

Regular City Council Meeting
March 7, 2016

1. Agenda Only

Documents: [AGENDA ONLY 03-07-2016.PDF](#)

2. Agenda And Packet

Documents: [AGENDA AND PACKET 03-07-2016.PDF](#)

3. Addendum To The Council Backup Material For Order 165

Documents: [BUILDING PERMIT FEE MEMO.PDF](#)

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NICHOLAS M. MAVODONES, JR. (A/L)

AGENDA
REGULAR CITY COUNCIL MEETING
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The Portland City Council will hold a regular City Council Meeting at 5:00 p.m. in City Council Chambers, City Hall. The Honorable Ethan K. Strimling, Mayor, will preside.

PLEDGE OF ALLEGIANCE:

ROLL CALL:

ANNOUNCEMENTS:

RECOGNITIONS:

APPROVAL OF MINUTES OF PREVIOUS MEETING:

(Tab 1) February 17, 2016, Special City Council Meeting Minutes

PROCLAMATIONS:

**Proc 20-15/16 Proclamation Honoring Laneda Dobson, Information Technology
(Tab 2) Department, as Employee of the Month for February 2016 –
Sponsored by Mayor Ethan Strimling.**

APPOINTMENTS:

**Order 166-15/16 Order Appointing Members to Various Boards and Committees
(Tab 3) by Katherine L. Jones, City Clerk.**

This order appoints the following individuals to the Various Boards and Committees:

Name	Board and Committee	Expiration
Kristien Nichols	Planning Board	02/28/2017
Lisa Whited	Planning Board	02/28/2019
Maggie Stanley	Planning Board	02/28/2019
Briana Volk	Creative Portland Board	11/30/2019
Joseph Zamboni	Zoning Board of Appeals	12/31/2019
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Simon Rucker	Land Bank Commission	06/30/2019

Five affirmative votes are required for passage after public comment.

CONSENT ITEMS:

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Pursuant to 21-A M.R.S. §626, the hour of poll opening must be set by the municipal officers. This is done for every election. The polls open at 7:00 a.m. and close at 8:00 p.m.

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(Tab 10) Sponsored by the Parks Commission, Diane Davidson, Chair and the Landbank Commission, Tom Jewell, Chair.

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(Tab 17)**

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The total value of this paving project is estimated at \$248,413, and for cost efficiencies the work will be added to the existing Commercial and Franklin Streets paving contract being administered by MaineDOT.

In addition to the City’s 25% Local Share, the City is obligated to 100% of any cost associated with sewer and stormwater system repairs and elevation adjustments; this cost is estimated at \$14,000. Also, the Department is proposing to improve the intersection of Danforth and York St by replacing the signal control with a stop sign control for Danforth St and altering the street alignment to shorten the pedestrian crossing distance. This action will have ancillary benefits to the intersection known as “Gorham’s Corner”

(York, Pleasant, Center, and Fore Streets) due to the removal of this signal phase. We have estimated this cost at roughly \$24,000.

Each of these Local costs is included in the FY17 CIP request; \$14,000 in the Sewer Fund and \$86,000 in the General Fund.

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All bond issuances must meet strict City Charter requirements, including requirements on how a public hearing must be noticed. Specifically, Section 11 of Article VII of Part I: Charter notes:

No order providing for the issue of bonds shall be passed without public notice given by posting notice of the same in two (2) public places in the City of Portland and publishing such notice at least twice in a newspaper of general circulation in Portland at least two (2) weeks before final action of the city council.

The public hearing notice was not published by the Press Herald and therefore needed to be re-published in order to provide adequate notice for the revised 3/14 Public Hearing date when Final Action will be taken by City Council for this item. This notice was published by the Press Herald on 2/28/16 and 2/29/16 (confirmed by City staff).

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AMENDMENTS:

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(Tab 19)**

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Wineries and Distilleries - Sponsored by Katherine L. Jones, City**

Clerk

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City licenses the service of alcohol and food at restaurants and bars, but no license exists for the same activity at breweries, wineries, and distilleries.

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(Tab 20) and Chapter 30 Vehicles for Hire Re: Tour Operator Licensing –
 Sponsored by the Economic Development Committee, Councilor David
 Brenerman, Chair.**

This ordinance came to the City Council in very similar form for a second reading on January 20, 2016. At that point, based on input regarding two issues: 1) the potential establishment of a “no transient operator solicitation zone” outside of fixed-base tour operators; and 2) ambiguity regarding the inclusion of bus companies who exclusively operate pre-paid and pre-arranged tours for charter groups and cruise lines but do not individually solicit such tours, the matter was referred to the Economic Development Committee. After two meetings at the Committee, the present Ordinance has been suggested to the full Council in a form that does not include a “no transient operator solicitation zone” and explicitly exempts bus companies who exclusively operate pre-paid and pre-arranged tours for charter groups and cruise lines.

The Economic Development Committee met on February 23, 2016, and voted 2-0 to forward this item to the City Council.

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

UNFINISHED BUSINESS:

**Order 165-15/16 Amendment to Portland City Code Re: Reorganizing Planning and
(Tab 21) Other Department Divisions into a New Department of Permitting and
 Inspections – Sponsored by Jon P. Jennings, City Manager.**

With the goal of radically improving the City’s many permitting and inspections functions, current positions, processes and structures were reviewed. Staff proposes a new one-stop department. This requires some code changes, and staff is also requesting an increase in building permit fees of .4% to fund necessary staffing and training increases.

Approximately 40 interviews were conducted, including several external partners; two 2013 studies, one from the University of Southern Maine and the other from the Government Consulting Group were reviewed; and best practices from Boston, Burlington, VT and Lowell, MA were examined. The Planning and Urban Development Department has made concerted efforts over the past few years to strengthen these functions, and many improvements can be attributed to their hard work.

Staff is now poised to build on these initial improvements and restructure to fully realize the goal of an effective, efficient permitting and inspections department that provides excellent customer service.

Key areas of emphasis from internal and external interviewees are:

- Need to greatly improve customer service focus;
- Information and application materials are far too complex;
- Need more detailed web-based interface regarding application status;
- Need online application capability which feeds directly into the City software system(s) to avoid staff data entry and simplify the process for applicants;
- Applications must be triaged so are not all in one queue, but separated by complexity;
- Clear, consistent evaluative measures and processes need to be put in place; and
- Ordinances need to be rewritten for clarity, consistency and brevity.

The interviews and research indicate that there are clear efficiencies and improvements to be gained by co-locating Inspections, Housing Safety, Zoning, and Business Licensing. Adding Food Service Inspections in the future also makes sense, given the overlapping involvement with overall inspections and business licensing processes.

Cost Information

The staffing changes result in an expected increase of about \$280,000 in salaries and benefits, as well as approximately \$8,500 in training costs and close to \$300,000 for major technology upgrades. Comparable building permit fees from Bangor, Burlington VT, Lewiston, Manchester VT, Portsmouth NH and South Portland were analyzed. South Portland's was the most relevant, and they are at 1.5% of construction costs. Portland is currently at 1.1%.

Staff recommends moving to 1.6%. Detailed information can be found in the agenda backup material.

On February 23, 2016, the Planning Board held a public hearing on the proposed text amendments to the Land Use Code that pertain to the creation of the Department of Permitting and Inspection. The Board unanimously recommends to the City Council that the amendments be adopted.

This item must be read two separate days. It was given a first reading on February 17, 2016. In order for this order to take effect immediately, staff is requesting that this order be passed as an emergency.

BREAK FOR DINNER:

7:00 P.M. PUBLIC COMMENT PERIOD ON NON-AGENDA ITEMS:

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The interviews and research indicate that there are clear efficiencies and improvements to be gained by co-locating Inspections, Housing Safety, Zoning, and Business Licensing. Adding Food Service Inspections in the future also makes sense, given the overlapping involvement with overall inspections and business licensing processes.

Cost Information

The staffing changes result in an expected increase of about \$280,000 in salaries and benefits, as well as approximately \$8,500 in training costs and close to \$300,000 for major technology upgrades. Comparable building permit fees from Bangor, Burlington VT, Lewiston, Manchester VT, Portsmouth NH and South Portland were analyzed. South Portland's was the most relevant, and they are at 1.5% of construction costs. Portland is currently at 1.1%.

Staff recommends moving to 1.6%. Detailed information can be found in the agenda backup material.

On February 23, 2016, the Planning Board held a public hearing on the proposed text amendments to the Land Use Code that pertain to the creation of the Department of Permitting and Inspection. The Board unanimously recommends to the City Council that the amendments be adopted.

This item must be read two separate days. It was given a first reading on February 17, 2016. In order for this order to take effect immediately, staff is requesting that this order be passed as an emergency.

BREAK FOR DINNER:

7:00 P.M. PUBLIC COMMENT PERIOD ON NON-AGENDA ITEMS:

IN COUNCIL SPECIAL MEETING FEBRUARY 17, 2016 VOL. 132 PAGE 72

ROLL CALL: Mayor Strimling called the meeting to order at 5:00 P.M. (Councilor Costa arrived during Proclamation 18; Councilor Mavodones arrived during Order 165).

ANNOUNCEMENTS:

RECOGNITIONS:

APPROVAL OF MINUTES OF PREVIOUS MEETING:

Motion was made by Councilor Duson and seconded by Councilor Brenerman to approve the minutes of February 1, 2016, Special City Council Meeting, State of the City Address, and February 1, 2016, Regular City Council Minutes. Passage 7-0.

PROCLAMATIONS:

Proc 18-15/16 **Proclamation Honoring Detective Mary Sauschuck as Police Officer of the Month for January 2016 – Sponsored by Mayor Ethan K. Strimling.**

Proc 19-15/16 **Proclamation Honoring Toni Doucette as Employee of the Month for January 2016 – Sponsored by Mayor Ethan K. Strimling.**

APPOINTMENTS:

CONSENT ITEMS:

Order 158-15/16 **Order Declaring Sundays on the Boulevard Festival Days in 2016 - Sponsored by Jon P. Jennings, City Manager.**

Order 159-15/16 **Order Declaring May 8, 2016 the Portland Sea Dogs Mother's Day 5K Race Festival - Sponsored by Jon P. Jennings, City Manager.**

Order 160-15/16 **Order Declaring June 19, 2016 the Portland Sea Dogs Father's Day 5K Race Festival - Sponsored by Jon P. Jennings, City Manager.**

Order 161-15/16 **Order Declaring May 15, 2016 as the Color Vibe 5K Race as a Festival – Sponsored by Jon P. Jennings, City Manager.**

(Tab 7)

Motion was made by Councilor Hinck and seconded by Councilor Duson for passage of the Consent items. Passage 8-0.

LICENSES:

Order 162-15/16 Order Granting Municipal Officers' Approval of Derasse, LLC d/b/a Petite Jacqueline. Application for a Class I FSE with Outdoor Dining on Public Property at 46 Market St. – Sponsored by Katherine L. Jones, City Clerk.

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

BUDGET ITEMS:

COMMUNICATIONS:

RESOLUTIONS:

UNFINISHED BUSINESS:

Mayor Strimling took orders 155, 156, 163, 164, 165 out of order.

Order 155-15/16 Order Authorizing Refunding Bonds in an Amount not to Exceed \$11,400,000 – Sponsored by Jon P. Jennings, City Manager. This item was given first reading on February 1, 2016.

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

Order 156-15/16 Order Appropriating \$11,440,000 of Bond Proceeds – Sponsored by Jon P. Jennings, City Manager. This item was given first reading on February 1, 2016.

Motion was made by Councilor Ray and seconded by Councilor Duson for passage. Passage 8-0.

ORDERS:

Order 163-15/16 Order Accepting Sidewalk Easement from Schlotterbeck Block LLC – Sponsored by Jon P. Jennings, City Manager.

Motion was made by Councilor Brenerman and seconded by Councilor Duson for passage. Passage 8-0.

IN COUNCIL SPECIAL MEETING FEBRUARY 17, 2016 VOL. 132 PAGE 74

Order 164-15/16 Order Approving the Landlord Consent and Agreement with Loring House Associates Limited Partnership – Sponsored by Jon P. Jennings, City Manager.

Motion was made by Councilor Suslovic and seconded by Councilor Duson for passage as an emergency. Passage 8-0.

AMENDMENTS:

Order 165-15/16 Amendment to Portland City Code Re: Reorganizing Planning and Other Department Divisions into a New Department of Permitting and Inspections – Sponsored by Jon P. Jennings, City Manager.

This is its first reading.

Motion was made by Councilor Suslovic and seconded by Councilor Ray to table Orders 146, 147, 148 till after the Hall School Bond Orders. Passage 9-0.

BREAK FOR DINNER:

7:00 P.M. PUBLIC COMMENT PERIOD ON NON-AGENDA ITEMS:

UNFINISHED BUSINESS: Continued

Order 143-15/16 Order Approving Elementary School Construction Project with Total Costs not to Exceed \$29,720,456 and Authorizing General Obligation Bonds in an Amount not to Exceed \$29,720,456 Therefore – Sponsored by Councilor Edward J. Suslovic. This item was given first reading on January 20, 2016.

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

Order 144-15/16 Order Appropriating \$29,720,456 of Bond Proceeds – Sponsored by Councilor Edward J. Suslovic. This item was given first reading on January 20, 2016.

Motion was made by Councilor Suslovic and seconded by Councilor Hinck for passage. Passage 9-0.

IN COUNCIL SPECIAL MEETING FEBRUARY 17, 2016 VOL. 132 PAGE 75

**Order 145-15/16 Order Submitting Elementary School Construction Project Bond
Order to Referendum – Sponsored by Councilor Edward J. Suslovic.
This was given first reading on January 20, 2016.**

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

Motion was made by Councilor Suslovic and seconded by Councilor Costa to remove from the table Orders 146, 147, and 148. Passage 9-0.

Mayor Strimling took order 147 out of order.

**Order 147-15/16 Order Designating Portland Company as a Historic District and
Amending the Map of Historic Districts – Sponsored by the Planning
Board, Elizabeth Boepple, Chair. This item was given first reading on
January 20, 2016.**

Motion was made by Councilor Ray and seconded by Councilor Hinck to amend Order 147 by removing demolition permit tied to easement option and revised historic district map. Motion failed 2-7 (Duson, Mavodones, Brenerman, Hinck, Costa, Thibodeau, Suslovic).

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

**Order 146-15/16 Order Accepting an Easement Option for Public Access at the Portland
Company Historic District – Sponsored by the Planning Board,
Elizabeth Boepple, Chair.**

Motion was made by Councilor Thibodeau and seconded by Councilor Ray to amend Order 146 by accepting an amended easement option for public access at the Portland Company Historic District. Motion failed 2-7 (Duson, Mavodones, Brenerman, Costa, Ray, Suslovic, Strimling).

Motion was made by Councilor Suslovic and seconded by Councilor Ray for passage. Passage 8-1 (Thibodeau).

IN COUNCIL SPECIAL MEETING FEBRUARY 17, 2016 VOL. 132 PAGE 76

**Order 148-15/16 Amendment to Portland City Code Chapter 14 Land Use, Article IX
Historic Preservation, Section 14-651 Re: Building Height in Portland
Company Historic District – Sponsored by the Planning Board,
Elizabeth Boepple, Chair. This item was given first reading on January
20, 2016.**

Motion was made by Councilor Suslovic and seconded by Councilor
Brenerman for passage. Passage 9-0.

Motion was made by Councilor Suslovic and seconded by Councilor Costa
to adjourn. Passage 9-0, 8:50 P.M

A TRUE COPY.

Katherine L. Jones, City Clerk

PROCLAMATION

Honoring

**Laneda Dobson
Employee of the Month**

February 2016

*Proc 20-15/16
Tab 2 3-7-16*

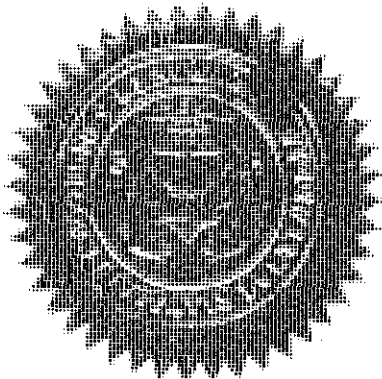
WHEREAS: **Laneda Dobson** of the Information Technology Department has been named the City of Portland Employee of the Month by a committee of her peers and selected for this distinct honor from a workforce of 1,300; and

WHEREAS: This award is presented in recognition of **Lannie's** work as a Call Center Specialist. **Lannie** has over 13 years of City service, including work in the Social Services and Planning and Urban Development departments. **Lannie** demonstrates strong customer service skills, an excellent work ethic and a love for serving the citizens of Portland; and

WHEREAS: **Lannie** has been responsible for responding to See Click Fix requests for the Inspections and Planning Divisions since the program was implemented last January. **Lannie** also has extensive knowledge of the Urban Insight program, which she uses to assist IT with responding very quickly to the Inspections and Planning requests on See Click Fix; and

WHEREAS: **Lannie** has extensive institutional knowledge from her years of experience in the Inspections Division and the City of Portland has benefited from her knowledge as she hit the ground running in her recent promotion to Call Center Specialist. **Lannie** truly is an asset to the Information Technology Department and to the City.

NOW, THEREFORE, BE IT RESOLVED, THAT I, Ethan K. Strimling, Mayor of the City of Portland, Maine, and the members of the Portland City Council do hereby proclaim honor and recognition to **Laneda Dobson** as **City Employee of the Month, February, 2016.**



Signed and Sealed this 7th day of March, 2016

A handwritten signature in black ink, appearing to read "Ethan K. Strimling", is written over a horizontal line.

**Ethan K. Strimling, Mayor
City of Portland, Maine**

*Orders 166-15/16
Tab 3 3-4-16*

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (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	Committee	Term Expires
Kristien Nichols	Planning Board	02/28/2019
Lisa Whited	Planning Board	02/28/2019
Maggie Stanley	Planning Board	02/28/2019
Briana Volk	Creative Portland Board	11/30/2019
Joseph Zamboni	Zoning Board of Appeals	12/31/2019
Sam Beal	Police Citizen Review	06/30/2019
Simon Rucker	Land Bank Commission	06/30/2019



Office of the City Clerk
Katherine L. Jones, CMC

MEMORANDUM

TO: Mayor Ethan Strimling, and Members of City Council
FROM: Katherine L. Jones
DATE: February 26, 2016
RE: Appointments

The Nominating Committee is making the following recommendations to the Various Boards and Committees.

Name	Board and Committee	Expiration
Kristien Nichols	Planning Board	02/28/2017
Lisa Whited	Planning Board	02/28/2019
Maggie Stanley	Planning Board	02/28/2019
Briana Volk	Creative Portland Board	11/30/2019
Joseph Zamboni	Zoning Board of Appeals	12/31/2019
Sam Beal	Police Citizen Review	03/30/2019
Simon Rucker	Land Bank Commission	06/30/2019

January 26, 2016

Justin Costa
Nominating Committee Chair
c/o City Clerk
389 Congress Street
Portland, Maine 04101

Re: Call for Citizens to Apply for Boards & Commissions Vacancies

To the Nominating Committee Chair:

I am writing to you to express my interest in the current Boards & Commissions vacancies for the City of Portland; my resume is enclosed for your review. I am currently employed as the Regional Ombudsman for Long-Term Care Ombudsman Program as well as a current adjunct professor at the University of New England. I have experience in various areas of policy and law as well as experience working closely with government. In addition, because of my continued academic experiences, I believe that I possess strong research, writing and communication skills.

I appreciate your taking the time to review my credentials and experience. I would be happy to forward any additional information you require, or address and questions or concerns you have. Again, thank you for your consideration.

Respectfully,

Joseph Zamboni

Joseph Zamboni, J.D., M.P.P.

Regional Ombudsman, Maine Long-Term Care Ombudsman Program, 61 Winthrop St. Augusta, 04330
Office email: jzamboni@maineombudsman.org Office phone: (207) 621-1079
Cell phone: (207) 318-6158 Personal email: joseph.zamboni@maine.edu

Educational Background

- M.P.P.M. Master's Degree in Public Policy and Management, Financial Management, Muskie School, University of Southern Maine, May 2015.
- M.P.H. Master's Degree in Public Health, Muskie School, University of Southern Maine, anticipated degree award in May 2016.
- J.D. Juris Doctor, University of Maine School of Law, May 2011.
- B.A. Bachelor of Arts, Anthropology, University of Maine, December 2003.

Work Experience

- Regional Ombudsman, Long-Term Care Ombudsman Program, Augusta, Maine. Employed February 2015 to present. Southern Maine advocate for residents of Nursing Homes, Residential Homes & Assisted Living Facilities.
- Adjunct Professor, University of New England, College of Health Professions. Employed Sept 2014 to present. Currently teaching in the Graduate Health Professions Program.
- Programs Coordinator, The Opportunity Alliance. Employed Jan. 2014 to February 2015.
- Associate Attorney, DeGrinney Law Offices. Employed August 2012 to January 2014.

Residency Experience

- Disability Rights Center. 2011.
- Cumberland Legal Aid Clinic, Juvenile Justice Program. 2011.
- Honorable John E. Baldacci's Office. 2009.
- Immigration Legal Advocacy Project. 2009.
- Volunteer Lawyers Project. 2008.

Research Experience

- Graduate research: Elder Abuse, Financial Abuse & Power of Attorney Abuse
- Graduate research: Complex Hospital Patients
- Graduate research: Domestic Violence
- Graduate assistantships: Teaching Assistant, University of Southern Maine
- Partial drafter and researcher of ME Statute, 15 §3318 Sec. A and B
- Partial drafter and researcher of LD 1143, Resolve, Directing a Study of Domestic Violence and Parental Rights and Responsibilities

Volunteer Activities & Memberships

- Maine Medical Malpractice Volunteer Panel
- Maine Financial Abuse Specialist Team
- Maine Supported Decision-Making Coalition
- America Bar Association, Maine Bar Association
- Guardian ad litem
- Licensed foster parent

BRIANA B VOLK

503-867-3043 • brianarocks@gmail.com • 4 Kenwood St, Portland, ME 04102

Profile

An A+ writer. A solid B/B+ human being. Creative Director. Owner of The Portland Hunt + Alpine Club. Mainer.

Experience

CREATIVE DIRECTOR; PORTLAND, ME – 2014-PRESENT

I work with Maine clients to help build their brands. Clients include: New England Distilling, Piccolo, Portland Downtown, Royal Rose Syrups, The Portland Hunt + Alpine Club, Garrand, and Bow Street Distributing.

OWNER, THE PORTLAND HUNT + ALPINE CLUB; PORTLAND, ME – 2013-PRESENT

Nationally recognized and award-winning craft cocktail bar located in Portland's Old Port District. Since opening, The Portland Hunt + Alpine Club has been named one of the best cocktail bars in America by Bon Appétit, Eater, liquor.com, Thrillist, Find. Eat. Drink., Food & Wine and Imbibe Magazine. In 2015 the bar was one of the 20 national semi-finalists for "Outstanding Bar Program" by the James Beard Foundation.

SENIOR CREATIVE, THE VIA AGENCY; PORTLAND, ME – 2010-2013

As a Senior Creative Copywriter I wrote TV, Radio and Online campaigns for clients like Macaroni Grill, Klondike, Sam's Club, State Street Advisors, Comet, and Advance Publications.

CREATIVE, RED SQUARE AGENCY; MOBILE, AL – 2009-2010

I lived in Alabama and wrote copy for Hard Rock Hotel and Casinos. This included TV campaigns, radio, billboards and online work. I was the creative director of their national campaign "Why Go Anywhere Else."

CREATIVE, WIEDEN + KENNEDY; PORTLAND, OR – 2004-2009

While writing for the most awarded independent creative agency on Earth my client list included EA Video Games, Nike Women's, Starbucks, Heineken, Nokia, Coca Cola, and MTV. I also started and curated the WK LunchBox Music Series, which brought bands into the agency to play 20 minute sets at lunchtime in WK's atrium.

Education

University of Portland, Portland, OR – Philosophy, 2003

Simon Rucker
85 Beckett Street
Portland, ME 04101
simon.rucker@gmail.com

September 14, 2015

City Clerk
389 Congress Street
Portland, ME 04101

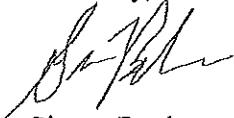
Dear City Clerk:

I am writing to express my interest in serving on the Portland Land Bank Commission for District 1, to replace Colin Apse who is resigning his membership on the Commission. I am currently the Executive Director of the Maine Appalachian Trail Land Trust, a non-profit corporation whose mission is to preserve and protect the land along the Appalachian National Scenic Trail in Maine. Most of this work involves identifying strategic parcels of land along the A.T. which have ecological, recreational, or scenic value, and working with other organizations/government bodies to acquire these lands for public benefit. This work involves an understanding of real estate law in a conservation context and the due diligence practices on which conservation projects are based (i.e., land surveys, appraisals, environmental site assessments, title insurance). It also requires collaboration, partnerships and the ability to reach common agreement with other parties.

