike racks clean of abandoned bikes and/or old broken, rusted bikes that have been sitting there for the rest than a season should be removed.

Laurie MacDonald

From: **Burkholder** <bburkholder1@maine.rr.com>
Date: Wed, Jan 9, 2019 at 3:15 PM
Subject: Bike racks clean up
To: <lisap.pic@gmail.com>

Dear Belinda and Lisa,

I agree that abandoned bikes (3 months or more) should be removed. There is signage to warn folks. It's a problem because the bikes just stay forever and slowly increase in number. There

are way more bike commuters then there are bike spaces during the summer- I have seen personally. Plus it just makes sense. Why do we all have to deal with all these apparently abandoned bikes for ever? Thanks Barbara Burkholder 181 island ave. Peaks island Maine

From: **Patrick Selby** <vreten@gmail.com>
Date: Wed, Jan 9, 2019 at 10:43 AM
Subject: Abandoned Bikes
To: Lisa Penalver <lisap.pic@gmail.com>

Please consider this letter to be my support for the Bike Clean Up. As a frequent bike commuter I often need to find rack space to park and abandoned bikes to pile up to take sometimes limited space.

I also support doing this on a yearly basis. Bikes can be tagged quarterly and when they reach a certain age they can removed during a spring or fall cleanup.

Thanks
Patrick Selby
18 Ryefield St
Peaks Island ME 04108

----- Forwarded message -----

From: **Marty Braun** <mbrauncontact@gmail.com>
Date: Wed, Jan 9, 2019 at 11:09 AM
Subject: Bike rack letter...
To: Lisa Penalver <lisap.pic@gmail.com>

Hi Lisa,

I am an occasional, not a commuter, user of the bike rack down front. Every time I have locked my bike there it has been a struggle to find a place to wedge it in with all of the other bikes. I wasn't aware of the number of abandoned bikes locked there until you brought it up (last year, the year before?), but could tell by looking that there were more than a few. (Just as there are in the racks at Casco Bay Lines.) Some people may have reasons for leaving their bikes for a long time, but the racks are not for long term storage. People who use their bike should be able to lock it up without having to climb over abandoned bikes. Clear them out.

Thanks for your efforts,
Marty Braun
265 Pleasant Avenue
Peaks Island

.....

Marty Braun, illustrator
207-766-9726
See my work at martybraun.com

----- Forwarded message -----

From: **Barbara Strout** <bstROUT21@gmail.com>
Date: Wed, Jan 9, 2019 at 11:18 AM
Subject: Abandoned Bikes Need To GO!
To: Lisa Penalver <lisap.pic@gmail.com>

Hi Lisa,

The abandoned bikes have been there for years and something needs to be done. The owners of the bikes have had plenty of time and warning to come retrieve their bikes. There are people who could benefit from some of these bikes if they are re-purposed and fixed. I would much rather see a child enjoy a bike that Peaks Island donated than continue to look at them tangled up right at the entrance to our community. Thank you for addressing this problem and forwarding our concerns to the city council. As a family of four year-round bike commuters we look forward to a speedy resolve of this ongoing issue.

I live on New Island Ave and have for 35 years. Thank you for your support!

Barb Strout and family

From: **Eleanor Morse** <eleanor.morse@gmail.com>
Date: Wed, Jan 9, 2019 at 11:40 AM
Subject: Bike clearance
To: Lisa Penalver <lisap.pic@gmail.com>

Dear Portland City Council Members,

I live at 45 Pleasant Avenue on Peaks Island. A bicycle is my major mode of transportation in spring, summer and fall. It's a happiness to know that I can get around easily, not burning fossil fuel, keeping my bones in working order (more or less), smelling the salt air. The one difficulty is that the bike racks near the ferry landing are often so crammed full that there's no parking available. Many of these bikes stay there for days (maybe weeks or months) on end, making it difficult for daily riders to find a spot to park. I am in complete agreement with Belinda Ray's efforts to mitigate this problem. This is a small hassle in a world full of major problems, but it would be great to solve one small problem.

Yours sincerely,

Eleanor Morse

From: **Patricia Erikson** <whitecapconsulting@gmail.com>
Date: Wed, Jan 9, 2019 at 12:05 PM
Subject: bike removal-support
To: Lisa Penalver <lisap.pic@gmail.com>

Hello,

I would like to see the bike removal ordinance streamlined and expedited. These abandoned bikes are an eyesore for the island and they prevent us from using the racks because they're cluttered and filled up with ones that have been there forever and unused.

It's also such a waste when because abandoned backs can be refurbished and find a new home where they're needed.

I'm a full time resident on Greenwood Street on Peaks.

Thank you,

Tricia

From: **buck benedict** <arthurbenedict@gmail.com>

Date: Wed, Jan 9, 2019 at 12:12 PM

Subject: Clearing the bike rack

To: <lisap.pic@gmail.com>, Joy Mills <joymills9@gmail.com>

Lisa--we support and applaud your effort to get the Peaks Island bike rack cleared of abandoned bikes. One of the biggest benefits of living on this island is the fact that we have a safe place to bike. But it's very hard to find a place to lock up the bikes when you're trying to catch the ferry (in a rush, naturally) if there are numerous bikes taking up bike rack spaces that have clearly been left there for ages. Besides the difficulty of trying to find a space in the warmer weather, is the danger of older people (like us) getting banged up while maneuvering heavier bikes around immovable obstacles like abandoned bikes. Not to mention the eyesore that these hulks create.

At any rate, count us in when it comes to trying to get rid of bikes that clearly don't belong year-round at the racks. Thank you for all that you do on our behalf.

Buck Benedict and Joy Mills

9 Sandpiper Road, Peaks Island

From: **Shelagh Reiser** <out2cthec@hotmail.com>

Date: Wed, Jan 9, 2019 at 2:09 PM

Subject: Re: PI LIST: I need your letters: Re: Bike Rack Cleanup (status update)

To: Lisa Penalver <lisap.pic@gmail.com>

Hi Lisa,

I'd love to see the racks downfront cleaned up. And I certainly wouldn't want anyone's bike to be taken by mistake. That, said, I think the tape idea was great. Those bikes have been down there with three colors of tape for months. In the summer I often can't find a bike parking spot there. Seems like having some procedure in place, like adding tape flags over the span of a month or more before removal, in addition to using several methods of notification, like the email list, posting signs, etc. makes a lot of sense.

Shelagh Reiser
Pleasant Ave.

From: **Timothy Wyant** <t.wyant@icloud.com>
Date: Wed, Jan 9, 2019 at 3:03 PM
Subject: Support removal of abandoned bikes
To: Lisa Penalver <lisap.pic@gmail.com>

As someone who regularly bikes to the ferry in the warmer months, I totally support changes to the ordinance that would make it easier to remove abandoned (or seemingly abandoned) bikes. I would have no problem putting them in a holding area near the transfer station for some period, and then put up for free adoption. But whatever, anyone who bikes to the ferry in the summer time knows that the situation is ridiculous.

You are lucky to find a space even at six in the morning or at 10 at night. Many, many of the bikes have not moved in a while. One result is that padlocked bikes are spreading all around the ferry area — locked to the railing behind the outdoor waiting benches, the fence up on Island Ave. Not saying that all of this “guerilla parking” is due to rack spaces taken up by abandoned bikes, but seems highly likely that some of it is! Eyesores, and a pain for pedestrians to circumnavigate.

Timothy Wyant
130 Central Avenue
Peaks Island
tw@deciph.com
540 454 3684

From: **Will Crosby** <hello@willcrosby.com>
Date: Sat, Jan 12, 2019 at 12:05 PM
Subject: Bike rack endorsment
To: Lisa Penalver <lisap.pic@gmail.com>

Hello Lisa,

I enthusiastically endorse the effort to get the bike rack ordinance amendment passed! I look forward to the day when:

- The usefulness of our city-sponsored racks is restored because they are no longer clogged with abandoned, decrepit bicycles. This is especially important on Peaks because that rack is essentially the parking lot for our primary vehicles.
- The rack is no longer a symbol of public works inefficiency; hard not to give an eye roll when it is essentially a bicycle junkyard, and we are told “there’s nothing that can be done.” This will be a long-awaited fix and move towards common-sense governing.
- The rack can usefully be part of a “drive less” campaign on Peaks, because there’s actually space for daily riders. On our tiny island, and so crowded down front in the summer, that will make the island safer and promote healthy activity as well.

Many thanks for your help with this. Let me know if there’s anything else I can do to support this important change.

Sincerely,
Will Crosby
92 Central Avenue
Peaks Island, ME 04108

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (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: ABANDONED BICYCLES**

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

1. *That Section 12-239 is hereby amended to read as follows:*

Section 12-239. Definitions.

- (a) *Abandoned bicycle* means any bicycle that has ~~been~~
~~locked-remained~~ in the same location within the public
right of way for ~~one month~~thirty (30) days or longer
~~and or that has remained in the same location within~~
~~the public right of way for fourteen (14) days or~~
~~longer and~~ meets two or more of the following
criteria:
- (1) no tires or wheels;
 - (2) missing or warped wheels, handle bars, or seats;
 - (3) missing, rusted, or broken chain in a state that
renders it inoperative; or
 - (4) visible layer of dust on the seat and/or handle
bars.
- (b) *Recovered bicycle* means any bicycle tagged and removed
as provided in this Article and as further detailed in
the rules and regulations for said program established
by the Department of Works.
- (c) *Removal notice* means a physical tag placed on a
bicycle deemed to be abandoned pursuant to subsection
(a), above, by the Department of Public Works and
demanding its removal.
- (d) *Non-profit partner* means a local organization that
specializes in refurbishing bicycles and that has
expressed an interest and ability to put recovered
bicycles back into productive uses for the community.

MEMORANDUM
City Council Agenda Item

FROM:

DATE: February 7, 2019

SUBJECT: **Order 155-18/19 Amendment to Portland City Code Chapter 12 Re: Expanding E-Card Program - Sponsored by the Sustainability and Transportation Committee, Councilor Spencer Thibodeau, Chair.**

SPONSOR: Spencer Thibodeau, Chair, Sustainability and Transportation 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

The amendment expand eligibility for the bulky waste "e-card" program to the owners of residential condominiums who don't currently subscribe to the City's solid waste services.

II. AGENDA DESCRIPTION

The Sustainability and Transportation Committee voted 3-0 on January 16, 2019 to recommend approval of this amendment to the City Council.

The amendment extends eligibility for the bulky waste e-card program to the owners of residential condominiums who, until now, have not received solid waste services from the City of Portland. The current ordinance restricts eligibility to the owners of buildings that receive solid waste services from the City.

This item must be read on two separate days. It was given a first reading on February 4, 2019. Five affirmative votes are required for passage after public comment.

III. BACKGROUND

Members of the City Council asked the City Manager to explore the possibility of expanding the e-card bulky waste disposal program to the owners of condominiums who don't currently subscribe to the City's solid waste program. In response to that request staff prepared a memo with information about the e-card program and how it works, the cost implications of expanding the program to additional condominium owners, and discussion about how the additional units could be added the program.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

The amendment provides owners of condominiums that do not subscribe to City solid waste services to receive a bulky item e-card.

V. FINANCIAL IMPACT

Staff analysis has determined that enacting the ordinance will have minimal impact to the budget.

VI. STAFF ANALYSIS AND BACKGROUND

The e-card program allows eligible property owners to drop off a limit amount of material at the Riverside

Recycling Facility at no charge. Since the program began, only the owners of properties that receive solid waste collection from the City of Portland were eligible. This amendment allows the owners of residential condominiums that do not receive City solid waste service to receive an e-card.

The staff memo to the City Manager contains extensive discussion of the e-card program.

VII. RECOMMENDATION

Staff recommends passage of the amendment.

VIII. LIST ATTACHMENTS

1. Extend e-cards Section 12-17 2.4.2019
2. E-Card Expansion Memo (1)

Prepared by:

Date: 02/07/2019

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (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 GARBAGE, WASTES AND JUNK
RE: EXPANDING E-CARD PROGRAM**

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

1. That Section 12-17 is hereby amended to read as follows:

Sec. 12-17. Solid Waste and recyclable waste collection

(a) Solid waste and recyclable material will be collected by the city from all residential properties.

...

(e) ~~Notwithstanding any other provision of this chapter or code, a~~ A residential or commercial property owner must participate in the city's solid waste disposal program in order to be eligible for other city waste disposal or recycling services or programs including but not limited to the city's programs for ~~recycling,~~ large item pickup~~.~~ Notwithstanding the above, any residential property owner including, but not limited to, condominium owners within the city is eligible to participate in the hazardous waste disposal program, as well as ~~and any other~~ programs available at the ~~riverside~~ Riverside recycling facility.



MEMORANDUM

To: Jon Jennings, City Manager

From: Troy Moon, Sustainability Coordinator

RE: E- Cards for Residential Condominiums Not Participating in City Solid Waste Services

Date: 1/2/2019

Based on an inquiry by a member of the City Council, you requested an analysis of the feasibility of expanding the Riverside Recycling E-Card Program to include residential condominiums that do not participate in the City's solid waste collection program. This memo provides background information about the E-Card program, describes the process in which additional units might be added, as well as the likely financial impact of adding the additional units. In summary:

- Staff can create E-Cards for the residential condominiums not currently in the City program.
- If the owners in these units follow existing usage patterns, adding them is unlikely to have significant impact on the program budget.
- Adding the new buildings would require an ordinance amendment as City Code restricts E-Cards to property owners who participate in City solid waste services.

Description of the E-Card Program:

The Riverside Recycling E-Card program is designed to assist residents with disposal of regular household items that are not easily handled as part of the normal curbside collection of trash and recycling. Eligible items include:

- Furniture such as mattresses, sofas, box springs, mattresses, tables, book cases, desks, and similar items.
- Appliances such as washing machines, dryers, and dishwashers. Refrigerators and air conditions are accepted as long as the Freon has been properly removed.
- Yard equipment such as lawnmowers, roto-tillers, snowblowers, gas grills. Fuel must be removed.
- Large children's toys and equipment such as strollers, playpens, changing tables, and similar items.
- Brush (2" diameter and smaller)
- Leaves, yard, and garden waste
- Household Hazardous Waste (up to 10 gallons annually)

Each E-Card provides for the free disposal of up to 10 eligible items each fiscal year. One cubic yard of brush or yard waste counts as an eligible item.



The E-Card program does not allow free disposal of material such as:

- Household waste
- Mixed debris and trash
- Construction, remodeling, and demolition material
- Large trees (over 2" in diameter) and land clearing debris

These ineligible materials may be disposed of at Riverside Recycling upon payment of the posted gate fee.

Under the current program, property owners who participate in the City solid waste program may receive one E-Card per property. This includes the owner of a single family home, a multi-unit building, or a condominium unit. The owners of condominiums or multi-unit buildings that subscribe to private waste collection are not eligible to participate in the E-Card program. Tenants in apartments are also ineligible for the E-Card program. Individuals without an E-Card may still use Riverside Recycling but must pay the posted gate fee for any material or items they deliver.

The following table describes the the distribution of E-Cards by property type. The vast majority of residential properties have an E-Card assigned to them. Residential condominiums make up about 95% of the ineligible residential properties. The other 5% are mostly very large apartment buildings or complexes that require dumpster service and/or multiple collections per week. The owners of another 594 buildings appear to be eligible for E-Cards but have not requested them.

Table of Existing Program

Building Type	Number of E-Cards Issued
Residential Condominium	1,384
Single Family	11,095
Two Unit	1,585
Three Unit	853
Four or more units	902
Total	15,819
Building Type	Currently Ineligible Buildings
Ineligible Residential Condominiums Units	2,180
Ineligible Multi-Family (11+ units)	102
Total	2,282



Expanding the E-Card Program to Additional Condominium Units

The E-Card program draws information from the Assessor's database. Any property with a distinct CBL may be assigned an E-Card. Per the program parameters outlined in City Code, staff has only assigned E-Cards to residential properties that receive City solid waste services. As condominium associations have opted to sign up for City services each of the units in these associations became eligible for and received an E-Card. To date, this includes 1,384 units.

There are currently 1,917 residential condominium units that do not have an E-Card assigned to them. The condominium associations governing these properties have chosen not to subscribe to City services or they have service requirements that the City program cannot meet. (This could be a need for multiple collections per week, a need for dumpster service, or a lack of adequate street frontage on which to place trash and recycling.) Since these units all have distinct CBLs it would be, from a technical perspective, very easy to assign them an E-Card.

Financial Impact of Expanding the E-Card Program to Additional Condominiums

During the past several years we have seen the amount of E-Card material delivered to Riverside Recycling decline from a high of 2,521 tons in FY11 to a total of 1,592 tons in FY18. Despite this drop, the percentage of yard waste and brush versus bulky items has remained close to 75% of the tons delivered.

Material	FY 11	FY12	FY13	FY14	FY15	FY16	FY17	FY18
Yard Waste	1,669	1,165	1,232	1,349	1,134	1,088	875	999
Brush	316	368	332	274	307	246	226	246
Bulky Items	536	493	440	431	425	442	417	347
Total Tons	2,521	2,026	2,004	2,054	1,866	1,776	1,518	1,592

Since most condominium owners are not individually responsible for mowing the grass or otherwise maintaining the grounds around their units we would not expect them to deliver yard waste or brush to Riverside Recycling if they were eligible for an E-Card. Instead, they would likely deliver unwanted furniture or bulky household items which, historically, account for the smallest fraction of the annual tonnage.

Throughout the history of the E-Card program only about half of the E-Card holders use their card during the course of a year. Of those who use their card, the majority of them use it only a handful of times. Only a small subset of E-Card holders maximize their use of the card. Assuming the owners follow existing disposal patterns, expanding the E-Card program to include residential condominiums that do not receive City solid waste services is unlikely to have significant financial impact the program.



Under the current arrangement with CPRC, the operators of Riverside Recycling, the City is eligible to dispose of up to 15,000 tons of material for no charge. E-Card material counts toward this total. ***During the past two full years of this arrangement the City delivered a total of 10,103 tons in FY 17 and a total of 12,263 tons in FY 18.*** Assuming similar use in future years, this leaves a cushion of "free" tons available.

Ordinance Revision Required

The requirement restricting E-Cards to participants in the City's solid waste program is based on language in the City Code.

... a property owner must participate in the city's solid waste disposal program in order to be eligible for other city waste disposal or recycling services or programs including but not limited to the city's programs for recycling, large item pickup, hazardous waste disposal and any programs available at the Riverside Recycling Facility. (Chapter 12-17(e))

Consequently, adding condominium units that are not part of the City program will require an ordinance amendment. Corporation Counsel is recommending the following language:

"Notwithstanding any other provision of this chapter or code, a property owner must participate in the city's solid waste disposal program in order to be eligible for other city waste disposal or recycling services or programs including but not limited to the city's programs for recycling, and large item pickup. Any residential property owner within the city may participate in the hazardous waste program, as well as any programs available at the riverside recycling facility."

Should you choose to move forward with this amendment, staff is prepared to draft an agenda request for an upcoming City Council meeting.

MEMORANDUM
City Council Agenda Item

FROM: Jeff Levine, Director Planning & Urban Development Department

DATE: February 5, 2019

SUBJECT: **Order 160-18/19 Accepting the Donation of \$300,000 from Maine Medical Center - Sponsored by Jon P. Jennings, City Manager**

SPONSOR: Planning and Urban Development Department/Department of Parks, Recreation and Facilities

(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 02/20/2019

Final Action 03/04/2019

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

PRESENTATION: Nell Donaldson, Senior Planner, 5 minute presentation

I. SUMMARY

Maine Medical Center seeks to make a Community Benefit Contribution to the City for the purpose of improving parks in neighborhoods surrounding its campus, namely Bramhall Square, Valley Street Community Garden/Dog Park, and the Western Promenade.

II. AGENDA DESCRIPTION

In 2017, Maine Medical Center ("MMC") applied for a zone change under the Institutional Overlay Zone (IOZ) provisions of the City's land use code. Under the requirements of the code, the hospital developed a master plan, their Institutional Development Plan (IDP), which framed their short- and long- range expansion plans for the next 20 years. Over the course of the review of this IDP, and the subsequent site plan reviews, the hospital engaged with the surrounding neighborhoods to discuss neighborhood needs, the hospital-neighborhood relationship, and potential areas where the goals of the hospital and its neighbors intersect.

One of the areas that emerged is in the realm of parks and recreation. The hospital's neighborhoods have long sought improvements to park and recreation facilities in their midst, recognizing the social, economic development, and environmental benefits of these resources. St. John/Valley has pursued park improvements at the Valley Street Community Garden/Dog Park for the last decade, Bramhall Square has been the source of conceptual planning for almost as long, and the Western Promenade and West End neighborhoods are currently engaged with Parks and Historic Preservation staff to develop a master plan for improvements to the Western Promenade. Park improvements have tangible value to MMC as well; research shows that the presence of parks and recreation facilities have a demonstrable effect on public health outcomes, correlating with higher rates of physical activity, lower rates of childhood obesity, and even decreased risk of cardiovascular and respiratory disease.

Realizing the potential synergy around park and recreation facilities, Maine Medical Center seeks to make a one-time \$300,000 contribution to the City for the purpose of improving parks in these locations: Bramhall Square, the Valley Street Community Garden/Dog Park, and the Western Promenade. The money is to be used for capital improvements only, with the specific projects to be determined by the Department of Parks, Recreation, and Facilities with the input of the neighborhoods where the facilities are located, based on

previous or ongoing planning and design work.

Five affirmative votes are required for passage following public comment.