In the past, I most recently worked for The Trust for Public Land in the New York/New Jersey offices. I was involved in playground projects in New York City, schoolyard reconstruction projects in Philadelphia, and open space projects in highly-urbanized areas of New Jersey and Staten Island which in many ways resemble the landscape of the City of Portland.

As a member of the Portland Land Bank Commission, I hope to use my professional skills to help identify and prioritize open space within the city, and to help with the acquisition and conservation of such spaces.

Sincerely,

A handwritten signature in black ink, appearing to read 'Simon Rucker', written in a cursive style.

Simon Rucker



ENTREPRENEUR & FINANCIAL SPECIALIST

TO: APPOINTMENTS COMMITTEE CHAIRMAN
C/O CITY CLERK
389 Congress St.
Portland, Maine 04101

Dear Mr./Ms. Chairman,

Thank you for your time. My name is Kristien Nichols and I would like to express interest in a vacancy on the city Planning Board. I have enclosed my latest resume for you to see in detail my skills and experiences.

In my roles both past and present I have been responsible for writing and submitting reports, presenting my findings in meetings, as well as close analysis of financial records and proposals. I feel that I am a confident communicator and like to research and thoroughly understand the information at hand so that I can effectively relay that information to my peers and colleagues.

I have always had to manage and keep accurate and very detailed records. This has been accomplished both on computer-based systems and manually. I have also managed a budget for my team and have supervisory experience. Based on the description posted on portlandmaine.gov, these factors combined with my passion for improving the city and being a Portland native would make me a great asset to the committee. I would thoroughly enjoy a role in local government and am willing to do whatever training and/or learning there is to do to ensure that I do this role effectively.

I would appreciate the opportunity to meet with you to discuss how my qualifications would be beneficial to the Planning Board.

Thank you for taking the time to read my cover letter and resume and I look forward to hearing from you.

Kind Regards,

Kristien Nichols
PO Box 10173, Portland, Me 04104
(207) 274-1151



ENTREPRENEUR & FINANCIAL SPECIALIST

WORK EXPERIENCE

NORWAY SAVINGS BANK – Portland, Maine

FINANCIAL SERVICE SPECIALIST

July 2014 – Present

My day-to-day responsibilities include performing duties supporting the banks operational integrity and culture, process transactions accurately and in a timely manner, assist customers in their selection of various accounts and financial services, cross-selling the bank's products and services, opening, maintaining and closing of all account types in addition to special projects.

I also bring to the table an exceptional level of knowledge in the areas of teller operations, vault reconciliation, safety deposit boxes, asset management, discussing and accepting consumer loan applications, analyzing credit reports and provided leadership, training and support to less experienced new representatives.

CPORT CREDIT UNION – Portland, Maine

VAULT TELLER

JUNE 2012 – APRIL 2014

- Analyzed applicants' financial status, credit and property evaluation to determine feasibility of granting loan.
- Educated customers on the variety of loan products and available credit options
- Executed the loan origination process, including ordering credit reports
- Provided expert financial advice on automobile, personal loans, and credit cards
- Open new accounts and assisted members with any problems or concerns
- Assisted in operations and work on projects for Senior Management

APPLE – South Portland, Maine

FAMILY ROOM SPECIALIST

SEPTEMBER 2009 – MAY 2012

- Engage with, and work hand-in-hand with customers
- Restore relationships with customers who experience iOS device problems
- Maintain current knowledge on all Apple products and emerging technology compatibility
- Diagnose and repair issues with IOS and other mobile devices
- Responsible for company and customer confidentiality
- Uphold to company's high expectations of empathy and moral ethics
- Hold to Apple's policy of "take care of the customer"
- Process orders and initiate data transfers

EDUCATION

SOUTHERN MAINE COMMUNITY COLLEGE – *South Portland, Maine*

ASSOCIATES DEGREE IN BUSINESS (3.4 GPA)

MAY 2012

PORTLAND PUBLIC HIGHSCHOOL – *Portland, Maine*

DIPLOMA

JUNE 2009

PROFESSIONAL ACCOMPLISHMENTS & SKILLS

- Notary Public
- N.M.L.S Registered
- Well versed with IRA's, 401(k) and other investment options
- Recognized on multiple occasions for exceeding sales and customer service goals
- Volunteer and tutor at Howard C. Reiche Elementary and Lyman Moore Middle school

- Excellent comprehension and retention
- Adaptable and naturally curious who is always willing to learn
- Well versed on both Windows and Apple operating systems
- Experienced using Adobe, Microsoft and other financial software suites
- The ability to engineer and build a computer from scratch

REFERENCES

* Available Upon Request

CONTACT

(207) 482-7974

WORK

(207) 274-1151

MOBILE

KRISTIENNICHOLS@GMAIL.COM

EMAIL



December 29, 2015

Appointments Committee Chairperson
c/o City Clerk
389 Congress Street
Portland, Maine 04101

To Whom It May Concern:

I am delighted to be considered for an appointment to the Portland Planning Board. I have been a resident of Portland since 1966 and have owned a business here since 1986. I have experience both participating in and leading volunteer groups at the national, state and local levels. I have a great sense of humor, am an excellent listener, creative problem solver, collaborative team member and have exceptional written and oral communication skills.

I am excited about Portland's future and optimistic about the great things our city will continue to do. I love Portland and would be a great asset to the city's Planning Board. It would be an honor for me to serve our community in this way.

Thank you for your consideration.

Sincerely,

Lisa Whited
Chief Transformation Officer
Workplace Transformation Facilitation

Lisa M. Whited

45 Heather Rd, Portland, ME 04103 207-329-2189 lisa@workplacetf.com

Creative problem-solver, leader, excellent listener, collaborative team member, deep knowledge of organizational development, change management and group dynamics, exceptional written and oral communication skills and great sense of humor.

Education

M.S. in Organization & Management, Antioch NE Graduate School, Keene, NH, 2002

Architecture, Boston Architectural Center, Boston, MA, 1988 to 1991

A.A. in Interior Design, Bauder College, Atlanta, GA, 1983

Certifications/Training

Master Facilitation, 40 hour course certification, 2014

Mediation, 40 hour course certification, 2013

Leadership, Maine Development Foundation 9-month program, 1999

Relevant Experience

Portland's Future PAC, 2015: Served as co-chair of a group created to support a "No on Question #2 Land Use Referendum" in the City of Portland. (No on #2 was successful with 63% voting *No* and 37% voting *Yes*.)

Architalx, Board Member and President, 2013–present

US Green Building Council (USGBC), Washington, DC, Organizational Development Consultant, 2008–2013: Provided board leadership training and facilitated the strategic planning process for 77 USGBC Chapters throughout the U.S.

Council for Interior Design Accreditation Appeal Board, 2009–2013

Maine Governor Appointment to Blaine House Commission 2008–2011

National Council for Interior Design Qualification (NCIDQ), Washington, DC, Communications Consultant, 2001–2009

Boston Architectural College, Director, 2000–2001 and Overseer, 2007–2012

American Society of Interior Designers (ASID), served as VP of Membership, President, and Director of the New England Chapter, 2006–2008 and 1997–1998

Boston Architectural College/University of Maine at Augusta Advisory Board, 2003–2005

Foundation for Interior Design Education Research, Accreditation Process & Procedures Taskforce, 2003

ASID National Strategic Planning Committee, 1997, Strategic Planning Counselor, 1997–2002 and Legislative Task Force, 1995–1997

Maine Governor Appointment to Board of Architects, Landscape Architects and Interior Designers 1993–2000

Well Suited, Director, 1998–2001

National Council for Interior Design Qualification (NCIDQ), 1993–2001, Various positions including President, Director of Finance & Administration and Director of Government & Public Affairs and serving as the appointed delegate from the State of Maine.

Coastal Enterprises, Inc. 1996–1998: Participant in pilot advisory board program for women-owned businesses.

Maine Interior Design Association (MIDA), President 1992-1995: Elected first president of new legislative coalition organization. Worked to successfully pass legislation in Maine to certify interior designers.

Portland School of Art (Maine College of Art) Advisory Board, 1985–1988: Served on a committee considering the creation of a Bachelor of Architecture Degree.

Career Experience

Workplace Transformation Facilitation, LLC, 2014 – present: Established a consortium that includes 12 people throughout the U.S. including social science researchers, brand and strategy experts, HR/strengths/leadership trainers, interior designers, an architect, a construction manager, an organizational ecologist and an operations expert. Workplace transformation services, including change management and employee engagement strategy, are provided to clients throughout the U.S. Recent Maine clients include Kepware Technologies, MEMIC, Norman Hanson DeTroy and Diversified Communications.

Whited Planning + Design, LLC, 2005 – 2014: Design firm focusing on the connection between facility design and organizational success, with an emphasis on research, programming and collaboration.

Higher Education Teaching, 2001–2007: Served as adjunct faculty at several schools including the New England School of Art & Design at Suffolk University, University of Maine, Augusta and Maine College of Art.

Boston Architectural College, 2001–2004: Interim Program Director (9/01-10/02) and Program Director (11/02-6/04), Interior Design College.

Lisa Whited Planning & Design, Inc., President, 1990–2000: Provided strategic planning and design services from programming through construction administration, for corporations, banks, retail stores and restaurants throughout Southern Maine.

Innerspace Design, Inc., co-owner, 1986–1990: Provided full design services, space analysis studies and developed space standards for corporations ranging from 40 to 500 employees.

Honors and Awards

Received several international, regional and state honors for leadership from 1994 to 2002, including the IIDA International Leadership Award, for outstanding contributions to the profession.

Articles and Publications

Have written and published over 50 articles, white papers and monographs for the profession from 2000 to 2013.

Lectures, Presentations and Competition Juries

Have presented workshops, lectures and served as juror for numerous organizations across the U.S. from 1994 to 2013, including delivering the Boston Architectural College Commencement Keynote in 2000.

Maggie Stanley

a: 7 Pleasant St. Apt. 6 Portland, ME 04101 e: stanley.maggie@gmail.com c: 207.266.7803

December 28, 2015

The Honorable Justin Costa
Nominating Committee
City of Portland
389 Congress St.
Portland, ME 04101

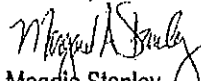
Dear Mr. Chairman and Members,

I would like to express my interest in the vacant Planning Board 3 seat. As a resident of Portland for eight years and of Maine for 32 years, I have a vested interest in the continuing and informed growth of this place I call home.

I have worked for the past six years with Goduli-Thomas Architects, where I have accumulated pertinent knowledge through collaborating with many consultants, including engineers, landscape architects and historic preservationists on high-end single-family designs, affordable- and market-rate housing, historic preservation and ski resort centers. Because many of our projects have different sources of funding, including tax credits, I understand the process of achieving a thoughtful, creative design that is mutually beneficial for the owner/developer and community. I recently went before the planning board for a workshop. The board was able to provide valuable feedback that not only looked at the project in the neighborhood as it is today but the potential that the neighborhood has for future growth. The design team was able to re-evaluate and come back with a more successful site plan that benefitted the community and possible future development in the area. Through collaboration we achieved a better outcome for all.

At meetings that I've attended, I've witnessed the professionalism of the board as they listen to public comments and navigate complex situations that are often passionately brought before the board. I have learned of the careful consideration needed by the board members to achieve successful growth. My experience in design and collaboration has given me an open mind that would allow me to thoughtfully listen to residents and developers and become an asset to the planning board. Should you have any questions, please email me at stanley.maggie@gmail.com or call me at 207-266-7803. Thank you for your time and consideration.

Sincerely,



Maggie Stanley

Maggie Stanley

a: 7 Pleasant St. Apt. 6 Portland, ME 04101 e: stanley.maggie@gmail.com c: 207.266.7803

work

- 2010-present Registered Architect, Maine
Goduli/Thomas Architects, Portland, ME
Project manager on historic preservation, adaptive re-use projects.
Facilitated design development and construction documents on ski resort facilities.
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 management and designer on multi-use historic preservation building in the Bayside neighborhood consisting of existing office space and retrofitting 55 market rate apartments into the five story food manufacturing space of the John Calvin Steven's designed *Schlatterbeck and Foss* building.
Rehabilitation and historic preservation of the *Butler School Apartments* and the *Payson house* in Portland's West End historic district. This project was fully occupied during design development and construction and had to gain approval from the Portland's historic board.

Maine Preservation Honor Awards:

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.

- 2009-2010 Intern Architect
Roc Caivano Architects, Bar Harbor, ME
Assisted with design and construction admin with several houses and small projects with Acadia National Park.
- 2007-2009 **Stephen Blatt Architects**, Portland, ME
Documented existing conditions for residential and school renovations.
Assisted with design development of several single-family renovations.
- 2010-present Sewing Instructor/Media Manager
Sew Portland, Portland ME
Created sewing patterns and taught beginner sewing classes to adults.
Managed and created content for a retail fabric and sewing machine business.

education

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

organizations

- 2012-2015 Member
Portland Society of Architects
Bike Coalition of Maine, Maine Island Trails, Habitat for Humanity
- 2005, 2007 WWOOF (willing workers on organic farms)
Traveled France, Greece and New Zealand working on organic farms in multiple capacities

references

Carol Morrisette **Residential Design Studio** c: 207-671-7965
Rick Goduli **Goduli/Thomas Architects** c: 207-653-9939
Ben Piper **Preli Flaherty** c: 207-653-5754

RESUME

Samuel Beal
68 Woodmont St.
Portland, Maine 04102

Employment

1995-2015 Executive Director
Big Brothers Big Sisters of Southern Maine
195 Lancaster St
Portland, ME 04101.

1984-1985 Executive Director
National Kidney Foundation of Maine
630 Congress Street
Portland, ME 04101.

1981-1985 Medical Social Worker,
Maine Medical Center
22 Bramhall Street
Portland, ME 04102

1977-1981 Supervisor,
Youth Alternatives Emergency Shelter
Westbrook Street
South Portland, ME 04106

Volunteer Work

Portland Chamber of Commerce, Portland Club, Portland
Partnership, United Way, Childrens Leadership Council,
Presidents' Summit Portland Delegation, Portland High School
City of Portland Police Review Committee

Education

Master of Social Work, University of Connecticut, 1981.
BA Sociology/Psychology Vassar College, Poughkeepsie,
NY, 1974.

*Order 167-15/16
Tab 4 3-7-16*

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

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

**ORDER SETTING TIME FOR OPENING
OF POLLS ON APRIL 5, 2016
FOR SPECIAL MUNICIPAL ELECTION
RE: HALL SCHOOL**

ORDERED, that pursuant to 21-A M.R.S. Sec. 626, the polls shall open at 7:00 a.m. and close at 8:00 p.m. on Tuesday, April 5, 2016.



Office of the City Clerk
Katherine L. Jones, CMC

MEMORANDUM

TO: Mayor Strimling and Members of the
Portland City Council

FROM: Katherine L. Jones, City Clerk

DATE: February 16, 2016

RE: Setting the time for opening the polls on April 5, 2016 for Special
Municipal Election.

Pursuant to 21-A M.R.S.A. §626, the hour of poll opening must be set by the municipal officers. This is done for every election; the polls open at 7:00 A.M. and close at 8:00 P.M.

Notices are then posted in each district and at City Hall.

*Order 168-15/16
Tab 5 3-7-16*

ETHAN K. STRIMLING (MAYOR)
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NICHOLAS M. MAVODONES, JR (A/L)

**ORDER DECLARING JUNE 11, 2016 THROUGH JUNE 18, 2016
PORTLAND PRIDE! WEEK
AND PORTLAND PRIDE! CELEBRATION AND FESTIVAL**

ORDERED, that June 11, 2016 through June 18, 2016, is hereby declared Portland Pride! Week and Saturday, June 18, 2016, is hereby declared Portland Pride! Celebration and Festival; and

BE IT FURTHER ORDERED, that the City Manager is authorized to grant permits to Pride Portland!, pursuant to Sec. 25-27 of the Portland City Code for the following activities on Saturday, June 20, 2016:

- a. Use of Monument Square and area sidewalks, Monument Way, One City Center Sidewalk, Center Street, Federal Street Extension and sidewalks, Congress Street sidewalk area and Preble Street (from Cumberland Ave to Congress Street) and Federal Street Extension from 10:00 a.m. to 12:00 p.m., as a gathering point for parade participants;
- b. Use of Congress Street (both sides of the street) from Elm Street to High Street, High Street (from Congress Street to Park Avenue), Park Avenue (from High Street to Deering Avenue), State Street Extension (from Park Avenue to Forest Avenue) and entering Deering Oaks at Bowling Green Pathway in the Mellen Street area (Floats park on Park Avenue) for a parade to begin at 12:00 p.m.;
- c. Use of Deering Oaks Park (the Park Avenue side of the park, i.e. grass areas on the south side of the pond and ravine) for Portland Pride! Celebration and Festival: entertainment, displays, food and non-food vendors from 1:00 p.m. – 7:00 p.m.;
- d. If inclement weather, the Festival at Deering Oaks Park would be cancelled, but the parade would still take place, rain or shine; and

BE IT FURTHER ORDERED, that the following streets shall be closed to traffic on Saturday, June 18, 2016:

1. Federal Street Extension and Preble Street from Cumberland Avenue to Congress Street (9:00 a.m. – noon). Preble Street and Federal Street Extension posted “No Parking”;
2. Center Street, from Free Street to Congress Street, closed to traffic and used for parade formation purposes;
3. Streets along the Parade route: Congress Street (Elm to High Street), High Street (Congress Street to Park Avenue), Park Avenue (High Street to Deering Avenue) and State Street Extension entrance to Deering Oaks Park will be closed for short periods of time by police officers in patrol cars and volunteers, blocking the intersection via a rolling barricade (approximately 12:00 p.m. – 1:00 p.m.); and

BE IT FURTHER ORDERED, that the parade route and Festival area will also be closed to street vendors pursuant to Section 19-17 of the Portland City Code and is reserved for the use of the Pride Portland! for the purpose of conducting the Festival events, subject to the direction and control of the Acting City Manager; and

BE IT FURTHER ORDERED, that the Acting City Manager is authorized to issue a revocable permit under Section 25-27 of the Municipal Code to the Pride Portland! for the use of the above-described area for said Festival, subject to the following conditions:

1. Some City Department Staff will assist at the Parade for no charge, but Pride Portland! shall reimburse the City for all expenses incurred by City Departments for other additional services at said 2015 Festival;
2. Under no circumstances may alcoholic beverages be sold on the streets or public property of said area during said Festival except in the over-21 area to be partitioned off and staffed by security and subject to meeting all liquor licensing requirements;
4. Pride Portland! shall have sole authority over participating vendors at the event and may charge a fee to vendors for the opportunity to vend at the Festival;
5. Conditions for use of grounds, specified in a permit issued from Public Services Event Office, shall be adhered to;
6. Pride Portland! shall indemnify the City and hold it harmless from and against all claims arising out of activities during said Festival, and shall take out and maintain public liability insurance coverage in the amount of at least \$400,000 (for use of Deering Oaks) per occurrence for personal or bodily injury, death or property damage for said purpose. This insurance certificate will list the City of Portland as an additional insured for the Portland Pride! Celebration and Festival; and

BE IT FURTHER ORDERED, that the City Manager is also authorized to issue such other temporary licenses and temporary permits, including licenses for food service establishments and permits for sales of non-food related items, as may be required by the Portland City Code, provided that all applicable requirements of said code have been met regarding the operation of said event.



Gregory A. Mitchell
Director, Economic Development Department

TO: Jon Jennings, City Manager
FROM: Robert Leeman, Acting Director of Public Works
DATE: February 22, 2016
RE: **Council Agenda Item - 2016 Pride Portland!
Pride Celebration and Festival**

I am requesting that the following order be placed on the next City Council agenda:

Order declaring June 11 – June 18, 2016 as "Pride Portland! Week" and declaring Saturday, June 18, 2016 as "Pride Portland! Pride Celebration and Festival." The Festival itself (Saturday, June 18) is comprised of two components: the Pride Parade and the Festival at Deering Oaks Park.

The organization, Pride Portland!, has submitted a request/application for “**Pride Portland! Pride Celebration and Festival,**” which includes a number of events taking place all week long. They have requested the following major activities be approved for use of city property (which are similar to previous years, including an alcohol service area at the festival at Deering Oaks Park):

1. For parade assembly: The use of Monument Square, One City Center sidewalk, Preble Street (from Cumberland Ave. to Congress Street), Federal Street Extension, and Center Street (Free to Congress) on **Saturday, June 18, from 10am to 12pm (Noon).** Parade assembly begins at 10am. Attendance – 1300 marchers (some floats).
2. For parade itself: The use of city streets – both lanes: Congress Street (Elm to High Street), High Street (Congress Street to Park Avenue), Park Avenue (from High Street to Deering Ave.), and State Street Ext. Once reaching Mellen Street area, marchers enter into Deering Oaks Park, **Saturday, June 18, to begin at 12pm (Noon).** Estimated onlookers – 3000: Estimated participants – 1300 with some floats.
3. For the festival: The use of Deering Oaks Park (Park Avenue side of the Park): entertainment, displays, food and non-food vendors including a **21+ Beer Garden area from 1 – 5pm on Saturday, June 18 (beer garden open 1 – 4pm).**
NOTE: The organizer has requested parking spaces be reserved on State Street Ext. between Farmers Market Road and Park Ave. for volunteers, vendors and political speakers. In addition, as the festival is held on the south side of the pond and ravine area, Farmer's Market will still be held in Deering Oaks Park that day; and farmers will end their sales at the park at the usual time – around 1pm.
Estimated Attendance – 7,000+

(continued)



Gregory A. Mitchell
Director, Economic Development Department

Festival Zone (areas falling under Pride Portland! Committee's purview):

All of parade formation area and parade route, including the streets themselves, and parking lanes, as well as adjoining sidewalks, squares, parks, and plazas (Monument Square, Monument Way, Congress Square).

The south side of Deering Oaks Park, including the sidewalks/pathways and Bowling Green Road, (from the south side of the Ravine and Pond to Park Ave., to State Street Ext., to Deering Ave.) to include the adjoining sidewalks as well.

Street Closures:

In order for some of these events to be held, a few city streets need to be closed to vehicular traffic on **Saturday, June 18**. In particular, the streets included in the parade formation area and the parade route itself. **(In addition, some of these streets would need to be posted "No Parking.")**

The Pride Parade will impact some of those METRO routes. City staff and festival organizers will work with METRO on how to best address those impacts.

If inclement weather on Saturday, June 18, the Festival at Deering Oaks Park would be cancelled, but the Parade would still take place, rain or shine.

For Parade formation: Federal Street Extension and Preble Street – from Cumberland Ave. to Congress Street; (9am – Noon). Preble St. and Federal St. Ext posted "no parking." Also, Center Street (from Free Street to Congress Street) closed to traffic and used for formation purposes.

Streets along the Parade route: Congress Street (Elm to High Street), High Street (Congress Street to Park Avenue), Park Avenue (from High Street to Deering Ave.), and State Street Extension, will be closed for a period of time by police officers in patrol cars, parking control officers, and volunteers, blocking the intersections via a rolling barricade. **(Approximately 12 – 1pm).**

Beer Garden:

Organizers wish to sell alcohol (wine and beer) at the festival at Deering Oaks Park, Saturday June 18. Time frame: 1 – 4pm. **Equality Maine is the sponsor applying for the Off-Premises Liquor Catering License.** If approved, organizers will contract and hire the city's Facilities Management Staff to setup and oversee this 21+ partitioned-off area. Friends of Deering Oaks have reviewed and endorsed.

(continued)



Gregory A. Mitchell
Director, Economic Development Department

The parade route and festival area will also be closed to street vendors pursuant to Section 19 -17 of the Portland City Code and is reserved for the use of the Pride Portland Committee for the purpose of conducting the Pride Events, subject to the direction and control of the City Manager.

The City Manager is authorized to issue a revocable permit under Section 25-27 of the Municipal Code to the Pride Portland! Committee for the use of the above-described area for said events, subject to the following conditions:

- The Pride Portland! Committee **Co-chairs: Bo Bigelow, Michelle Patrick and Michael Snell**, shall reimburse the City for all expenses incurred by City Departments for said **2016 Festival** (assistance at the Parade is in-kind, as that is considered a 1st Amendment use, however organizers will hire some additional officers to assist);
- Under no circumstances may alcoholic beverages be sold or consumed on the streets or public property of said area during said festival, other than an area approved by Portland City Council;
- The Pride Portland! Committee shall have sole authority over participating vendors at the events and may charge a fee to vendors for the opportunity to vend at the events;
- Conditions for use of grounds, specified in a permit issued from Public Works Event Office, shall be adhered to; and
- Pride Portland! shall indemnify the City and hold it harmless from and against all claims arising out of activities during said Festival, and shall take out and maintain public liability insurance coverage in the amount of at least **\$400,000 per occurrence** for personal or bodily injury, death or property damage, and alcohol liability coverage, for said purpose. This insurance certificate will also list the City of Portland as an additional insured in regards to the **"Pride Portland! Pride Celebration and Festival"** activities.