III. BACKGROUND

In the past decade, the neighborhoods surrounding Maine Medical Center, with the City as a partner, have engaged in a number of efforts to improve their public spaces. In 2009, the St. John/Valley Neighborhood Association applied for CDBG funds to support improvements at their community garden and dog park; in 2013, Parkside collaborated on a CDBG application to implement improvements to Bramhall Square; and in 2018, the City, working with the Friends of the Western Promenade, initiated a master planning process for the Western Promenade. When Maine Medical Center began to engage neighbors around long-range plans and potential neighborhood investments in 2017, these parks emerged as a prime opportunity. Not only are they valuable community resources with potential social, economic, and environmental benefits, they clearly relate to the hospital's public health mission as well.

In an effort to capitalize on this opportunity, MMC worked with the City's Planning and Urban Development Department, Department of Parks, Recreation, and Facilities, and Corporation Counsel through late 2018 to plan a Community Benefit Contribution, a one-time investment to fund capital improvements within the three parks identified above: Bramhall Square, the Valley Street Community Garden/Dog Park, and the Western Promenade. Specific capital improvements, many of which have been identified through previous or ongoing planning, will be identified by the Parks, Recreation, and Facilities Department and implemented using the revenue from the MMC donation.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

The purpose of this Community Benefit Contribution is to allow a donation of funds from Maine Medical Center to the City of Portland for the improvement of the parks and facilities at Bramhall Square, the Valley Street Community Garden/Dog Park, and the Western Promenade. This contribution directly relates to goals around the City's capital improvement planning.

V. FINANCIAL IMPACT

The Community Benefit Contribution will result in \$300,000 of additional funds with which to make capital improvements to the three parks specified above, with funding to be divided equally between the three eligible parks. The Parks, Recreation and Facilities Department currently maintains these facilities and would continue to maintain them after implementation of improvements. Staff anticipates that there may be some incremental increases in maintenance cost (play space maintenance and replacement parts, maintenance of any structures added, replacement cost of dog park features), but those costs may be partially offset by cost savings due to improvements (drainage and erosion issues addressed, etc...)

VI. STAFF ANALYSIS AND BACKGROUND

n/a

VII. RECOMMENDATION

The Department of Parks, Recreation, and Facilities; Corporation Counsel; and the Department of Planning and Urban Development have all reviewed the proposed Council Order and recommend that the Council vote to accept the contribution.

VIII. LIST ATTACHMENTS

1. Order Accepting Maine Medical Center Donation 2.20.2019

Prepared by:

Jeff Levine, Director Planning & Urban Development Department

Date: 02/05/2019

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (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 ACCEPTING THE DONATION OF \$300,000
FROM MAINE MEDICAL CENTER**

WHEREAS, over the past two years Maine Medical Center (“MMC”) has received various approvals from the Portland City Council to develop its Master Facility Plan allowing for the planned expansion of needed hospital facilities in the vicinity of 22 Bramhall Street; and

WHEREAS, MMC has worked in close collaboration and has had extensive dialogue with the neighborhood associations of the Parkside, Western Prom, West End, Libbytown, and St. John Valley neighborhoods for the past two years to understand neighborhood concerns and goals; and

WHEREAS, MMC seeks to make a contribution (“Community Benefit Contribution”) to the City to benefit the adjacent neighborhoods surrounding its campus, namely Bramhall Square, Valley Street Community Garden/Dog Park (at 51 Valley Street) and the Western Promenade (“Parks”), by way of funds to be used to improve and enhance these neighborhood parks; and

WHEREAS, the City seeks to accept the Community Benefit Contribution and to dedicate such funds to implementing improvements and or upgrades at the Parks;

NOW THEREFORE, BE IT ORDERED, that the Community Benefit Contribution of Three Hundred Thousand Dollars (\$300,000) is hereby accepted and shall be used to allow the City to, first, improve and enhance:

- Bramhall Square;
- Valley Street Community Garden/Dog Park (51 Valley Street); and
- the Western Promenade; and

AND BE IT FURTHER ORDERED, that the Community Benefit Contribution shall also be used to assist in improving the overall health and well-being of the public using these spaces; and

AND BE IT FURTHER ORDERED, Maine Medical Center will contribute three hundred thousand dollars (\$300,000.00) to the City as a restricted Community Benefit Contribution to be used for the implementation of Park improvements and these funds may not be spent on studies or other planning activities but shall be used

solely for other activities necessary to purchase and/or install improvements, upgrades, landscaping, or other design elements; and

BE IT FURTHER ORDERED, the City of Portland shall be the custodian of the restricted Community Benefit Contribution and shall account for these funds in a dedicated account.

MEMORANDUM
City Council Agenda Item

FROM: Jeff Levine

DATE: February 4, 2019

SUBJECT: **Order 161-18/19 Amendment to the Zoning Map Re: Section of Forest Avenue to Community Business B-2B - Sponsored by the Planning Board, Sean Dundon, Chair.**

SPONSOR: Portland Planning Board, March 22, 2016 Vote: 6-1

(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 02/20/2019

Final Action 03/04/2019

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

PRESENTATION: Sean Dundon, Chair, Portland Planning Board, 5 minute oral presentation.

I. SUMMARY

The Planning Board recommends (6-1) a zoning map amendment to rezone a portion of Forest Avenue from Residential R-5 and Community Business B-2 to B-2b in the vicinity of Preble Street, Baxter Boulevard and Bedford Street.

II. AGENDA DESCRIPTION

In 2016, the City Council supported Councilor Ray's motion to have the Planning Board consider a zoning map amendment from the current Community Business B-2 zone and the Residential R-5 zone to the Community Business B-2b zone. The referral asked the Planning Board for a recommendation on whether the B-2b, which promotes a more urban form and limits drive-throughs, is a more appropriate zone for this area.

The Planning Board considered the Council Request and held the public hearing on March 22, 2016. The Planning Board voted (6-1, Whited opposed) to recommend to City Council the adoption of the zoning map amendment to rezone a portion of Forest Avenue to Community Business B-2b. Lisa Whited opposed the map amendment, preferring a holistic solution to addressing auto related businesses and for transforming Forest Avenue. The majority of the members supported the map amendment and agreed with Ms. Whited that further analysis of the B-2 zones and drive-throughs was warranted. The Board's recommendation for the drive-through text amendments to the B-2 zones are coming forward concurrently with the recommended map amendment. The text amendments would re-introduce the drive-through use in the B-2b zone, subject to the use being associated with the bank or pharmacy in a minimum of a 3 story building with the majority of the upper floors in residential use (a minimum of 3 dwelling units).

This item must be read on two separate days. This is its first reading.

III. BACKGROUND

The current zoning in the block bounded by Baxter Boulevard, Preble Street Extension and Forest Avenue includes Recreation and Open Space (ROS), Residential R-5 and Community Business B-2. Pedros Field is a public ballfield located within the block zoned Recreation and Open Space (ROS) and it is not part of the

proposed zoning map amendment. The R-5 portion of the block runs along the Preble Street extension and in general, R-5 flanks either side of the B-2b zone along Forest Avenue. The R-5 zone is a moderate density residential zone allowing single and two-family homes, planned residential unit developments and multiplexes. There are no residential buildings within the area proposed to be rezoned to B-2b.

The B-2 zone in this vicinity has a mix of uses, including office buildings, retail uses, personal service businesses, and 70 residential units above first floor commercial at 331-337 Forest Avenue. It extends across Forest Avenue to incorporate the Oakhurst dairy and extends up Bedford Street where commercial uses were once located that are now within the USM campus. The B-2 zone is also located between Baxter Boulevard and I-295 where this is a mix of office and retail uses fronting on Baxter Boulevard, including the Hannaford Shopping Center.

Currently, the B-2b zone is located on either side of the Forest Avenue corridor from the intersection of Preble and Forest Avenue through Woodford's Corner. The proposed map amendment extends the abutting B-2b zone from Preble Street toward I-295 to the Hannaford entrance and includes the corner lot on Bedford and Forest.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

The Portland's Plan 2030 includes the following economic and housing goals that are relevant to the proposed text amendments:

- Create economic prosperity by growing Portland's tax and employment base.
- Invest in, attract, and retain human capital to support a growing economy.
- Respect that our unique quality of place is key to our current and future economic success.
- Increase, preserve, and modify the overall supply of housing city-wide to meet the needs, preferences and financial capabilities of all Portland residents.
- Encourage additional contextually appropriate housing density in and proximate to neighborhood centers, concentrations of services, and transit nodes and corridors as a means of supporting complete neighborhoods.
- Pursue policies to enable people who work in Portland to have the option to live in Portland.

Prior to the adoption of Portland's Plan, the Transforming Forest Avenue (corridor study of Forest Avenue from Park Avenue through Woodfords Corner) was adopted by the City Council and it included recommendations for land use, transportation, and streetscape alternatives based upon a community process and best practices for transit supportive development. Compact development increases the concentration of uses and structures in the built environment is identified as a strategy to support transit supportive development (TSD).

The purpose of B-2b zone is to promote development to be located close to the street and have a more compact urban development pattern. It is recommended for locations "on-peninsula or in areas off-peninsula where a neighborhood compatible commercial district is established which exhibits a pedestrian scale and character." The proposed B-2b map amendment promotes compact development patterns and serves to implement the goals of the Portland's Plan 2030 and Transforming Forest Avenue.

V. FINANCIAL IMPACT

The proposed zoning amendments do not have a direct fiscal impact to the City.

VI. STAFF ANALYSIS AND BACKGROUND

Portland's Plan 2030 was adopted after the analysis was completed for the map amendment. The adopted goals and policies of the Comprehensive Plan strengthen the vision for Forest Avenue to create a denser urban

corridor with more transit supportive development. The comprehensive plan encourages additional contextually appropriate housing density in and proximate to neighborhood centers, concentrations of services, and transit nodes and corridors as a means of supporting complete neighborhoods.

Transforming Forest Avenue was adopted by the City Council on June 4, 2012 and it included recommendations for land use, transportation, and streetscape alternatives based upon a community process and best practices for transit supportive development (TSD). Encouraging vibrant and diverse land uses is an important principle of TSD development in order to provide multiple destinations in close proximity within an area. The report notes that while B-2 and B-2b currently support mixed uses, many of those uses have not located along the corridor. The report also points out that the transitions between the commercial and residential areas may require attention in order to achieve adequate buffers without limiting commercial activity. The development pattern should “provide for vibrant loci or activity at a pedestrian scale.” Architectural quality, high quality parking, and public spaces are other land use components that are identified as components for creating a high-quality transit corridor.

Compact development that increases the concentration of uses and structures in the built environment is identified as a strategy to support TSD. Thus, the proposed B-2b map amendment supports the vision for the Forest Avenue by extending the zone along Forest Avenue and it creates a connection for the more urban form of development between the peninsula and the existing Forest Avenue B-2b zone.

VII. RECOMMENDATION

At the March 22, 2016 public hearing the Planning Board voted (6-1, Whited opposed) proposed rezoning of the R-5 and B-2 zones to B-2b is consistent with the Comprehensive Plan for the City of Portland; and recommends to the City Council approval of the zoning map amendment.

VIII. LIST ATTACHMENTS

1. Amendment to Zoning Map Forest Avenue to Community Business B-2b 2.20.2019
2. Report and Attachments (B-2 Map Amendment)

Prepared by:

Jeff Levine

Date: 02/04/2019

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

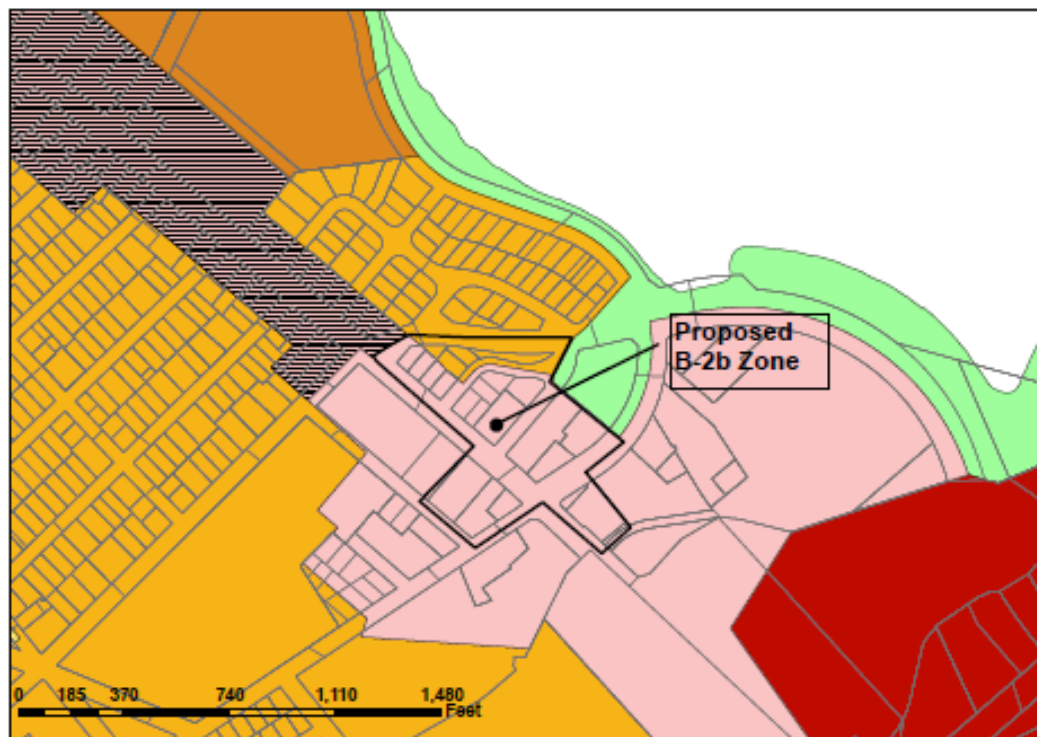
**CITY OF PORTLAND
IN THE CITY COUNCIL**

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

**AMENDMENT TO ZONING MAP
RE: SECTION OF FOREST AVENUE TO COMMUNITY BUSINESS B-2B**

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

That the Zoning Map of the City of Portland, dated December 2000, as amended and on file in the Department of Planning and Urban Development, and incorporated by reference into the Zoning Ordinance by §14-49, be and hereby is amended by adopting the following map change amendment and specifically rezoning a section of Forest Avenue from the Hannaford entrance road to Bedford Street to Preble Street from R-5 and B-2 Zones to the Community Business B-2b Zone, as shown in the map below.



**Proposed B-2b Forest Avenue
February 2019**



CITY COUNCIL REPORT FROM PLANNING BOARD PORTLAND, MAINE

Zoning Map Amendment from B-2 and R-5 to Community Business B-2b

Map Amendment for Forest Avenue in the vicinity of Baxter Boulevard, Preble Street Extension and the northerly side of Forest Avenue, and at the intersection of Forest Avenue, Baxter Boulevard and Bedford Street.

City of Portland Applicant

Submitted to: City Council First Reading Date: Feb. 20, 2019 Second Reading: March 4, 2019	Prepared by: Barbara Barhydt, Development Review Services Manager Date: February 1, 2019
--	--

I. INTRODUCTION

On February 1, 2016, Councilor Ray moved to have the Planning Board consider a zoning map amendment from the current Community Business B-2 zone and the Residential R-5 zone to the Community Business B-2b zone. The City Council voted unanimously to refer this item to the Planning Board for a recommendation regarding the proposed map amendment. The City Council is asking the Board to consider whether the B-2b, which promotes a more urban form of development is a more appropriate zone for this area and excludes or limits drive-throughs.

The Planning Board considered the Council Request and held the public hearing on March 22, 2016. The Planning Board voted (6-1, Whited opposed) to recommend to City Council the adoption the zoning map amendment to rezone a portion of Forest Avenue to Community Business B-2b as shown below. Lisa Whited opposed the map amendment, as a piecemeal solution to addressing auto related businesses and she supported a more holistic approach for transforming Forest Avenue. The majority of the members supported the map amendment and agreed with Ms. Whited that further analysis of the B-2 zones and drive-throughs was warranted. The Board's recommendations for the drive-through text amendments to the B-2 zones address the concerns raised by Ms. Whited and the Board. Those amendments are coming forward concurrently with the recommended map amendment. The text amendments will re-introduce the drive-through use in the B-2b zone, subject to the use being associated with a bank or pharmacy in a minimum of a 3-story building with the majority of the upper floors in residential use (a minimum of 3 dwelling units).

There are no pending development review applications for the properties in this area; however, interest in potential redevelopment has been brought to the attention of the City. Concurrently, there are a number of buildings, which have been identified as potentially eligible for designation following a historic preservation analysis recently commissioned by Greater Portland Landmarks entitled *Forest Avenue and Stevens Avenue: Historic Context*. The Historic Preservation Board review and recommendations will be forwarded to the City Council within the coming months.

Notices will be sent for the Council's March 4th public hearing. The Planning Board public notice of the public hearing appeared in the Portland Press Herald on March 7 and 14th and 105 notices were sent by mail and by e-mail to property owners and interested citizens. The neighborhood meeting was held on March 10, 2016 and the packet is included as Attachment 1. There is one piece of written comment that was submitted at the neighborhood meeting. Public comment has also been submitted by Mary Costigan and Sandra Guay (Attachment 2).

II. EXISTING CONDITIONS & SITE SELECTION

The section of Forest Avenue between Baxter Boulevard and Preble Street extension contains a range of uses. The development in this block faces Forest Avenue with parking in the rear, which can be seen from Preble Street Extension. There is one curb cut that serves the parking areas off Preble with all other access points off Forest Avenue. The city's zoning map lists the accessways as Bank and Fenwick Roads. The businesses along Forest Avenue include: office buildings, retail uses, a bar, personal service businesses, and 70 residential units above first floor commercial at 331-337 Forest Avenue.

Pedros Field is a public park and ballfield, which is located at the intersection of Preble Street extension and Baxter Boulevard. This portion of the block is not including within the proposed zone change.

The B-2 zone is located across Forest Avenue from the proposed area for rezoning. The uses include the Oakhurst Dairy and a multiple tenant retail building on the corner of Forest and Bedford (owned by Oakhurst Dairy). An aerial obtained from Google is included as Figure 1. In general, office uses facing Baxter Boulevard are located across from this block, as is an entrance drive to the Hannaford plaza. A residential neighborhood is located on the opposite side of the Preble Street extension and the university credit union is located at the corner of Preble and Forest.



Figure 1: Aerial

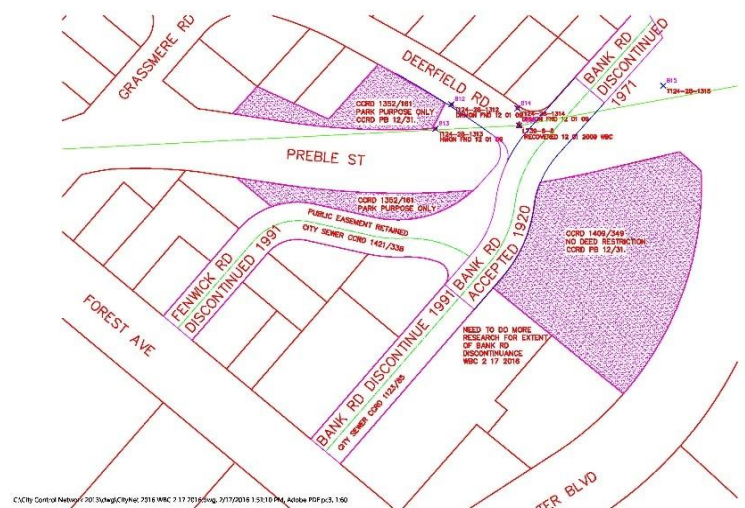


Figure 2: Street Status

The block being considered for rezoning shows Fenwick Road and Bank Road, which appear to be former public streets. Fenwick Road was discontinued in 1991 with a public easement retained for the city sewer line. A portion of Bank Road was discontinued in 1991 and a section leading to Preble Street was accepted in 1920. It appears that this portion remains a public street. The status of the streets, as shown in Figure 2, is preliminary information based upon the City's records at the Department of Public Works.

III. BACKGROUND AND EXISTING ZONING

The current zoning in the block bounded by Baxter Boulevard, Preble Street Extension and Forest Avenue includes Recreation and Open Space (ROS), Residential R-5, and Community Business B-2 (refer to Figure 3). Pedros Field is a public ballfield located within the block and is zoned Recreation and Open Space (ROS) and it is not part of the proposed zoning map amendment. A portion of the block includes the Residential R-5 Zone running along the Preble Street extension. Generally, residential neighborhoods that flank either side of Forest Avenue are zoned Residential R-5.

The B-2 commercial area contains a mix of commercial and residential uses including office buildings, retail uses, personal service businesses, and 70 residential units above first floor commercial at 331-337 Forest Avenue. The Community Business Zone extends across Forest Avenue to incorporate the Oakhurst dairy and extends up Bedford Street. Commercial uses were located in this area at one time, but the area is now owned and occupied by the University of Southern Maine and within the USM overlay zone. The B-2 zone is also located between Baxter Boulevard and I-295 where this is a mix of office and retail uses fronting on Baxter Boulevard, including The Hannaford Shopping Center.



Figure 3: Existing Zoning

The Community Business B-2b zone runs along either side of Forest Avenue from the intersection of Preble and Forest Avenue through Woodford's Corner. The proposed map amendment is adjacent to the existing B-2b zone where it terminates at the Preble Street extension.