The City Manager is also authorized to waive any fees, and issue such other temporary licenses and temporary permits, including licenses for food service establishments and permits for sales of non-food related items, as may be required by the Portland City Code, provided that all applicable requirements of said code have been met regarding the operation of said event.

Document prepared by Ted Musgrave, PW Event Coordinator

Date: February 22, 2016

2015 Pride Portland! Parade Route Monitors

Parade Route Monitors

- Congress @ Brown
- Congress @ Casco
- Congress @ Forest
- Congress @ High
- High @ Deering
- High @ Cumberland
- High @ Grant
- High @ Park
- Park @ State

Directions from Monument Square, Portland, ME, United States to 200 Mellen Street, Portland, ME, United States



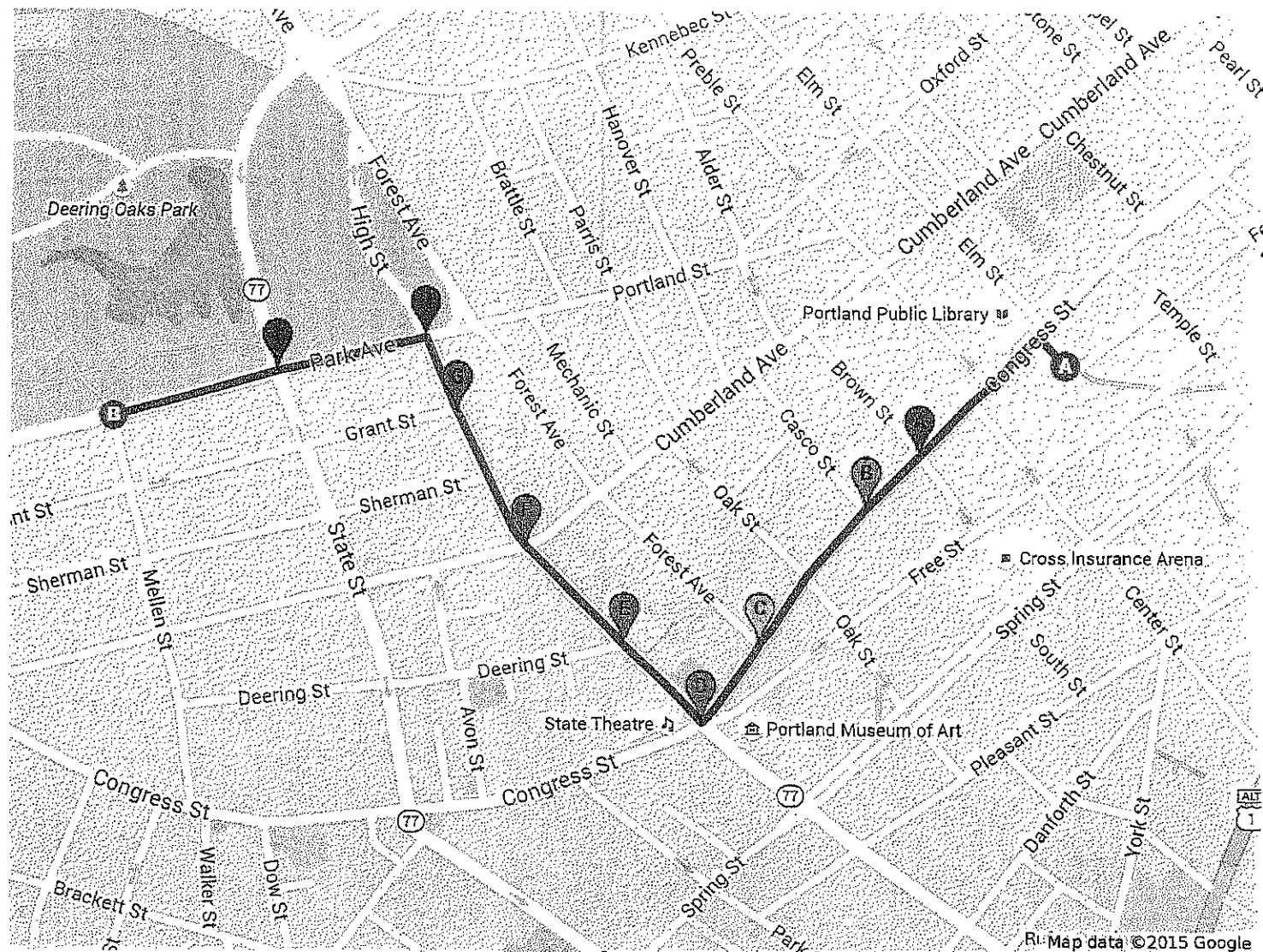
Directions from Monument Square, Portland, ME, United States to 200 Mellen Street, Portland, ME, United States



Monument Square, Portland, ME, United States



200 Mellen Street, Portland, ME, United States





**CITY OF PORTLAND, DEPARTMENT OF PUBLIC WORKS
PUBLIC PARK & SPACE APPLICATION (4 pages)
55 Portland St. ~ Portland ~ ME ~ 04101
207-874-8826 / 8751 (Event Office) ~ Fax 207-874-8816**

For uses of city property, there are typically: **1. fees charged for use of the area**
2. a security deposit required **3. insurance required**
(There may be fees due and applications required from other City Departments)

TODAY'S DATE		1/14/16 Revised 1-29, 2-1		ORGANIZATION NAME		Pride Portland!					
ORGANIZATION ADDRESS				c/o Equality Maine 565 Forest Avenue		CITY	Portland	STATE	ME	ZIP	04102
CONTACT NAME(S)		Bo Bigelow, Festival Team Lead Michelle Patrick, Chair Michael Snell, Parade Team Lead									
HOME #	WORK			CELL				FAX			
EMAIL	bolanbigelow@gmail.com				EMAIL						

PARK AREA OR PUBLIC SPACE REQUESTED		Portland Streets (Mon Square / Preble St. / Fed St. Ext) – for PARADE Deering Oaks Park (north side of Pond + Ravine) – for FESTIVAL Congress Square sidewalk area - Small stage (reviewing stand) situated there					
EVENT DAY & DATE(S)		SAT 6-18-16		RAIN DAY & DATE(S)		None if RAIN, parade will go ON...!!! (festival at Oaks may be canceled)	
EVENT START TIME (i.e. set-up start time)	7:00am - Festival Begins; 10:00am - Parade Formation; STAGE erected Friday afternoon.	EVENT END TIME (i.e. when event cleanup is complete)	1:00pm (parade) 7:00pm (festival clean up)	ACTUAL START & END TIME OF EVENT	12pm – 1pm (parade) 1pm – 5pm (festival)		

EVENT NAME	EXPECTED ATTENDANCE
Pride Portland! Pride Celebration and Festival	1300 parade participants 3000 parade spectators 7500 festival
DESCRIPTION OF EVENT:	
Pride Parade: Sat., June 18, 2016 Noon Kick-Off Parade forms up on Preble Street (between Cumberland and Congress) and Center Street (from Free to Congress) and Monument Square. Parade down Congress Street to High Street, Park Ave. to Mellen Street intersection, onto sidewalk + pathway to Deering Oaks. Organizer will hire some Police Officers and PCO's to assist with traffic control. Many volunteers will staff the parade route intersections (barricades). A few of the streets will need to be posted "No Parking." Pride Festival: Sat., June 18, 2016 1 – 5pm Festival is held in Deering Oaks Park (located on the Park Avenue and Bowling Green Path side of the Oaks) and includes the use of the grass areas and Bowling Green Path, a large stage erected on the grass beside the path (near the pond), and electricity at nearby green box for entertainment (DJ's and bands). Stage comes in on Friday, gets removed on Sunday or Monday. Many tables set up on the grass, some canopies set up. There will be food and non-food vendors at the festival. Some gas grills will be used for cooking. The food trucks will need to park in other areas (NOT on grass near trees) – other than beside the Park Avenue sidewalk. The Bowling Green itself, will NOT be used for any formal events (other than recreation + socializing and blanket seating). Organizer will rent a number of porta-restrooms (10+) to be positioned on grass area just to the side of the Bowling Green Path.	

Parking spaces all along Park Ave. (park side, from State Street Ext. to Deering Ave.) need to be set aside for the festival.

***NEW FOR 2016 - we are requesting parking spaces to be reserved on State Street between Farmers Market Road and Park Ave. (for volunteers, vendors and political speakers).**

A banner is requested to be hung over the street.

A **Beer Garden** will be set up in the park, past the vendor tables, separate from the stage area. The festival organizers will secure a licensed vendor (State Theatre) to serve alcohol. The sponsor for the Beer Garden is Equality Maine (a non-profit). Only guests 21+ will be admitted to the beer garden. It will run from 1:00-4:00, with a last call. Additionally, 2 porta-restrooms will be inside of the beer garden. A small riser for a DJ will be set up on grass. Generator for power.

IS THERE A REGISTRATION FEE COLLECTED FOR THIS EVENT?	YES	
IF YES FOR FEES, HOW MUCH?	FEE	\$see attached
	STUDENT FEE	\$

WHAT WILL BE THE ANTICIPATED NEED FOR PARKING AND WHAT IS YOUR PARKING PLAN?

Reserved parking is needed for some vehicles... at Deering Oaks (Park Avenue – north side) as well as around the Parade Formation Area & **parking spaces on State Street between Farmers Market Road and Park Ave.**

Otherwise, parking for participants is at area parking lots, garages, and on street. (see attached parking plan)

PLEASE CHECK OFF AND ANSWER:

PLEASE SEE ATTACHED FEE SCHEDULE / DEPT. INFORMATION IF YOU ANSWER YES

	X-YES	X-NO	X-NOT SURE
Are you setting up a canopy(s) ? (canopy is 10x10 size) How many?:	X		
* Do you wish to set up a tent(s) ?		X	
* Will you be setting up tables and or chairs ? How many tables: chairs:	X		
* Are other items or equipment being placed on City property ? Please List:	X		
* Will there be refreshments at the event? Do you wish to sell food? YES (If so, you will need approval from Public Works) List food and drink: A Temporary Food Service License (from the City Clerk's Office) is needed, even if food is given away (and even if it is pre-packaged). PLEASE give the Clerk's Office at least a 2-week notice (874-8557).	X		
* Do you wish to sell non-food items (like T-shirts, crafts, cd's, etc.) ? If so, you will need approval from Public Works, and you will need to apply for a Street Goods Vendor License(s) at the City Clerk's Office (874-8557). List items you wish to sell:	X		
* Are you setting up a PA (sound) system ? Are you planning on having Amplified Music ? yes Band ? yes DJ ? yes If so, your event requires a concert license from the City Clerk's Office (874-8557).	X		
* Will your event require electricity ? Electricity is available at Deering Oaks Park. Elec. is turned off & requires a key for access.	X		
* Are you planning on bringing a Grill for a Barbecue ? Only Gas Grills are allowed in the parks (NO CHARCOAL). Grilling is subject to weather conditions and possibly Fire Dept. review.	X		
* Will the event require reserved parking spaces / parking meters ? How many? "No Parking" signs may be purchased at PW Event Office, 55 Portland Street.	X		
* Will your event need safety vests, signs, barricades and/or cones ? Please list what you would like to borrow: A few orange vests and cones may usually be borrowed from Public Works, Event Office. Barricades and signs are borrowed from Public Works, Customer Service.	X		
* Will your event require street closures ? (See "Description of Event") Will your event affect METRO BUS ROUTES ? (If service is affected, organizer needs to work directly with METRO for endorsement / feedback). Please check with Glenn Fenton, METRO: 517-3029 (gfenton@gpmetrobus.com) to discuss.	X		

*	Will your event require Police assistance?	X		
*	Will your event require Fire/EMS assistance?		X	
*	Will your event require porta-restroom rental(s) or need existing porta-restrooms cleaned? (Some of the parks already have porta-restrooms. Event participants may use these, but a \$25 fee is assessed for events where attendance is 150 or more.)	X		
	Do you wish to have a banner over the street to advertise your event?	X		

INSURANCE CERTIFICATE INFORMATION

*	Will your event require liability Insurance? (For an event such as a walkathon, race, festival, press conference, concert, etc., the city requires insurance coverage - General Liability. The City of Portland needs to be named as additional insured and the policy endorsed in regards to the event activities on that date). If your event has been approved for serving food, Product Liability is also required, in addition to General Liability.	X		
♦ If you answered yes, please have "City of Portland, Maine" listed as an additional insured on the certificate, in this way: certificate must say either: A) "the policy actually is endorsed to name the City of Portland as an Additional Insured" and a copy of the endorsement must come to the City of Portland with the certificate, or B) "the policy already includes an endorsement, such as the General Liability Expansion Endorsement, by which the City of Portland is, in fact, automatically made an additional insured." A Certificate which merely has a box checked under 'Addl Insr,' or which merely states The City of Portland is named as an Additional Insured, will not be acceptable. The amount of coverage must be shown on the certificate, and the minimum coverage amount is \$400,000. Please have your insurance company email a copy to Public Works: tvm@portlandmaine.gov.				

PUBLIC WORKS POLICIES

ELECTRICITY

All cords in the public way must be covered by rugs, mats or orange cones to avoid public hazard. If weather is inclement (drizzle, rain, snow, etc.) we require that you **not use** electricity, unless all connections and equipment are covered and protected from the elements.

BARBECUES - GAS GRILLS ONLY

Only GAS GRILLS are allowed in parks/public spaces – i.e. No Charcoal Grills or open burning. Barbecuing must first be approved by Public Works and is subject to weather conditions, and possible further review by the Fire Dept. Grills must be set up away from children's activities. You must bring a fire extinguisher with you to the grilling area.

PORTA-RESTROOMS / BATHROOM FACILITIES

Porta-Restrooms are required for large events and events where food is being served. Deering Oaks Park (Playground + Ravine) already has portable restrooms. If over 150 people are expected to attend the event, a \$25 user fee is required (paid to Public Works). The restrooms are cleaned M, W, & F. If you would like to guarantee that they are cleaned just prior to your event, then you need to call the porta-restroom company (Associated Septic, 207-799-1980, M-F) to request and pay for a cleaning.

TRASH

All groups must abide by our Carry In/ Carry Out Policy. Please bring extra trash bags and/or trash receptacles and remove all trash. You will need to haul all of your trash out of the park/public space or forfeit the security deposit(s). Please recycle whenever possible, (please do not use Styrofoam - it is NOT recyclable). The area will be checked following your event and if the park is clean and conditions for use adhered to, your security deposit will be returned to you. Thank you in advance!

PARKING ON GRASS AREAS / SIDEWALKS / ILLEGALLY PARKED VEHICLES

Public Works has a strict policy that prohibits vehicles from parking on grass areas/sidewalks/park streets (unless specifically approved by city staff). \$10 will be deducted from your security deposit for each vehicle parked on grass/sidewalk areas or vehicles parked illegally. **Any tire ruts/damage to the grass areas would mean a forfeit of your security deposits.**

SMOKE-FREE ZONES

By city ordinance, smoking a cigar, cigarette, pipe, electronic cigarette, electronic cigar, electronic pipe, or other similar product that relies on vaporization or aerosolization, is prohibited at and within 20 feet of the following outdoor recreation and event areas: downtown squares and plazas, trails, parks, playgrounds, beaches, and athletic facilities. Please make sure you pass this information along to participants / spectators at the event.

NOTIFICATION

Please keep a copy of this permit on site at all times. City staff may require proof of permit.

REVOCABLE PERMIT

- ♦ The City reserves the unconditional right to control or cancel events to protect and/or prohibit damage to public property.
- ♦ The City reserves the unconditional right to revoke or revise an issued permit.

I HAVE READ AND UNDERSTAND ALL OF THE ABOVE POLICIES	TYPE INITIALS	BB	DATE	1/14/16
--	---------------	----	------	---------

ASSUMPTION OF RISK & LIABILITY

Users of the area agree to accept the grounds in an "as is" condition and shall be responsible for all risk and liability in using the park/public space area for the said event. By returning this form, (should permission be granted to use city property), the above parties agree to indemnify and hold harmless the City of Portland, its employees and agents, from and against all claims arising out of activities during said event.

I have read the Assumption of Risk & Liability Agreement	TYPE INITIALS	BB	DATE	1/14/16
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FEE SCHEDULE – UPDATED JULY 1, 2015

Fees are tiered and assigned based on the level of demand placed on City resources and impact on City infrastructure.

Simple Event (no registration fee): \$50/hour Event with registration or pledges & attendance 25 – 300: \$100/hr Event with registration or pledges & attendance 301+: \$200/hr Public Space/Park Security Deposit/Sound Security Deposit: \$100-\$1000	Impact/Street Closure Fee (variable based on impact): \$0-\$500 Admin/Staff Fee (support for events): \$30/hour Porta Restroom User Fee (if attendance is 150+): \$25
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CREDIT CARD INFORMATION

Visa or MasterCard Number	Exp Date (Mon/Yr)
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CREDIT CARD WILL ONLY BE CHARGED FOR SECURITY DEPOSIT(S) AS NEEDED

PLEASE MAKE CHECKS PAYABLE TO "CITY OF PORTLAND"

♦ Please make out security deposit checks separate from permit fees.

TOTAL AMOUNT(S) DUE TO PUBLIC WORKS (Please make all security deposit checks out separately)

Permit Fee for use of area: \$50 - \$200 per hour (i.e. a 3 hour event at \$50 totals \$150) includes use of elec. If your event is rained out / cancelled, the bulk of the fee is returned (however \$50 is non-refundable) Number of Hours of Use: approx. 12 hours	\$ 600 due	Vest/Cone Deposit: \$10 per/item Barricade Deposit: \$25 per/item	\$???
Admin/Staff Fee (support for events): \$30/hour	\$???	Public Space / Park Security Deposit: Sound Security Deposit \$100 - \$1000	\$ 1000 due 250 due
/ Deposit: \$50 per key	\$ N/A	Other (Porta-Restroom User Fee: \$25, etc.)	\$ N/A
Impact/Street Closure Fee (variable based on impact): \$100-\$500	\$???	Rent their own?	

FOR OFFICE USE ONLY

DATE REC'D APPLICATION	1-28-2016	DATE REC'D INSURANCE	NEED	PERMIT FEE AMT REC'D	\$ NEED	SECURITY DEPOSIT	\$ NEED
PAYMENT TYPE							
VISA	\$	MC	\$	CK #	CK AMOUNT	\$	CASH AMT \$

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

*Order 169-15/16
Tab 6 3-7-16*

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

**ORDER DECLARING THE "2016 GREEK HERITAGE FOOD FESTIVAL"
JUNE 23 - JUNE 25, 2016**

ORDERED, that June 23, 2016 through June 25, 2016, from 11:30 a.m. – 9:30 p.m., is hereby declared the 2016 "Greek Heritage Food Festival" and the City Manager is hereby authorized pursuant to Sections 25-26 to 25-30 of the Portland City Code to grant permits to the Holy Trinity Greek Orthodox Church ("Church") for said Festival, including but not limited to, the following activity:

The Church is authorized to locate tent stakes on the right-hand side of Pleasant Street during the period of the Festival, provided that the Church shall be solely responsible for filling in the stake holes at the close of the Festival, said work to be done to the satisfaction of the City; said tent may be erected on June 22, and will be taken down no later than June 27; and

BE IT FURTHER ORDERED, that the Church shall indemnify the City, its officers and employees and hold it harmless from and against all claims arising out of activities during said festival, and shall take out and maintain public liability insurance coverage in the amount of at least \$400,000 per occurrence for personal or bodily injury, death or property damage for said purpose. The Church shall provide the City with a certificate showing evidence of such insurance and this insurance certificate will also list the City of Portland as an additional insured in regard to the Greek Heritage Food Festival; and

BE IT FURTHER ORDERED, that under no circumstances may alcoholic beverages be sold or consumed on the streets or public right-of-way of said area during said Festival, but sales of alcoholic beverages may be allowed on church property in the areas approved by the City Clerk and subject to meeting all liquor licensing requirements; and

BE IT FURTHER ORDERED, that conditions for use of grounds, specified in a permit issued from Recreation, shall be adhered to; and

BE IT FURTHER ORDERED, that the Church is responsible for paying associated costs, such as Police assistance, Public Services assistance, and City Clerk's license fees and Public Services permit and "No Parking" sign fees; and

BE IT FURTHER ORDERED, that Festival areas will be closed to street vendors pursuant to §19-17 of the Portland City Code and the City Manager is authorized to issue such other temporary licenses for the Festival, including temporary food service licenses, as may be required by the Portland City Code, provided that all applicable requirements of the Code have been met.



Gregory A. Mitchell
Director, Economic Development Department

TO: Jon Jennings, City Manager
FROM: Robert Leeman, Acting Director of Public Works
DATE: February 22, 2016
RE: **Council Agenda Item – 2016 Greek Heritage Food Festival**

I am requesting that the following order be placed on the next City Council agenda:

Order declaring June 23, 24 & 25, 2016, as the 2016 Greek Heritage Food Festival, to be held on Holy Trinity Greek Orthodox Church grounds and a portion of Pleasant Street.

The Holy Trinity Greek Orthodox Church has held the Greek Heritage Food Festival for the past 33 years (this is the 34th annual). The majority of events, entertainment and vending of food takes place on church grounds (alcohol service area is strictly on church grounds). However, one of the tents extends about 5 – 7 feet onto Pleasant Street. Therefore, the organizers are requesting permission to use a portion of the street beside church property. No street closure would be required. The tent will go up on **Wednesday, June 22** and will be taken down on **Monday, June 27**, so the church would like use of the street (parking lane) during these dates. The hours of the Greek Heritage Food Festival are **11:30 a.m. – 9:30 p.m., June 23 – 25, 2016.**

The Order should include the following items:

The **2016 Greek Heritage Food Festival** be authorized for **June 23, 24 & 25, 2016**, to be held on church grounds and on a portion of Pleasant Street, in front of the church.

Festival grounds include church property, the parking lane of Pleasant Street and the sidewalk area beside the church.

To assist with parking in the immediate area, organizers have permission to park vehicles on the south side of Pleasant Street during the times of the festival (currently that side of the street is posted as "No Parking").

This area of Pleasant Street will be closed to street vendors pursuant to Section 19-17 of the Portland City Code and is reserved for the use of festival organizers, for the purpose of conducting the 2016 Greek Heritage Food Festival, subject to the direction and control of the City Manager.

The City Manager is authorized to issue a revocable permit under Sections 25-26 thru 25-30 of Portland City Code to the festival organizers subject to the following conditions:

(continued)



Gregory A. Mitchell
Director, Economic Development Department

- Under no circumstances may alcoholic beverages be sold or consumed on City of Portland right-of-ways during said event (alcohol service area for this event is on church property only);
- The Holy Trinity Greek Orthodox Church shall indemnify the city and hold it harmless from and against all claims arising out of activities during said festival, and shall take out and maintain public liability insurance coverage in the amount of at least **\$400,000** per occurrence for personal or bodily injury, death or property damage for said purpose. This insurance certificate will also list the City of Portland as an additional insured in regards to the Greek Heritage Food Festival;
- The Holy Trinity Greek Orthodox Church shall be responsible for filling in the tent stake holes at the close of the festival and said work shall be completed to the satisfaction of the City;
- Conditions for use of grounds, specified in a permit issued from Public Works Event Office, shall be adhered to; and
- Festival organizer is responsible for paying associated city costs (such as Police assistance, Public Works assistance, and City Clerk's License Fees and Public Works Permit fees / "No Parking" sign fees).

The City Manager is also authorized to issue such other temporary licenses, including licenses for food service establishments, as may be required by the Portland City Code, provided that all other applicable requirements of said Code have been met regarding the operation of said Festival/Event.

Document prepared by Ted Musgrave, PW Event Coordinator

Date: February 22, 2016

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

*Order 170-15/16
Feb 7 3-7-16*

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

ORDER DECLARING THE CRAFT BREW RACE FESTIVAL 2016

ORDERED, that Saturday, June 25, 2016 is hereby declared to be the Craft Brew Race Festival 2016; and

BE IT FURTHER ORDERED, that the Festival area for the Craft Brew Race Festival 2016 will be the grass triangle area at Payson Park; and

BE IT FURTHER ORDERED, that the Craft Brew Race Festival area will be reserved for concert attendees and that music stages will be set up on the grass for the Festival, which will be held from noon to 4:00 p.m.; and

BE IT FURTHER ORDERED, that the following streets shall be closed to traffic on Saturday, June 27, 2016, during the Craft Brew Race at the beginning of the Festival:

- Baxter Boulevard (from Bates Street/I-295 Ramp to Vannah Avenue) from 11:30 a.m. to 1:30 p.m.; and

BE IT FURTHER ORDERED, that the Craft Brew Race Festival area shall be closed to licensed street vendors pursuant to §19-17 of the City Code and is reserved for the use of the event organizers for the purpose of permitting vendors for the event, subject to the direction and control of the City Manager; and

BE IT FURTHER ORDERED, that the City Manager is authorized to issue a revocable permit to the Organizer, Gray Matter Marketing, pursuant to §25-27 of the City Code to conduct said Festival, subject to the direction and control of the City Manager and to the following specific conditions:

1. Gray Matter Marketing shall defend, indemnify and hold harmless the City of Portland, its officers and employees, from and against all claims arising out of or resulting from the Festival and/or use of City streets and property for said Festival, and shall procure and maintain public liability insurance in the minimum amount of \$400,000 per occurrence for personal or bodily injury, death or property damage and covering the obligation of indemnification hereunder. Gray Matter Marketing shall provide the City with a certificate showing evidence of such insurance and showing the City as an additional insured on said insurance;
2. A Beer Garden, fenced off within the festival area, will allow 21-year-old and older participants only inside; city staff (from Public Assembly Facilities) will oversee this fenced-in area; and Maine Brewers Guild, the festival sponsor, will apply for and hold the State License allowing sales of alcohol at the event. Under no circumstances

may alcoholic beverages be sold on public property during said event except inside the Beer Garden area;

3. Conditions for use of grounds and requirements for food service, vending sales, and other items specified in an operating agreement issued from the Recreation & Facilities Management Department, shall be adhered to;

4. Gray Matter Marketing shall have sole authority over participating vendors at the festival and may charge a fee to vendors for the opportunity to vend at the Craft Brew Race Festival; and

5. Gray Matter Marketing will reimburse City Departments for the expenses incurred by City Departments for said event; and

BE IT FURTHER ORDERED, the City Manager is also authorized to issue such other temporary licenses and temporary permits, including licenses for food service establishments and permits for sales of non-food related items, as may be required by the Portland City Code, provided that all applicable requirements of said code have been met regarding the operation of said event.



Gregory A. Mitchell
Director, Economic Development Department

TO: Jon Jennings, City Manager
FROM: Robert Leeman, Acting Director of Public Works
DATE: February 23, 2016
RE: **Council Agenda Item – Craft Brew Race Festival 2016**

I am requesting that the following order be placed on the next City Council agenda:
**Order Authorizing the Craft Brew Race Festival 2016, scheduled for
Saturday, June 25, 2016.**

This will be the 3rd Annual Craft Brew Race. Like last year, the race is held around Back Cove, and utilizes Payson Park Grass Triangle as the Festival area. The organizer works with the non-profit Maine Brewers Guild (the organization sponsoring the Beer Garden area). 1500 Runners are expected for this year's race.

For the race portion of the event, runners will assemble in Payson Park (Triangle Grass area) for registration/picking up bib numbers, etc., at 11am. Race start is at Noon. Baxter Blvd. (from Bates St./295 Ramp to Vannah Ave.) will be closed down to traffic from 11:30am – 1:30pm. Police and Parking Control Officers assist with the road closure. A little before Noon, runners step out onto Baxter Blvd. for the start. They then head counter-clockwise on the roadway. Prior to reaching Vannah Ave., runners get up onto the Back Cove Pathway, continue running around Back Cove, crossing over Tukey's Bridge, and then moving back out onto Baxter Blvd., finishing just before reaching the Grass Triangle at Payson Park. Runners then move up onto the grass area at the Park, where the awards ceremony is held.

The Festival portion of the event takes place at Payson Park (Triangle Grass area) and runs from Noon – 4pm. A Band with PA System is setup on the grass (for awards and music), and a Beer Garden is also fenced off at the Triangle Grass area. The Beer Garden is a 21+ only event, with city staff (Public Assembly Facilities) overseeing this fenced in area. The Maine Brewers Guild will be applying for the State License. Organizers may also invite a few local Food Trucks to participate in the event. Organizers will start setup the day before (Friday June 24).

The Festival area will also be closed to street vendors pursuant to Section 19 -17 / 19-22 of the Portland City Code and is reserved for the use of event organizers for the purpose of permitting vendors for the event, subject to the direction and control of the City Manager.

(continued)



Gregory A. Mitchell
Director, Economic Development Department

Festival grounds are as follows:

Payson Park, from Ocean Ave. to Baxter Blvd. (Organizer understands that there will be games and tennis matches taking place at the upper fields and courts of the park.)

Race/Festival organizers will work with METRO to ensure impacts to transit services is kept to a minimum.

The City Manager is authorized to issue a revocable permit under Section 25-27 of the Municipal Code to the Festival organizers for the use of the above-described area for said race and festival, subject to the following conditions:

- Organizers (Gray Matter Marketing), shall indemnify the city and hold it harmless from and against all claims arising out of activities during said race and festival, and shall take out and maintain public liability insurance coverage (alcohol liability included) in the amount of at least \$400,000 per occurrence for personal or bodily injury, death or property damage for said purpose. This insurance certificate will also list the City of Portland as an additional insured in regards to the Craft Brew Race Festival,
- Expenses incurred by City Departments for said event, shall be paid by organizer), and
- Under no circumstances may alcoholic beverages be sold or consumed on public property during said event (except for the Beer Garden area – which has been expressly approved by Portland City Council).

The City Manager is also authorized to issue such other temporary licenses and temporary permits, including licenses for food service establishments and permits for sales of non-food related items, as may be required by the Portland City Code, provided that all applicable requirements of said code have been met regarding the operation of said event.

Document prepared by Ted Musgrave, PW Event Coordinator
Date: February 23, 2016



CITY OF PORTLAND, DEPARTMENT OF PUBLIC WORKS
PUBLIC PARK & SPACE APPLICATION (4 pages)
55 Portland St. ~ Portland ~ ME ~ 04101
207-874-8826 / 8751 (Event Office) ~ Fax 207-874-8816

For uses of city property, there are typically:
1. fees charged for use of the area
2. a security deposit required 3. insurance required
(There may be fees due and applications required from other City Departments)

TODAY'S DATE	1-5-2016 Revised: 1-27, 2-1	ORGANIZATION NAME	Gray Matter Marketing					
ORGANIZATION ADDRESS	304 Thames St		CITY	Newport	STATE	RI	ZIP	02840
CONTACT NAME(S)	Matt Gray Jon White		TITLE	Organizers		EC: Chris Farwell		
HOME #	WORK	CELL	FAX					
EMAIL	matt@graymattermarketing.com sean@mainebrewersguild.com		EMAIL	white@graymattermarketing.com heather@risingtidebrewing.com				

PARK AREA OR PUBLIC SPACE REQUESTED	Edward Payson Park (Grass Triangle) / Back Cove Trail Baxter Blvd Closed (11:30AM – 1:30PM), from Bates Street to Preble Street Some Parking Lots in Park + Dyers Flat Parking				
EVENT DAY & DATE(S)	Saturday June 25, 2016		RAIN DAY & DATE(S)	Rain or Shine	
EVENT START TIME (i.e. set-up start time)	9:00 AM (setup on grass on Fri June 24)	EVENT END TIME (i.e. when event cleanup is complete)	7:00 PM	ACTUAL START & END TIME OF EVENT	12:00PM – 4:00PM Race Start: Noon

EVENT NAME	EXPECTED ATTENDANCE
Craft Brew Races Portland	1500
DESCRIPTION OF EVENT: Please be specific regarding area of public space/park and describe Event in detail. 5k road race starting on Baxter Blvd. Following the road race there will be a craft beer festival, held in Edward Payson Park Race Route: Race Start at Noon. Start Line on Baxter Blvd (West of Payson Park, nearer to Cheverus), runners head west on Baxter Blvd (counter-clockwise), get onto Back Cove Trail (prior to reaching Vannah Ave), then Finish on Baxter Blvd in Front of Edward Payson Park. *see attached map. We would like to close Baxter Blvd for the duration of the road race portion of the event: 11:30AM – 1:30PM Baxter Blvd closed down to traffic from Bates St / 295 Ramp to Preble Street. (Seaside Health would need to use their Front St. Entrance/Exit). Traffic coming into Payson Park will need to be detoured away from the Triangle Grass Area. Police / PCO's need to be hired. Canopies set up on Triangle Grass Area. Tables & Chairs. PA System set up (generator powered) – ELEC is at the Grass Triangle. Food Trucks invited in (parked on side of Payson Park Road – 1 st Entrance). Beer Garden (fenced off park area). Porta-restrooms to be rented. Beer Garden Info: A perimeter barricade will be set up for the beer service area, with security details to check ID's for 21+. We will have a liquor license pulled through our non-profit partner, the Maine Brewers Guild (Sean Sullivan / Heather Sanborn). The beer garden will be open to runners, festival only ticket holders and designated driver ticket holders, starting at 12:30PM and ending at 4PM. City PAF Staff will need to staff this area. would like to rent Edward Payson Park for two days. Set up will be on Friday June 24. We will be bringing in snow fencing, tables, canopies, etc. We will hire overnight security to watch over area and our set up.	
IS THERE A REGISTRATION FEE/PLEDGES COLLECTED FOR THIS EVENT?	Please check: ☒ FEE ☐ PLEDGES

IF YES FOR FEES, HOW MUCH?	FEE	\$ 45 - 55
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WHAT WILL BE THE ANTICIPATED NEED FOR PARKING AND WHAT IS YOUR PARKING PLAN?

**anticipating a need for 600 cars – parking on nearby streets (Dyers Flats for Payson Park – up until BLVD is closed down to traffic)*

PLEASE CHECK OFF AND ANSWER:

PLEASE SEE ATTACHED FEE SCHEDULE / DEPT. INFORMATION IF YOU ANSWER YES

		X-YES	X-NO	X-NOT SURE
*	Are you setting up a canopy(s) ? (canopy is 10x10 size) How many: MANY	X		
*	Do you wish to set up a tent(s) ? (a canopy or tent larger than 10x10 needs to be		X	
*	Will you be setting up tables and/or chairs ? How many tables: chairs:	X		
*	Are other items or equipment being placed on City property ? (i.e. Moon Bounce, Dunk Tank, Radio Station Van, Helium Tank, etc.) Please List:		X	
*	Will there be refreshments at the event? Do you wish to sell food ? (If so, you will need approval from Public Works) List food and drink: A Temporary Food Service License (from the City Clerk's Office) is needed, even if food is given away (and even if it is pre-packaged). PLEASE give the Clerk's Office at least a 2-week notice (874-8557).	X LOCAL FOOD TRUCKS INVITED		
*	Do you wish to sell non-food items (like T-shirts, crafts, cd's, etc.) ? If so, you will need approval from Public Works, and you will need to apply for a Street Goods Vendor License(s) at the City Clerk's Office (874-8557). List items you wish to sell:	X		
*	Are you setting up a PA (sound) system ? Are you planning on having Amplified Music ? Band ? DJ ? If so, your event requires a concert license from the City Clerk's Office (874-8557). (Just voice – i.e. Press Conference, would not require the license because it is not music). For amplified music/speech, there are time restrictions for the Downtown Parks & Squares (music limited to 11:45am – 1:15pm, and 1 hour between 5pm - 8pm).	X DJ / BAND- PA SYSTEM		
*	Will your event require electricity ? Electricity is available at some of the parks &	X		
*	Are you planning on bringing a Grill for a Barbecue ? Only Gas Grills are allowed in the parks (NO CHARCOAL). Grilling is subject to weather conditions and possibly Fire Dept. review.		X	
*	Will the event require reserved parking spaces / parking meters ? How many?		X	
*	Will your event need safety vests, signs, barricades and/or cones ? Please list what you would like to borrow: A few orange vests and cones may usually be borrowed from Public Works, Event Office. Barricades and signs are borrowed from Public Works, Customer Service.	X BARRICADES		
*	Will your event require street closures ? (Please be specific under "Description of Event") Will your event affect METRO BUS ROUTES ? (If service is affected, organizer needs to work directly with METRO for endorsement / feedback). Please check with Glenn Fenton, METRO: 517-3029 (gfenton@gpmetrobus.com) to discuss.	X		
*	Will your event require Police assistance? An event such as a road race, march or parade in the street, would typically require police assistance.	X		
*	Will your event require Fire/EMS assistance? (For a large walk/race, it is recommended.)	X		
*	Will your event require porta-restroom rental(s) or need existing porta-restrooms cleaned? (Some of the parks already have porta-restrooms. Event participants may use these, but a \$25 fee is assessed for events where attendance is 150 or more.)	X RENTAL		

INSURANCE CERTIFICATE INFORMATION

*	Will your event require liability insurance? (For an event such as a walkathon, race, festival, press conference, concert, etc., the city requires insurance coverage - General Liability. The City of Portland needs to be named as additional insured and the policy endorsed in regards to the event activities on that date). If your event has been approved for serving food, Product Liability is also required, in addition to General Liability.	X		
◆ If you answered yes, please have "City of Portland, Maine" listed as an additional insured on the certificate, in this way: certificate must say either: A) "the policy actually is endorsed to name the City of Portland as an Additional Insured" and a copy of the endorsement must come to the City of Portland with the certificate, or B) "the policy already includes an endorsement, such as the General Liability Expansion Endorsement, by which the City of Portland is, in fact, automatically made an additional insured." A Certificate which merely has a box checked under "Addl Insr," or which merely states The City of Portland is named as an Additional Insured, will not be acceptable. The amount of coverage must be shown on the certificate, and the minimum				

PUBLIC WORKS POLICIES

ELECTRICITY

cords in the public way must be covered by rugs, mats or orange cones to avoid public hazard. If weather is inclement (drizzle, rain, snow, etc.) we require that you **not use** electricity, unless all connections and equipment are covered and protected from the elements.

BARBECUES - GAS GRILLS ONLY

Only GAS GRILLS are allowed in parks/public spaces – i.e. No Charcoal Grills or open burning. Barbecuing must first be approved by Public Works and is subject to weather conditions, and possible further review by the Fire Dept. Grills must be set up away from children's activities. You must bring a fire extinguisher with you to the grilling area.

PORTA-RESTROOMS / BATHROOM FACILITIES

Porta-Restrooms are required for large events and events where food is being served. Some of Portland's parks already have portable restrooms (*Preble Street Grass Area at the Preble Street Parking Lot – across from Hannafords, *Entrance to Dyer's Flat – beside Payson Park). If over 150 people are expected to attend the event, a \$25 user fee is required (paid to Public Works). The restrooms are cleaned M, W, & F. If you would like to guarantee that they are cleaned just prior to your event, then you need to call the porta-restroom company (Associated Septic, 207-799-1980, M-F) to request and pay for a cleaning.

TRASH

All groups must abide by our Carry In/ Carry Out Policy. Please bring extra trash bags and/or trash receptacles and remove all trash. You will need to haul all of your trash out of the park/public space or forfeit the security deposit(s). Please recycle whenever possible, (please do not use Styrofoam – it is NOT recyclable). The area will be checked following your event and if the park is clean and conditions for use adhered to, your security deposit will be returned to you. Thank you in advance!

PARKING ON GRASS AREAS / SIDEWALKS / ILLEGALLY PARKED VEHICLES

Public Works has a strict policy that prohibits vehicles from parking on grass areas/sidewalks/park streets (unless specifically approved by city staff). \$10 will be deducted from your security deposit for each vehicle parked on grass/sidewalk areas or vehicles parked illegally. **Any tire ruts/damage to the grass areas would mean a forfeit of your security deposits.**

SMOKE-FREE ZONES

By city ordinance, smoking a cigar, cigarette, pipe, electronic cigarette, electronic cigar, electronic pipe, or other similar product that relies on vaporization or aerosolization, is prohibited at and within 20 feet of the following outdoor recreation and event areas: downtown squares and plazas, trails, parks, playgrounds, beaches, and athletic facilities. Please make sure you pass this information along to participants / spectators at the event.

NOTIFICATION

Please keep a copy of this permit on site at all times. City staff may require proof of permit.

REVOCABLE PERMIT

- ♦ The City reserves the unconditional right to control or cancel events to protect and/or prohibit damage to public property.
- ♦ The City reserves the unconditional right to revoke or revise an issued permit.

I HAVE READ AND UNDERSTAND ALL OF THE ABOVE POLICIES	TYPE INITIALS	JW	DATE	1-5-2016
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ASSUMPTION OF RISK & LIABILITY

Users of the area agree to accept the grounds in an "as is" condition and shall be responsible for all risk and liability in using the park/public space area for the said event. By returning this form, (should permission be granted to use city property), the above parties agree to indemnify and hold harmless the City of Portland, its employees and agents, from and against all claims arising out of activities during said event.

I have read the Assumption of Risk & Liability Agreement	TYPE INITIALS	JW	DATE	1-5-2016
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FEE SCHEDULE – UPDATED JULY 1, 2015

Fees are tiered and assigned based on the level of demand placed on City resources and impact on City infrastructure.

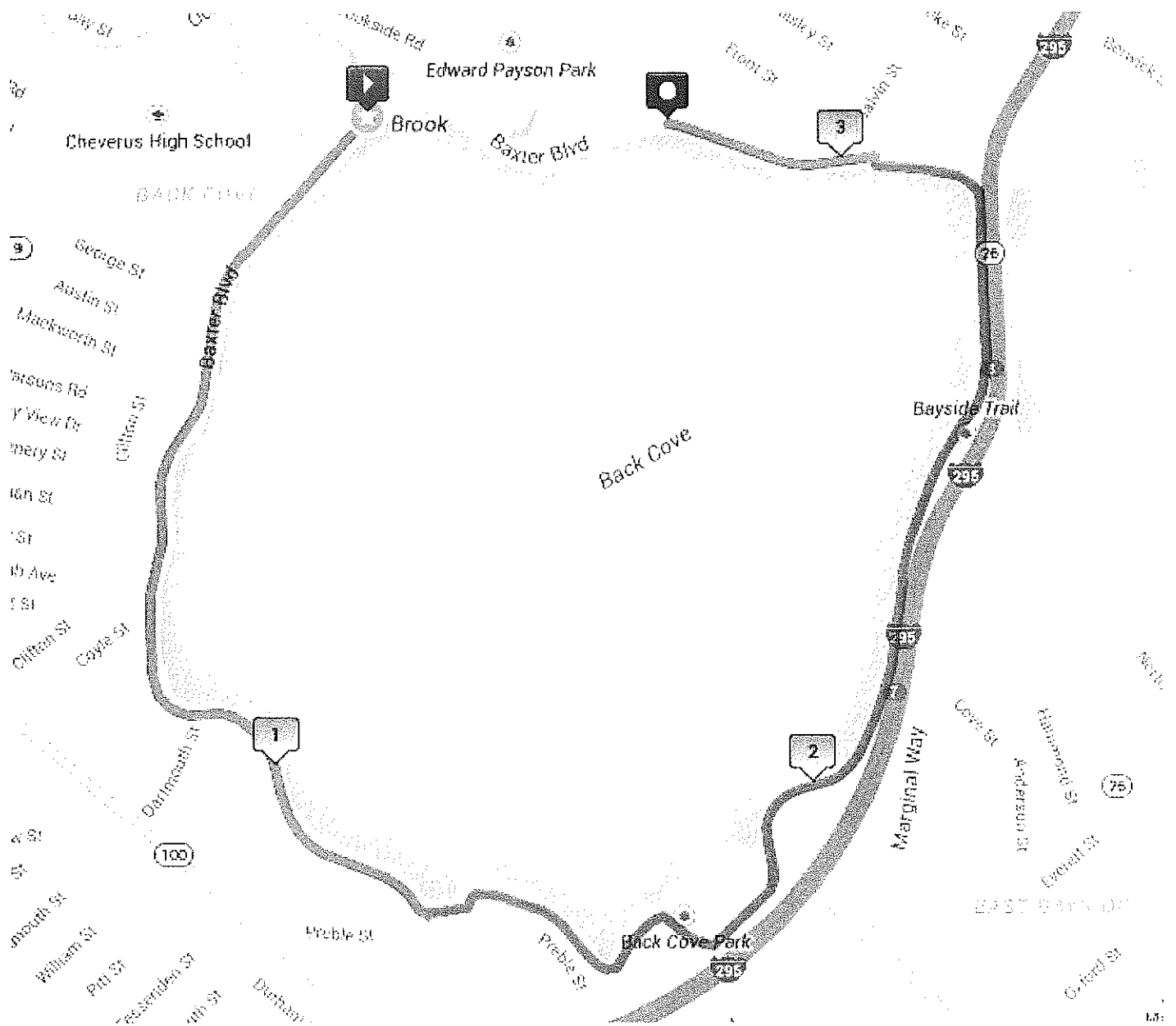
Simple Event (no registration fee): \$50/hour Event with registration or pledges & attendance 25 – 300: \$100/hr Event with registration or pledges & attendance 301+: \$200/hr Public Space/Park Security Deposit/Sound Security Deposit: \$100 - \$1000	Impact/Street Closure Fee (variable based on impact): \$0-\$500 Admin/Staff Fee (support for events): \$30/hour Porta Restroom User Fee (if attendance is 150+): \$25
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TOTAL AMOUNT(S) DUE TO PUBLIC WORKS (Please make all security deposit checks out separately)

Permit Fee for use of area: \$50 - \$200 per hour (i.e.	\$ 2000 pd	Vest/Cone Deposit: \$10 per/item	\$?
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a 3 hour event at \$50 totals \$150) includes use of elec. If your event is rained out / cancelled, the bulk of the fee is returned (however \$50 is non-refundable) Number of Hours of Use: approx. 10 hours (no charge for setup Fri night)		Barricade Deposit: \$25 per/item	
Admin/Staff Fee (support for events): \$30/hour	\$?	Public Space / Park Security Deposit: Sound Security Deposit \$100 - \$1000	\$ 500 pd
Key Deposit: \$50 per key	\$	Other (Porta-Restroom User Fee: \$25, etc.)	\$ 25 pd - if unit not rented for Preble Lot
Impact/Street Closure Fee (variable based on impact): \$100-\$500	\$?		

FOR OFFICE USE ONLY									
DATE REC'D APPLICATION	1-6-2016	DATE REC'D INSURANCE	NEED	PERMIT FEE AMT REC'D	\$ 2000 pd	SECURITY DEPOSIT	\$ 500 pd		
PAYMENT TYPE									
VISA	\$	MC	\$	CK #	566 567 568	CK AMOUNT	\$ 2000 500 25	CASH AMT	\$



Craft Brew Races Portland

Saturday June 25, 2016

12:00PM – 4:00PM (Race Start at Noon)

Start / Finish on Baxter Blvd – route goes counterclockwise around Back Cove.

*Order 171-15116
Tab 8 3-7-16*

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
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JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER DECLARING JULY 9, 2016
AS THE ALLAGASH STREET FAIR FESTIVAL**

ORDERED, that July 9, 2016 is hereby declared to be the Allagash Street Fair Festival, sponsored by Allagash Brewing Company; and

BE IT FURTHER ORDERED, that in the Allagash Street Fair Festival area shall be Industrial Way from Riverside Street for approximately 1,000 feet to the Office Max Parking Lot at 125 Industrial Way and Allagash Brewing Company property and adjacent business properties, and that Festival area will be reserved for festival attendees, musicians, performers and event staff; and

BE IT FURTHER ORDERED, that the following street shall be closed to traffic:

Industrial Way from Riverside to the Office Max Parking Lot at 125 Industrial Way; and

BE IT FURTHER ORDERED, that vehicles in violation of the "no parking" signs in the Festival area shall be towed at owner's expense; and

BE IT FURTHER ORDERED, that the Allagash Street Fair Festival area shall be closed to licensed street vendors as provided in §19-17 of the City Code; and

BE IT FURTHER ORDERED, that the City Manager is authorized to issue a revocable permit to Allagash Brewing Company under §25-27 of the City Code to conduct said Festival, subject to the direction and control of the Acting City Manager and to the following specific conditions:

1. Allagash Brewing Company shall defend, indemnify and hold harmless the City of Portland, its officers and employees, from and against all claims arising out of or resulting from the Festival and/or use of City streets and property for said Festival, and shall procure and maintain public liability insurance in the minimum amount of \$400,000 per occurrence for personal or bodily injury, death or property damage and covering the obligation of indemnification hereunder. Allagash Brewing Company shall provide the City with a certificate showing evidence of such insurance and showing the City as an additional insured on said insurance;
2. No alcoholic beverages may be sold on the streets or public property during the Festival within the Festival area but on private property there will be beer gardens restricted to people 21-years-old and older staffed by private security and Allagash Brewing Company staff and subject to meeting all liquor licensing requirements;

3. Conditions for use of grounds and requirements for food service, vending sales, and other items specified in an operating agreement issued from the Recreation & Facilities Management Department, shall be adhered to;

5. Allagash Brewing Company shall have sole authority over which vendors may participate in the Festival and may charge a fee to vendors for the opportunity to vend at the Allagash 20th Anniversary Street Fair Festival;

6. In addition, the City Clerk's Office shall charge the usual fees for licensing food vendors, street goods vendors, and other needed licenses for the Festival to those vendors the Organizer has agreed shall participate; and

7. City Departments will provide services at the Allagash Street Fair Festival, and Allagash Brewing Company will reimburse City Departments for the costs; and

BE IT FURTHER ORDERED, that the City Manager is authorized to waive fees and to issue such other temporary licenses, including licenses for food service establishments, as may be required by the City Code, provided that all other applicable Code requirements for the operation of the Festival have been met.