History of B-2 Zoning Along Forest Avenue

1. The B-2b zone was created in 1999 based upon a recommendation of the Nason's Corner/Outer Brighton Avenue Study to increase the compatibility between commercial districts and residential neighborhoods. The B-2b was instituted as a new zone "designed to preserve the more compact urban development of Portland". At the same time amendments were made to the B-2 to allow residential uses and to make major and minor offices uses conditional, allow dairies and bakeries as permitted uses if in existence before 1999, and limit new bakeries in the B-2b to no more than 7,000 s.f.
2. The Forest Avenue Corridor between Preble Street Extension and through Woodford's Corner was zoned from Community Business B-2 to B-2b in 1999. The B-2b zone was considered for the section of the corridor from the Preble Street Extension to I-295, but the area between I-295 and the Preble Street extension remained within the B-2 zone due to the type and scale of uses in this area at that time.
3. The 1999 revisions created a conditional use designation for all drive-throughs in the B-2 near residential zones, as opposed to merely for restaurants uses. Drive-throughs in the newly created B-2b were only allowed if accessory to a permitted principal use. Additional conditional use standards were added for drive-throughs relating to location, noise, screening, pedestrian access and hours. At that same time auto uses became conditional uses in the B-2 zone and these auto uses were prohibited in the B-2b, except for pre-existing minor auto uses.
4. Additional revisions were adopted in early 2000. As described in in the March 24, 2000 City Council Agenda Request, the proposed B-2b text amendments for off peninsula locations would:

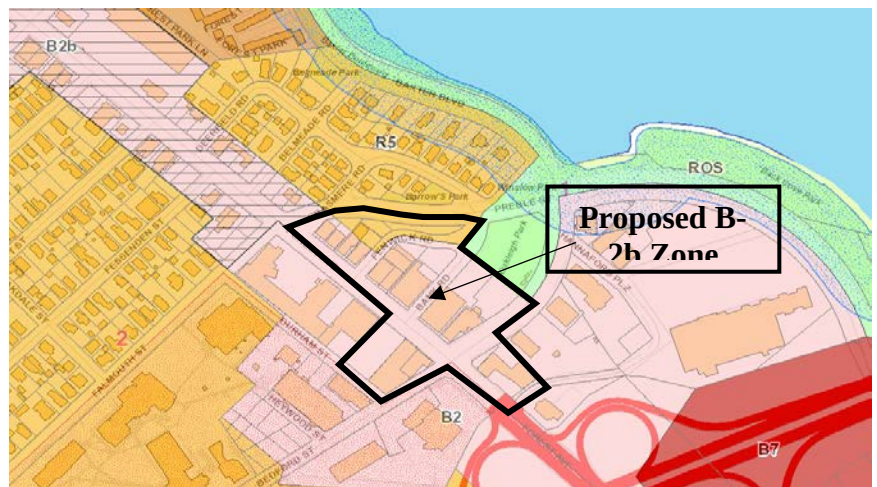
“allow new structures to be placed no further back than the average depth of the front yards of adjoining buildings. Currently, B-2b requires structures to meet a ten (10) foot build-to line and this would remain for on-peninsula locations. The proposed off-peninsula B-2b front yard setback is the same standard as found in the B-2 zone.”

These changes were adopted on April 24, 2000.

5. In 2005, the Council adopted the the B-2C zone which essentially mirrored the B-2 but excluded establishments that served liquor for a portion of Forest Avenue in the vicinity of Woodfords Corner.
6. In 2010, amendments were adopted increasing density of B-2 and B-2b zones on-peninsula to current levels, adding housing to the zones purpose statements and clarifying some language. As reflected in the Planning Report #02-10, dated January 22, 2010, the most significant change was establishing a lot area per dwelling unit of 435 s.f., which was equivalent to the R-7 density. Dimensional requirements were updated to encourage infill development on these “rear yards by allowing relief for lots with less than 40 feet of frontage and depth of more than 100 feet and/or 20 feet of front yard and a remaining frontage of less than 40 feet was added.
7. Changes were made in 2011 to clarify language concerning the proximity of drive-thrus to residential zones and to add language about wind energy facilities in 2013.
8. July, 2014, the council adopted changes to the B-2, B-2b and B-2c resulting greater allowance of multi-family housing in all B-2 derivative zones with the previously existing qualification that multi-family was only allowed when abutting higher density residential zones (R-4 and up). A stronger prohibition on front yard parking was included for the same reasons. A table was added to simplify the dimensional requirements which also made significant changes to the zones dimensional requirements. These changes included reducing the maximum front yard setback to 10 feet, reducing street frontage, reducing lot area for projects off peninsula with active street frontages to 435 s.f. Lastly, a new section, 14-188, was added under the premise that rather than mandating ground floor commercial uses active street frontage requirements would better accomplish the goals of vibrant street life and accordingly, a density bonus of 435 s.f. was added.
9. Lastly, drive-throughs were eliminated as an allowed use in the B-2b in 2014. The intent was to require neighborhood and community retail built close to the street and to promote a pedestrian scale and character. A technical change to step backs was also made.

IV. RECOMMENDED MAP AMENDMENT

The proposed zoning map amendment is to rezone the B-2 zone and the R-5 zone to B-2b, as shown in the insert. The proposal is to extend the current B-2b zone on Forest Avenue from the Preble Street extension (where the existing B-2b terminates) toward I-295 to the Hannaford Plaza entrance. The proposed map amendment also includes the developed site at the corner of Forest Avenue and Bedford Street.



The Planning Board held the public hearing on March 22, 2016. The

Planning Board voted (6-1, Whited opposed) to recommend to City Council the adoption the zoning map amendment to rezone a portion of Forest Avenue to Community Business B-2b as shown here. Lisa Whited opposed the map amendment, as a piecemeal solution to addressing auto related businesses and she supported a more holistic approach for transforming Forest Avenue. The majority of the members supported the map amendment and agreed with Ms. Whited that further analysis of the B-2 zones and drive-throughs was

warranted. The Board’s recommendation for the drive-through text amendments to the B-2 zones address the concerns raised at that time and offer an innovative solution for development along the corridor. The text amendments are coming forward to the City Council concurrently with the recommended map amendment. The text amendments would re-introduce the drive-through use in the B-2b zone, subject to the use being associated with a bank or pharmacy in a minimum of a 3-story building with the majority of the upper floors in residential use (a minimum of 3 dwelling units).

V. ZONING COMPARISON

A. Purpose Statements

The R-5 zone is a medium density residential area that is characterized by single family and low-intensity multi-family development. The B-2 Zone is intended to provide areas for a mix of commercial and residential uses, which have a greater intensity than the business uses permitted in the neighborhood business zone. The types of uses articulated in the purpose statement of the B-2 zone include “grocery stores, shops and services located in major shopping centers and along arterial streets.” Generally, the B-2 zone is found along Portland’s major transportation corridors with residential neighborhoods adjacent to the zone. Thus the intent of the zone states that development should relate to the surrounding neighborhoods by design, orientation, and circulation patterns. Both the B-2 and B-2b provide for moderate to high density housing development.

The B-2b is part of the B-2 zone and varies in some ways from the zone. The purpose statement highlights that the development should be close to the street and have a more compact urban development pattern. It is recommended for locations “on-peninsula or in areas off-peninsula where a neighborhood compatible commercial district is established which exhibits a pedestrian scale and character.” The purpose statements of the R-5 zone and the B-2, B-2b and B-2c are listed in Table 1 below.

Zone	Purpose
Residential R-5	To provide appropriate areas of the city for medium-density residential development characterized by single-family and low-intensity multifamily dwellings on individual lots; to ensure the stability of established medium-density neighborhoods by controlling residential conversions; and to provide for planned residential unit development on substantially sized parcels. Such PRUD development shall respond to the physical qualities of a site and complement the scale, character and style of the surrounding neighborhood.
Community Business B-2	1. To provide appropriate locations for the development and operation of community centers offering a mixture of commercial uses, housing and services serving the adjoining neighborhoods and the larger community. 2. The variety, sites and intensity of the permitted commercial uses in the B-2 zone are intended to be greater than those permitted in the B-1 neighborhood business zone. 3. The B-2 zone will provide a broad range of goods and services and general businesses with a mixture of large and small buildings such as grocery stores, shops and services located in major shopping centers and along arterial streets. Such establishments should be readily accessible by automobile, by pedestrians and by bicycle. Development in the B-2 zone should relate to the surrounding neighborhoods by design, orientation, and circulation patterns. 4. The B-2 and B-2b will provide locations for moderate to high density housing in urban neighborhoods along arterials.
Community Business B-2b	The B-2b zone is intended to provide neighborhood and community retail, business and service establishments that are oriented to and built close to the street. The B-2b zone is appropriate in areas where a more compact urban development pattern exists such as on-peninsula or in areas off-peninsula where a neighborhood compatible commercial district is established which exhibits a pedestrian scale and character. Such locations may include the peninsula and other arterials and intersections with an existing urban or neighborhood oriented building pattern.

B. Permitted and Conditional Uses

Following is a chart of the permitted uses for the R-5, B-2 and B-2b zones. Again, the R-5 zone is a moderate density residential zone, thus the permitted uses include single and two family homes, handicapped family units, planned residential unit developments and multiplexes. The permitted residential uses in the B-2 and B-2b zone allow for many of the same residential uses, but the zones also permits higher density housing, such as multifamily development, combined living/working spaces, and lodging houses.

The R-5 zone does not permit business uses. The B-2 and B-2b zones share most of the same permitted and conditional uses. A significant difference is that drive-throughs are not listed as permitted or conditional uses in the B-2b zone, which is a recent change that was adopted on November 17, 2014. Drive-throughs are listed as a permitted use in the B-2 and as a conditional use in the B-2 zone when the site is adjacent to a residential zone. These provisions are the subject of the pending text amendments before the City Council.

Table 2: Permitted and Conditional Uses

Permitted Uses				
Residential		R-5	B-2	B-2b
	Single-family and two-family dwellings	•	•	•
	Multi-family dwellings		•	•
	Handicapped family units	•	•	•
	Single-family single- or multiple-component manufactured housing	•		
	Combined living/working spaces		•	•
	Lodging houses		•	•
	PRUDs	•		
	Multiplex development	•		
Institutional		R-5	B-2	B-2b
	Schools		•	•
	Clinics		•	•
	Places of assembly		•	•
	Long term, extended and intermediate care facilities		•	•
	Governmental buildings and uses/municipal uses	•	•	•
	College, university or trade schools		•	•
	Nursery schools, kindergartens			
	Day care facilities		•	•
Business		R-5	B-2	B-2b
	General, business, & professional offices		•	•
	Personal services		•	•
	Business services			
	Offices of building tradespeople		•	•
	Retail establishments		•	•
	Restaurants (close at 11)		•	•
	Drinking establishments (not allowed in B-2c)		•	•
	Billiard parlors		•	•
	Mortuaries or funeral homes		•	•
	Miscellaneous repair services, excluding motor vehicle repair		•	•
	Communication studios or broadcast and receiving facilities		•	•
	Health clubs and gymnasiums		•	•
	Veterinary hospitals (excluding outside kennels)		•	•
	Theaters		•	•
	Hotels of less than 150 rooms		•	•
	Dairies and bakeries in existence as of Nov 15, 1999		•	•
	Bakeries after 1999, must have a retail component and bakeries		•	•

	in the B-2b shall be no greater than 7,000 sf in size			
	Drive-throughs associated with a permitted use in the B-2 zone provided that such do not include drive-throughs on any lot adjacent to any residential use or zone. ..“adjacent to” shall include uses across a street if within 100 feet of the subject lot boundary;		•	
	Registered medical marijuana dispensaries		•	•
	Commercial kitchens provided it includes retail sales or tasting room. Commercial kitchens shall be no greater than 7,000 sf in B-2b		•	•
Other		R-5	B-2	B-2b
	Accessory uses	•	•	•
	Municipal uses	•		
	Parks	•		
	Home occupation	•	•	•
	Studios for artists and craftspeople – not to exceed 4000 sf studio space		•	•
	Special needs independent living units	•	•	•
	Bed and breakfasts		•	•
	Hostels		•	•
	Wind energy systems	•	•	•
	Utility substations		•	•
Conditional Uses				
Residential		R-5	B-2	B-2b
	Sheltered care group homes	•		
	Additional accessory dwelling units	•		
	Alteration of non-residential structure to 3+ dwelling units	•		
	Use space existing as of 9-3-08 to accommodate additional dwelling units	•		
	Conversion of multi-family structure to lodging house	•		
Institutional		R-5	B-2	B-2b
	Schools	•		
	Long-term and extended care facilities	•		
	Intermediate care facility	•		
	Places of assembly	•		
	Hospitals	•		
	Nursery schools and kindergartens			
	Day care facilities	•		
	College, university, trade schools	•		
Business		R-5	B-2	B-2b
	Major and minor auto service stations		•	
	Major and minor auto service stations if in existence as of 1999			•
	Car washes		•	•
	Drive-throughs adjacent to residential uses or zones		•	
	Automobile dealerships		•	•
Other		R-5	B-2	B-2b
	Utility substations	•		
	Professional offices			
	Chancellery			
	Off-street parking	•		
	Temporary wind anemometer towers	•	•	•
	Wind energy systems	•	•	
	Printing and publishing establishments		•	•
	Wholesale distribution establishments		•	
	Research and development and related production		•	•

	establishments			
--	----------------	--	--	--

C. Dimensional Standards

The dimensional standards for the R-5 zone focus on the residential form for a moderate density area. The B-2 and B-2b zone are similar in their lists of permitted and conditional uses, as well as their dimensional standards. A comparison of the dimensional standards is contained in Table 3. Dimensional Standards.

Table 3. Dimensional Standards

Standard	R-5 ¹	B-2	B-2b
Minimum Lot area per dwelling unit	3,000 sf, except 3,600- 4,800 sf for special needs independent	none	none
Street Frontage	50 feet	20 ft	20 ft
Minimum Lot Width	60 feet, except 90 for multiplex	none	none
Minimum Front Yard	20, except average depth if less than 20		
Maximum Front Yard	N/A	10 ft, Bd may grant waiver for irregular lots with less than 40 ft of frontage (Building Additions do not have to meet this section)	10 ft, Bd may grant waiver for irregular lots with less than 40 ft of frontage (Building Additions do not have to meet this section)
Minimum Rear Yard	20 feet	10 ft, accessory structures, 5 ft	10 ft, accessory structures, 5 ft
Minimum Side Yard	8-15 feet, depending on building height and location	None, accessory structures, 5 ft	None, accessory structures, 5 ft
Minimum Side Yard on Side St		None	None
Structure Height	35 feet	45 ft, 50 ft if 1 st floor commercial is whole or partially commercial use	45 ft, 50 ft if 1 st floor commercial is whole or partially commercial use
Structure Stepbacks		Portions of a structure above 35 feet shall be no closer than 5 feet from the side property line and no closer than 15 feet from the rear property line when such property line abuts a residential zone.	Portions of a structure above 35 feet shall be no closer than 5 feet from the side property line and no closer than 15 feet from the rear property line when such property line abuts a residential zone.
Maximum Lot Coverage (building coverage)	40%		
Maximum Impervious Surface	N/A	Residential uses – none All permitted uses - 80%	Residential uses – none All permitted uses - 90%
Minimum Lot Area per Dwelling Unit		a. Off-peninsula locations, as defined in section 14-47: 1,500 SF, except as provided for in (b) below. b. On-peninsula locations (as per 14-47) and projects with active street frontages, as defined in section 14-188, below: 435 SF	a. Off-peninsula locations, as defined in section 14-47: 1,500 SF, except as provided for in (b) below. b. On-peninsula locations (as per 14-47) and projects with active street frontages, as defined in section 14-188, below: 435 SF.

¹ Additional restrictions on the number of dwelling units apply to the PRUD standards and separate requirements for small residential lot development may apply

The history of the B-2 zone outlines the text amendments that have occurred over time, which have brought the B-2 zone in alignment with the more urban based parameters of the B-2b zone. Currently, both B-2 and B-2b have a maximum front yard setback of 10 feet (does not apply to building additions), which was not the case before the B-2 update in 2014. Prior to that update, only the B-2b zone had a maximum front yard setback requirement. In both the B-2 and B-2b zones, there is a provision that allows the Planning Board to grant waivers of the maximum front yard setback for irregular lots with less than 40 feet of frontage. In such cases, no maximum setback is required, but where setbacks exceed 10 feet then a continuous, attractive, and pedestrian-scaled edge treatment shall be constructed along the street.

There is no maximum impervious surface ratio for residential uses, but for all other permitted uses the maximum coverage is 80% in the B-2 zone and it is 90% in B-2b. There is also a distinction between the allowable residential density for both B-2 and B-2b, which is tied to whether a site is on-peninsula or off-peninsula. The density is 1,500 sf per unit off-peninsula, unless the project has active street frontage as defined. The density is 435 sf per unit on-peninsula or for those projects with active street frontage. The B-2 zone is predominantly located off-peninsula and the B-2b is on-peninsula and along a portion of the Forest Avenue corridor.

VI. SITE PLAN STANDARDS AND DESIGN STANDARDS

Under the site plan standards of the Site Plan Ordinance (Section 14-526) there are zoning related design standards under subsection (d). The general provision states:

a. Development of certain types and/or proposed in certain zones, as specified below, are subject to design standards in addition to the provisions of Section 14-526 (a) in order to ensure designs that contribute to and enhance the goals and policies for specific districts of the City. The City of Portland Design Standards is listed in the City of Portland Design Manual, which is included by reference. If the development is located in a historic district or associated with a historic landmark, City of Portland Historic Preservation standards shall supersede:

Subparagraph iii relates to the B-1 and B-2 zones as follows:

(iii) B1, B1-b, B2, B2-b Zones: Development in the B1, B1-b, B2 and B2-b business zones shall provide an established street wall with entrances and public portions of the building oriented to and directly accessible from the public sidewalk and shall be designed and scaled to be compatible with surrounding residential and commercial development as demonstrated by compliance with all applicable design standards listed in the Design Manual.

The standard does state that development in the B-2 zones shall provide a street wall with entrances and public portions of the building oriented to the street and other provisions, as demonstrated by compliance with all applicable design standards listed in the Design Manual.

The Design Manual contains the design standards, which are presented in the chart below.

The design standards for the urban street wall and building entrances are not required for projects within B-2; however, the standards cross reference the design guidelines and encourages development in the B-2 zone to meet both of these standards. The B-1 and B-2 Design guidelines are contained in Appendix 2 of the Design Manual, which are intended to illustrate how development may meet the specific standards. The guidelines are shown below the design standards. The sections pertaining to urban street wall and entrances are highlighted.

Portland Design Manual		
Design Standards	Applicability of Design Standards –	
	B-2	B-2b
<u>Urban Street Wall:</u> ...buildings shall be located to create and preserve an urban street wall.		Required
<u>Mixed Uses:</u> ...buildings shall be multi-storied with mixed uses. (B-1- only)		
<u>Building Entrances:</u> ...building entrances shall be oriented toward, located adjacent to, and directly accessible from a sidewalk in a public right-of-way.		Required
<u>Windows:</u> ... windows shall be required along the street frontage of a building. Windows shall be transparent (with a visible transmittance (VT) of 0.7 or greater) and installed at a height to allow views into the building by passerby.	Required	Required
<u>Facade Character:</u>active and public portions of buildings (e.g. doors, windows, entries, retail displays) <u>shall be oriented to and, where possible, be located adjacent to the public sidewalk</u> to create an active presence along the sidewalk. (1) Where building facades situated along a public way have no interactive use or function, such facades shall be designed to provide sufficient architectural and graphic amenities to provide visual interest along the street and relate the building, and its use to passerby.	Required	Required
<u>Building Design:</u> ... commercial buildings shall be designed to be compatible with their residential and commercial neighbors. In the B-1 and B-1b zones building scale, roof pitch, and fenestration shall be designed to complement surrounding residential structures.	Required	Required
<u>Building materials:</u> Façade materials of buildings located in the B-1, B-1b B-2, and B-2b zones shall be compatible with those materials of surrounding residential and commercial uses.	Required	Required
<u>Building Scale:</u> In the B-1 and B-1b zones building scale must relate and be compatible with surrounding residential structures.		
<u>Landscaping and buffers:</u> In the B-1, B-1b, B-2 and B-2b zones buildings and associated parking areas must be screened to buffer abutting properties. A densely planted landscape buffer and/or fencing will be required to protect neighboring properties from the impacts associated with the development, including lighting, parking, traffic, noise, odor, smoke, or other incompatible uses. Where buildings are setback from the street, a landscaped area must be planted along the front yard street line.	Required	Required
<u>Guidelines</u>		
Please refer to Appendix 2 of this manual, the B-1, B-1b, B-2, B-2b Design Guidelines, for applicable design guidelines for the B-1 and B-2 zones. In addition, the following design guidelines shall also apply.		
1. Buildings located in the B-2 zone are specifically <u>encouraged</u> to adhere to the design guidelines contained in the B-1, B-1b, B-2, B-2b Design Guidelines (Appendix 2) of this section concerning the creation and preservation of an <u>urban street wall</u> .		

2. In the B-1b and B-2 zones, buildings are specifically <u>encouraged</u> to adhere to the guidelines contained in the B-1, B1b, B-2, B-2b Design Guidelines (Appendix 2) of this section concerning <u>building entrances</u> .		
---	--	--

Appendix 2 Guidelines
Development in the B-1, B-1b, B-2, B-2b shall meet the following guidelines in order to meet the Site Plan Standards
1. Building Location and Form
<u>Buildings shall be located near the street so as to create an urban street wall.</u> An urban street wall is created by a pattern of buildings which line the street in a consistent manner, thereby establishing a desirable spatial relationship between the building in the commercial district and the major object. Location is one of several related factors defining the street environment.
<u>Building Form, including height, bulk, and massing, contribute to the development of a street wall.</u> The desired condition is to have the building frame and enclose the street, which is achieved by providing building height that is proportionate to the width of the adjoining major street. A ratio of building height to street width of one-to-two creates a strong "room-like" street, while a one to-three ratio provides good street definition and proportion. Shorter buildings of one story facing broad streets will not achieve the desired relationship.
<u>In the B-2b zone, buildings adjacent to streets should approach 1:2 height to street width, with a minimum of 1:3.</u> For a fifty-foot street right-of-way, therefore, a minimum height of 15' is required, with 25' height preferred. An eighty-foot right-of-way requires about 27' to achieve the 1:3 proportion with 40'-height preferred. Obviously, buildings located as close as possible to the street right-of way will provide better definition and proportion than buildings set further back.
2. Building Function
<u>An urban street and business district requires a substantial intensity and variety of uses.</u> It is beneficial to have mixed uses within portions of buildings situated near the street. For example, a retail first floor might have office or residential on the second or third floors. This provides both the scale of building height desired, as well as the economic vitality of the business district.
3. Orientation of Buildings and their Entrances to the Street
<u>Major building entries shall be designed and located to provide the primary building access oriented to the public street and sidewalk.</u> Doorways should be prominent and obvious in appearance, so as to attract the users toward the entry. Major entry features should primarily address the street, with entry courts, display windows, signage, lights, walkways, and vestibules, as appropriate. Major entries should be adjacent to, or very close to, the street and public sidewalk.
4. Windows
<u>Windows shall be located in all building facades visible from the public way, especially on building facades along the major public street.</u> Retail uses with store fronts are the most desirable feature for locations adjacent to the public sidewalk; and active, transparent (minimum visible transmittance (VT) of .7 or greater), and interesting windows contribute the maximum value. Limitations on transparency, such as dark or reflective glass, or interior coverings, should be avoided. Where uses (such as office) are not conducive to transparent viewing from the public way, windows can still convey a sense of activity and presence along the street. Even these more private windows can convey occupancy and habitation when lighted from within, as during evening hours, even if the interior is screened from view.
5. Building Character, Detail, Scale, and Graphic Qualities

Building design will include various architectural and graphic amenities to provide a strong presence along a street and relate a building to its community.

Awnings, canopies, and flags may be utilized to highlight entryways and to further identify the activity and identity of a use.

Facade lighting may be used to highlight entryways or to provide visual interest along an otherwise blank facade

Building scale, roof pitch, architectural detail, and fenestration shall be designed to complement and be compatible with surrounding residential and commercial buildings.

6. Signage and Building Entrances

Building entrances and building signage in the B-1, B-1b, and B-2b zones will be designed and constructed at the pedestrian scale.

7. Development Relationship to Street

Building facades and site amenities shall form a cohesive wall of enclosure along a street.

Where buildings are not located at the street line, site amenities, including masonry walls, fences, and landscaping, shall be placed along the street to provide a sense of enclosure or definition.

8. Parking Lots

Parking Lots shall be screened from view of the public way.

Landscaping or fencing shall be used to screen parking lots from public ways and residential neighbors. Where parking is located within the front yard (or side yard of a corner lot), a landscaped buffer or fence shall be placed along the street line to distinguish the private space from the public space and to help define the street wall.

Parking lots shall be screened from neighboring properties.

A densely planted landscape buffer or fencing shall be installed to protect neighboring properties from the impacts associated with the parking lot and the use it serves.

VII. COMPREHENSIVE PLAN AND ZONING ANALYSIS

The central vision of Portland's Plan 2030 is represented by the Venn diagram demonstrating the integral interrelation of the community's core belief that Portland is equitable, sustainable, connected, dynamic, authentic and secure. The vision conveys the message of the City's need to balance many competing needs to assure the advance of the vision as a unified concept. In this instance, that the City's goals for job growth and transforming Portland through orderly growth and development be balanced with needs for connectivity of the street grid, sustainability of infrastructure and the ability to maintain that infrastructure, and security in the sense of public safety.



The comprehensive plan includes the following economic and housing goals that are relevant to the proposed text amendments:

- Create economic prosperity by growing Portland's tax and employment base.
- Invest in, attract, and retain human capital to support a growing economy.
- Respect that our unique quality of place is key to our current and future economic success.
- Increase, preserve, and modify the overall supply of housing city-wide to meet the needs, preferences and financial capabilities of all Portland residents.
- Encourage additional contextually appropriate housing density in and proximate to neighborhood centers, concentrations of services, and transit nodes and corridors as a means of supporting complete neighborhoods.

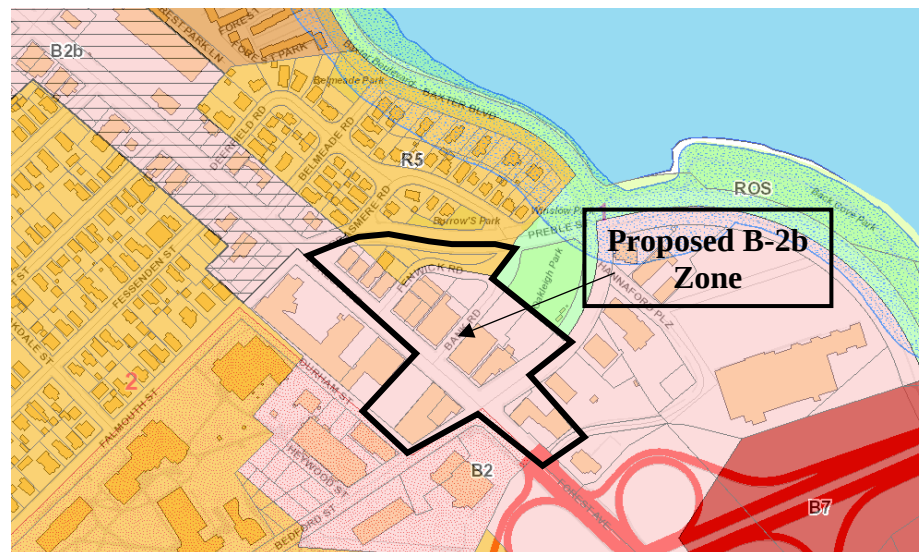
- Pursue policies to enable people who work in Portland to have the option to live in Portland.

In addition, Portland conducted a corridor study of Forest Avenue from Park Avenue through Woodfords Corner. Transforming Forest Avenue was adopted by the City Council on June 4, 2012 and it included recommendations for land use, transportation, and streetscape alternatives based upon a community process and best practices for transit supportive development (TSD). Feedback from the community process supported incentives considered to promote TSD principles. Encouraging vibrant and diverse land uses is an important principle of TSD development in order to provide multiple destinations in close proximity within an area. The development pattern should “provide for vibrant loci or activity at a pedestrian scale.” Architectural quality, high quality parking, and public spaces are other land use components that are identified as components for creating a high quality transit corridor.

Compact development that increases the concentration of uses and structures in the built environment is identified as a strategy to support TSD. While the B-2 and B-2b zones have similar uses and dimensional standards, the design guidelines between the two zones do differ. The design standards for the B-2b zone are more urban and pedestrian oriented. For example, in B-2b the building entrances shall be oriented toward or directly accessible from a public sidewalk, transparent windows are required along street frontages, and street frontages should create an active presence along the sidewalk.

VIII. PLANNING BOARD RECOMMENDATION

The Planning Board voted 6-1 (Whited opposed) to find that the proposed rezoning of the R-5 and B-2 zones to B-2 b as shown on the map below is consistent with the Comprehensive Plan for the City of Portland; and therefore, the Planning Board recommends to the City Council approval of the zoning map amendment shown below.



IX. ATTACHMENTS

1. Neighborhood Packet – March 10, 2016
2. Public Comment

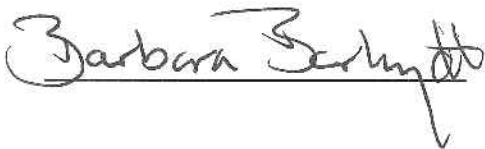
Neighborhood Meeting Certification

I, Barbara Barhydt, Portland's Development Review Services Manager, hereby certify that a neighborhood meeting was held on March 10 at the Merrill Rehearsal Hall at 6:30 p.m. The location of the meeting was changed on the day of the meeting (Expo could not be used due to a Red Claws Game). On March 10, 2016, news flashes were posted on the City's web site, notices were resent to the interested citizen, and calls made to participants who attended the workshop. A staff person was stationed at the Expo to redirect interested parties to the Merrill Auditorium Rehearsal Hall from 6:00 p.m. to 6:45 p.m.

I also certify that on March 1, 2016, invitations were mailed to the following:

1. All addresses on the mailing list provided by the Planning Division which includes property owners within 500 feet of the proposed zone change.
2. Residents on the "interested parties" list.
3. A digital copy of the notice was also provided to the Planning Division (jmy@portlandmaine.gov and ldobson@portlandmaine.gov) and the assigned planner to be forwarded to those on the interested citizen list who receive e-mail notices.

Signed,



March 17, 2016

Attached to this certification are:

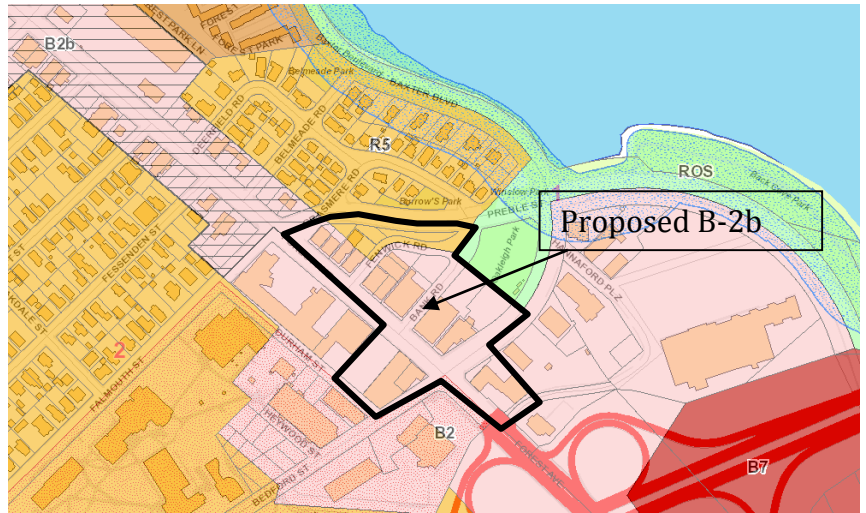
1. Copy of the invitation sent
2. Sign-in sheet
3. Meeting minutes
4. Written comment submitted at the meeting
5. Copy of Power Point Presentation



March 1, 2016

Dear Neighbor,

Please join us for a neighborhood meeting to discuss the City of Portland's proposal to rezone an area along Forest Avenue from Community Business B-2 and Residential R-5 to the Community Business B-2b zone. The proposed zone change is in the vicinity of the block bounded by Forest Avenue, Preble Street Extension and Baxter Boulevard and includes commercial parcels at the intersection of Forest Avenue, Baxter Boulevard and Bedford Street, as shown on the map.



Meeting Location:

**Portland Exposition Building, Rehearsal Hall
239 Park Avenue, Portland, ME 04102**

Meeting Date:

Thursday, March 10, 2016

Meeting Time:

6:30 p.m.

The City Code requires that property owners within 500 feet (1000 feet for proposed industrial subdivisions and industrial zone change) of the proposed development and residents on an "interested parties list", be invited to participate in a neighborhood meeting. A sign-in sheet will be circulated and minutes of the meeting will be taken. Both the sign-in sheet and minutes will be submitted to the Planning Board.)

If you have any questions, please feel free to contact Barbara Barhydt, Development Review Services Manager at the Portland Planning Division at 874-8699 or at bab@portlandmaine.gov

Note: Under Section 14-32(C) and 14-524(a)d of the City Code of Ordinances, an applicant for Level III development subdivision of over five lots/units, or zone change is required to hold a neighborhood meeting within 30 days of submitting a preliminary application or 21 days of submitting a final site plan application, if a preliminary plan was not submitted. The neighborhood meeting must be held at least seven days prior to the Planning Board public hearing on the proposal. Should you wish to offer additional comments on this proposed development, you may contact the Planning Division at 874-8719 or send written correspondence to the Planning and Urban Development Department, Planning Division, 4th Floor, 389 Congress Street, Portland, ME 04101 or by e-mail to bab@portlandmaine.gov

**Forest Avenue, B-2 and R-5 to B-2b Rezoning
Neighborhood Meeting Sign In Sheet
March 10, 2016**

[illegible]

6:00 PM - submitted
March 10, 2016

Dear City of Portland,

The area on Forest Ave near the Palmer Spring Company has very old trees. Surrounding the parking lot is Red Maple, Beech. At the corner near the Forest Ave, Zoned R5, Residential, and a main street is an ancient Red Maple that has so much water under it that it has sprouted 20 or more branches from the trunk of the tree. Would you please do an Environmental Review by your agency in charge or contact Ron Mongeon, Enforcement, Maine Department of Environmental Protection - (207) 287-7740. Or contact Environmental Assessment (water resources) Don Witherill (207) 215-9751. Ground water protection is also necessary so you should contact John Hopeck (207) 215-4463.

I am objecting to a Zoning Change. No further development should take place to protect the water resources according to the Water Act of the Federal Government and the City of Portland Code of Ordinances. Sincerely,
and the State of Cheryl A Joseph
Maine Environmental Boston College, B.S. Biology
Laws.



Portland, Maine

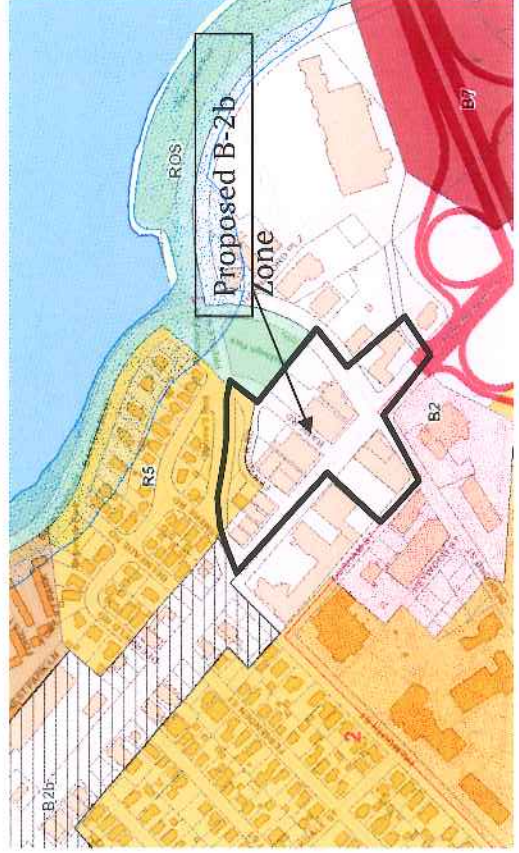
Yes. Life's good here.

Planning & Urban Development Department

**Neighborhood Meeting:
Proposed Zoning Map Change from B2 to B2b
between Preble St Extension and I-295 along Forest Avenue**

City of Portland, Applicant

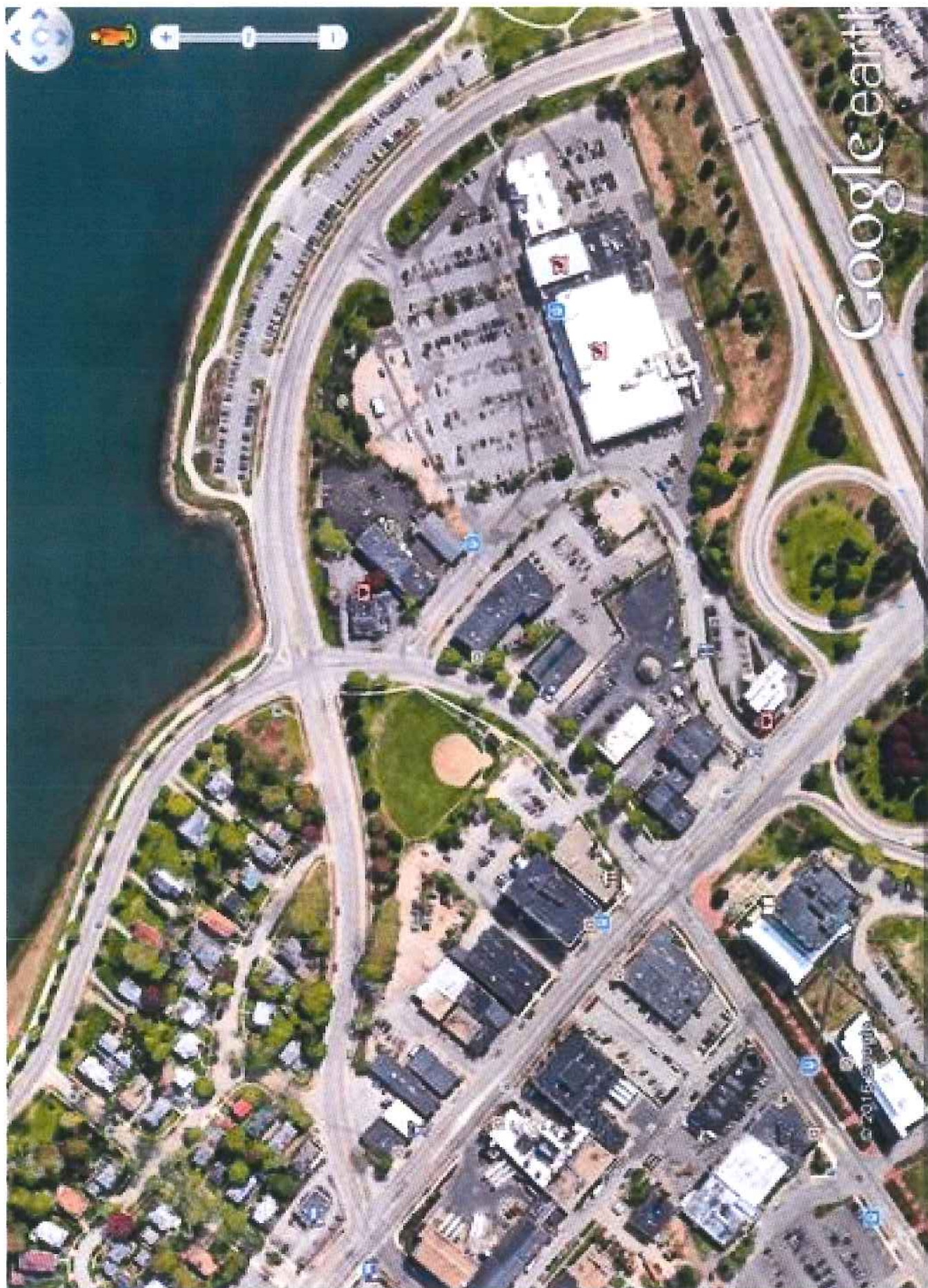
March 10, 2016



Agenda

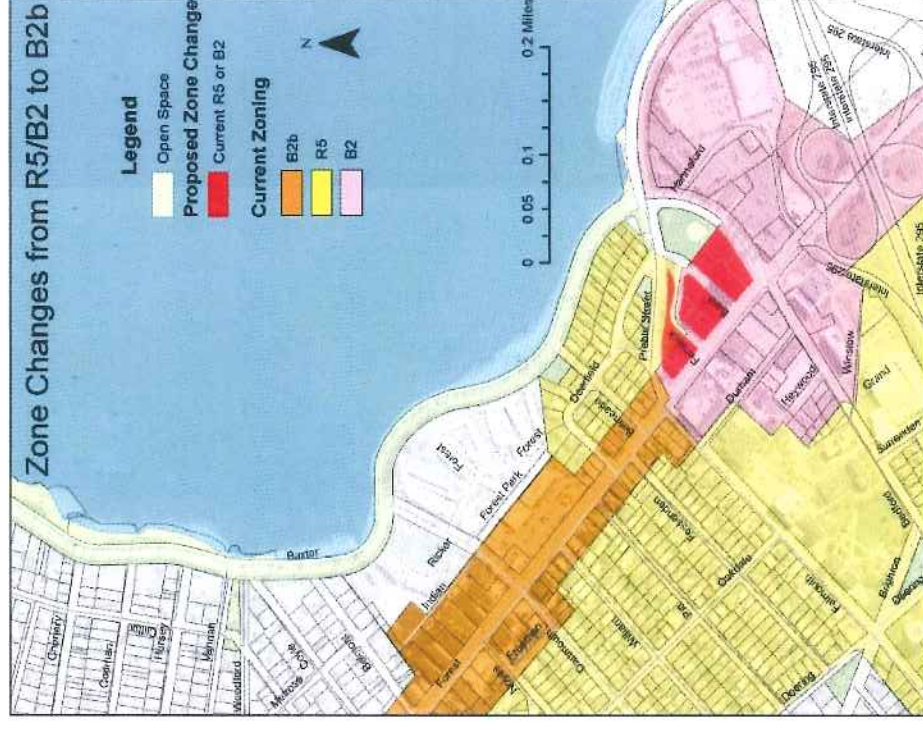
- 1. Introduction Councilor Belinda Ray,
District One**
- 2. Description of Proposal**
- 3. Public Comment and Questions**
- 4. Next Steps**