Gregory A. Mitchell
Director, Economic Development Department

TO: Jon Jennings, City Manager
FROM: Robert Leeman, Acting Director of Public Works
DATE: February 22, 2016
RE: Council Agenda Item – Allagash Street Fair

I am requesting that the following order be placed on the next City Council agenda:

Order declaring Saturday, July 9, 2016, as the Allagash Street Fair Festival

Allagash Brewing Co. has asked to host a neighborhood block party/festival that would be held on Saturday, July 9, 2016, from 1pm-6pm. This will be a ticketed event (\$20 adults, children under 12 free), and expected attendance is 2,000 people. The event includes entertainment such as live music from several local bands. Eight breweries will be on site (stations set up on private property), along with food trucks and restaurant vendors.

A fenced perimeter will be set up around the festival grounds (which has expanded this year to include the street itself as well as the area businesses). Organizer's staff (and private security staff) will ensure that only 21+ wrist banded attendees will be able to purchase and consume alcohol. Organizer is obtaining the necessary "beer tasting" license from the state/city for serving beer, as well as other licenses from the city for the food vendors, large tents, stages and other aspects of the event.

Industrial Way (at Riverside Street) would be closed to traffic for about 1000ft, to the Office Max parking lot at 125 Industrial Way. Businesses in the closed section of street have endorsed the event (with the exception of Leavitt & Parris, which organizers are still talking to). City staff met with organizers, March 3, to discuss details and traffic management, which will consist of event staff-monitored barricades positioned at the intersection of Industrial Way and Riverside Street, as well as across the street at 125 Industrial Way, and security staff monitoring the fenced areas at Industrial Way businesses.

Unified Parking will provide a shuttle service for attendees of the festival, and the Bicycle Coalition of Maine will assist with bicycle parking. Organizers will use the Portland Color building as the turnaround for the shuttle drop-off and pick-up (as they did last year).

At least four Police Officers are required to be on site, as well as three City EMS staff (with ambulance). Organizers will cover the cost of city staff.

In order for the **Allagash Street Fair** to be held, a portion of Industrial Way needs to be barricaded to vehicle traffic and the entire area fenced off (21+ participants will be able to walk in the festival area with open beer containers). The Festival Zone is Industrial Way (from Riverside Street to 125 Industrial Way), as well as the businesses properties abutting Industrial Way.

(continued)



Gregory A. Mitchell
Director, Economic Development Department

The Festival area will be closed to street vendors pursuant to Section 19-17 of the Portland City Code and is reserved for the use of Allagash Brewing Company for the purpose of conducting the Festival, subject to the direction and control of the City Manager.

**Vehicles in violation of the "no parking" signs in the Festival
Zones shall be towed (at owner's expense).**

Also, the City Manager is authorized to issue a revocable permit under Section 25-27 of the Municipal Code to Allagash Brewing Company for the use of the above-described area for said Festival, subject to the following conditions:

- Allagash Brewing Company shall indemnify the city and hold it harmless from and against all claims arising out of activities during said events, and shall take out and maintain public liability insurance coverage in the amount of at least **\$400,000** per occurrence for personal or bodily injury, death or property damage for said purpose. This insurance certificate will also list the City of Portland as an additional insured in regards to the Allagash Street Fair and its activities,
- Alcohol will only be permitted in the service area and on Industrial Way (Festival Zone), during said Festival (the alcohol area has been expanded this year to include the street),
- City Council approves the service of alcohol in the designated "beer gardens" which are on private properties (grass area and parking lot areas of Allagash and participating Industrial Way businesses), pending a license from the State is issued to the festival organizer,
- Conditions for use of grounds and requirements for food service, vending sales, tents, stages, and other items specified in a permit issued from Public Works Event Office, shall be adhered to,
- City Clerk's Office will charge the usual fees for licensing food vendors, street goods vendors, and other needed licenses for the Festival,
- Police Officers and city EMS staff will be hired by organizers (Allagash Brewing Company), and
- Allagash Brewing Company shall have sole authority over participating vendors at the Festival and may charge a fee to vendors for the opportunity to vend at the Allagash Street Fair Festival.

The City Manager is also authorized to issue such other temporary licenses and temporary permits, including licenses for food service establishments and permits for sales of non-food related items, as may be required by the Portland City Code, provided that all applicable requirements of said code have been met, regarding the operation of said event.

(continued)

Portland, Maine

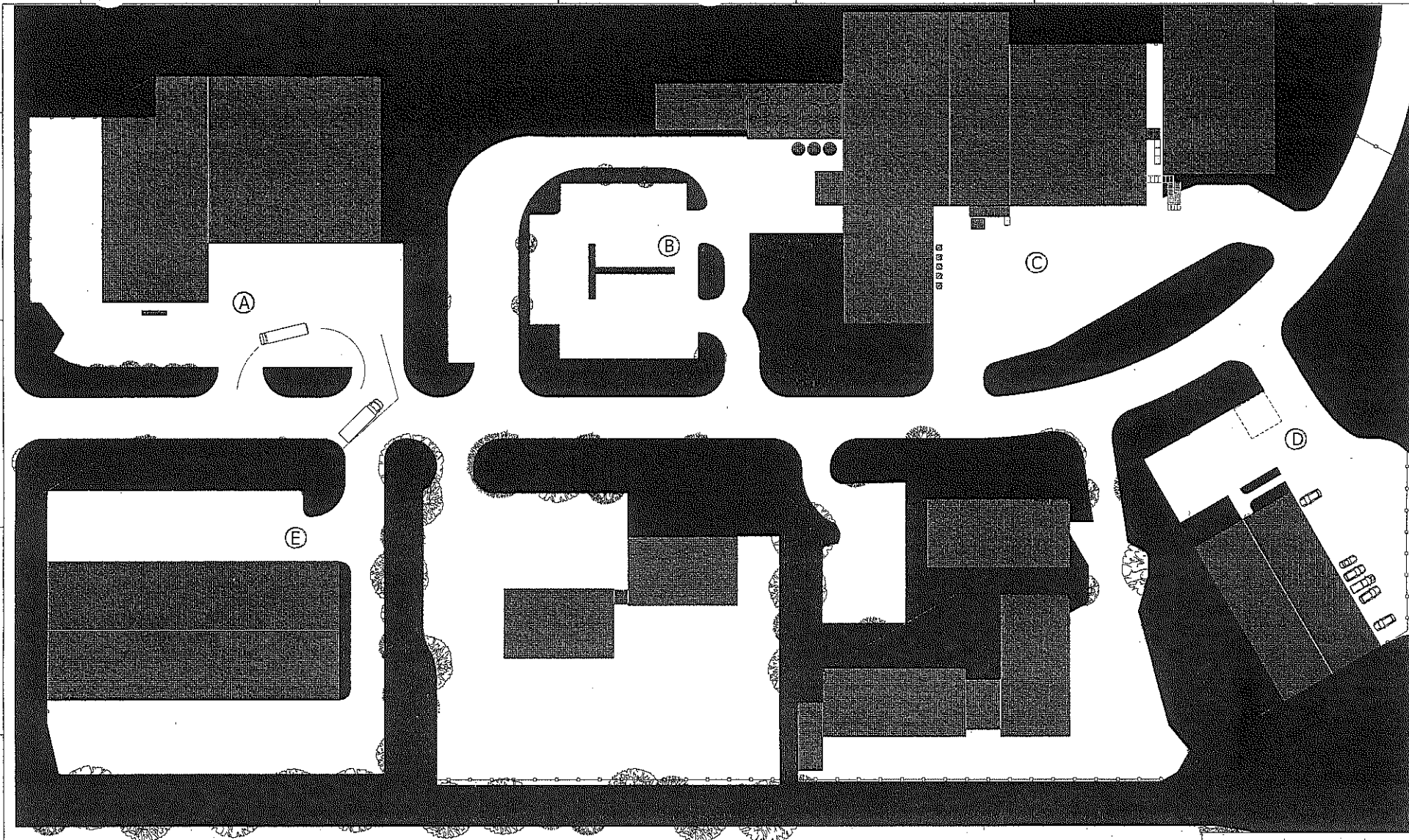


Yes. Life's good here.

Gregory A. Mitchell
Director, Economic Development Department

Document prepared by Ted Musgrave, PW Event Coordinator

Date: February 22, 2016



KEY:	
Ⓐ	SHUTTLE SERVICES
Ⓑ	BEER GARDENS 1, 2 & 3
Ⓒ	BEER GARDEN 4
Ⓓ	CRAFTS & BEER GARDEN 6
Ⓔ	BEER GARDEN 5
PERIMETER SNOW FENCE ————	

OVER ALL SITE PLAN
SCALE 1/32"=1'-0"

LEAVITT PARRIS ARCHITECTS	
THIS PLAN IS THE PROPERTY OF LEAVITT & PARRIS. ALL RIGHTS RESERVED.	
DRAWN BY: LJS	DATE: 02-10-2016
DRAWING TITLE: ALLAGASH EVENT - STREET FAIR SITE PLAN 50 INDUSTRIAL WAY, PORTLAND	
PROJECT:	CLIENT:
SIZE: C.	DRAWING NUMBER: L&PXX0000
SCALE: As Noted	SHEET: 1 of 6



CITY OF PORTLAND, DEPARTMENT OF PUBLIC WORKS
PUBLIC PARK & SPACE APPLICATION (3 pages)

55 Portland St. ~ Portland ~ ME ~ 04101

207-874-8826 / 8751 (Event Office) ~ Fax 207-874-8816

typ@portlandmaine.gov

For uses of city property, there are typically: 1. fees charged for use of the area

2. a security deposit required 3. insurance required

(There may be fees due and applications required from other City Departments)

TODAY'S DATE	1.13.16 Revised: 1-21	ORGANIZATION NAME	Allagash Brewing Company					
ORGANIZATION ADDRESS	50 Industrial Way		CITY	Portland	STATE	Maine	ZIP	041
CONTACT NAME(S)	Charli McGrew		TITLE: Events Coordinator					
HOME #	WORK 878-5385		CELL			FAX		
EMAIL	cmcgreg@allagash.com		EMAIL					

PARK AREA OR PUBLIC SPACE REQUESTED	Industrial Way, Portland				
EVENT DAY & DATE(S)	SAT 7-9-16		RAIN DAY & DATE(S)	NONE	
EVENT START TIME (i.e. set-up start time)	8am	EVENT END TIME (i.e. when event cleanup is complete)	8pm	ACTUAL START & END TIME OF EVENT	1-6pm

EVENT NAME	EXPECTED ATTENDANCE
Allagash Street Fair	2,000

DESCRIPTION OF EVENT:

This year we would like to host a street fair (**closing down Industrial Way from Riverside intersection to 125 Industrial Way**) with neighborhood breweries, local food vendors, crafts and music. It will be very similar to last year. Many canopies will be set up in the street. Stage with music will be set up in Allagash parking lot and other parking lots. A large tent will be set up on private property.

The only change we would like to see is to snow fence the entire perimeter of the event so that guests are free to roam the event with a beer rather than being in barricaded beer gardens. We would use wrist bands to distinguish under aged guests and would have ample private security and local PD patrolling the area.

A \$20 fee will be charged to enter the grounds (to include 1 free drink ticket).

A MEETING with City Staff and organizers will be held on 1-22-16 to discuss logistics (including needs for PD/EMS support)

IS THERE A REGISTRATION FEE/PLEDGES COLLECTED FOR THIS EVENT?	Please check: ☒ FEE ☐ PLEDGES	
IF YES FOR FEES, HOW MUCH?	FEE	\$ 20.00

WHAT WILL BE THE ANTICIPATED NEED FOR PARKING AND WHAT IS YOUR PARKING PLAN? *We would like to do the same thing as last year and park cars at local schools and have them shuttled over.*

PLEASE CHECK OFF AND ANSWER:

PLEASE SEE ATTACHED FEE SCHEDULE / DEPT. INFORMATION IF YOU ANSWER YES

	X-YES	X-NO	X-NOT SURE
Are you setting up a canopy(s) ?		X	
* Do you wish to set up a tent(s)? (a canopy or tent larger than 10x10 needs to be approved by Public Works and a Tent Permit issued from Inspections Division; please call Inspections - 874-8703 - for information on their application process / PLEASE give them at least a 2-week notice). Public Works will contact Inspections once the tent location is approved so	X		

	that the Tent Permit Application may go forward. State size(s): 20x30 Exact Location(s) of Tent Placement Requested: In Allagash parking lot as well as Bissell Brothers lot. In order to drive tent stakes into the ground, DIG SAFE must be contacted: 888-344-7233.			
	Will you be setting up tables and/or chairs ? How many tables: 30 chairs: 300	X		
	Are other items or equipment being placed on City property ? Please List:			
*	Will there be refreshments at the event? Yes Do you wish to sell food ? Yes (If so, you will need approval from Public Works) List food and drink: We will be doing the same as last year and asking local food trucks and vendors to come and prepare and sell food. A Temporary Food Service License (from the City Clerk's Office) is needed, even if food is given away (and even if it is pre-packaged). PLEASE give the Clerk's Office at least a 2-week notice (874-8557).	X		
*	Do you wish to sell non-food items (like T-shirts, crafts, cd's, etc.) ? If so, you will need approval from Public Works, and you will need to apply for a Street Goods Vendor License(s) at the City Clerk's Office (874-8557). List items you wish to sell: T-shirts	X		
*	Are you setting up a PA (sound) system ? Are you planning on having Amplified Music ? Band ? YES DJ ? If so, your event requires a concert license from the City Clerk's Office (874-8557).	X		
*	Will your event require electricity ?	X		
*	Are you planning on bringing a Grill for a Barbecue ? Only Gas Grills (NO CHARCOAL) are allowed in parks/public spaces. Grilling is subject to weather conditions and possibly Fire Dept. review.	X		
*	Will the event require reserved parking spaces / parking meters ?		X	
*	Will your event need safety vests, signs, barricades and/or cones ? Please list what you would like to borrow: Barricades and signs are borrowed from Public Works, Customer Service.		X	
*	Will your event require street closures ? (See above under "Description of Event")	X		
*	Will your event require Police assistance?	X		
*	Will your event require Fire/EMS assistance?	X		
	Will your event require porta-restroom rental(s) or need existing porta-restrooms cleaned?	X		

INSURANCE CERTIFICATE INFORMATION				
*	Will your event require liability Insurance?	X		
♦ If you answered yes, please have "City of Portland, Maine" listed as an additional insured on the certificate, in this way: certificate must say either: A) "the policy actually is endorsed to name the City of Portland as an Additional Insured" and a copy of the endorsement must come to the City of Portland with the certificate, or B) "the policy already includes an endorsement, such as the General Liability Expansion Endorsement, by which the City of Portland is, in fact, automatically made an additional insured." A Certificate which merely has a box checked under 'Addl Insr,' or which merely states The City of Portland is named as an Additional Insured, will not be acceptable. The amount of coverage must be shown on the certificate, and the minimum coverage amount is \$400,000. Please have your insurance company email a copy to Public Works: email to tvm@portlandmaine.gov.				

PUBLIC WORKS POLICIES

ELECTRICITY
All cords in the public way must be covered by rugs, mats or orange cones to avoid public hazard. If weather is inclement (drizzle, rain, snow, etc.) we require that you not use electricity, unless all connections and equipment are covered and protected from the elements.

BARBECUES - GAS GRILLS ONLY
Only GAS GRILLS are allowed in parks/public spaces – i.e. No Charcoal Grills or open burning. Barbecuing must first be approved by Public Works and is subject to weather conditions, and possible further review by the Fire Dept. Grills must be set up away from children's activities. You must bring a fire extinguisher with you to the grilling area.

PORTA-RESTROOMS / BATHROOM FACILITIES
Porta-Restrooms are required for large events and events where food is being served.

TRASH
All groups must abide by our Carry In/ Carry Out Policy. Please bring extra trash bags and/or trash receptacles and remove all trash. You will need to haul all of your trash out of the park/public space or forfeit the security deposit(s). Please recycle whenever possible, (please do not use Styrofoam - it is NOT recyclable). The area will be checked following your event and if the park is clean and conditions for use adhered to, your security deposit will be returned to you. Thank you in advance!

PARKING ON GRASS AREAS / SIDEWALKS / ILLEGALLY PARKED VEHICLES

Public Works has a strict policy that prohibits vehicles from parking on grass areas/sidewalks/park streets (unless specifically approved by city staff). \$10 will be deducted from your security deposit for each vehicle parked on grass/sidewalk areas or vehicles parked illegally. **Any tire ruts/damage to the grass areas would mean a forfeit of your security deposits.**

SMOKE-FREE ZONES

By city ordinance, smoking a cigar, cigarette, pipe, electronic cigarette, electronic cigar, electronic pipe, or other similar product that relies on vaporization or aerosolization, is prohibited at and within 20 feet of the following outdoor recreation and event areas: downtown squares and plazas, trails, parks, playgrounds, beaches, and athletic facilities. Please make sure you pass this information along to participants / spectators at the event.

NOTIFICATION

Please keep a copy of this permit on site at all times. City staff may require proof of permit.

REVOCABLE PERMIT

- ♦ The City reserves the unconditional right to control or cancel events to protect and/or prohibit damage to public property.
- ♦ The City reserves the unconditional right to revoke or revise an issued permit.

I HAVE READ AND UNDERSTAND ALL OF THE ABOVE POLICIES

TYPE INITIALS

CM

DATE

1/13/16

ASSUMPTION OF RISK & LIABILITY

Users of the area agree to accept the grounds in an "as is" condition and shall be responsible for all risk and liability in using the park/public space area for the said event. By returning this form, (should permission be granted to use city property), the above parties agree to indemnify and hold harmless the City of Portland, its employees and agents, from and against all claims arising out of activities during said event.

I have read the Assumption of Risk & Liability Agreement

TYPE INITIALS

CM

DATE

1/13/16

FEE SCHEDULE – UPDATED JULY 1, 2015

Fees are tiered and assigned based on the level of demand placed on City resources and impact on City infrastructure.

Simple Event (no registration fee): \$50/hour
 Event with registration or pledges & attendance 25 – 300:
 \$100/hr
 Event with registration or pledges & attendance 301+: \$200/hr
 Public Space/Park Security Deposit/Sound Security Deposit:
 \$100 - \$1000

Impact/Street Closure Fee (variable based on impact): \$0-\$500
 Admin/Staff Fee (support for events): \$30/hour
 Porta Restroom User Fee (if attendance is 150+): \$25

CREDIT CARD INFORMATION

Visa or MasterCard Number

Exp Date (Mon/Yr)

CREDIT CARD WILL ONLY BE CHARGED FOR SECURITY DEPOSIT(S) AS NEEDED

PLEASE MAKE CHECKS PAYABLE TO "CITY OF PORTLAND"

- ♦ Please make out security deposit checks separate from permit fees.

TOTAL AMOUNT(S) DUE TO PUBLIC WORKS (Please make all security deposit checks out separately)

Permit Fee for use of area: \$50 - \$200 per hour (i.e. a 3 hour event at \$50 totals \$150) includes use of elec. If your event is rained out / cancelled, the bulk of the fee is returned (however \$50 is non-refundable) Number of Hours of Use:	\$???	Vest/Cone Deposit: \$10 per/item Barricade Deposit: \$25 per/item	\$???
Admin/Staff Fee (support for events): \$30/hour	\$ N/A?	Public Space / Park Security Deposit: Sound Security Deposit \$100 - \$1000	\$???
Key Deposit: \$50 per key	\$ N/A	Other (Porta-Restroom User Fee: \$25, etc.)	\$ N/A
Impact/Street Closure Fee (variable based on impact): \$100-\$500	\$???		

FOR OFFICE USE ONLY

DATE REC'D PLICATION	1-13-2016	DATE REC'D INSURANCE	NEED	PERMIT FEE AMT REC'D	\$ NEED	SECURITY DEPOSIT	\$ NEED	
PAYMENT TYPE								
VISA	\$	MC	\$	CK #	CK AMOUNT	\$	CASH AMT	\$

*Order 172-15/16
Tab 9 3-7-16*

ETHAN STRIMLING (MAYOR)
BELINDA RAY (1)
SPENCER THIBODEAU (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

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

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

Chipotle Mexican Grill of Colorado, LLC d/b/a Chipotle Mexican Grill #2603. Application for a Class IV (Beer) License with Outdoor Dining on Private Property at 195 Kennebec St., Suite 1.

Chipotle Mexican Grill of Colorado, LLC d/b/a Chipotle Mexican Grill #2603. Application for a Class IV (Beer) License with Outdoor Dining on Private Property at 195 Kennebec St., Suite 1.

Application submitted on 2/2/16. New City and State applications. New construction.



CHIPOTLE MEXICAN GRILL, INC.
1401 WYNKOOP STREET, SUITE 500
DENVER, CO 80202

TEL 303.595.4000
WEB chipotle.com

January 28, 2016

City of Portland
City Clerk's Office
389 Congress Street
Portland, ME 04101
(207) 874-8557



RE: Intent to Apply for Class IV Malt Liquor License
Chipotle Mexican Grill of Colorado, LLC
d/b/a Chipotle Mexican Grill #2603

Dear Mayor Strimling and City Council Members,

This Chipotle Mexican Grill restaurant, located at 195 Kennebec Street, Suite 1, Portland, ME 04101, is scheduled to open in April of 2016. With City Council approval, we would like to apply for a Class IV Malt Liquor License.

Enclosed you will find the following items related to our application:

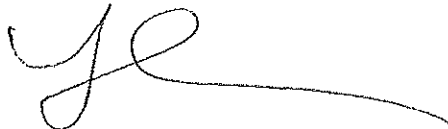
- Application for Food Service Establishment with Alcoholic Beverage License
- State Application for a Liquor License
 - Supplemental Information for Chipotle Mexican Grill of Colorado, LLC
 - Supplemental Information for Chipotle Mexican Grill, Inc.
- Premises Diagram
- Menu
- List of Owners and Managers for Chipotle Mexican Grill of Colorado, LLC
- List of Officers and Board Members for Chipotle Mexican Grill, Inc.
- Outdoor Dining Application submitted on 9/21/2015
- Check in the amount of \$35.00 for New Application Fee
- Check in the amount of \$70.00 for Legal Advertisement Deposit
- Check in the amount of \$63.00 for three (3) background checks on Officers and Managers of Applicant

If our application is approved, I would greatly appreciate you returning the signed State Application to our corporate office at the following address:

Chipotle Mexican Grill
Attn: Licensing
1401 Wynkoop Street, Suite 500
Denver, CO 80202

If you have any questions or require any additional information, please do not hesitate to contact me at (303) 605-1036 or via email at achristiansen@chipotle.com.

Sincerely,

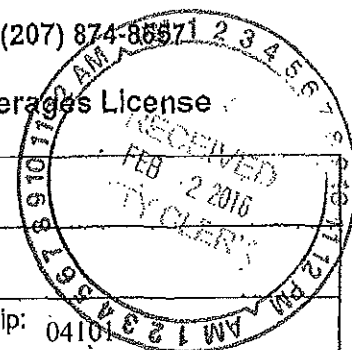
A handwritten signature in black ink, appearing to read 'Lexie', with a long horizontal flourish extending to the right.

Lexie Christiansen
Licensing Coordinator



Office of the City Clerk • 389 Congress St. • Portland, ME 04101 • (207) 874-8557

Application for Food Service Establishment with Alcoholic Beverages License



Business Information.			
Business Name (d/b/a):	Chipotle Mexican Grill #2603	Phone:	TBD
Location Address:	195 Kennebec Street, Suite 1, Portland, ME		Zip: 04101
If new, what was formerly at this location:	N/A		
Mailing Address:	Attn: Licensing, 1401 Wynkoop St. #500, Denver, CO		Zip: 80202
Contact Person:	Lexie Christiansen, Licensing	Phone:	(303) 605-1036
Contact Person Email:	Licensing@Chipotle.com		
Manager of Establishment:	Justin Bryant	Phone:	(207) 274-4908
Owner of Premises (Landlord):	Vandelay Industries, LLC		
Address of Premises Owner:	17 South Street, 3rd Floor, Portland, ME		Zip: 04101

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

Name of Owner(s)	Date of Birth	Residence Address

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

Corporate Name		Corporate Mailing Address	
Chipotle Mexican Grill of Colorado, LLC		Attn: Licensing, 1401 Wynkoop St. #500, Denver, CO Zip: 80202	
Contact Person:	Lexie Christiansen, Licensing	Phone:	(303) 605-1036
Principal Officers	Title	Date of Birth	Residence Address
M. Steven Ells	LLC Manager	9/12/1965	40 Fifth Avenue, New York, NY 10011
Montgomery F. Moran	LLC Manager	8/12/1966	1305 Old Tale Road, Boulder, CO 80303

About Your Establishment

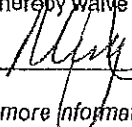
Class of Liquor License:	Class IV (beer only/tavern license)	
Type of food served:	Mexican	
Please circle all that will be served:	☒ Beer ☐ Wine ☐ Liquor	
Projected percentage of sales:	Generated from Food: 99.5%	Generated from Alcohol: 0.5%
Hours & days of operation:	Monday - Sunday, 11am - 10pm	

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?	☒
If No, please explain:	
Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment?	☒
If yes, give the distance:	
Will you have entertainment on the premises? (If yes, a Supplemental Application for Dancing & Entertainment is required.)	☒
Will you permit dancing on the premises?	☒
Will you permit dancing after 1:00 a.m.?	☒
Will you have outside dining? (If yes, an Outdoor Dining Application is required)	☒
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)?	☒
If yes, please list: # of pinball machines: <u>N/A</u> # of amusements: <u>N/A</u> # of pool tables: <u>N/A</u>	
What is your targeted opening date? <u>4/16/2016</u>	
Does the issuance of this license directly or indirectly benefit any City employee(s)?	☒
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?	☒
If Yes, please list business name(s) and location(s):	
Is any principal officer under the age of 21?	☒
Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of law?	☒
If Yes, please explain:	

I, Montgomery F. Moran 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 LLC Manager Date 1/15/2016

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

**BUREAU OF ALCOHOLIC BEVERAGES
DIVISION OF LIQUOR LICENSING & ENFORCEMENT
8 STATE HOUSE STATION
AUGUSTA, ME 04333-0008**



Promise by any person that he or she can expedite a liquor license through influence should be completely disregarded.
To avoid possible financial loss an applicant, or prospective applicant, should consult with the Division before making any substantial investment in an establishment that now is, or may be, attended by a liquor license.

DEPARTMENT USE ONLY	
LICENSE NUMBER:	CLASS:
DEPOSIT DATE	
AMT. DEPOSITED:	BY:
CK/MO/CASH:	

PRESENT LICENSE EXPIRES N/A

INDICATE TYPE OF PRIVILEGE: ☐ MALT ☐ SPIRITUOUS ☐ VINOUS

INDICATE TYPE OF LICENSE:

- | | |
|--|---|
| ☐ RESTAURANT (Class I,II,III,IV) | ☐ RESTAURANT/LOUNGE (Class XI) |
| ☐ HOTEL-OPTIONAL FOOD (Class I-A) | ☐ HOTEL (Class I,II,III,IV) |
| ☐ CLASS A LOUNGE (Class X) | ☐ CLUB-ON PREMISE CATERING (Class I) |
| ☐ CLUB (Class V) | ☐ GOLF CLUB (Class I,II,III,IV) |
| ☐ TAVERN (Class IV) | ☐ OTHER: _____ |

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

1. APPLICANT(S) - (Sole Proprietor, Corporation, Limited Liability Co., etc.) Chipotle Mexican Grill of Colorado, LLC DOB: N/A			2. Business Name (D/B/A) Chipotle Mexican Grill #2603		
DOB:					
DOB:			Location (Street Address) 195 Kennebec Street, Suite 1		
Address Attn: Licensing, 1401 Wynkoop St. #500			City/Town	Portland	State ME Zip Code 04101
			Mailing Address Attn: Licensing, 1401 Wynkoop St. #500		
City/Town	State	Zip Code	City/Town	State	Zip Code
Denver	CO	80202	Denver	CO	80202
Telephone Number (303) 222-2524		Fax Number (303) 390-5620	Business Telephone Number		Fax Number
			TBD		TBD
Federal I.D. # 84-1485992			Seller Certificate # TBD - Applied		

EMAIL ADDRESS: Licensing@Chipotle.com

3. If premises is a hotel, indicate number of rooms available for transient guests: N/A
4. State amount of gross income from period of last license: ROOMS \$ N/A FOOD \$ N/A LIQUOR \$ N/A
5. Is applicant a corporation, limited liability company or limited partnership? YES ☐ NO ☒
- If YES, complete Supplementary Questionnaire
6. Do you permit dancing or entertainment on the licensed premises? YES ☐ NO ☒
7. If manager is to be employed, give name: Justin Bryant
8. If business is NEW or under new ownership, indicate starting date: 4/16/2016
- Requested inspection date: _____ Business hours: Monday - Sunday, 11am - 10pm

9. Business records are located at: 8800 Lyra Drive, Suite 150, Columbus, OH
10. Is/are applicant(s) citizens of the United States? YES ☒ NO ☐
11. Is/are applicant(s) residents of the State of Maine? YES ☐ NO ☒
12. List name, date of birth, and place of birth for all applicants, managers, and bar managers. Give maiden name, if married:
Use a separate sheet of paper if necessary.

Name in Full (Print Clearly)	DOB	Place of Birth
Please see attached list.		

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

13. 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: _____

14. Will any law enforcement official benefit financially either directly in your license, if issued?

Yes ☐ No ☒ If Yes, give name: _____

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

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

Vandelay Industries, LLC, 17 South Street, 3rd Floor, Portland, ME 04101

17. Describe in detail the premises to be licensed: (Supplemental Diagram Required) See attached premise diagram.

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

YES ☐ NO ☒ Applied for: State Health License applied for 9-21-15

19. 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? .5 miles Which of the above is nearest? Church

20. 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: _____

The Division of Liquor Licensing & Inspection 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: Denver, Colorado on January 15th, 2016
Town/City, State Date

Please sign in blue ink

Signature of Applicant or Corporate Officer(s)

Montgomery F. Moran

Print Name

Signature of Applicant or Corporate Officer(s)

M. Steven Ells

Print Name



State of Maine
Bureau of Alcoholic Beverages
Division of Liquor Licensing and Enforcement

For Office Use Only:

License #: _____

Date Filed: _____

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

For information required for Questions 1 to 4, this information is on file with the Maine Secretary of State's office and must match their record information. Please clearly complete this form in its entirety.

1. Exact legal name:

Chipotle Mexican Grill of Colorado, LLC

2. Other business name for your entity (DBA), if any:

Chipotle Mexican Grill #2603

3. Date of filing with the Secretary of State: 6/10/2009

4. State in which you are formed: Colorado

5. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine: 6/10/2009

6. List the name and addresses for previous 5 years, birth dates, titles of officers, directors and list the percentage ownership: (attached additional sheets as needed)

Name	Address for Previous 5 years	Date of Birth	Ownership %
M. Steven Ells	40 Fifth Avenue, NY, NY 10011	09/12/1965	0
	92 Jane Street, New York, NY 10014		
Montgomery F. Moran	1305 Old Tale Road, Boulder, CO 80303	08/12/1966	0
	7705 Fairview Road, Boulder, CO 80303		

7. Is any principal person involved with the entity a law enforcement official?

Yes ☐ No ☒

8. If Yes to Question 7, please provide the name and law enforcement agency:

Name: _____ Agency: _____

9. 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 ☒

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

Name: _____

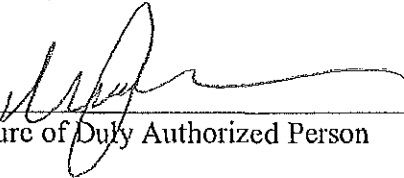
Date of Conviction: _____

Offense: _____

Location of Conviction: _____

Disposition: _____

Signature:


Signature of Duly Authorized Person

1/15/2016
Date

Montgomery F. Moran
Print Name of Duly Authorized Person

If you have questions regarding the legal name or assumed (DBA) name on file with the Secretary of State's office, please call (207) 624-7752. The SOS can only speak to the information on file with their office, not the filing of this supplemental information – please direct any questions about this form to our office at the number below.

Submit Completed Forms To: Bureau of Alcoholic Beverages and Lottery
Operations Division of Liquor Licensing Enforcement
8 State House Station Augusta, Me 04333-0008
Telephone Inquiries: (207) 624-7220
Fax: (207) 287-3434
Email Inquiries: MaineLiquor@Maine.gov

Chipotle Mexican Grill of Colorado, LLC
d/b/a Chipotle Mexican Grill #2603

List of Officers, Owners, and Managers

Name	Position	DOB	Current Address	Ownership %
Chipotle Mexican Grill, Inc.	Owner	N/A	1401 Wynkoop Street #500, Denver, CO 80202	100%
M. Steven Ells	LLC Manager	9/12/1965	40 Fifth Avenue, New York, NY 10011	0%
Montgomery F. Moran	LLC Manager	8/12/1966	1305 Old Tale Road, Boulder, CO 80303	0%
Justin Bryant	General Manager	1/13/1991	6 Elm Street, Apt 5, Hallowell, ME 04347	0%



State of Maine
Bureau of Alcoholic Beverages
Division of Liquor Licensing and Enforcement

For Office Use Only:

License #: _____

Date Filed: _____

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

For information required for Questions 1 to 4, this information is on file with the Maine Secretary of State's office and must match their record information. Please clearly complete this form in its entirety.

1. Exact legal name:

Chipotle Mexican Grill, Inc.

2. Other business name for your entity (DBA), if any:

Chipotle Mexican Grill #2603

3. Date of filing with the Secretary of State: 6/10/2009

4. State in which you are formed: Delaware

5. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine: 6/10/2009

6. List the name and addresses for previous 5 years, birth dates, titles of officers, directors and list the percentage ownership: (attached additional sheets as needed)

Name	Address for Previous 5 years	Date of Birth	Ownership %
Please see attached list.			

7. Is any principal person involved with the entity a law enforcement official?

Yes ☐ No ☒

8. If Yes to Question 7, please provide the name and law enforcement agency:

Name: _____ Agency: _____

9. 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 ☒

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

Name: _____

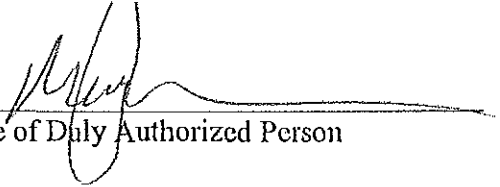
Date of Conviction: _____

Offense: _____

Location of Conviction: _____

Disposition: _____

Signature:


Signature of Duly Authorized Person

1/15/2016
Date

Montgomery F. Moran

Print Name of Duly Authorized Person

If you have questions regarding the legal name or assumed (DBA) name on file with the Secretary of State's office, please call (207) 624-7752. The SOS can only speak to the information on file with their office, not the filing of this supplemental information – please direct any questions about this form to our office at the number below.

Submit Completed Forms To:

Bureau of Alcoholic Beverages and Lottery
Operations Division of Liquor Licensing Enforcement
8 State House Station Augusta, Me 04333-0008
Telephone Inquiries: (207) 624-7220
Fax: (207) 287-3434
Email Inquiries: MaineLiquor@Maine.gov

**CHIPOTLE MEXICAN GRILL, INC
BOARD OF DIRECTORS AND OFFICERS**

Officers	
Matthew Steven Ells Co - Chief Executive Officer Chipotle Mexican Grill 1401 Wynkoop St., #500 Denver, CO 80202	Montgomery F. Moran Co - Chief Executive Officer & Secretary Chipotle Mexican Grill 1401 Wynkoop St., #500 Denver, CO 80202
Mark Crumpacker Chief Creative & Development Officer Chipotle Mexican Grill 1401 Wynkoop St., #500 Denver, CO 80202	John Hartung Chief Financial Officer Chipotle Mexican Grill 1401 Wynkoop St., #500 Denver, CO 80202
Board of Directors	
Matthew Steven Ells Chairman of the Board of Directors Chipotle Mexican Grill 1401 Wynkoop St., #500 Denver, CO 80202	Montgomery F. Moran Director Chipotle Mexican Grill 1401 Wynkoop St., #500 Denver, CO 80202
Pat Flynn 1401 Wynkoop St., #500 Denver, CO 80202	Al Baldocchi 1401 Wynkoop St., #500 Denver, CO 80202
Darlene Friedman 1401 Wynkoop St., #500 Denver, CO 80202	John Charlesworth 1401 Wynkoop St., #500 Denver, CO 80202
Neil Flanzraich 1401 Wynkoop St., #500 Denver, CO 80202	Kimbal James Musk 1401 Wynkoop St., #500 Denver, CO 80202



MEXICAN GRILL

BURRITOS, TACOS & SALADS



BURRITO

Flour tortilla with a choice of cilantro-lime rice, black or pinto beans, meat, salsa, and cheese or sour cream.
CALORIES: 350-970



BURRITO BOWL

Just like a burrito, but served in a bowl with no tortilla.
CALORIES: 160-680



TACOS

Your choice of three crispy corn, soft corn or soft flour tortillas with meat, salsa, cheese or sour cream and romaine lettuce.
CALORIES: 320-670



SALAD

Chopped romaine lettuce with choice of beans, meat, salsa and cheese, with or without chipotle-honey vinaigrette.
CALORIES: 170-780

CHICKEN

Naturally raised, marinated in our chipotle adobo, then grilled.

STEAK

Naturally raised, marinated in our chipotle adobo, then grilled.

BARBACOA

Naturally raised beef. Braised for hours, then shredded.

CARNITAS

Naturally raised pork. Braised for hours, then shredded.

SOFRITAS

Shredded organic tofu braised with chipotle chilis, roasted poblanos and a blend of aromatic spices.

VEGGIE

Includes our fresh guacamole and your choice of beans

SALSAS

Fresh Tomato (Mild)
Calories: 20

Roasted Chili-Corn (Medium)
Calories: 80

Tomatillo-Green Chili (Medium Hot)
Calories: 15

Tomatillo-Red Chili (Hot)
Calories: 40

EXTRAS

Chips & Guacamole: Serves 2 (Cal: 360 ea/720 tot).....

Chips & Salsa: Serves 2 (Cal: 295-325 ea/590-650 tot)....

Guacamole (Calories: 150).....

Chips: Serves 2 (Calories: 285 ea/570 tot).....

DRINKS

Beer (Calories: 100-170).....

Bottled Drinks (Calories: 0-280).....

Soda (Calories: 0-290).....

Kid's Drinks (Calories: 100-150).....

KID'S MENU

All Kid's Menu items served with kid's chips and a drink.

Kid's Drinks: Juice, Organic Milk (plain or chocolate)

- ① **Small Cheese Quesadilla**.....
With a side of rice and beans
Calories: 600-670
- ② **Small Meat & Cheese Quesadilla**.....
With a side of rice and beans
Calories: 650-730
- ③ **Single Taco**.....
Soft or crispy shell, and a choice of any three items (one meat or guacamole) and a side of rice.
Calories: 470-630
- ④ **Taco Kit (they build it)**.....
Choose any three ingredients (one meat or guacamole) and two soft or crispy shells. Served on a tray for easy building.
Calories: 420-610

You can also order online at chipotle.com on your iPhone or by fax.
Additional nutrition information is on the back of this menu.

NUTRITION FACTS

	Calories	Calories from Fat	Total Fat (g)	Saturated Fat (g)	Trans Fat (g)	Cholesterol (mg)	Sodium (mg)	Carbohydrates (g)	Dietary Fiber (g)	Sugar (g)	Protein (g)
Flour Tortilla (burrito)	1 ea	290	80	9	3	0	670	44	2	0	7
Flour Tortilla (taco)	1 ea	90	25	2.5	1	0	200	13	4	0	2
Crispy Taco Shell	1 ea	60	20	2	0.5	0	10	9	1	4	4
Soft Corn Tortilla	1 ea	70	5	0.5	0	0	25	13	1	0	1.5
Cilantro-Lime Brown Rice	4 oz	160	35	4	1	0	150	31	2	0	3
Cilantro-Lime White Rice	4 oz	170	40	4	1	0	200	31	0	0	2.5
Black Beans	4 oz	120	10	1	0	0	250	23	11	4	7
Pinto Beans	4 oz	115	10	1	0	5(0)	300	18.5	11	1.5	6.5
Fajita Vegetables	2.5 oz	20	5	0.5	0	0	170	4	1	2	1
Barbacoa	4 oz	170	60	7	2.5	0	60	510	2	0	4
Chicken	4 oz	190	60	6.5	2	0	115	370	1	0	1
Carnitas	4 oz	190	70	8	2.5	0	70	540	1	0	0
Steak	4 oz	190	60	6.5	2	0	65	320	2	0	1
Sofritas	4 oz	145	85	10	1.5	0	710	9.5	3	4	11
Fresh Tomato Salsa	3.5 oz	15	0	0	0	0	135	3	1	2	1
Roasted Chili-Corn Salsa	3.5 oz	80	15	1.5	0	0	410	15	3	4	3
Tomatillo-Green Chili Salsa	2 fl oz	15	5	0	0	0	230	3	1	2	1
Tomatillo-Red Chili Salsa	2 fl oz	40	10	1	0	0	510	8	4	4	2
Cheese	1 oz	100	80	8.5	5	0	30	180	0	0	0
Sour Cream	2 oz	120	90	10	7	0	40	30	2	0	2
Guacamole	3.5 oz	150	120	13	2	0	190	8	6	1	2
Romaine Lettuce (salad)	2.5 oz	10	0	0	0	0	5	2	1	1	1
Romaine Lettuce (tacos)	1 oz	5	0	0	0	0	0	1	1	0	0
Chips	4 oz	570	240	27	3.5	0	420	73	8	4	8
Vinaigrette	2 fl oz	260	220	24.5	4	0	700	12	1	11	0
Burg's Beef Bow	22 fl oz	210	0	0	0	0	45	56	0	56	0
	32 fl oz	290	0	0	0	0	60	80	0	80	0
Coca-Cola Classic	22 fl oz	180	0	0	0	0	5	50	0	50	0
	32 fl oz	260	0	0	0	0	5	71	0	71	0
Diet Coke	22 fl oz	0	0	0	0	0	20	0	0	0	0
	32 fl oz	0	0	0	0	0	25	0	0	0	0
Iced Tea	22 fl oz	0	0	0	0	0	15	0	0	0	0
	32 fl oz	0	0	0	0	0	20	1	0	0	0
Mexican Wild Lemonsade	22 fl oz	180	0	0	0	0	75	47	0	47	0
	32 fl oz	260	0	0	0	0	100	67	0	67	0
Red Tea	22 fl oz	180	0	0	0	0	25	49	0	49	0
	32 fl oz	260	0	0	0	0	35	69	0	69	0
Sprite	22 fl oz	180	0	0	0	0	40	48	0	48	0
	32 fl oz	260	0	0	0	0	60	69	0	69	0
Regular Beer	12 fl oz	153	0	0	0	0	14	13	0	0	0
Light Beer	12 fl oz	103	0	0	0	0	14	6	0	0	0
Santa Margarita	12 fl oz	230	0	0	0	0	5	25	0	21	0
Petra Margarita	12 fl oz	240	0	0	0	0	5	25	0	21	0

KIDS MENU NUTRITION FACTS

	Calories	Calories from Fat	Total Fat (g)	Saturated Fat (g)	Trans Fat (g)	Cholesterol (mg)	Sodium (mg)	Carbohydrates (g)	Dietary Fiber (g)	Sugar (g)	Protein (g)
Flour Tortilla (taco)	1 ea	90	25	2.5	1	0	200	13	4	0	2
Crispy Taco Shell	1 ea	60	20	2	0.5	0	10	9	1	4	4
Soft Corn Tortilla	1 ea	60	5	0.5	0	0	25	13	1	0	1.5
Cilantro-Lime Brown Rice	2.5 oz	100	20	2.5	0.5	0	95	19	1.5	0	2
Cilantro-Lime White Rice	2.5 oz	110	25	2.5	0.5	0	130	19	0	0	2
Black Beans (taco)	1.3 oz	40	5	0.5	0	0	80	8	4	0	2
Black Beans (bowl)	2.5 oz	80	5	0.5	0	0	160	14	7	4	4
Pinto Beans* (taco)	1.3 oz	40	5	0.5	0	0	100	6	3.5	5	2
Pinto Beans* (bowl)	2.5 oz	75	5	0.5	0	5	190	11.5	7	1	4
Fajita Vegetables	.8 oz	5	0	0	0	0	60	1	0	1	0
Barbacoa	1.3 oz	60	20	2.5	1	0	20	170	1	0	0
Chicken	1.3 oz	60	20	2	0.5	0	40	120	0	0	0
Carnitas	1.3 oz	60	25	2.5	1	0	25	180	0	0	0
Steak	1.3 oz	60	20	2	0.5	0	20	110	1	0	0
Sofritas	1.3 oz	50	30	3	0.5	0	230	3	1	1	3
Fresh Tomato Salsa	1.2 oz	5	0	0	0	0	160	1	0	1	0
Roasted Chili-Corn Salsa	1.2 oz	25	5	0.5	0	0	140	5	1	1	1
Tomatillo-Green Chili Salsa	.7 fl oz	5	0	0	0	0	80	1	0	1	0
Tomatillo-Red Chili Salsa	.7 fl oz	15	5	0.5	0	0	170	3	1	1	1
Cheese (taco)	.3 oz	35	25	3	1.5	0	10	60	0	0	0
Cheese (small quesadilla)	1 oz	100	80	8.5	5	0	30	180	0	0	0
Sour Cream	.7 oz	40	30	3.5	2.5	0	15	10	1	0	1
Guacamole	1.2 oz	50	40	4.5	0.5	0	60	3	2	0	1
Romaine Lettuce (taco)	<1 oz	5	0	0	0	0	0	1	4	0	0
Chips	1 oz	140	60	7	1	0	110	18	2	1	2

If you have a food allergy, please speak to the owner, manager, chef or your server.

Nutritional content may vary because of variations in portion size or recipes, changes in growing seasons, or differences in the sources of our ingredients. We may update this chart from time to time. The Dietary Guidelines for Americans recommend limiting saturated fat to 20 grams and sodium to 2,300 milligrams for a 2,000 calorie diet. Recommended limits may be higher or lower depending upon daily calorie consumption.



Outdoor Dining Permit Application

If you or the property owner owes real estate or personal property taxes or user charges on any property within the City, payment arrangements must be made before permits of any kind are accepted.

Check all that apply: ☒ New Application for Outdoor Dining or ☐ Renewal Application for Outdoor Dining ☒ Application for dining on Private Property ☐ Outdoor Dining in a Public Park ☐ If Renewal, are there changes to previous permit? ☐ Outdoor Dining in a Historic District ☐ Yes ☐ No ☐ Petition for Exception for Special Circumstances ☐ Liquor License required? City Clerk signature for liquor license approval: _____ OR Pending Council Vote: _____		
Location Name & Address: <u>CHIPOTLE MEXICAN GRILL</u> <u>195 KENNEBEC STREET, PORTLAND, ME 04101</u>	Chart <u>MAP # 34</u> Block <u>C-9</u> Lot <u>C-9</u>	
Owner Name: <u>CHIPOTLE MEXICAN GRILL</u> <u>TEHAMA</u> Owner Phone #: <u>303.595.4000</u>	Total Square Footage of Proposed Outdoor Dining Area: ¹ <u>484 SF</u>	
Applicant <u>*must*</u> be owner or lessee. Name: <u>CHIPOTLE MEXICAN GRILL</u> Address: <u>1401 WYNKOOP ST, SUITE 500</u> City, State & Zip: <u>DENVER, CO 80202</u> E-Mail: <u>LICENSING@CHIPOTLE.COM</u>	Fee: \$80 (Public-Annual) \$125 (Private 1X) Total Sq. Ft.: <u>484</u> Sq. Ft. Fee: (sq ft x \$2) \$ _____ (sq ft x \$6 for public parks) Total Fees: \$ _____ (Permit not issued until all fees are paid)	
Current use: <u>N/A - CHIPOTLE WILL BE THE FIRST TENANT IN A NEW STEAK BUILDING</u> Business name: <u>CHIPOTLE MEXICAN GRILL</u> Seating area dimensions: <u>A 20'-8" x 31'-3"</u> How many chairs? <u>26</u> How many tables? <u>9</u> ☐ Yes Alcohol is served. ☒ No Alcohol being served.		
Who should we contact: <u>TIFFANY CLAPPER</u> Phone: <u>617.487.8770</u> <u>RED ARCHITECTURE + PLANNING</u> Address: <u>855 GRANDVIEW AVE, SUITE 295, COLUMBUS, OH</u> E Mail: <u>TCLAPPER@REDARCHITECTS.COM</u> <u>43205</u>		

Please submit all of the information outlined in the Outdoor Dining Application Checklist. Failure to do so will result in the automatic denial of your permit. New applications and renewals are reviewed on an annual basis and should be submitted no later than June 1st.

In order to be sure the City fully understands the full scope of the project, the Planning and Development Department may request additional information prior to the issuance of a permit. For further information visit us on-line at www.portlandmaine.gov, stop by the Building Inspections office, room 315 City Hall or call 874-8703.