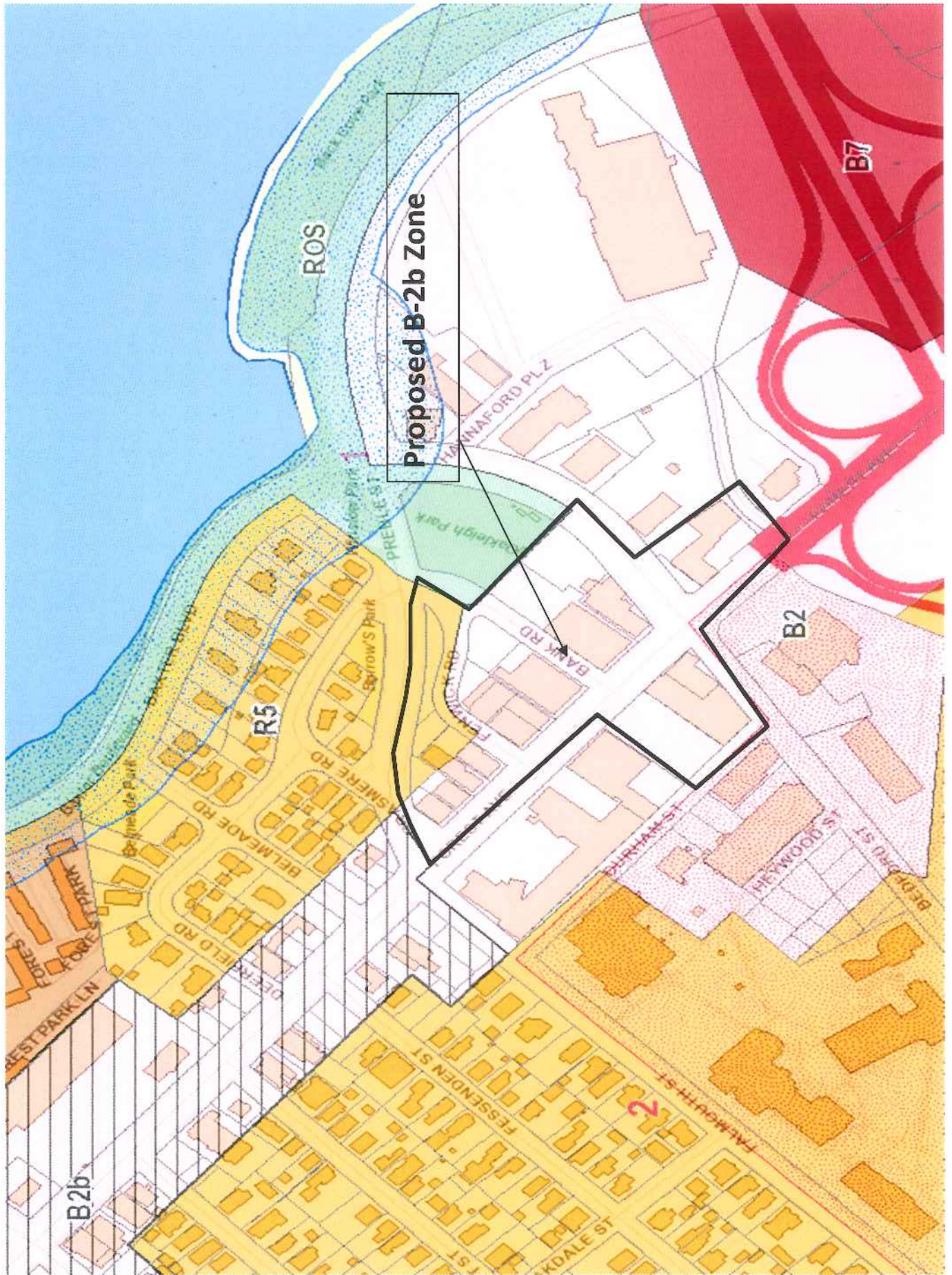
Google earth



Background

- At the CC Meeting on Feb. 1, 2016, Councilor Ray moved to have the Planning Board consider a zoning map amendment from the current Community Business B-2 zone and the Residential R-5 zone to the Community Business B-2b zone (red properties to right).
- CC voted unanimously to refer this item to the PB and requested PB to report back by April 1, 2016.
- On Feb. 23rd PB held workshop on the item and decided to move forward with a hearing on the rezoning for a larger area (following slide).
- PB Hearing scheduled for Mar. 22, 2016





Zone	Purpose
Residential R-5	To provide appropriate areas of the city for medium-density residential development characterized by single-family and low-intensity multifamily dwellings on individual lots; to ensure the stability of established medium-density neighborhoods by controlling residential conversions; and to provide for planned residential unit development on substantially sized parcels. Such PRUD development shall respond to the physical qualities of a site and complement the scale, character and style of the surrounding neighborhood.
Community Business B-2	1. To provide appropriate locations for the development and operation of community centers offering a mixture of commercial uses, housing and services serving the adjoining neighborhoods and the larger community. 2. The variety, sites and intensity of the permitted commercial uses in the B-2 zone are intended to be greater than those permitted in the B-1 neighborhood business zone. 3. The B-2 zone will provide a broad range of goods and services and general businesses with a mixture of large and small buildings such as grocery stores, shops and services located in major shopping centers and along arterial streets. Such establishments should be readily accessible by automobile, by pedestrians and by bicycle. Development in the B-2 zone should relate to the surrounding neighborhoods by design, orientation, and circulation patterns. 4. The B-2 and B-2b will provide locations for moderate to high density housing in urban neighborhoods along arterials.
Community Business B-2b	The B-2b zone is intended to provide neighborhood and community retail, business and service establishments that are oriented to and built close to the street. The B-2b zone is appropriate in areas where a more compact urban development pattern exists such as on-peninsula or in areas off-peninsula where a neighborhood compatible commercial district is established which exhibits a pedestrian scale and character. Such locations may include the peninsula and other arterials and intersections with an existing urban or neighborhood oriented building pattern.

Standard	R-5	B-2	B-2b
Minimum Lot area per dwelling unit	3,000 sf, except 3,600- 4,800 sf for special needs independent	none	none
Street Frontage	50 feet	20 ft	20 ft
Minimum Lot Width	60 feet, except 90 for multiplex	none	none
Minimum Front Yard	20, except average depth if less than 20		
Maximum Front Yard	N/A	10 ft, Bd may grant waiver for irregular lots with less than 40 ft of frontage	10 ft, Bd may grant waiver for irregular lots with less than 40 ft of frontage
Minimum Rear Yard	20 feet	10 ft, accessory structures, 5 ft	10 ft, accessory structures, 5 ft
Minimum Side Yard	8-15 feet, depending on building height and location	None, accessory structures, 5 ft	None, accessory structures, 5 ft
Minimum Side Yard on Side St		None	None
Structure Height	35 feet	45 ft, 50 ft if 1 st floor commercial is whole or partially commercial use	45 ft, 50 ft if 1 st floor commercial is whole or partially commercial use
Structure Stepbacks		Portions of a structure above 35 feet shall be no closer than 5 feet from the side property line and no closer than 15 feet from the rear property line when such property line abuts a residential zone.	Portions of a structure above 35 feet shall be no closer than 5 feet from the side property line and no closer than 15 feet from the rear property line when such property line abuts a residential zone.
Maximum Lot Coverage (building coverage)	40%		
Maximum Impervious Surface	N/A	Residential uses – 0% All permitted uses - 80% a. Off-peninsula locations, as defined in section 14-47: 1,500 SF, except as provided for in (b) below. b. On-peninsula locations (as per 14-47) and projects with active street frontages, as defined in section 14-188, below: 435 SF	Residential uses – 0% All permitted uses - 90% a. Off-peninsula locations, as defined in section 14-47: 1,500 SF, except as provided for in (b) below. b. On-peninsula locations (as per 14-47) and projects with active street frontages, as defined in section 14-188, below: 435 SF.
Minimum Lot Area per Dwelling Unit			

Transforming Forest Avenue Study

Approved June 4, 2012

- Transforming Forest Avenue considered land use options for the corridor, including use based zoning, form based code and transit supportive development (TSD).
- Encouraging vibrant and diverse land uses is an important principle of TSD development in order to provide multiple destinations in close proximity within an area
- The development pattern should “provide for vibrant loci or activity at a pedestrian scale.”
- Architectural quality, high quality parking, and public spaces are other land use components that are identified as components for creating a high quality transit corridor.
- While the B-2 and B-2b zones have similar uses and dimensional standards, the design guidelines between the two zones do differ. The design standards for the B-2b zone are more urban and pedestrian oriented.



WOODMAN EDMANDS DANYLIK AUSTIN
SMITH & JACQUES, P.A.

ATTORNEYS-AT-LAW

ROBERT B. WOODMAN
THOMAS DANYLIK
RALPH W. AUSTIN
JAMES B. SMITH
KEITH R. JACQUES
MICHAEL J. O'TOOLE
HARRY B. CENTER II
SANDRA L. GUAY
AMY McNALLY

234 MAIN STREET
P.O. BOX 468
BIDDEFORD, ME 04005-0468
TELEPHONE: 207-284-4581
FAX: 207-284-2078
E-MAIL: SLG@woodedlaw.com

PETER L. EDMANDS
(Retired)

March 17, 2016

Jeff Levine, Planning & Urban Development Director
City of Portland
389 Congress St, Fourth Floor
Portland, ME 04101

Re: Proposed Zoning Amendment/Forest Avenue

Dear Mr. Levine:

On February 1, 2016, the City Council asked the Planning Board to review and provide its recommendation on a possible zoning amendment. This amendment would reclassify the City blocks south of Preble Street Extension, east of Forest Avenue, and north of Baxter Boulevard from either B-2 or R-5 to B-2b. In addition, the Council asked the Planning Board to separately consider revisions to the language of the B-2 and/or B-2b zone ordinances and design manual. It of course is no coincidence that these proposed zoning changes came only after the City became aware of a proposed CVS Pharmacy development in this area that had been in the works for approximately five years, and of the desire by the current owners of the existing structures to sell their properties for this development.

On February 23, 2016, the Planning Board held a workshop on this issue, and on March 10, 2016, it held a neighborhood meeting. A public hearing has been scheduled for March 22, 2016.

The purpose of this letter is to provide an explanation of why a rezoning from B-2 to B-2b in this instance would be neither appropriate, nor in the best interests of the City.

I. B2 versus B-2b/Uses

While the "purpose statements" for the B-2 and B-2b appear to describe a more commercial zone for the B-2 and a less intensive commercial zone for the B-2b in reality,

WOODMAN EDMANDS DANYLIK AUSTIN SMITH & JACQUES, P.A.

Jeff Levine, Planning & Urban Development Director
City of Portland
March 17, 2016
Page 2 of 4

the differences between the B-2 and B-2b zones are few. The B-2 allows for certain dairies and bakeries; the B-2b allows for only small bakeries. The B-2 allows for wind energy systems; the B-2b does not. Significantly, the B-2 allows for research and development and related production establishments, drive-throughs that are accessory to a principal use, and major and minor auto service stations in existence as of 1999; none of these last three uses are permitted in the B-2b.

With respect to drive-throughs, there are several drive-throughs in the vicinity of the area under consideration for rezoning, including the credit union located on the Forest Avenue side of the Hannaford shopping center. Drive-throughs are not an antithesis to urban design. In particular, pharmacy drive-throughs, with their low queuing and low volume speakers (HIPPA required), have little impact in an area that is already subject to high traffic volume. Permitting a drive-through in this section of Forest Avenue, which is closely connected to Route 295, a university commuter campus, and the Hannaford shopping center, will have no impact on the dynamics of automobile traffic. What a pharmacy drive-through does however provide is more convenient and easier access to medications by that section of the local population that is elderly, disabled, ill, contagious, or with small children in the car. It is fine to say that everyone should park and walk a couple of blocks – but, this is simply not the reality for many. The option of a pharmacy drive-through in this area would serve individuals who must now drive a distance in order to be able to obtain medications without having to exit their vehicles and enter a store to do so. The original decision to allow for drive-throughs in this limited commercial area, which is physically detached from the established residential neighborhoods, was not by accident or mistake. It is simply the right place for a drive-through to be located.

I. B2 versus B-2b/Design and Technical Standards

There appears to be only one differing dimensional standard between the B-2 and B-2b – maximum impervious lot coverage is 80 percent in the B-2 and 90 percent in the B-2b. As most all of the property within the proposed rezone area (with the exception of the City's ballpark), is already greater than 90 percent impervious, this distinction is irrelevant.

Further, the distinctions, if any, between the City's Design Manual ("Manual") and its Technical Standards and Design Guidelines ("Guidelines") for these two zones is less than clear. While the Manual calls for an "urban street wall" only in the B-2b; the Guidelines require an urban street wall in both the B-2 and the B-2b. The Manual requires building entrances in the B-2b zone to be oriented toward, and accessible from the sidewalk; again, the Guidelines require this in both the B-2 and the B-2b. As the Guidelines appear to

WOODMAN EDMANDS DANYLIK AUSTIN SMITH & JACQUES, P.A.

Jeff Levine, Planning & Urban Development Director
City of Portland
March 17, 2016
Page 3 of 4

be the stricter of the two, presumably the Guidelines would control. If this is so, there is virtually no design difference between structures in either zone.

III. Physical Location of Zoning Boundaries

As is very well illustrated in a map attached to the staff memo prepared for the February 23, 2016 Planning Board workshop (attached again to this letter for reference), the B-2 section of Forest Avenue under consideration for rezoning is physically separated from the existing B-2b zone by Preble Street Extension and Falmouth Street. The decision to separate the two zones in this fashion was surely not by accident or oversight. The pink zone on the map (B-2) is comprised of existing commercial development that is denser and larger than commercial development on the northerly side of Preble Street; it is more connected to the University; and, it is more closely associated with the Route 295 connector. As noted, unlike the B-2b, the B-2 allows for research and development and related production establishments, such as can be found at the University or Oakhurst Dairy. This is the only area located near either the school or the dairy that allows for this use – again presenting a reason why the present zoning was well planned and not merely an oversight. The pink zone also allows for auto service stations in existence as of 1999, such as the existing Palmer Springs business. It is somewhat ironic that the City is considering saving structures that represent the auto industry, while at the same time moving toward eliminating that use.

In addition to its permitted uses, the parcels comprising the area under consideration for rezoning are accessed not only from Forest Avenue but also have access from, and in some cases abut, Preble Street and Bedford Street. This is unlike the B-2b zone north of Preble Street, where the parcels fronting on Forest Avenue abut densely developed largely single family residential lots. In this way, the subject area is once again distinctly different, and easily distinguishable, from the B-2b zone itself.

III. The R-5 Zone

The *Transforming Forrest Avenue* study, adopted by the City Council in 2012, designates the subject area as “Central Forest Avenue.” The study calls for this section of Forest Avenue to be “the heart of commercial, civic, and other activity.” The R-5 zone here, appears to be a remnant of the residential zone that existed prior to the development of the Preble Street Extension. Today however, and particularly in light of the *Transforming Forrest Avenue* study, this property is not suited for low-density residential use, but rather should be zoned for a denser commercial or mixed use development. Maintaining a low-intensity, single lot residential zone in an area that is separated from all other such zones,

WOODMAN EDMANDS DANYLIK AUSTIN SMITH & JACQUES, P.A.

Jeff Levine, Planning & Urban Development Director

City of Portland

March 17, 2016

Page 4 of 4

and is in the heart of a potential commercial development area, makes little sense. This area should be rezoned to the abutting B-2 zone.

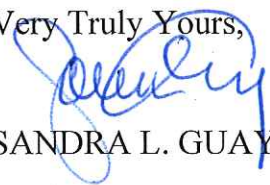
III. Language Amendments

As noted above, in addition to asking the Planning Board to consider a possible rezoning, the Council has asked the Board to think about amendments to the design standards for the B-2 and B-2b zones. As it appears that there is presently so little differentiation in design standards between these two zones, and as neither zone appears to require or show preference for the type of multi-use/multi-level development that the City seems to be envisioning, this ordinance language revision approach seems to make more sense than a zone change in this instance. Again, this zone change would eliminate any research and development facilities, make the existing Palmer Springs non-conforming, and disallow all drive-thoughts, all without any apparent overriding benefit to the City.

Zoning is best when part of an overall plan, and is not simply reactionary. It is clear that in this instance, the request from Council that the Planning Board consider and provide its recommendation of a rezoning in the blocks south of Preble Street Extension, east of Forest Avenue, and north of Baxter Boulevard from B-2 to B-2b, is a reaction to one development proposal. While that proposal design has yet to see the light of day, it is clear that the rezoning of this single block to a B-2b zone will not prevent the possibility of a single-use, single level, development in this location.

Thank you for your attention to this matter. I am confident that the Planning Board will provide its usual level of scrutiny and deliberation to this zone amendment recommendation to the City Council.

Very Truly Yours,


SANDRA L. GUAY

SLG/lb

Copies to:

Mark Bettenhausen, T.M. Crowley & Associates

Mary Costigan, Esquire, Bernstein, Shur, Sawyer & Nelson, P. A .

Michael Kaplan, Kaplan 447 LLC



**Bernstein, Shur,
Sawyer & Nelson, P.A.**
100 Middle Street
PO Box 9729
Portland, ME 04104-5029

T (207) 774-1200

F (207) 774-1127

Mary E. Costigan
(207) 228-7147 direct
mcostigan@bernsteinshur.com

March 18, 2016

Portland Planning Board
389 Congress Street
Portland, Maine 04101

RE: Proposed Rezoning on Forest Avenue

Dear Board Members:

I am writing on behalf of Palmer Spring Co., the owner of 351-355 Forest Avenue and D & J Weeks Properties, the owner of 365 and 369 Forest Avenue. Shortly after these properties were under contract for sale to an entity that plans to have a drive-through associated with the use of the property, a proposal to rezone the properties from B-2 to B-2b was forwarded to the Planning Board. For the reasons set forth below, we respectfully request that the Planning Board recommend to the City Council that these properties not be rezoned B-2b.

B-2 v. B-2b Permitted Uses and Dimensional Standards

The differences between the B-2 and B-2b zones are so limited they can easily be listed below:

1. Bakeries and commercial kitchens are permitted uses in both zones, however in the B-2b can be no greater than 7,000 sq. ft.
2. Drive-throughs are not permitted in the B-2b zone, but are allowed in the B-2 zone as a permitted use if it is not located adjacent to a residential use or zone and as a conditional use if located adjacent to a residential use or zone.
3. All major and minor auto service stations are permitted in the B-2 zone, but only those major or minor auto service stations in existence as of November 15, 1999 are permitted in the B-2b zone.
4. In the B-2, structures can be up to 65 feet in height if located on lots greater than 5 acres provided that they meet certain setback requirements.

5. Maximum impervious coverage for all uses other than residential uses is 80% in the B-2 and 90% in the B-2b

All of the remaining standards set forth in the Land Use Code are identical for both the B-2 and B-2b zones, including front yard parking requirements.

Design Standards

Section 14-526(d)(9)(a)(iii) provides:

Development in the B1, B1-b, B2 and B2-b business zones shall provide an established street wall with entrances and public portions of the building oriented to and directly accessible from the public sidewalk and shall be designed and scaled to be compatible with surrounding residential and commercial development as demonstrated by compliance with all applicable design standards listed in the Design Manual.

Within the Design Manual, the following relevant standards and guidelines apply to the B-2 and B-2b:

1. Design Standards:

- In the B-2b zone, buildings are required to be located to create and preserve an urban street wall.
- In the B-2 zone, the building entrances shall be oriented toward, located adjacent to and directly accessible from, a sidewalk in a public right-of-way.
- In both the B-2 and B-2b zones, transparent, pedestrian-level windows shall be required along the street frontage.
- In both the B-2 and B-2b zones, active and public portions of buildings shall be oriented to and, where possible, located adjacent to the public sidewalk.

2. Design Guidelines:

- The manual states that buildings in the B-2 are specifically encouraged to adhere to the guidelines contained in Appendix 2 concerning urban street walls and building entrances.
- Appendix 2 states that “Development in the B-1, B-1b, B-2, B-2b shall meet the following guidelines in order to meet Site Plan Standards:”
 - “Buildings shall be located near the street so as to create an urban street wall.”
 - “Major building entries shall be designed and located to provide the primary building access oriented to the public street and sidewalk.

It is unclear how the inconsistencies in the ordinance, manual and the appendix would be resolved, but it is apparent that changes over time have brought the two zones very close in line in terms of design. In any event, the mostly identical uses and dimensional standards, taken with the close to identical design standards, leave a very narrow area of distinction between the B-2 and B-2b zones. Although limited, those differences are very significant to Palmer Spring and D&J Weeks and would be detrimental to the sale of the property and Palmer Spring's ability to relocate the business.

The most notable distinction between the two zones is the prohibition on drive-throughs in the B-2. A drive-through in this location, close to the 295 interchange simply makes sense and can be designed in a manner that would have little impact on traffic and the surrounding uses. The current demarcation between the B-2 and B-2b drawn at Preble Street is a natural division; one that leaves Palmer Spring, Hannaford, and Oakhurst on one side, serving as an area of service to those traveling on the highway and of transition to the more pedestrian-oriented B-2b further down Forest Avenue. The Planning Board and Council visited the issue of drive-throughs in the B-2b just over a year ago. It is notable that neither the Board nor the Council determined at that time that drive-throughs should be prohibited in the area now being reviewed for rezoning.

In addition to the drive-through prohibition, the limitation on auto service stations in the B-2b would be very problematic for Palmer Spring. The only service stations permitted in the B-2b zone are those that were in existence as of November 15, 1999, so essentially only Palmer Spring. A recent decision by the Historic Preservation Board that the Palmer Spring building is eligible to be listed as a local landmark, together with a rezone to B-2b, would likely make it impossible for Palmer Spring to ever sell the property.