I hereby certify that I am the Owner of record of the named property, or that the owner of record authorizes the proposed work and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in this application is issued, I certify that the Code Official's authorized representative shall have the authority to enter all areas covered by this permit at any reasonable hour to enforce the provisions of the codes applicable to this permit.

Signature of Applicant: Tiffany Clapper (Agent) Date: 9.18.15

¹ In no instance shall the total square footage of dining area equal more than 10% of park space, unless the applicant receives a waiver from the Director of Parks and Recreation or his or her designee.

WORLD TRADE CENTER

REST ROOM 101

WOMEN 112

OFFICE 109

KITCHEN 108

COOKING 107

COOKING 106

COOKING 105

COOKING 104

COOKING 103

COOKING 102

COOKING 101

COOKING 100

COOKING 99

COOKING 98

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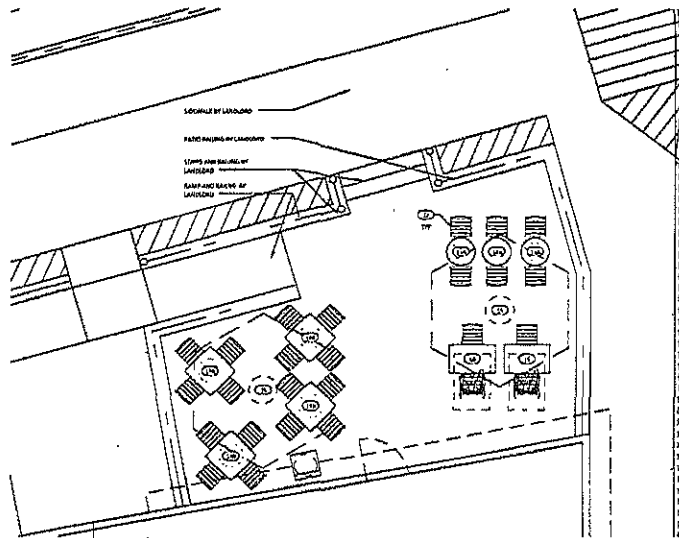
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Chipotle Mexican Grill #2603

195 Kennebec St., Ste 1



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

JANICE GARDNER
389 CONGRESS STREET
ROOM 203
PORTLAND, ME 04101

Transaction Response #: MIQ99C766702

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2016-02-11) :
Inquiries Name(s) MONTGOMERY F MORAN (1966-08-12)

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)

JANICE GARDNER
389 CONGRESS STREET
ROOM 203
PORTLAND, ME 04101

Transaction Response #: MIQ99C766701

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2016-02-11) :
Inquiries Name(s) MATTHEW S ELLS (1965-09-12)

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)

JANICE GARDNER
389 CONGRESS STREET
ROOM 203
PORTLAND, ME 04101

Transaction Response #: MIQ99C766705

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2016-02-11) :
Inquiries Name(s) JUSTIN BRYANT (1991-01-13)

NO MATCH WAS FOUND FOR YOUR REQUEST.



Office of the City Clerk
Katherine L. Jones, CCM, City Clerk

February 22, 2016

Chipotle Mexican Grill
Attn: Licensing
1401 Wynkoop St., Suite 500
Denver, CO 80202

Re: Chipotle Mexican Grill of Colorado, LLC d/b/a Chipotle Mexican Grill #2603.
Application for a Class IV (Beer) License with Outdoor Dining on Private Property at
195 Kennebec St., Suite 1.

Dear Ms. Christiansen,

This letter shall serve as a reminder of the Public Hearing before the Portland City Council on **Monday, March 7th, at 5:00 p.m.** for the review of your application for a Class IV (Beer) License with Outdoor Dining on Private Property at 195 Kennebec St., Suite 1. 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 issue could be postponed.

Should you have any questions or concerns, please do not hesitate to contact our office directly at (207) 874-8557 or by email, BL@portlandmaine.gov

Sincerely,

Janice Gardner
Business License Administrator
207-874-8557
bl@portlandmaine.gov

From: Gary Hutcheson
To: Licensing, Business
Date: 2/23/2016 8:29 PM
Subject: Re: Fwd: Chipotle Mexican Grill #2603 - 195 Kennebec St.

I approve.
Lt. Gary L. Hutcheson
Portland Police Department
109 Middle St
Portland, Maine 04101
(207) 756-8295

>>> Business Licensing 02/22/16 11:09 AM >>>
Hi,

Could I have your feedback on this one? Back-up is due today.

Thanks,
Janice

>>> Business Licensing 2/10/2016 4:00 PM >>>
Hello,

For your approval:

Chipotle Mexican Grill of Colorado, LLC d/b/a Chipotle Mexican Grill #2603 has submitted an application for a Class III & IV FSE and Outdoor Dining on Private Property at 195 Kennebec St., Suite 1. They wish to go before Council on March 7th. This is a new building.

Contact: Lexie Christiansen - 303-605-1036 or licensing@chipotle.com

Officers:
Matthew Steven Ells, d.o.b. 9/12/65, of NY
Montgomery F. Moran, d.o.b. 8/12/66, of CO

Manager:
Justin Bryant, d.o.b. 1/13/91, of Hallowell.

The application is attached. Please put feedback into UI.

Thanks,
Janice

Business License Administrator
bl@portlandmaine.gov
207.874.8557

Com 7-15/16
Tab 10 3/7/16

MEMORANDUM
City Council Agenda Item

DISTRIBUTE TO: City Manager, Mayor, Anita LaChance, Sonia Bean, Danielle West-Chuhta, Nancy English, Julianne Sullivan

FROM: Sally L. DeLuca, Director of Recreation and Facilities Management

DATE: February 18, 2016

SUBJECT: *Portland Vision and Implementation Plan*

SPONSOR: Steering Committee (Parks and Land Bank Commissions), Public Works, Planning and Recreation/Facilities Management

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

COUNCIL MEETING DATE ACTION IS REQUESTED: None

1st reading _____ Final Action _____

Can action be taken at a later date: ____ Yes ____ ☒ No (If no why not?)
Communication Only

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

I. ONE SENTENCE SUMMARY

Wolfe Tone from the Trust for Public Lands will present a summary of the work done by the City Staff, Steering Committee and Community partners to develop the Portland Vision and Implementation Plan.

We are requesting 20 minutes for this presentation.

II. AGENDA DESCRIPTION

Communication from the City Manager of the results from the work done by above mentioned groups.

III. BACKGROUND

IV. INTENDED RESULT AND OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND THAT WILL NOT APPEAR IN THE AGENDA DESCRIPTION

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

Prepared by: Sally L. DeLuca

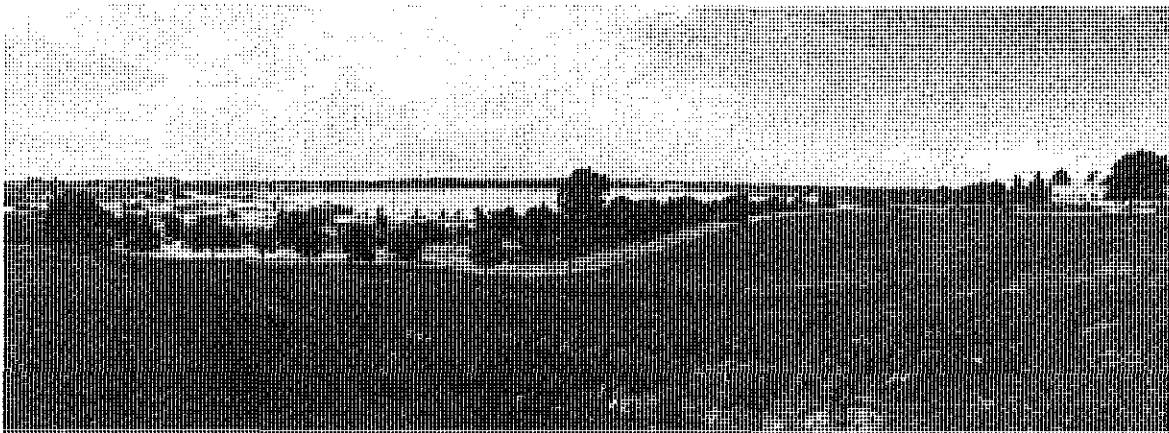
Date: 2.22.16

Bean/agendarequestmemo/rev 11/2015



Portland Open Space Vision and Implementation Plan

January 2016



Portland Open Space Vision and Implementation Plan

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Vision Statement

Portland commits to sustain and build on our historic system of parks, trails, and open spaces to enhance our quality of life, protect our environment, and promote the economic well-being of our remarkable city by the sea.

The Current Open Space System

For purposes of this document, a park is defined as publicly owned open space that is intended to be used for passive or active recreation; and open space is defined as parks, playgrounds, active playing fields, community gardens, plazas/squares, cemeteries, trails, natural areas or golf courses, and joint-use school playgrounds.¹

The City of Portland currently has a total of 63 parks encompassing 721 acres. This includes 3 parks on Peaks Island and 1 park on Cliff Island. Please see Appendix 1 for a list of the parks. The City of Portland also has 24 additional land bank properties, covering 483 acres, and Portland Trail Properties has an additional 104 acres. In sum, the City of Portland's parks, land bank properties, and trails are 4% of the city's total area.

All parks within Portland essentially fit into one or more of these categories, or types:²

- A signature park is a historically significant park that serves the entire city. Examples include the Western Promenade and Deering Oaks Park. There are 195 acres of signature parks in Portland.
- A neighborhood park is a park with a minimum of 0.5 acres, and neighborhood parks typically have three or more amenities (such as a basketball court, playground, or open lawn). One example is Fox Field. There are 48 acres of neighborhood parks in Portland (joint-use school playgrounds have been excluded from this category).
- A pocket park is a park smaller than 0.5 acres. Pocket parks typically have two or fewer amenities. Examples include Fessenden Park and Post Office Park. There are 4.7 acres of pocket parks in Portland.³
- A plaza/square is a public area of primarily hardscape that typically serves as a place for community gatherings or events. Examples of a plaza/square are Congress Square Park and Longfellow Square. There are 2.1 acres of plazas/squares in Portland.
- Cemeteries are also an open space type. There are 210 acres of cemeteries in Portland.
- A special use area includes parks and open spaces for special uses. One example is Quarry Run Dog Park. There are 3.6 acres of special use areas in Portland.
- A natural area is an area where the landscape is not manicured. Examples include Mayor Baxter Woods and Oat Nuts Park. There are 155 acres of natural areas in Portland.

¹ The items on this list are not mutually exclusive. For example, many parks contain playgrounds. Many of the open spaces are very complex in terms of uses and characteristics.

² The park typologies within Portland are not mutually exclusive. For example, some parks are categorized as both a cemetery and signature park. Therefore, the sum of each park typology will not equal the total acreage of parks in Portland.

³ There are 3 parks included here that are slightly larger than 0.5 acres, such as Bedford Park (.52 acres).

- A joint-use school playground is a playground that is on public school property yet still receives investment by the Department of Public Works or Department of Recreation and Facilities. There are 11 schools included in this classification, with a total of 83 acres of joint-use playgrounds.

The map in Appendix 2 illustrates where these 63 parks are located across the city, including the islands. Among other things, parks in Portland play a critical role in providing water access for residents, and can be considered corridors and access points to water bodies that make Portland so special. This map also illustrates visually that 86% of Portland's residents are within ½ mile of a park or trail. A park needs assessment conducted in 2007 and a subsequent assessment conducted in 2014 reveal that residents are most interested in walking, hiking and biking trails. In the 2014 survey responses, nearly half of the responses showed interest in having more open space and natural areas.

The map in Appendix 3 shows that when considering just the trail system, there are some significant gaps in service near the middle of the study area and in a few other neighborhoods. According to a GIS analysis, 38,265 people live within a half mile (10-minute) walk of a trail. This represents 59% of Portland's total population.

The maps in Appendix 4 illustrate population density in Portland. Analyzing population density is the first step in evaluating whether the densest neighborhoods are underserved by parks. In the first map in this series, the block groups in red are the densest areas in Portland. The other maps in Appendix 4 are density analyses for demographic subgroups (low-income residents, seniors, and children).

The map in Appendix 5 illustrates a dynamic ½ mile service area (10 minute walking distance) for parks and trails to evaluate park equity in Portland. The Park Equity result combines and weights the following demographic profiles (featured in Appendix 4):

- 40% = population density (people per acre);
- 20% = density of individuals in households with income less than \$35,000;
- 20% = density of kids age 19 and under; and
- 20% = density of seniors age 64 and up.

The half mile service areas on this map (Appendix 5) use the street network to determine walkable distance. This analysis takes into consideration barriers such as highways, interstates, rivers, and railroads that would need a bridge or underpass in the street network to create access across them. This map illustrates that all of the high population density areas are served by close-to-home parks. In sum, the park equity map does not reveal tremendous inequities.

However, these mapping analyses do not consider the quality of the parks, and park quality is extremely important. The Trust for Public Land conducted a Rapid Park Quality Assessment in the summer of 2015 to provide a basic comparison of park quality between all of the parks in Portland. Due to budget constraints, The Trust for Public Land was not able to incorporate all aspects of park quality. Rather, the survey tool was designed to provide a snapshot of the public parks' accessibility, active amenities, educational uses, supportive facilities, aesthetics, safety and maintenance conditions. More detail is provided in the sections that follow and Appendix 7.

Goals for the Portland Park and Open Space System

These are the critical short and long-term goals for the Portland Park and Open Space System. Many of these thematically carry over from Portland's *Green Spaces and Blue Edges Plan (2001 Update)*. Together, these represent the diversity of services that the open space system can and should provide to Portland's residents and visitors.

- Provide an **inter-connected** system of parks, trails and open spaces
- Provide ready access for all **residents** to the wide range of recreation and open space opportunities (thinking broadly park and open space types and amenities)
- Provide **high quality, well designed** parks and open spaces
- Have **well-maintained and safe** parks and open spaces.
- Provide appropriate spaces for **people of all ages** close to home
- Provide spaces for **multi-generational** use
- Promote **appropriate** uses of parks and open spaces
- Promote engaged **citizen stewardship**
- **Preserve the intrinsic values** of the park and open space system
- **Proactively program** our public spaces
- Make spaces available for **special events** (as site appropriate)
- Provide **free opportunities for physical activity**
- Preserve **historic resources** in the parks and open space system
- Promote **biological diversity and wildlife habitat** (as site appropriate)
- Provide opportunity for **growing food**
- **Manage stormwater** on site
- Sustain the systems' breadth and quality with **capital planning, adequate funding and staffing**

More specific goals for each of these are identified in Recommendation 4 below.



Recommendations

1. Re-structure park and recreation functions within city government

Currently, Department of Public Works' (DPW) parks and open space functions are spread primarily across the Cemeteries, Forestry, and Districting Divisions; some functions are further fragmented across other divisions. This presents strategic challenges for conducting parks and open space investment planning. Additional challenges presented by separating parks and recreation functions across two departments include:

- Confusion and inefficiency:
 - The current "split" requires separate planning and budgeting processes, sometimes for the same properties.
 - It demands additional time from public stakeholders to track and involve themselves in two separate processes.
 - Departments are forced to compete for attention of decision makers.
- Infrastructure responsibilities:
 - DPW is overwhelmed with maintenance and repair of sewers and roads which generate greater sense of urgency than parks and open space investment priorities.
 - These infrastructure priorities yield a departmental structure that does not benefit a unified system of planning or maintenance of parks and open space.
- Compared to Recreation and Facilities Department, DPW is in a chronically weaker position to make strategic planning decisions and secure needed investments to maintain park quality and recreational assets.

Change is needed to assure appropriate public engagement, greater transparency, and accountability.

Therefore, the city should make a structural change, either:

- (A) Create a dedicated "Parks and Open Space Unit" within DPW or**
- (B) Integrate parks and recreation functions (currently split across DPW and Recreation and Facilities) into a single department.**

2. Follow this protocol for involving commissions and general public in annual funding decision-making process

There is tension and confusion in the annual city budgeting process related to park and recreation function funding requests. Portland's non-government park advocates have sometimes been at odds with city staff about funding priorities, resulting in submission of competing funding requests to City Manager. Portland's non-government parks and recreation interest groups are a powerful asset. Many contribute diligent and thoughtful work to support planning and maintenance in Portland's most treasured places. It is critical the city acknowledge, support and take advantage of these efforts. Simultaneously, city staff and leaders must maintain a comprehensive view of Portland's parks and open spaces system and tackle difficult decisions with fairness in order to meet diverse needs of all city residents.

Consequently, a new process is needed for developing and evaluating funding requests for park and recreation-related items. The new process can apply to both capital and operating requests. Below are two alternative recommended processes to correspond to the two potential departmental structure changes:

- (A) Dedicated "Parks and Open Space Unit" within DPW or
- (B) Integration of the parks and recreation functions of DPW and Recreation and Facilities into one department.

The new process should follow effective budget development practices as outlined by the International City/County Management Association (ICMA). **The recommended process – detailed in the pages that follow – will create more transparent, collaborative, predictable, and objective decision-making that takes advantage of the expertise of all stakeholders.**

Key features in this new process include:

- The City Manager should notify all departments about any changes in the city's project selection methodology early in the new fiscal year. It is an ICMA best practice for cities to make their decision-making criteria known at the start of the budget cycle.
- In order to allow adequate time for an effective and transparent process, the cycle begins in summer, immediately after the prior year's budget is adopted, though key aspects of public engagement occur in the late summer/early fall.
- When the Final Recommended Schedule of Investments is submitted in January of each year, all departments should include submission request forms (paper or electronic) for each project for which funds are requested for the next fiscal year. This provides departments with an opportunity to justify projects according to citywide project prioritization criteria and helps the City Manager and City Council make well-informed decisions.

What follows are two alternative budget process timelines:

**Budget Process Alternative A corresponds to Developmental Structure Alternative A, as described above. This alternative proposes improvements to the process that involves the Department of Public Works, the Parks Commission, and the Land Bank Commission; it assumes no changes to the process of the Department of Recreation and Facilities.*

**Budget Process Alternative B* corresponds to *Developmental Structure Alternative B*. This alternative is applicable to a situation in which administration of the city's parks and recreation functions are integrated into one department.

Note: the two processes described next are nearly identical. The differences between the two are underlined in Budget Process Alternative B.



BUDGET PROCESS ALTERNATIVE A:

1. In September: **Department of Public Works** issues call to Friends and Neighborhood Groups and the public for project ideas. Request includes budget estimates to establish appropriate expectations.
2. In October: **Department of Public Works** compiles a list of candidate projects. Sources:
 - a. Portland Open Space Vision and Implementation Plan, Parks Master Plans, and other relevant plans
 - b. Unfunded requests from prior years
 - c. Departmental knowledge
 - d. Requests from Friends Groups and other stakeholders
3. In October: **Land Bank Commission** reviews available budget; creates candidate projects list and a 5-year investment schedule, with justifications; and sends this information to Parks Commission and Department of Public Works.
4. By November 1: **Department of Public Works** submits material to the Parks Commission and Land Bank Commission. Include:
 - a. Full list of candidate projects
 - b. An initial draft of project priorities and a 5-year investment schedule, with justifications
 - c. Revenue estimates (also submitted to the City Manager in November)
5. In November: **Parks Commission** and **Land Bank Commission** work together to review and hear project proposals by undertaking these steps:
 - a. Review materials submitted by the Department of Public Works and public stakeholders
 - b. Jointly conduct a public meeting to hear from Departments, Friends Groups, Neighborhood Associations, and other interested Stakeholders
 - c. Make changes or additions to the list of candidate projects if desired
6. In December: **Department of Public Works** assigns weights to the project prioritization criteria and scores all candidate projects, including additions proposed through Step #5; creates a ranked list of project priorities for consideration by the Parks Commission.
7. In first two weeks of January: **Parks Commission** produces *Parks Commission Recommended Schedule of Investments* for the Department of Public Works, based on all findings from hearings, project rankings, and schedule considerations. These recommendations are provided to the Department of Public Works for review and revisions prior to the Department's submission to City Manager*
8. In last two weeks of January: **Department of Public Works** submits the final departmental recommendation to the City Manager's office; attaches the Parks Commission Recommendation with an explanation for any deviations.

BUDGET PROCESS ALTERNATIVE B:

1. In September: **Department of Parks and Recreation** issues call to Friends and Neighborhood Groups, the schools and associated committees, and the public for project ideas. Request includes budget estimates to establish appropriate expectations.
2. In October: **Department of Parks and Recreation** compiles a list of candidate projects. Sources:
 - a. Portland Open Space Vision and Implementation Plan, Parks Master Plans, Facilities Master Plans, Athletic Facilities Task Force Plan, and other relevant plans
 - b. Unfunded requests from prior years
 - c. Departmental knowledge
 - d. Requests from Friends Groups, schools, and other stakeholders
3. In October: **Land Bank Commission** reviews available budget; creates candidate projects list and a 5-year investment schedule, with justifications; and sends this information to Parks Commission and Department of Parks and Recreation
4. By November 1: **Department of Parks and Recreation** submits material to the Parks Commission and the Land Bank Commission. Include:
 - a. Full list of candidate projects
 - b. An initial draft of project priorities and a 5-year investment schedule, with justifications
 - c. Revenue estimates (also submitted to the City Manager in November)
5. In November: **Parks Commission** and **Land Bank Commission** work together to review and hear project proposals by undertaking these steps:
 - a. Review materials submitted by the Department of Parks and Recreation and public stakeholders
 - b. Jointly conduct a public meeting to hear from Departments, Friends Groups, Neighborhood Associations, and other interested Stakeholders
 - c. Make changes or additions to the list of candidate projects if desired
6. In December: **Department of Parks and Recreation** assigns weights to the project prioritization criteria and scores all candidate projects, including additions proposed through Step #5; creates a ranked list of project priorities for consideration by the Parks Commission.
7. In first two weeks of January: **Parks Commission** produces *Parks Commission Recommended Schedule of Investments* for the Department of Parks and Recreation, based on all findings from hearings, project rankings, and schedule considerations. These recommendations are provided to the Department of Parks and Recreation for review and revisions prior to the Department's submission to City Manager*
8. In last two weeks of January: **Department of Parks and Recreation** submits the final departmental recommendation to the City Manager's office; attaches the Parks Commission Recommendation with an explanation for any deviations.

* *The Parks Commission should submit their recommended schedule of (ranked) investments (a.k.a., funding priorities) to the Department, not to the City Manager. The Department should submit the Final Recommended Schedule of Investments (FRSI) to the City Manager. In advance of submitting their FRSI to the City Manager, the Department should make a reasonable effort to align their FRSI with the Park Commission and Land Bank Commission recommended funding priorities; however, the Department is free to exercise professional judgment in determining its FRSI. The Department's FRSI submitted to the City Manager should include the Parks Commission and Land Bank Commission recommended funding priorities as an attachment with an explanation if they are not aligned.*

3. Adopt these project selection criteria for prioritizing park and recreation projects for funding (capital and operating)

This section presents a second recommendation aimed at improving the annual parks and recreation budget process. **To foster more objective and strategic decision making at the departmental level, the city should adopt a set of parks, open space, and recreation project funding prioritization criteria.⁴ The recommended criteria are contained in Appendix 8.** The 20 project prioritization criteria in Appendix 8 should be assigned appropriate weights and used to rank projects by the Department of Public Works, the Department of Recreation and Facilities, the Parks Commission, and the Land Bank Commission.⁵ The exercise of ranking candidate projects according to these criteria will support the departments in issuing a strategic and defensible request to the city.

Portland's 2015 CIP *Project Request Scoring Criteria* – along with the criteria used by other cities and parks and recreation departments – were considered as this recommendation was developed. This departmental recommendation is intended to align with future citywide budgeting criteria. Please see Appendix 8 for the list of criteria.

4. Adopt these 15 measurable objectives that collectively provide a desired level of service for Portland's open space system

What follows is a set of measurable objectives (otherwise known as "level of service") that Portland should strive to achieve. Meeting these objectives will bring Portland much closer to accomplishing the vision (see Section I) and goals (see Section III).

Though some of the values associated with Portland's parks and open spaces are hard to quantify, there are many that can be measured and tracked over time, and this level of service recommendation focuses on those values that can be monitored. Monitoring these services will help the Department of Public Works and the Department of Recreation and Facilities – as well as the public they serve – evaluate both the short-term and long-term success of the park system. These objectives were developed over the course of several meetings with a stakeholder group and a steering committee (see Section G below for more information). **The measurement of services chart in Appendix 9 provides specific monitoring recommendations.**

- *Quality of open spaces:* Each successive deployment of the rapid park quality assessment reveals a significant increase in the overall average park score (average of all park scores)
- *Maintenance of open space:* For each park, create a maintenance plan. Eventually, each plan to take into account desired outcomes for that park.

⁴ For background on the concepts that shaped this proposal, see the Portland Open Space Vision and Implementation white paper entitled *Capital Project Evaluation and Prioritization Methods: Examples from Other Cities* (June 22, 2015).