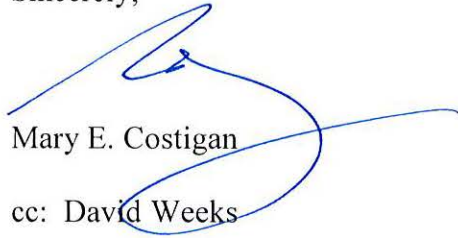
For these reasons, we are hopeful that the Planning Board will recommend to the Council that the Palmer Spring and surrounding properties should not be rezoned from B-2 to B-2b. The current regulatory structure for the B-2, coupled with the Site Plan review process will ensure that any development on this site meets the City's vision for the transitional area from the highway to the pedestrian-oriented B-2b zone.

Finally, we would like to suggest that the Planning Board take this opportunity to recommend to the Council that the boundary between the R-5 and the B-2 be moved to the other side of Preble Street. As you can see in the attached, the line between the two zones is currently in the middle of the properties that face Forest Avenue. Cleaning up the map will give additional flexibility for development of those Forest Avenue properties.

March 18, 2016
Page 4

Thank you for your time and consideration. Please let me know if we can provide further information.

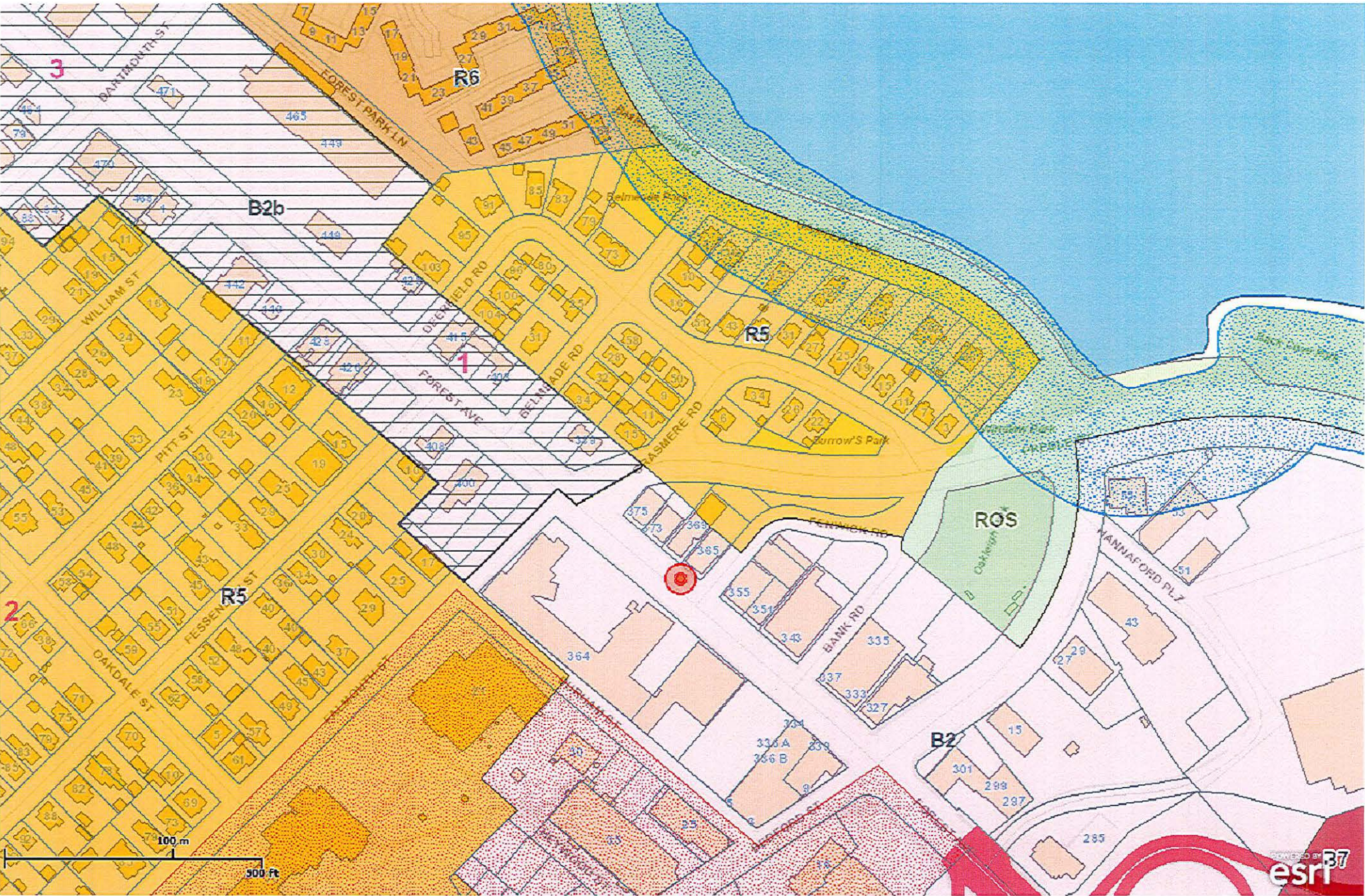
Sincerely,

A handwritten signature in blue ink, appearing to be 'Mary E. Costigan', with a large, sweeping flourish extending to the right.

Mary E. Costigan

cc: David Weeks

My Map



MEMORANDUM
City Council Agenda Item

FROM: Jeff Levine, Director Planning & Urban Development Department

DATE: February 4, 2019

SUBJECT: **Order 162-18/19 Amendment to the Portland City Code Chapter 14 Re: Drive-throughs in the B-2, B-2b and B-2c Community Business Zones - Sponsored by the Planning Board, Sean Dundon, Chair**

SPONSOR: Portland Planning Board, January 22, 2019, Vote: 7-0
(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 02/20/2019

Final Action 02/25/2019

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

PRESENTATION: Sean Dundon, Chair, Portland Planning Board, 5 minute oral presentation.

I. SUMMARY

The Planning Board unanimously recommends adoption of text amendments to utilize the incentive of drive-throughs to those associated with a pharmacy or banking facility to produce additional housing in Portland. This amendment would limit drive-throughs to buildings with 3 or more stories where a majority of the upper stories is devoted to 3 or more dwelling units, as a conditional use in B-2, B-2b and B-2c zones.

II. AGENDA DESCRIPTION

The Planning Board unanimously recommends adoption of text amendments to the B-2, B-2b and B2c zones to allow bank and pharmacy drive-throughs in all B-2 zones, but only when they are in developments that include upper story housing. Currently, drive-throughs associated with permitted uses are allowed in B-2 and B-2c as a conditional use, but no drive-throughs are allowed in the B-2b zone. This proposed amendment would allow drive-throughs in all of these zones, but only in multiple story buildings with housing above. Specifically, the proposed text amendments revise the B-2 Table of Uses to limit drive-throughs to those associated with a pharmacy or banking facility in the three B-2 zones as a conditional use. A proposed footnote in the Use Table clarifies that drive-throughs are not permitted for restaurant, bakery or other food or beverage service uses. The conditional use standards for drive-throughs are revised to only permit a drive-through (associated with a bank or pharmacy) in a building of 3 or more stories where a majority of the upper stories is devoted to 3 or more dwelling units. Screening, location of drive-throughs, and stacking capacity for safe pedestrian and vehicle circulation on and off site are included in the location standard and the other existing 5 standards are retained.

This item must be read on two separate days. This is its first reading.

III. BACKGROUND

The Community Business Zone- B-2, includes the B-2b and B-2c as subdistricts. The B-2 zones are located along major transportation corridors and encompass larger commercial districts. It is a zone where a wider range of businesses and more intensive commercial uses, including drive-throughs, have been allowed.

Starting in 1999, the B-2 zone has been revised multiple times in order to refine the zone to better accommodate policy initiatives for the redevelopment of Portland's commercial districts by supporting denser

urban infill and transit-oriented development. In 2016, the Board recommended (6-1, Whited opposed) a map amendment from B-2 to B-2b for the section of Forest Avenue near the intersection of Forest Avenue, Preble Street Ext and Baxter Boulevard. During the public hearing discussion, the Board suggested exploring options to link the creation of new housing with proposals for new drive-throughs. The recommendation for the map amendment was placed on hold and not forwarded to the Council, pending development of the proposed text amendments.

The Planning Board and the City Staff are recommending proposed text amendments to the B-2 zones, which allow drive-throughs associated with banks and pharmacies, as a conditional use in the three B-2 zones. The locational standard for a drive-through requires a building with a minimum of 3 stories and the majority of the upper floors are to be residential units. The Board and the City are also now prepared to move forward with the proposed B-2b map amendment for a portion of Forest Avenue, which is a separate order and report on the Council's agenda.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

Portland's Plan 2030 includes the following economic and housing goals that are relevant to the proposed text amendments:

- Create economic prosperity by growing Portland's tax and employment base.
- Invest in, attract, and retain human capital to support a growing economy.
- Respect that our unique quality of place is key to our current and future economic success.
- Increase, preserve, and modify the overall supply of housing city-wide to meet the needs, preferences and financial capabilities of all Portland residents.
- Encourage additional contextually appropriate housing density in and proximate to neighborhood centers, concentrations of services, and transit nodes and corridors as a means of supporting complete neighborhoods.
- Pursue policies to enable people who work in Portland to have the option to live in Portland.

V. FINANCIAL IMPACT

The proposed zoning amendments do not have a direct fiscal impact to the City.

VI. STAFF ANALYSIS AND BACKGROUND

Pharmacies and banks seek drive-through windows to serve their clientele. The intensity and impacts of the drive-throughs are generally less than those associated with fast food restaurants, coffee shops, bottle redemption centers, and other uses. While pharmacy and bank drive-throughs are less intensive, the auto-oriented use does impact the pedestrian environment and Portland's goal for a walkable city. In addition, Portland has a stated goal to provide for more housing on upper floors, particularly along major transit corridors. The proposal to require bank and pharmacy drive-throughs to provide housing supports economic development objectives of the comprehensive plan and creates an incentive for more housing along transportation corridors. This proposed amendment balances concerns about drive-throughs as stand-alone uses and instead proposes allowing them as incentives to produce multiple story buildings that include housing. The text amendments will allow well capitalized tenants to help cross-subsidize other City goals.

Allowing drive throughs in projects that provide other significant policy and design benefits will also leverage well-funded and motivated retail users – such as pharmacies – to make major investments in City policy goals. By allowing a well-screened drive through on the first floor, there is much more likely to be such investment, which would include good urban design elements in a multistory building, and also produce housing. Limiting the drive through types to pharmacies and banks minimize the negative externalities of other drive through uses while leveraging this private investment that might not occur otherwise.

This proposal is an innovative approach to regulating drive-throughs in an urban area. Local examples, include the Bangor Savings Bank on Marginal Way, which has a drive-through facility at the rear of the 3-story structure meeting the conditional use standards for the B-5 zone. Bangor Savings also has a drive-through facility at their two-story building on Middle Street. While it does not have a drive-through facility, the c-Port Credit Union on the corner of India and Middle met the minimum height requirements of the India Street Form Based Code by including a third-floor residential unit over the retail and office facilities located on the first and second floors. Examples of larger scale development incorporating these design principles are found in Edina, Indianapolis, and Milwaukee.

VII. RECOMMENDATION

On January 22, 2019, the Planning Board voted unanimously to find that the proposed text amendments to the Section 14-182, Permitted Uses, and Section 14-183- Conditional Uses of the B-2, B-2b, and B-2c zones of the Land Use Code are consistent with the Comprehensive Plan and recommends adoption of the proposed amendments to the City Council.

VIII. LIST ATTACHMENTS

1. Drive-throughs in B-2 and B-2b 2.20.2019
2. Report and Attachments (B-2 Drive Throughs)

Prepared by:

Jeff Levine, Director Planning & Urban Development Department

Date: 02/04/2019

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (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: DRIVE-THROUGHS IN B-2, B-2b AND B-2c COMMUNITY BUSINESS ZONES

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

*That Chapter 14, Sections 14-182 and 14-183 are hereby
amended to read as follows:*

Sec. 14-182. Table of uses.

Group ¹	Use	B-2 ²	B-2b	B-2c
R	Single family home	Y	Y	Y
	...			
A	Drive-throughs associated with a permitted or conditional <u>a pharmacy or banking facility</u> use ⁴	C	NC	C

. . .

1 Uses within the same group lettering may be substituted without being considered a change of use under zoning, provided all dimensional and other requirements of this section are met. Other reviews may be required under City regulations, including but not limited to building permit, subdivision and site plan reviews. However, no additional parking shall be required for changes within the same use group for a change in total floor area up to 10,000 sf, except for the provision of additional housing units.

Use Groups include the following:

R = Residential
B = Business
I = Institutional
O = Other
U = Utility
A = Auto related
M = Manufacturing/Processing/and other Industrial

2 Y-Permitted N-Not Permitted

C-Conditional use, see section 14-183 for specific standards in addition to the general conditional use standards

3 Expansion of accessory uses into space used by a permitted use shall not be considered a change of use

4 See conditional use standards for drive-throughs. Drive-throughs are not permitted for restaurant, bakery, or other food or beverage service uses.

Sec. 14-183. Conditional uses.

The following uses are permitted in the B-2, B-2b and B-2c zone, as provided in section 14-474 (conditional uses), if they meet the following requirements:

(a) "A" group conditional uses. Notwithstanding section 14-474(a) of this article or any other provision of this code, the Planning Board shall be substituted for the Board of Appeals as the reviewing authority and shall apply the following standards in addition to the provisions of section 14-474:

6. Drive-throughs: Notwithstanding section 14-474(a) of this article or any other provision of this code, the Planning Board shall be substituted for the Board of Appeals as the reviewing authority and shall apply the following standards in addition to the provisions of section 14-474:

a. Location of Drive-throughs: ~~Features, such as windows, vacuum cleaners and menu/order boards, stacking lanes, must be placed, where practicable, to the side and rear of the principal building except where such placement will be detrimental to an adjacent residential zone or use, and shall be located no nearer than forty (40) feet from any adjoining property located in a residential zone. This distance shall be measured from the outermost edge of the outside drive-through feature to such property line. In addition, drive-through features shall not extend nearer than twenty-five (25) feet to the street line. The site must have adequate stacking capacity for vehicles waiting to use these service features without impeding vehicular circulation or creating hazards to vehicular~~

~~circulation on adjoining streets.~~

Drive-throughs are only permitted in buildings of 3 or more stories where a majority of the upper stories is devoted to 3 or more dwelling units. The drive-through shall be screened as much as practical from the front of the building and shall be no closer than 40 feet from abutting residential zones and 25 feet from the street line. Adequate stacking capacity much be provided on site without impeding vehicular circulation or creating hazards to pedestrian or vehicle circulation on or off site.

. . .



CITY COUNCIL REPORT FROM PLANNING BOARD PORTLAND, MAINE

Text Amendments for Drive-Throughs in the B-2, B-2b and B-2c Zones
Zoning Text Amendments
City of Portland, Applicant

Submitted to: Portland City Council: First Reading Date: February 20, 2019 Second Reading Date: March 4, 2019	Prepared by: Jeff Levine, Director, Dept. of Planning and Urban Development and Barbara Barhydt, Development Review Services Manager Date: January 31, 2019
--	--

I. PLANNING BOARD RECOMMENDATION

The Portland Planning Board held a public hearing on January 22, 2019. The Board unanimously recommends (7-0) to City Council the adoption of the proposed text amendments regarding drive-throughs in the B-2, B-2b and B-2c zones. The proposal limits drive-throughs as a conditional use in the B-2 zones to those facilities associated with a bank or a pharmacy use in a building with a minimum of 3 stories and a majority of the upper floors devoted to a minimum of 3 residential units. David Silk noted that the proposed amendments are consistent with the adopted goals and policies of the Comprehensive Plan and that the language, as proposed, reflects the Board's discussion at the December workshop. Austin Smith stated that the proposed amendments are a great way to limit the high intensity impacts of drive-throughs and provide incentives for more housing along the City's major transportation corridors and neighborhood centers. Chair Dundon concurred.

There was no public comment provided at the public hearing; however, Mr. Rheault spoke in favor of the text amendments at the Board's December 11, 2018 workshop. He noted that the proposal is an example of good urban planning and asked how the proposal would incentivize housing, whether mixed use projects would be allowed, and how many units would be required.

II. PROPOSED AMENDMENTS (full text in Council Order and Attachment A)

A. INTRODUCTION

The Community Business Zone- B-2, includes the B-2b and B-2c as subdistricts. The B-2 zones are located along major transportation corridors and encompass larger commercial districts. It is a zone where a wider range of businesses and more intensive commercial uses, including drive-throughs, have been allowed.

Starting in 1999, the B-2 zone has been revised multiple times in order to refine the zone to better accommodate policy initiatives for the redevelopment of Portland's commercial districts by supporting denser urban infill and transit-oriented development. In 2016, the Board considered and recommended (6-1, Whited opposed) a map amendment from B-2 to B-2b for the section of Forest Avenue near the intersection of Forest Avenue, Preble Street Ext and Baxter Boulevard. During the public hearing discussion, the Board suggested exploring options to link the creation of new housing with proposals for new drive-throughs. The recommendation for the map amendment was placed on hold at that time pending the additional ordinance work. The City is now prepared to move forward with

the proposed map amendment (separate order and report for the City Council's consideration) along with the Planning Board's recommendation for the B-2, B-2b, and B-2c zoning text amendments. The full text of the proposed amendments is included as Attachment A.

B. SUMMARY OF PROPOSED TEXT AMENDMENTS

A. Table of Use:

The proposal is to amend Section 14-182. Table of Uses, so a drive-through associated with a pharmacy or banking facility use is a conditional use in all three B-2 zones. This would add drive-throughs for banks and pharmacies into the B-2b zone and would narrow the option for drive-throughs in the B-2 and B-2c zones.

A	Drive-throughs associated with <u>a pharmacy or banking facility</u> use ⁴	C	<u>NC</u>	C
---	---	---	-----------	---

The footnote related to the drive-through use cross references the standards for drive-throughs and clarifies that drive-throughs are not allowed with restaurants, bakeries, or other food or beverage service uses. The specific language is as follows:

4 See conditional use standards for drive throughs. Drive throughs are not permitted for restaurant, bakery, or other food or beverage service uses.

B. Conditional Uses.

The current standards for a conditional use review of a drive-through would be retained, with the first standard modified to only allow drive-throughs in buildings of 3 or more stories where the majority of the upper stories is devoted to a minimum of 3 or more dwellings units. The language would allow other upper floor uses, such as offices, subject to the majority of the upper floors being residential. The standards b through f would remain unchanged and are listed above on pages 3 and 4. Standard a is proposed as follows:

6. Drive-throughs: Notwithstanding section 14-474(a) of this article or any other provision of this code, the Planning Board shall be substituted for the Board of Appeals as the reviewing authority and shall apply the following standards in addition to the provisions of section 14-474:

a. a. —Location of Drive-throughs: Features, such as windows, vacuum cleaners and menu/order boards, stacking lanes, must be placed, where practicable, to the side and rear of the principal building except where such placement will be detrimental to an adjacent residential zone or use, and shall be located no nearer than forty (40) feet from any adjoining property located in a residential zone. This distance shall be measured from the outermost edge of the outside drive-through feature to such property line. In addition, drive-through features shall not extend nearer than twenty-five (25) feet to the street line. The site must have adequate stacking capacity for vehicles waiting to use these service features without impeding vehicular circulation or creating hazards to vehicular circulation on adjoining streets.

Drive throughs are only permitting in buildings of 3 or more stories where a majority of the upper stories is devoted to 3 or more dwelling units. The drive through shall be screened as much as practical from the front of the building and shall be no closer than 40 feet from abutting residential zones and 25 feet from the street line. Adequate stacking capacity must be provided on site without impeding vehicular circulation or creating hazards to pedestrian or vehicle circulation on or off site.

III. CURRENT LAND USE CODE DEFINITIONS AND REGULATIONS

A. Definitions of Drive-Throughs and Use Regulations

Portland's zoning code includes definitions for drive-through facility and drive-through features, as follows:

Drive-through facility: A commercial facility which provides a service directly to a motor vehicle occupant and where the customer drives a motor vehicle onto the premises and to a window or mechanical device through or by which the customer is served with or without exiting the vehicle. Drive-throughs do not include major or minor auto service stations.

Drive-through features: Features associated with drive-throughs including but not limited to designated travel or stacking lanes, intercom systems, menu boards, service windows, kiosks, mechanical devices, etc.

Drive-throughs are treated in a variety of ways within the other business zones in Portland. Attachment B is a chart with the business zones and the regulations pertaining to drive-throughs. In summary, drive throughs are permitted as an accessory use in the B-4 zone and in B-5 locations outside of the area between Forest Ave and Franklin St. The zones in which drive-throughs are not permitted include the following:

- Neighborhood Business B-1
- Community Business – B-2b
- Airport Business A-B
- Island Business – IB
- Urban Mixed-Use B-5b
- India Street Form Based Code (ISFBC)

Drive-throughs are listed as conditional uses with specific design standards or in some cases are limited in where they can be located in the following zones:

- Community Business B-2 and B-2c – Currently, listed as a conditional use associated with permitted or conditional uses, which includes specific standards.
- Downtown Business B-3 – Drive-throughs with restaurants are not permitted and drive-up for a bank facility is a conditional use with specific standards.
- Urban Mixed-Use B-5- Drive-throughs are prohibited in the area between Forest Avenue and Franklin Street. Drive-throughs for a banking facility located between Forest Avenue and Franklin Street is a conditional use.
- Eastern Waterfront Mixed Use B-6 – Drive-up facilities for banks are a conditional use and must be located in the interior of parking structures.

B. Purpose Statement for B-2, B-2b and B-2c Districts

The purpose statements for each of the three (3) B-2 zones are excerpted below. The revisions to the B-2 zone, particularly with the dimensional standards, have made the B-2 and B-2b more similar and designed to support an urban form of redevelopment.

Sec. 14-181. Purpose.

(a) B-2 Community Business Zone

The purpose of the B-2 community business zone is:

1. To provide appropriate locations for the development and operation of community centers offering a mixture of commercial uses, housing and services serving the adjoining neighborhoods and the larger community.
2. The variety, sites and intensity of the permitted commercial uses in the B-2 zone are intended to be greater than those permitted in the B-1 neighborhood business zone.
3. The B-2 zone will provide a broad range of goods and services and general businesses with a mixture of large and small buildings such as grocery stores, shops and services located in major shopping centers and along arterial streets.

Such establishments should be readily accessible by automobile, by pedestrians and by bicycle. Development in the B-2 zone should relate to the surrounding neighborhoods by design, orientation, and circulation patterns.

4. The B-2 and B-2b will provide locations for moderate to high density housing in urban neighborhoods along arterials.

(b) B-2b Community Business Zone

The B-2b zone is intended to provide neighborhood and community retail, business and service establishments that are oriented to and built close to the street. The B-2b zone is appropriate in areas where a more compact urban development pattern exists such as on-peninsula or in areas off-peninsula where a neighborhood compatible commercial district is established which exhibits a pedestrian scale and character. Such locations may include the peninsula and other arterials and intersections with an existing urban or neighborhood-oriented building pattern.

(c) B-2c Community Business Zone

To protect and enhance the quiet enjoyment of adjoining residential neighborhoods from the impacts of businesses that serve liquor and from other uses that are incompatible with adjoining neighborhoods due to noise.

C. Permitted and Conditional Use Provisions for Drive-throughs in B-2 Zones

Drive-throughs associated with a permitted or a conditional use are listed as an auto oriented use on the table of permitted uses (Attachment A). Drive-throughs are not permitted in the B-2b zone and are listed as a conditional use associated with permitted or conditional uses in the B-2 and B-2c zones. In addition to the general conditional use standards contained in Section 14-474 of the Land Use Code, the specific conditional use standards of the B-2 zone for auto related uses are below with specific provisions for drive-throughs found under subsection 6:

Sec. 14-183. Conditional uses.

The following uses are permitted in the B-2, B-2b and B-2c zone, as provided in section 14-474 (conditional uses), if they meet the following requirements:

(a) "A" group conditional use. Notwithstanding section 14-474(a) of this article or any other provision of this code, the Planning Board shall be substituted for the Board of Appeals as the reviewing authority and shall apply the following standards in addition to the provisions of section 14-474:

1. Signs: Signs shall not adversely affect visibility at intersections or access drives. Such signs shall be constructed, installed and maintained so as to ensure the safety of the public. Such signs shall advertise only services or goods available on the premises.
2. Circulation: No ingress and egress driveways shall be located within thirty (30) feet from an intersection. No entrance or exit for vehicles shall be in such proximity to a playground, school, church, other places of public assembly, or any residential zone that the nearness poses a threat or potential danger to the safety of the public.
3. Conditions specific to major or minor auto service stations, car washes and automobile dealerships:
 - a. A landscaped buffer, no less than 5 feet wide, shall be located along street frontages (excluding driveways). The buffer shall consist of a variety of plantings in accordance with the City of Portland Technical Manual; and
 - b. Car washes shall be designed to avoid the tracking of residual waters into the street.
4. Reserved.
5. Reserved.
6. Drive-throughs: Notwithstanding section 14-474(a) of this article or any other provision of this code, the Planning Board shall be substituted for the Board of Appeals as the reviewing authority and shall apply the following standards in addition to the provisions of section 14-474:
 - a. Location of Drive-throughs: Features, such as windows, vacuum cleaners and menu/order boards, stacking lanes, must be placed, where practicable, to the side and rear of the principal building except where such placement will be detrimental to an adjacent residential zone or use, and shall be located no nearer than forty (40) feet from any adjoining property located in a residential zone. This distance shall be measured from the outermost edge of the outside drive-through feature to such property line. In addition, drive-through features shall not extend nearer than twenty-five (25) feet to the street line. The site must have adequate stacking capacity for vehicles waiting to use these service features without impeding vehicular circulation or creating hazards to vehicular circulation on adjoining streets.
 - b. Noise: Any speakers, intercom systems, or other audible means of communication shall not play prerecorded messages. Any speakers, intercom systems, audible signals, computer prompts, or other

noises generated by the drive-through services or fixtures shall not exceed 55 dB or shall be undetectable above the ambient noise level as measured by a noise meter at the property line, whichever is greater.

- c. Lighting: Drive-through facilities shall be designed so that site and vehicular light sources shall not unreasonably spill over or be directed onto adjacent residential properties and shall otherwise conform to the lighting standards set forth in 14-526.
- d. Screening and Enclosure: Where automobiles may queue, waiting for drive-through services, their impacts must be substantially mitigated to protect adjacent residential properties from headlight glare, exhaust fumes, noise, etc. As deemed necessary by the reviewing authority, mitigation measures shall consist of installation of solid fencing with landscaping along any residential property line which is exposed to the drive-through or the enclosure of the drive-through fixtures and lanes so as to buffer abutting residential properties and to further contain all associated impacts; and
- e. Pedestrian access: Drive-through lanes shall be designed and placed to minimize crossing principal pedestrian access-ways or otherwise impeding pedestrian access.
- f. Hours of Operation: The Board, as part of its review, may take into consideration the impact hours of operation may have on adjoining uses.

IV. Planning Board and Staff Analysis

Pharmacies and banks seek drive-through windows to serve their clientele. The intensity and impacts of the drive-throughs are generally less than those associated with fast food restaurants, coffee shops, bottle redemption centers, and other uses. While pharmacy and bank drive-throughs are less intensive, the auto-oriented use does impact the pedestrian environment and Portland's goal for a walkable city. In addition, Portland has a stated goal to provide for more housing on upper floors, particularly along major transit corridors. The proposal to require bank and pharmacy drive-throughs to provide housing supports economic development objectives of the Comprehensive plan and creates an incentive for more housing along transportation corridors.

Housing above food related drive-throughs is less viable than over banks and pharmacies and food related drive-throughs generate the most traffic and impacts on the urban streetscape. Allowing drive throughs in projects that provide other significant policy and design benefits will also leverage well-funded and motivated retail users – such as pharmacies – to make major investments in City policy goals. By allowing a well-screened drive through on the first floor, there is much more likely to be such investment, which would include good urban design elements in a multistory building, and also produce housing. Limiting the drive through types to pharmacies and banks minimize the negative externalities of other drive through uses while leveraging this private investment that might not occur otherwise.

This proposal is an innovative approach to regulating drive-throughs in an urban area. Local examples, include the Bangor Savings Bank on Marginal Way, which has a drive-through facility at the rear of the 3-story structure meeting the conditional use standards for the B-5 zone. Bangor Savings also has a drive-through facility at their two-story building on Middle Street. While it does not have a drive-through facility, the c-Port Credit Union on the corner of India and Middle met the minimum height requirements of the India Street Form Based Code by including a third-floor residential unit over the retail and office facilities located on the first and second floors.

There are examples in other urban areas where drive-throughs are incorporated in larger scale developments. Here are examples from Edina, Indianapolis, and Milwaukee.

<https://finance-commerce.com/2015/08/semper-plans-apartments-atop-walgreens-store-in-edina/>

<https://www.ibj.com/blogs/3-property-lines-scott-olson/post/43955-update-drugstore-drive-through-gets-city-clearance>

<https://patch.com/wisconsin/shorewood/relocation-of-walgreens-a-key-part-of-plans-for-32-mi311b24c213>

V. Comprehensive Plan

The central vision of Portland's Plan 2030 is represented by the Venn diagram demonstrating the integral interrelation of the community's core belief that Portland is equitable, sustainable, connected, dynamic, authentic and secure. The vision conveys the message of the City's need to balance many competing needs to assure the advance of the vision as a unified concept. In this instance, that the City's goals for job growth and transforming Portland through orderly growth and development be balanced with needs for connectivity of the street grid, sustainability of infrastructure and the ability to maintain that infrastructure, and security in the sense of public safety.



The comprehensive plan includes the following economic and housing goals that are relevant to the proposed text amendments:

- Create economic prosperity by growing Portland's tax and employment base.
- Invest in, attract, and retain human capital to support a growing economy.
- Respect that our unique quality of place is key to our current and future economic success.
- Increase, preserve, and modify the overall supply of housing city-wide to meet the needs, preferences and financial capabilities of all Portland residents.
- Encourage additional contextually appropriate housing density in and proximate to neighborhood centers, concentrations of services, and transit nodes and corridors as a means of supporting complete neighborhoods.
- Pursue policies to enable people who work in Portland to have the option to live in Portland.

VI. PLANNING BOARD RECOMMENDATION

Vice Chair Mazer moved and Maggie Stanley seconded a motion that on the basis of the material provided in the Planning Board report, dated January 18, 2019, public testimony, a review of applicable policies, and other information, the Planning Board finds that the proposed text amendments to the Section 14-182, Permitted Uses, and Section 14-183- Conditional Uses of the B-2, B-2b, and B-2c zones of the Land Use Code are consistent with the Comprehensive Plan and recommends adoption of the proposed amendments to the City Council. The vote was 7-0.

Attachments:

- A. Proposed Ordinance Amendments
- B. Drive-through Chart for Business Zones
- C. B-2 Zone Locations- Off Peninsula
- D. B-2 Zone Locations- On Peninsula

DIVISION 10. B-2 AND B-2b COMMUNITY BUSINESS ZONES*

Sec. 14-181. Purpose.

(a) B-2 Community Business Zone

The purpose of the B-2 community business zone is:

1. To provide appropriate locations for the development and operation of community centers offering a mixture of commercial uses, housing and services serving the adjoining neighborhoods and the larger community.
2. The variety, sites and intensity of the permitted commercial uses in the B-2 zone are intended to be greater than those permitted in the B-1 neighborhood business zone.
3. The B-2 zone will provide a broad range of goods and services and general businesses with a mixture of large and small buildings such as grocery stores, shops and services located in major shopping centers and along arterial streets. Such establishments should be readily accessible by automobile, by pedestrians and by bicycle. Development in the B-2 zone should relate to the surrounding neighborhoods by design, orientation, and circulation patterns.
4. The B-2 and B-2b will provide locations for moderate to high density housing in urban neighborhoods along arterials.

(b) B-2b Community Business Zone

The B-2b zone is intended to provide neighborhood and community retail, business and service establishments that are oriented to and built close to the street. The B-2b zone is appropriate in areas where a more compact urban development pattern exists such as on-peninsula or in areas off-peninsula where a neighborhood compatible commercial district is established which exhibits a pedestrian scale and character. Such locations may include the peninsula and other arterials and intersections with an existing urban or neighborhood oriented building pattern.

(c) B-2c Community Business Zone

To protect and enhance the quiet enjoyment of adjoining residential neighborhoods from the impacts of businesses that serve liquor and from other uses that are incompatible with adjoining neighborhoods due to noise.

(Ord. No. 293-88, 4-4-88; Ord. No. 25, 7-07-99: emergency enactment of 120-day moratorium, effective 7/07/99 thru 11/04/99; Ord. No. 94A, 11-01-99: emergency enactment of 44-day extension of moratorium enacted on 7-07-99, effective date 11/01/99 thru 12/15/99; Ord. No. 94-99, 11-15-99; Substitute Ord. No. 189-00, §2, 4-24-00; Ord. No. 151-03/04, 02/23/04; Ord. No. 244-09/10, 6-21-10)

*Editor's Note: Order No. 25, adopted 7-07-99, enacted an emergency 120-day moratorium on drive-through facilities on lots in B-2 Zone adjacent to lots with residential uses effective 7-07-99 through 11-1-99; Ord. No. 94A, adopted 11-01-99 extended the moratorium on said drive-through facilities through December 15, 1999.

Sec. 14-182. Table of uses.

Group ¹	Use	B-2 ²	B-2b	B-2c
R	Single family home	Y	Y	Y
R	Two family home	Y	Y	Y
R	Three family home	Y	Y	Y
R	Multifamily housing	Y	Y	Y
R	Combined live/work spaces provided the living space is at least 33% of the total net floor area	Y	Y	Y
B	General business and professional offices, as defined in section 14-47, and offices of trades	Y	Y	Y
B	Personal services, as defined in section 14-47	Y	Y	Y
B	General retail establishments	Y	Y	Y
B	Pharmacies with retail sales	Y	Y	Y
B	Banking Facilities	Y	Y	Y
B	Restaurants, except that restaurants shall close for all purposes including the service of alcohol no later than 11:00 p.m. unless otherwise authorized by the City Council	Y	Y	Y
B	Drinking establishments, as defined in section 14-47	Y	Y	N
B	Billiard parlors	Y	Y	Y

Group ¹	Use	B-2 ²	B-2b	B-2c
B	Funeral homes	Y	Y	Y
B	Miscellaneous repair services, excluding motor vehicle repair services	Y	Y	Y
B	Communication studios or broadcast and receiving facilities	Y	Y	Y
B	Health clubs and gymnasiums	Y	Y	Y
B	Veterinary hospitals and clinics provided there is no outdoor kennel	Y	Y	Y
B	Theaters and performance halls	Y	Y	Y
B	Hotels, Motels and Inns	Y	Y	Y
B	Bakeries, breweries, distilleries, commercial kitchens and similar uses with a retail component and with a total floor area under 10,000 net sf.	Y	Y	Y
B	Bakeries, breweries, distilleries, commercial kitchens and similar uses with a retail component and with a total floor area of 10,000 net sf. or greater	Y	N	N
B	Expansion of existing dairies	Y	Y	Y
B	Registered medical marijuana dispensaries	Y	C	C
I	Long term, extended and intermediate care facility	Y	Y	Y
I	Clinics, as defined in section 14-47	Y	Y	Y
I	Places of assembly	Y	Y	Y
I	Kindergarten, elementary, middle and secondary schools	Y	Y	Y
I	College, university, trade schools	Y	Y	Y
I	Municipal buildings and uses	Y	Y	Y
O	Lodging houses	Y	Y	Y
O	Day care facilities	Y	Y	Y
O	Accessory uses, as provided in section 14-404 ³	Y	Y	Y
O	Bed and breakfast, subject to the standards of article V (site plan), sections 14-522 and 14-523 notwithstanding. A bed and breakfast may include a meeting facility if for weddings, seminars, receptions, business	Y	Y	Y

Group ¹	Use	B-2 ²	B-2b	B-2c
	meetings and the like and if the facility is less than 4,000 net sf.			
O	Studios for artists and craftspeople, less than 4,000 net sf. per space	Y	Y	Y
W	Wind energy systems, as defined and allowed in Article X, Alternative Energy	Y	Y	Y
U	Utility substations, as defined in section 14-47, subject to the requirements of article V (site plan), sections 14-522 and 14-523 notwithstanding	Y	Y	Y
A	Drive-throughs associated with a permitted or conditional <u>a pharmacy or banking facility</u> use ⁴	C	NC	C
A	Auto service stations	C	N	N
A	Expansion of auto service stations in existence as of November 15, 1999	C	C	C
A	Car washes	C	C	C
A	<u>Automobile dealerships</u>	C	C	C
M	Printing and publishing establishments of 10,000 gross sf. or less	C	C	C
M	Expansion of existing printing and publishing establishments of greater than 10,000 gross sf. in existence since April 4, 1988	C	C	C
M	Wholesale distribution establishments of 10,000 gross sf. or less	C	C	C
M	Research and development and related production establishments of 10,000 gross sf. or less	C	C	C

¹ Uses within the same group lettering may be substituted without being considered a change of use under zoning, provided all dimensional and other requirements of this

section are met. Other reviews may be required under City regulations, including but not limited to building permit, subdivision and site plan reviews. However, no additional parking shall be required for changes within the same use group for a change in total floor area up to 10,000 sf, except for the provision of additional housing units.

Use Groups include the following:

R = Residential
B = Business
I = Institutional
O = Other
U = Utility
A = Auto related
M = Manufacturing/Processing/and other Industrial

2 Y-Permitted N-Not Permitted

C-Conditional use, see section 14-183 for specific standards in addition to the general conditional use standards

3 Expansion of accessory uses into space used by a permitted use shall not be considered a change of use

4 See conditional use standards for drive throughs. Drive throughs are not permitted for restaurant, bakery, or other food or beverage service uses.

(Ord. No. 293-88, 4-4-88; Ord. No. 39-96, § 2, 10-7-96; Ord. No. 125-97, § 6, 3-3-97; Ord. No. 164-97, § 2, 12-1-97; Ord. No. 25, 7-07-99: emergency enactment of 120-day moratorium, effective 7/07/99 thru 11/04/99; Ord. No. 94A, 11-01-99: emergency enactment of 44-day extension of moratorium enacted on 7-07-99, effective date 11/01/99 thru 12/15/99; Ord. No. 94-99, 11-15-99; Ord. No. 118-00, 11-20-00; Ord. No. 151-03/04, 02/23/04; Ord. No. 127-09/10, 1-4-10 emergency passage; Ord. No. 244-09/10, 6-21-10; Ord. No. 283-09/10, 7-19-10 emergency passage; Ord. 10 10/11, 8-2-10; 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. No. 41-12/13, 9-5-12; Ord. No. 263-13/14, 6-16-14; Ord. 90-14/15, 11-17-2014; Ord. 100-15/16, 11-16-2015; Ord. 159-16/17, 3-20-2017)

Sec. 14-183. Conditional uses.

The following uses are permitted in the B-2, B-2b and B-2c zone, as provided in section 14-474 (conditional uses), if they meet the following requirements:

...

6. Drive-throughs: Notwithstanding section 14-474(a) of this article or any other provision of this code, the Planning Board shall be substituted for the Board of Appeals as the reviewing authority and shall apply the following standards in addition to the provisions of section 14-474:

~~a. a. Location of Drive-throughs: Features, such as windows, vacuum cleaners and menu/order boards, stacking lanes, must be placed, where practicable, to the side and rear of the principal building except where such placement will be detrimental to an adjacent residential zone or use, and shall be located no nearer than forty (40) feet from any adjoining property located in a residential zone. This distance shall be measured from the outermost edge of the outside drive-through feature to such property line. In addition, drive-through features shall not extend nearer than twenty-five (25) feet to the street line. The site must have adequate stacking capacity for vehicles waiting to use these service features without impeding vehicular circulation or creating hazards to vehicular circulation on adjoining streets.~~

Drive throughs are only permitting in buildings of 3 or more stories where a majority of the upper stories is devoted to 3 or more dwelling units. The drive through shall be screened as much as practical from the front of the building and shall be no closer than 40 feet from abutting residential zones and 25 feet from the street line. Adequate stacking capacity much be provided on site without impeding vehicular circulation or creating hazards to

pedestrian or vehicle circulation on or off site.

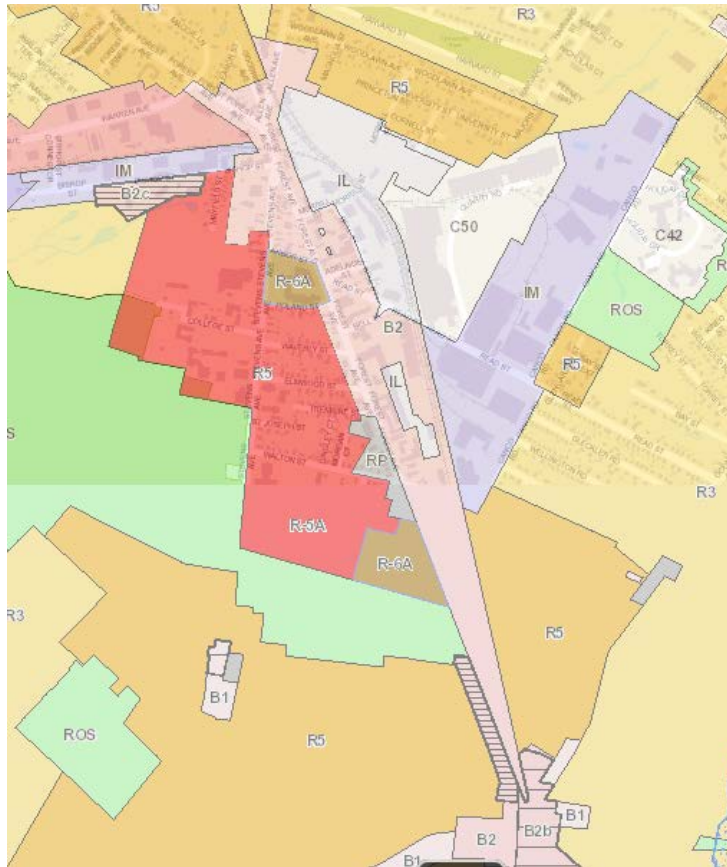
- b. Noise: Any speakers, intercom systems, or other audible means of communication shall not play prerecorded messages. Any speakers, intercom systems, audible signals, computer prompts, or other noises generated by the drive-through services or fixtures shall not exceed 55 dB or shall be undetectable above the ambient noise level as measured by a noise meter at the property line, whichever is greater.
- c. Lighting: Drive-through facilities shall be designed so that site and vehicular light sources shall not unreasonably spill over or be directed onto adjacent residential properties and shall otherwise conform to the lighting standards set forth in 14-526.
- d. Screening and Enclosure: Where automobiles may queue, waiting for drive-through services, their impacts must be substantially mitigated to protect adjacent residential properties from headlight glare, exhaust fumes, noise, etc. As deemed necessary by the reviewing authority, mitigation measures shall consist of installation of solid fencing with landscaping along any residential property line which is exposed to the drive-through or the enclosure of the drive-through fixtures and lanes so as to buffer abutting residential properties and to further contain all associated impacts; and
- e. Pedestrian access: Drive-through lanes shall be designed and placed to minimize crossing principal pedestrian access-ways or otherwise impeding pedestrian access.
- f. Hours of Operation: The Board, as part of its review, may take into consideration the impact hours of operation may have on adjoining uses.

Drive-Through Regulations for Portland's Business Zones				
Business Zones	Not Permitted	Permitted	Conditional Use	Regulatory Provisions
Neighborhood B-1	✓			
Community Business- B-2			✓	Drive-throughs associated with a permitted or conditional use - Conditional Use reviewed by Planning Board and zonespecific standards address, signs, circulation, location of drive-through features, noise, lighting, screening and enclosure, pedestrian access, and hours of operation. (see complete list of standards in report on pages 3 and 4)
B-2b	✓			
B-2c			✓	(same as B-2)
Airport Business	✓			
Downtown Business B-3, B-3b & B-3c	✓ Restaurants – no drive-through allowed			
			✓ Conditional use for banking facilities (only) by PB	Drive-up banking services, provided that drive-up features, such as automated teller machines and service windows, shall not extend nearer than twenty-five (25) feet to the street line. The site must have adequate stacking capacity for vehicles waiting to use these service features without impeding vehicular or pedestrian circulation or creating hazards to vehicular or pedestrian circulation on adjoining streets. Such uses shall also be in compliance with the applicable standards contained in the Downtown Urban Design Guidelines, a copy of which is on file in the department of planning and urban development. No other type of drive-up use shall be permitted.
Island Business	✓			
Commercial Corridor B-4		✓		Accessory uses, as provided in section 14-404; and

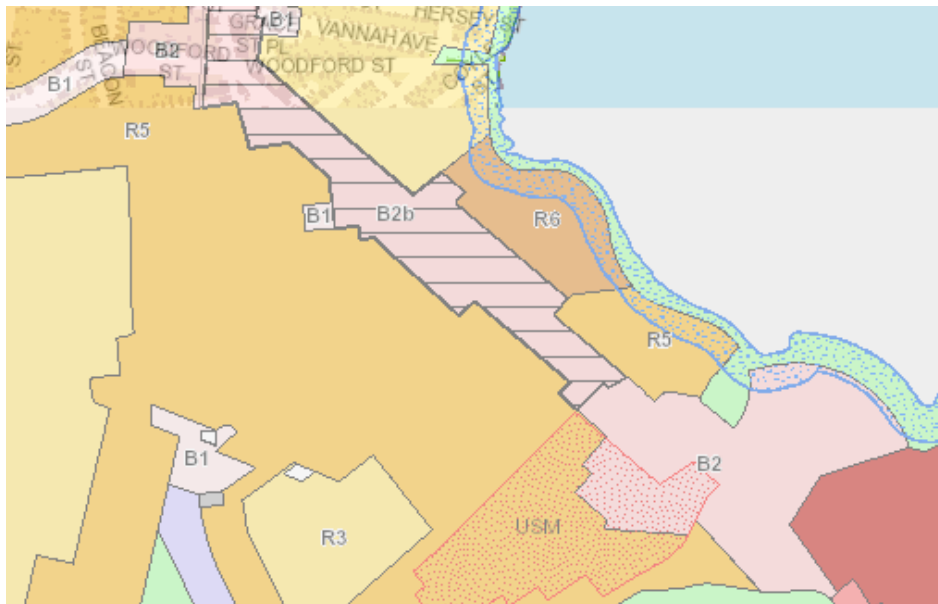
Urban Commercial Mixed Use- B-5	✓ Not permitted between Franklin and Forest	✓	✓ Banking Services	Accessory uses customarily incidental and subordinate to the location, function and operation of permitted uses, excluding in the B-5b all drive-up services for retail, banking, or automotive repair uses. In the B-5 zoning district between Forest Avenue and Franklin Street, all drive-up services for all retail or drive-up automotive repair uses are prohibited. In the B-5 zone between Forest Avenue and Franklin Street, surface parking lots shall be considered a conditional use subject to the conditional use section of the B-5 zone.
B-5b	✓			Excerpt - Accessory uses customarily incidental and subordinate to the location, function and operation of permitted uses, excluding in the B-5b all drive-up services for retail, banking, or automotive repair uses.
Eastern Waterfront Mixed B-6		✓ May allow as an accessory use	✓	Banking services, excluding vehicular drive-up services Drive-up banking facilities located in the interior of parking structures, subject to the following criteria: i. All drive-up features, such as automated teller machines and service windows, shall not extend nearer than twenty-five (25) feet to the street line; ii. The site must have adequate stacking capacity for vehicles waiting to use these service features without impeding vehicular or pedestrian circulation or creating hazards to vehicular or pedestrian circulation on adjoining streets; iii. Drive-up vehicle circulation shall not create an impediment for retail or mixed-use development for the first floor of the subject garages along any adjacent public streets.
ISFBC	✓			1 . Prohibited uses: Drive-through facilities;
Mixed Use- B-7	✓		✓	Banking services, excluding vehicular drive-up services (see also conditional use section, [c][3]; 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. c. Drive-up banking provided that: i. The drive-up is accessory to a banking service occupying a minimum floor area of four thousand (4,000) square feet; and ii. The drive-up is attached to or included within a building with a minimum floor area of twenty thousand (20,000) square feet, except that for lots of less than 20,000 square feet and in existence as of March 9, 2005, a drive-up may be included in a building of less than 20,000 sq ft.; and iii. The drive-up facility is attached or included within a building and/or addition meeting the minimum height of four stores in the Bayside Height District A and three stories in the Bayside Height Districts B and C. For the purposes of this conditional use, the minimum height exceptions contained in Section 14-298 (h) 5, 7, and 8 shall not apply; and iv. The first floor of the building shall include banking or other retail storefront uses with storefront windows, entries, and interior public space oriented to and visible from the street, with front entry access facing the street and directly accessible from the public sidewalk; and v. All drive-up features, such as automated teller machines and service windows, shall not extend nearer than twenty-five (25) feet to the street right-of-way line; and vi. The site must have adequate stacking capacity for vehicles waiting to use these service features without impeding vehicular or pedestrian circulation or creating hazards to vehicular or pedestrian circulation on adjoining streets; and vii. Drive-up vehicle circulation shall not be located between the building and any adjacent public streets; and viii. The drive-up shall be limited to two vehicle drive-up lanes; and ix. The location of any drive-up shall be limited to the geographic area between Somerset/Kennebec Streets/ I-295/Franklin Street/Forest Avenue.
--	--	--	--	--

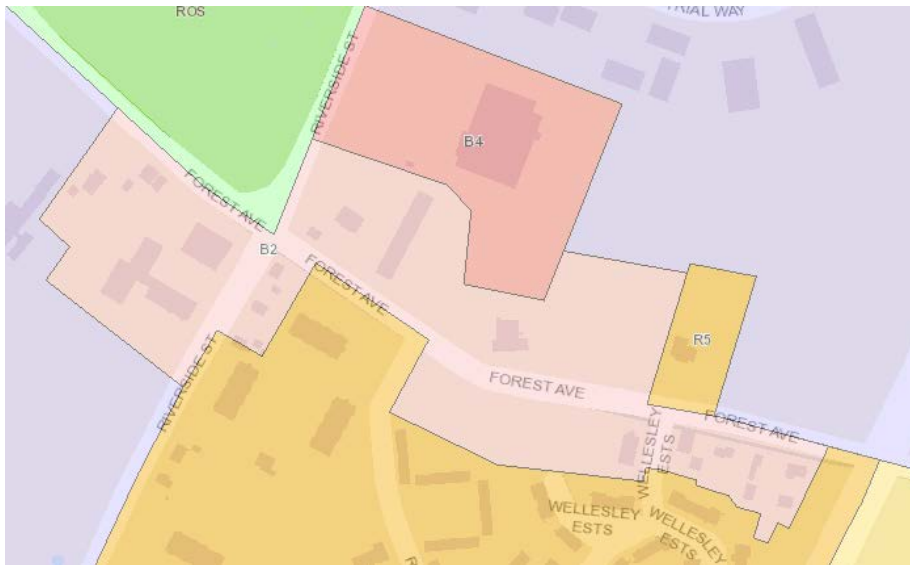
**Community Business B-2 Zones in Portland
Off- Peninsula Locations
Forest Avenue Corridor -Woodford to Morrill's Corner**



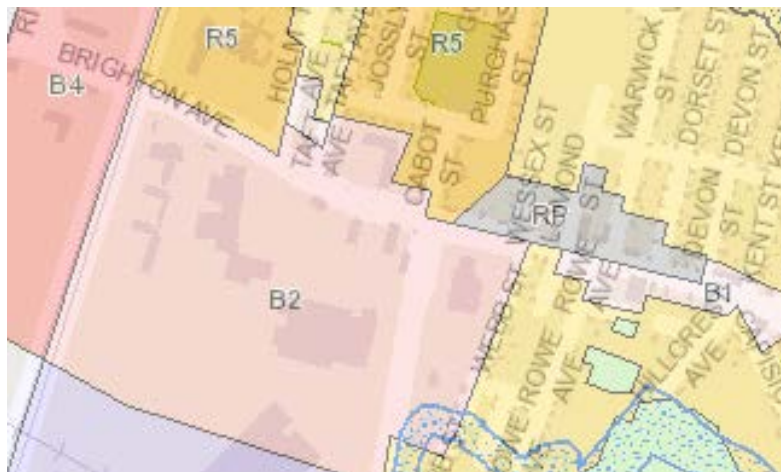
I-295 to Woodford



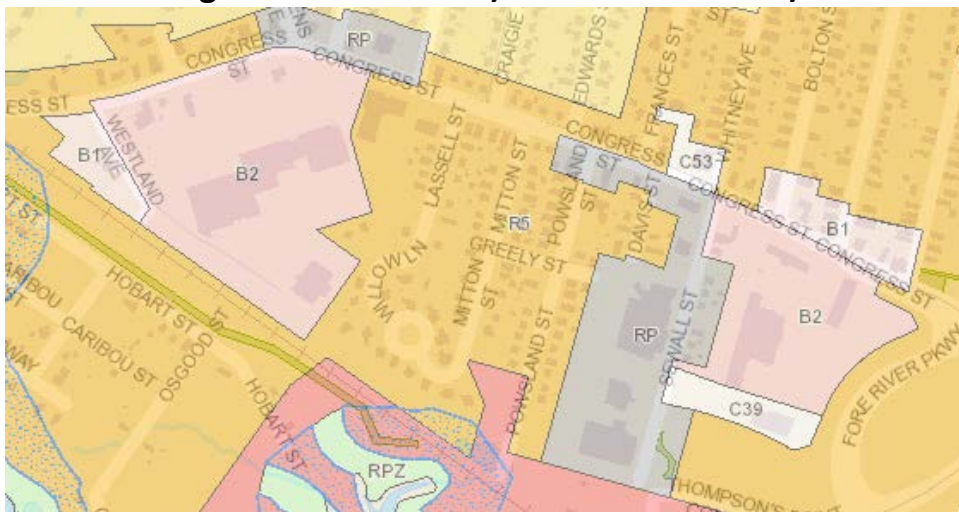
Outer Forest near Westbrook Line



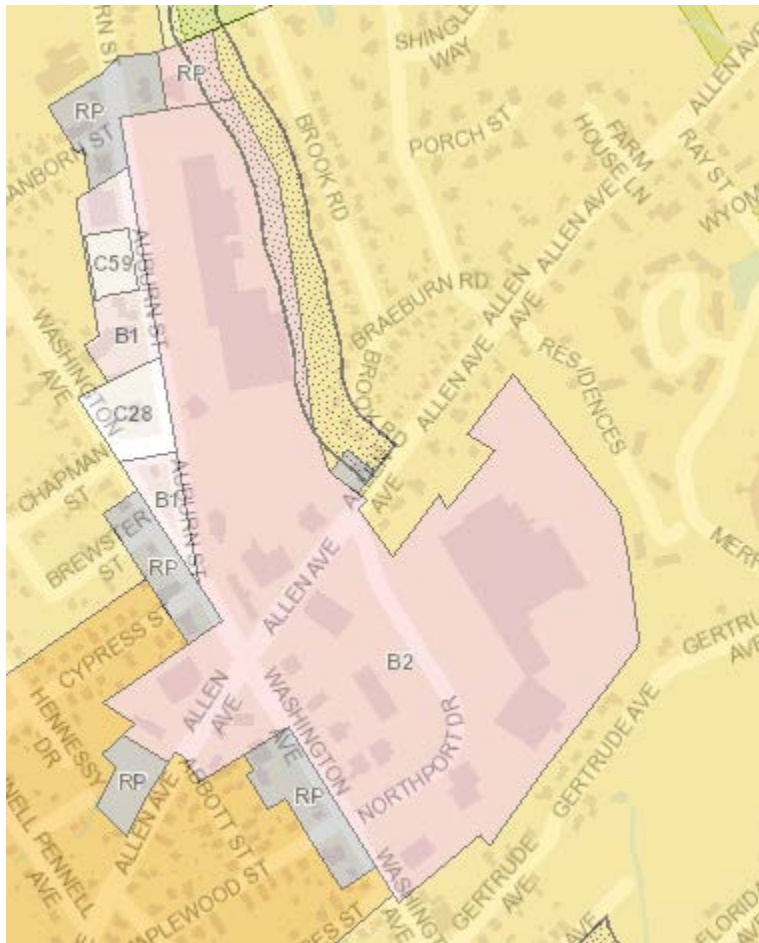
Brighton Avenue



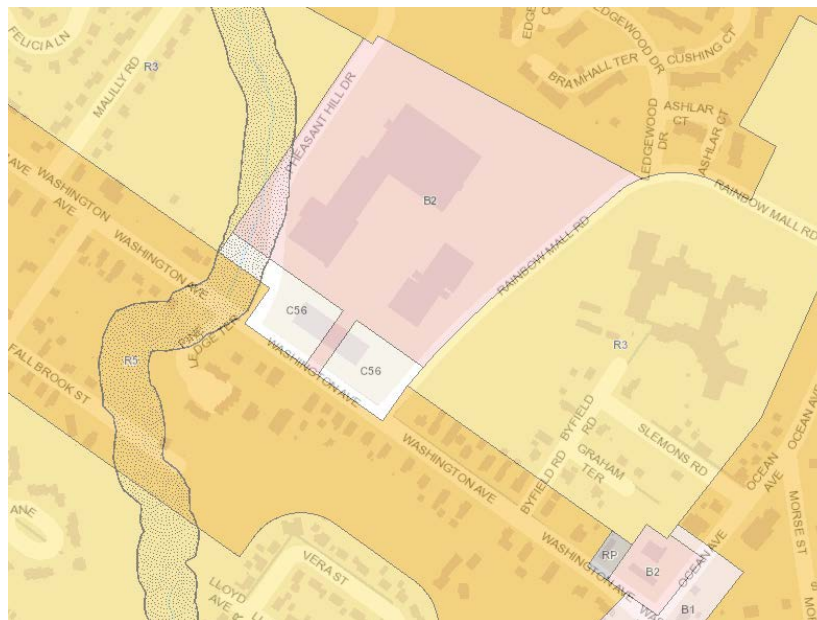
Off-Peninsula Congress Street Vicinity of Fore River Parkway and Stevens Avenue



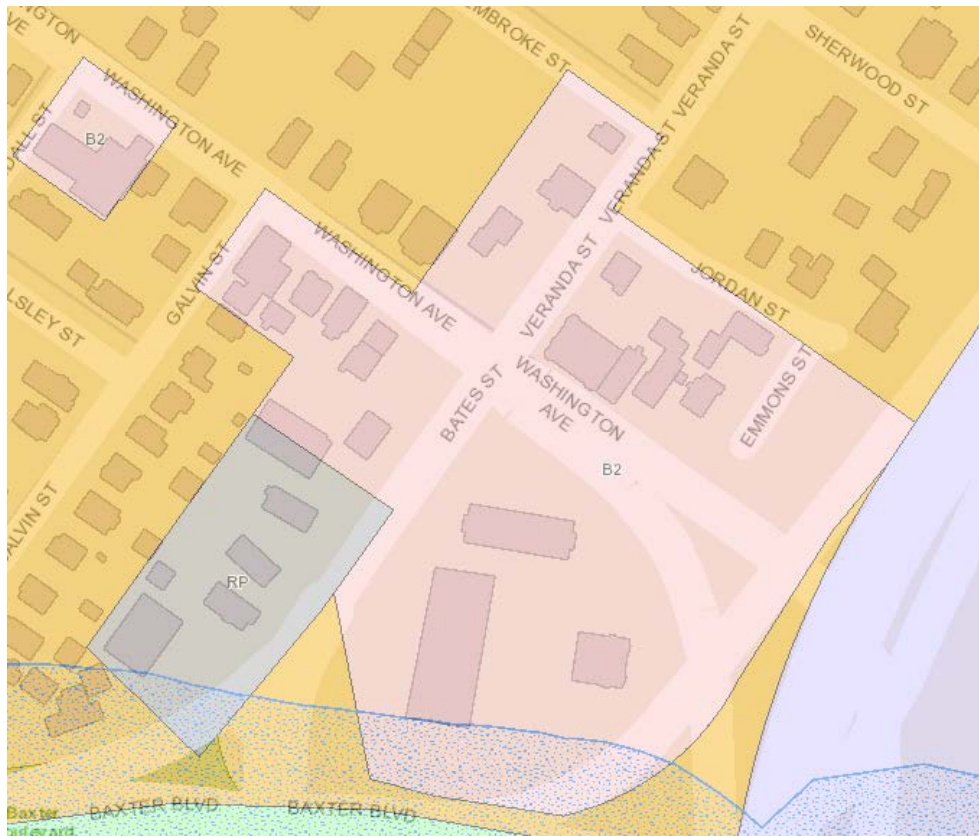
Washington Avenue Corridor - Washington, Allen Avenue, Northport and Northgate



Washington Ave at Rainbow Mall Road and Ocean Avenue

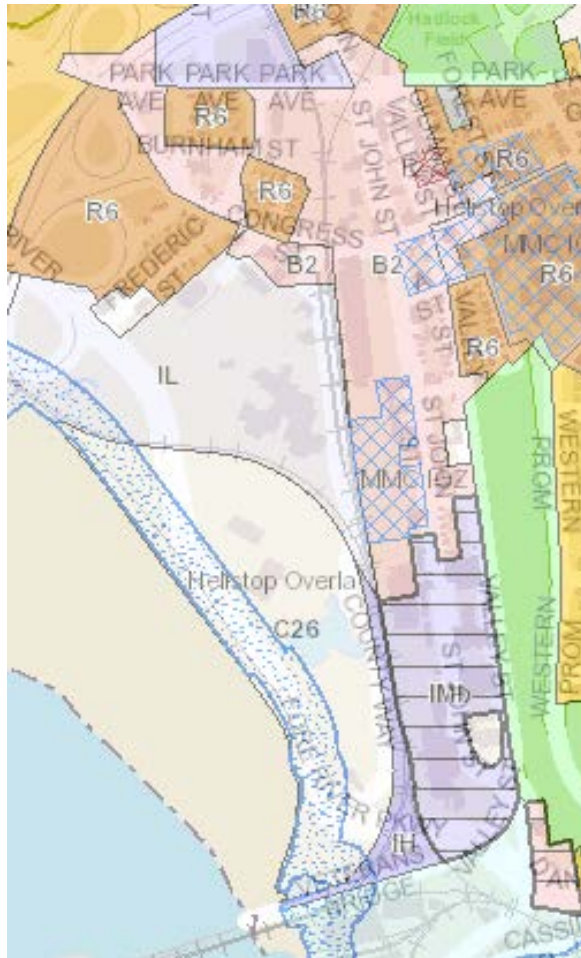


Washington Ave -Vicinity of Veranda Street

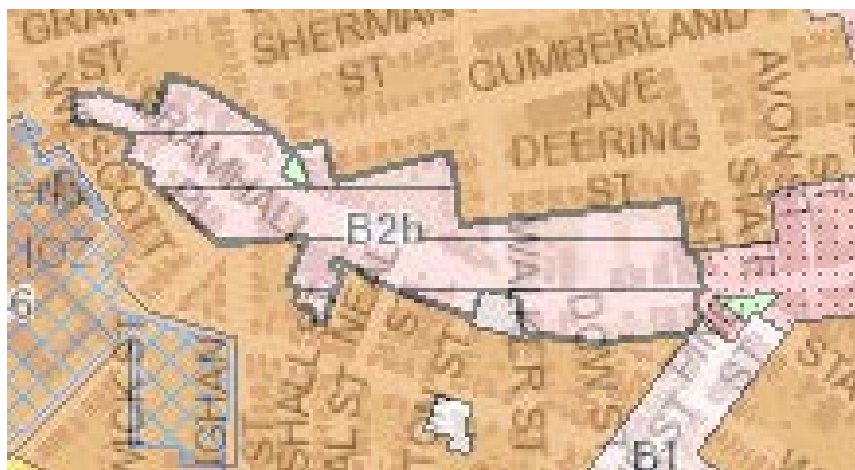


Community Business B-2 Zones in Portland Peninsula Locations

Libbytown - St. John , Congress and Park



Congress Street between Westcott and Park



Bayside – Forest, Park and Cumberland



Washington Avenue Corridor