⁵ A recommendation regarding a weighting is not included this time, in part because there are no city-wide criteria in effect, and it would be prudent to align with the city-wide criteria.

- *Accessibility of open space amenities:* When there is widespread public demand for certain types of amenities in parks, Portland will work to increase the distribution of those types of amenities across the park system.
- *Accessibility of open space:* Every resident lives within a 10 minute walk of a park or open space.
- *Public dollars raised for the open space system:* Advocate for public funding to help meet the financial needs of the open space system
- *Private dollars raised for the open space system:* Advocate for private funding to help meet the financial needs of the open space system
- *Accessibility of parks for people with disabilities:* Parks comply with federal standards
- *Programming of open spaces:* Create and manage appropriate programming for parks
- *Forest and ecological health:* Increase ecological health of open spaces by developing and implementing forest management plans for wooded parcels or modeling ecologically sound landscape management practices
- *Open space inter-connectivity:* Strive for better connectivity on foot or by bicycle
- *Crime prevention in open spaces:* Prevent criminal activity in open spaces
- *Trees:* Improve health and expand the number of trees in parks
- *Citizen stewardship:* Increase and track volunteerism
- *Community gardens:* The number provided meets the demand
- *Events:* Track and manage the registered events in open spaces.



5. Close the gap revealed by the service area maps.

Through spatial data collection and GIS analysis, The Trust for Public Land evaluated Portland's performance on two of the accessibility goals listed above. The analysis reveals some deficits.

Compared to other cities of comparable density, Portland is doing very well in terms of having parks near where people live. The Trust for Public Land only has data for the 100 largest US cities and because Portland is considerably smaller in population and size than those cities,⁶ it is difficult to make direct comparisons. Nevertheless, Portland can be compared to a few of the large cities of similar density. Portland has an impressive 87% of residents within a half-mile walk of a park (see Appendix 3 for visual representation of the parts of the city that are served); big cities of comparable density had 86% (Lincoln, Nebraska), 34% (San Antonio, Texas) and 60% (Tampa, Florida). Note that having parks within walking distance of the vast majority of residents – albeit a terrific accomplishment – are only part of the story. It's just as important that the parks themselves are high quality and beloved by residents.

Also, 13% of residents are not yet served by a park. Portland should consider opportunities to put new parks in the areas that are currently underserved. Attention should be especially paid to opportunities relating to new walking and biking trails (linear parks!), given the strong public sentiment in favor of more trails. This was the #1 need identified in the 2007 community needs survey and the 2014 community needs survey (See Appendix 10 for brief description and comparison of these two needs surveys). The map in Appendix 3 shows gaps in the trail network. More analysis will be needed to determine the location for new trails. Portland Trails and Friends groups can have important role in supporting this effort.

6. As the park system expands over time, the City and its partners should improve the distribution of amenities.

Besides evaluating the distribution of park space generally, it is also important to consider the distribution of specific park amenities across the park system. As stated above, one goal should be that: "when there is widespread public demand for certain types of amenities in parks, Portland will work to increase the distribution of those types of amenities across the park system."

For example, consider community gardens. The map in Appendix 6 shows the ½ mile service area for community gardens. There are many parts of Portland that do not have community gardens within ½ mile. In fact, the current service area is about 3 miles; or put another way, there is currently a community garden within 3 miles of [nearly] all residents.⁷ There is also a long wait-list for community garden plots. The city and its partners should increase the distribution of community gardens (e.g., a better and feasible near-term distribution goal might be to have a community garden within 2 miles of every resident – there would be more gardens and they would be closer to home for more residents.) The city can use GIS computer mapping to consider scenarios and arrive at a target provision of service for the distribution of community gardens to satisfy the unmet demand.

⁶ Portland has 66,318 residents (2013 Census estimate) and 20 square miles of land (adjusted area minus airport).

⁷ The City has a community garden on Peaks Island, but none on the other islands. This is one of map gaps showing on the map in Appendix 6.

With accurate data and good GIS tools brought in-house through this Visioning process, the City now also has a spatially distribution analysis of playgrounds, dog parks, designated historic features, and athletic fields.

7. Other system-wide improvements needed for Portland's parks

In the summer of 2015, The Trust for Public Land deployed a rapid assessment tool to evaluate the public parks' accessibility, active amenities, educational uses, supportive facilities, aesthetics, safety and maintenance conditions.⁸ The evaluation is a snapshot-in-time analysis to help assess comparative current park quality; provide a baseline for future evaluations; and inform decision-making regarding future investments.

The Trust for Public Land understands that this tool has its limitations. Here are a few:

- Evaluated parks in only one season;
- Did not include every open space property, only parks;
- Did not evaluate design aspects of the parks or surrounding land-use conditions;
- Did not evaluate ADA accessibility;
- Did not provide a detailed assessment of every detail of each park (average time spent in each park was 30 minutes and no interviews with residents, park advocates, or city staff were conducted to inform this evaluation).

Due to resource constraints and the city's desire to have a replicable and affordable tool, The Trust for Public Land developed and deployed this rapid park quality assessment tool to evaluate Portland's parks. The Trust for Public Land has not reached the conclusion that any one park is a "success" -- or that further investments are not needed in the parks with high scores.

The rapid assessment was useful in that it revealed trends and from those The Trust for Public Land, in consultation with the Steering Committee and Stakeholder Group, has developed overarching recommendations for city staff and other stakeholder consideration for improving the quality of Portland's parks.

System-wide improvements needed for the parks:

- Promote park character** - Although the majority of parks are in good condition, many lack individuality or character; and taken together, the park system therefore lacks

⁸ The process: A total of 61 parks were evaluated over five days in mid-June by three staff from The Trust for Public Land. Staff began with a three hour calibration session to assure consistent scoring between evaluators. The Trust for Public Land staff then met with two City of Portland staff to field review the tool with them. (Note: the tool had already been vetted with city staff and a subcommittee of the Portland Open Space Vision and Implementation Stakeholder Group, and it had been previously beta tested in the field). Each park was evaluated for the following factors: accessibility; trails; park features; supportive facilities; safety and maintenance; and aesthetics. For parks that did not have certain features present (e.g. trail, active amenity, supportive facility, or other recreational and educational use), a N/A was denoted. All parks have the possibility of scoring a perfect score [5.0]. Additionally, while on site, the evaluators documented obvious (to the lay-person) location-specific deficiencies. In tandem with the rapid assessment tool, evaluators also created an inventory of amenities (by amenity category) for each park and recorded the precise public access points for all 61 parks using GPS. This information is being integrated into Portland's GIS system.

diversity. We recommend creative place-making on an individual park basis. Besides improving the user experience, creative place making can greatly enhance the aesthetic value of the parks.

- b. **Improve signage** - Consider using signage to create a brand identity for the Portland park system. Every park should have a branded "City of Portland Park" sign with the name of the park. Signage can also be useful to promote Portland's history and legacy (i.e. signage for downtown plazas/squares, "Castle in the Park," Bell Buoy Park, etc.) Signs can also help better promote Portland's trail connectivity. There are currently several kiosks highlighting citywide trail connectivity; but additional maps/kiosks could be useful.
- c. **Better maintain parks**, including the basketball courts, baseball fields and soccer fields
- d. **Increase safe routes and walkability to parks** (this includes re-painting crosswalks in proximity to parks and open spaces)
- e. **Better designate entrances and perimeters for community gardens** (i.e. flagstones or pavers leading to entrance gates, upgrade fences for gardens)
- f. **Install more supportive facilities**, such as cigarette receptacles (at entrances), trash cans, bike racks, water fountains at school playgrounds / athletic fields, dog waste bags (where appropriate)
- g. **Address erosion of paths in parks** - This should be a priority for maintenance staff or consider leveraging external groups, like AmeriCorps trail crews, to help with trail maintenance.
- h. **Improve the visibility of the trail system** since some of the trails can be difficult for people to find

In sum, a duo strategy is needed to improve basic park quality among the worst parks and bring creative place-making to some of the other parks that are not necessarily the lowest rung.



What is creative place-making?

Creative place-making is a cooperative, community-based process using arts and cultural expression to make or rejuvenate parks and open spaces, thus deepening a sense of place and inspiring community pride. The Trust for Public Land believes that creative place-making has these 5 components:

Arts and Culture: Artists and local cultural organizations strengthen community identity and reinforce neighborhood pride. When incorporated into parks, vibrant, authentic art engages and inspires the community.

Community Engagement: Creative place-making begins with intensive participatory design. Neighbors and stakeholders learn from each other and collaborate to identify opportunities, address challenges, and create park plans that resonate with and serve the needs of the community.

Partnerships: A network of thoughtful partners ensures that new and rejuvenated open spaces are woven carefully into their neighborhoods. Partners include local governments, educational institutions, arts groups, community organizations, and not-for-profit social service providers.

Stewardship: Parks are living things that flourish when neighbors invest time and attention in ongoing operations. Establish local park stewards and connect them with resources.

Equity: Focus on underserved neighborhoods. Use GIS tools and knowledge gained on the ground to pinpoint where new or improved parks are most needed to improve health, connect children with nature, support recreation, and help nurture neighborhood identity and stability.

There are numerous examples of park-making across the country that offer insights and "lessons-learned" inspiration. Parks came to be viewed as a multi-faceted cultural engagement program, like at Corona Plaza in Queens, NY. Parks can serve as true community hubs, staffed by local parents, serving free lunches, and offering a setting for library book mobiles and mobile health clinics, like Pogo Park in Richmond, CA. Parks, as seen in/demonstrated by Main Terrain in Chattanooga, TN, can have muscular pieces of locally inspired, interactive art to serve the fitness needs of its community. Some have temporary interventions that demonstrate the power of artists to transform spaces and advance conversations about the civic realm, as Amanda Lovelee did at Urban Flower Field in St. Paul, MN. All over the country, artists and innovators in design and policy are using new ways to elevate the civic commons as places of equity, resiliency, expression, and celebration.

More details on the summer 2015 park evaluation are available in Appendix 7.

8. Consider ideas for improving the funding picture for the open space system

Appendix 11 contains a detailed analysis of the funding gap between dollars requested and dollars allocated for park and recreation functions over three recent fiscal years. These numbers reveal a large funding gap, particularly in terms of capital expenditures. Unfortunately, these numbers cannot be entirely substantiated because there is no discrete line for park/open space operations in the Department of Public Works budget and reporting.⁹

Another shortcoming in this analysis is that dollars requested each year do not account for all of the dollars actually needed. The Trust for Public Land is only able to report on dollars requested by the city departments, and those requests are typically modest in staff's attempt to align with potential dollars available. There is no comprehensive list of the long term deferred-maintenance needs of the open space system. There is no comprehensive plan for park capital or operating needs.

Nevertheless, this analysis provides a rough approximation of the funding gap, though the actual funding gap is most likely much larger than what appears in Appendix 11.

The city should create parks line item(s) (including sub accounts and dedicated staff), so expenditures can be understood, tracked, and compared in the future. The city should work with partners to investigate ways to raise additional dollars to alleviate the funding gap.

Significant opportunities exist to create park and open spaces in the City of Portland and to fund open space maintenance and acquisition. At the heart of the most successful open spaces funding programs around the country is substantial, long-term, dedicated source of local revenue. With a reliable source of funds, local governments are able to establish meaningful parks and open space priorities that protect the most valuable resources, are geographically distributed, and otherwise meet important goals and values. Furthermore, local governments with significant funds are well positioned to secure and leverage funding from other local, state, federal and private sources.

The Trust for Public Land, together with the Steering Committee and Stakeholder Group, understand that the city has competing financial needs, and that a large infusion of public dollars in the near term is probably not realistic. Nevertheless, this is a 10 year vision and thus a long-term plan for raising dollars is needed. As such, during this planning process, The Trust for Public Land formed a small subcommittee of interested stakeholders who began to strategize around ways to raise dollars to help alleviate the funding gap. The committee has been discussing options for raising public dollars (such as a mill levy increase) and options for raising private dollars to better leverage public dollars. The Trust for Public Land anticipates that this work will continue after the planning process concludes.

⁹ For the Department of Public Works charts in Appendix 11, The Trust for Public Land used the full monetary and personnel figures for Cemeteries, Forestry and Horticulture, and Districting even though the budgets and staff for these divisions serve both parks and non-parks functions. The Department of Public Works does not track budgets and personnel that are directly related to parks and open space. (For instance, they weren't able to provide documentation that separated out non-parks functions, such as for burial plots or street trees, from the Divisions TPL categorized as parks-related, nor could they provide information on the parks-related functions of the Construction, Engineering, Solid Waste, and other divisions that TPL did not categorize as parks-related.) Also, many of the other divisions TPL is not including actually also performing park functions. Though these functions tend to be quite small for each division, cumulatively, they are not small. In sum, the break outs simply aren't clear. TPL could tease some elements apart, but not others. It simply was not possible for them to accurately do a finer grained analysis.

Background on Development of this Plan

The idea of developing a vision plan for Portland's open spaces came from the Portland City Manager's office in the summer of 2014. The Trust for Public Land worked closely with various city staff to develop a scope of work. Portland Trails was also involved in early conversations and led a series of community workshops in the fall of 2014 to collect information about the perceptions of the open space system from a diversity of residents. In the fall of 2014, the City, in consultation with The Trust for Public Land, formed two groups to guide the development of plan components.

Steering Committee: This committee consisted of three members of the Land Bank Commission and three members of the Parks Commission. Together they comprised the Steering Committee. For major meetings, they were joined by a broader Stakeholder Group (see below) invited to contribute ideas and perspective to the discussion on major elements of the plan. However, the Steering Committee members were the only participants in the Stakeholder Group with voting power. They approved all of the key elements of the plan. The Steering Committee had six meetings jointly with the Stakeholder group, and they also met separately several times over the course of the project.

Stakeholder Group: This group was comprised of the Steering Committee plus about 20 additional people who represent a cross section of interest groups with a stake in the vision. The Steering Committee helped to select members of the Stakeholder Group. Members of the Stakeholder Group participated in discussion about all plan elements, and they offered detailed advice and feedback over the course of six meetings. Every member participated on behalf of an organization or other interest group. They were asked to report back to their groups about this process, seek input from their members/affiliates, and bring that information back to the Stakeholder Group meetings.

Please see **Appendix 12** for a complete list of Steering Committee and Stakeholder Group members. Everyone who attended at least one meeting is listed. The Trust for Public Land is grateful to these individuals for their thoughtful ideas and deliberations. The Trust for Public Land is also appreciative of the city staff investment in making this project a success. City staff actively participated in all steering and stakeholder meetings.

Next Steps

Implementing this plan means adopting and following through on the recommendations. This Vision Plan was developed through the joint effort of city and non-city leaders, and it is intended to be a playbook for both in the months and years ahead. The tools developed and transferred to the city (such as computer-based maps and data; the rapid park assessment tool; and the articulation of system-wide monitoring parameters), are designed to assist in reaching the vision and goals.

While this Vision document gives detailed guidance in some respects, there are many other aspects that will need to be tackled with fresh ideas and approaches in the years ahead. The vision and goals will best be accomplished through cooperative leadership between the public and private sector. Through this visioning process, there has been tremendous cooperation; hence, implementation may follow naturally. But given competing demands on city services across Portland, focused – yet patient – ongoing leadership will be required to realize these critical long-term open space goals. Articulating this vision is just the first step!



Appendix 1: List of Portland Parks

For purpose of this project, a park is defined as a publicly-owned open space that is intended to be used for passive or active recreation. City of Portland staff determined that, using this definition, these 63 spaces constitute Portland's parks. Portland has many land bank properties as well; the city acknowledges land bank properties as valuable active and passive recreation venues for the public. The two parks with asterisks (Ace Ballfield and City Acres Ballfield) were not included in the rapid park assessment evaluation due to time constraints.

1. Adams School Playground
2. Back Cove Trail
3. Barrows Park / Baxter's Sundial
4. Baxter Pines
5. Bayside Playground
6. Bayside Trail
7. Bedford Park
8. Bell Buoy Park
9. Belmade Park
10. Boothby Square
11. Bramhall Square
12. Caldwell Square
13. Canco Woods Natural Area
14. Capisic Pond Park
15. Clark Street Park
16. Compass Park
17. Congress Square Park
18. Conservation Area at Evergreen Cemetery
19. Deering High School / Longfellow - Presumpscot Park
20. Deering High School / Longfellow Elementary
21. Deering Oaks Park
22. Dougherty Field
23. East End School and Community Center
24. Eastern Promenade
25. Evergreen Cemetery
26. Fessenden Park
27. Fort Sumner Park
28. Fox Field
29. Hall School
30. Harbor View Memorial Park
31. Heseltine Park
32. Lincoln Park
33. Lobsterman Park
34. Longfellow Elementary School
35. Longfellow Park
36. Longfellow Square
37. Lyseth / Lyman Moore School Grounds
38. Martin Point Park
39. Mayor Baxter Woods

- 40. Monument Square
- 41. Munjoy Playground
- 42. Nason's Corner Park
- 43. Oat Nuts Park
- 44. Ocean Avenue School
- 45. Payson Park
- 46. Peppermint Park
- 47. Pine Grove Park
- 48. Post Office Park
- 49. Presumpscot School
- 50. Quarry Run Dog Park
- 51. Reiche School
- 52. Riverton School
- 53. Riverton Trolley Park
- 54. Stroudwater Park 1
- 55. Stroudwater Park 2
- 56. Stroudwater Playground
- 57. Tate-Tyng Tot Lot
- 58. Tommy's Park
- 59. Trinity Park
- 60. University Park
- 61. Western Promenade
- 62. Ace Ballfield*
- 63. City Acres Ballfield*



Appendix 2: Map of Current Park and Trail System and Service Areas

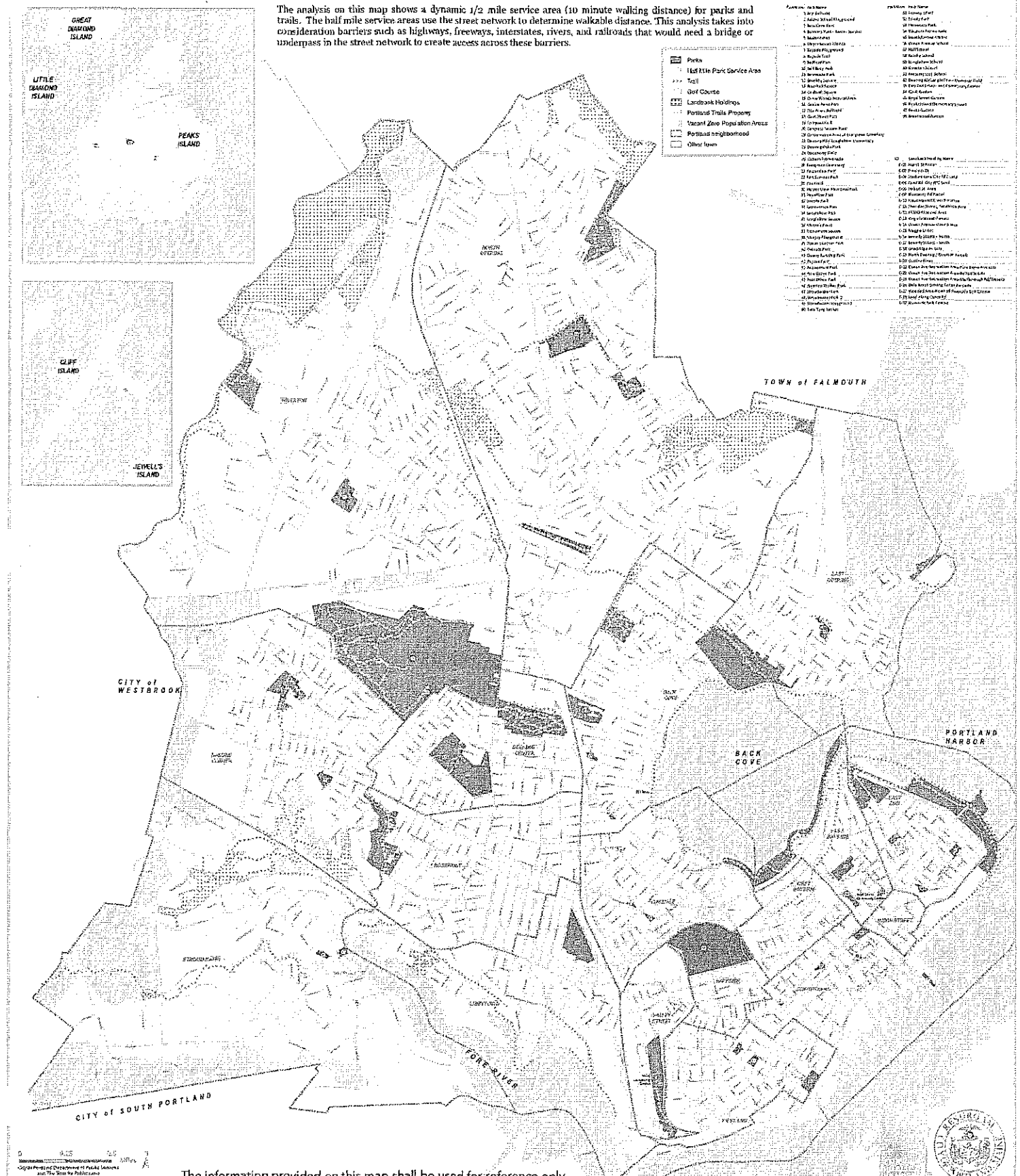
CITY OF PORTLAND, MAINE

Park and Trail Access

The analysis on this map shows a dynamic 1/2 mile service area (10 minute walking distance) for parks and trails. The half mile service areas use the street network to determine walkable distance. This analysis takes into consideration barriers such as highways, freeways, interstates, rivers, and railroads that would need a bridge or underpass in the street network to create access across these barriers.

- Parks
- Half Mile Park Service Area
- Trail
- Golf Course
- Landbank Holdings
- Portland Trails Property
- Vacant Zone Population Areas
- Portland Neighborhood
- Other Town

Park Name	Park Name
1. Adams Park	11. Buxton Park
2. Adams Park	12. Buxton Park
3. Adams Park	13. Buxton Park
4. Adams Park	14. Buxton Park
5. Adams Park	15. Buxton Park
6. Adams Park	16. Buxton Park
7. Adams Park	17. Buxton Park
8. Adams Park	18. Buxton Park
9. Adams Park	19. Buxton Park
10. Adams Park	20. Buxton Park
21. Adams Park	22. Buxton Park
23. Adams Park	24. Buxton Park
25. Adams Park	26. Buxton Park
27. Adams Park	28. Buxton Park
29. Adams Park	30. Buxton Park
31. Adams Park	32. Buxton Park
33. Adams Park	34. Buxton Park
35. Adams Park	36. Buxton Park
37. Adams Park	38. Buxton Park
39. Adams Park	40. Buxton Park
41. Adams Park	42. Buxton Park
43. Adams Park	44. Buxton Park
45. Adams Park	46. Buxton Park
47. Adams Park	48. Buxton Park
49. Adams Park	50. Buxton Park
51. Adams Park	52. Buxton Park
53. Adams Park	54. Buxton Park
55. Adams Park	56. Buxton Park
57. Adams Park	58. Buxton Park
59. Adams Park	60. Buxton Park
61. Adams Park	62. Buxton Park
63. Adams Park	64. Buxton Park
65. Adams Park	66. Buxton Park
67. Adams Park	68. Buxton Park
69. Adams Park	70. Buxton Park
71. Adams Park	72. Buxton Park
73. Adams Park	74. Buxton Park
75. Adams Park	76. Buxton Park
77. Adams Park	78. Buxton Park
79. Adams Park	80. Buxton Park
81. Adams Park	82. Buxton Park
83. Adams Park	84. Buxton Park
85. Adams Park	86. Buxton Park
87. Adams Park	88. Buxton Park
89. Adams Park	90. Buxton Park
91. Adams Park	92. Buxton Park
93. Adams Park	94. Buxton Park
95. Adams Park	96. Buxton Park
97. Adams Park	98. Buxton Park
99. Adams Park	100. Buxton Park

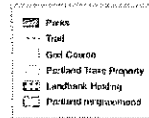
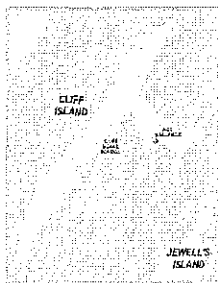
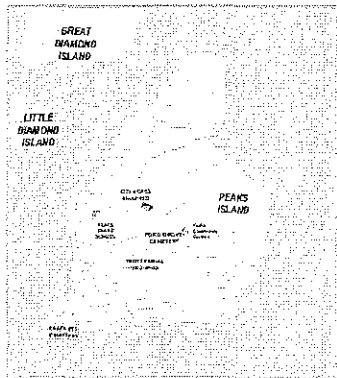


Appendix 3: Map of Trail Access

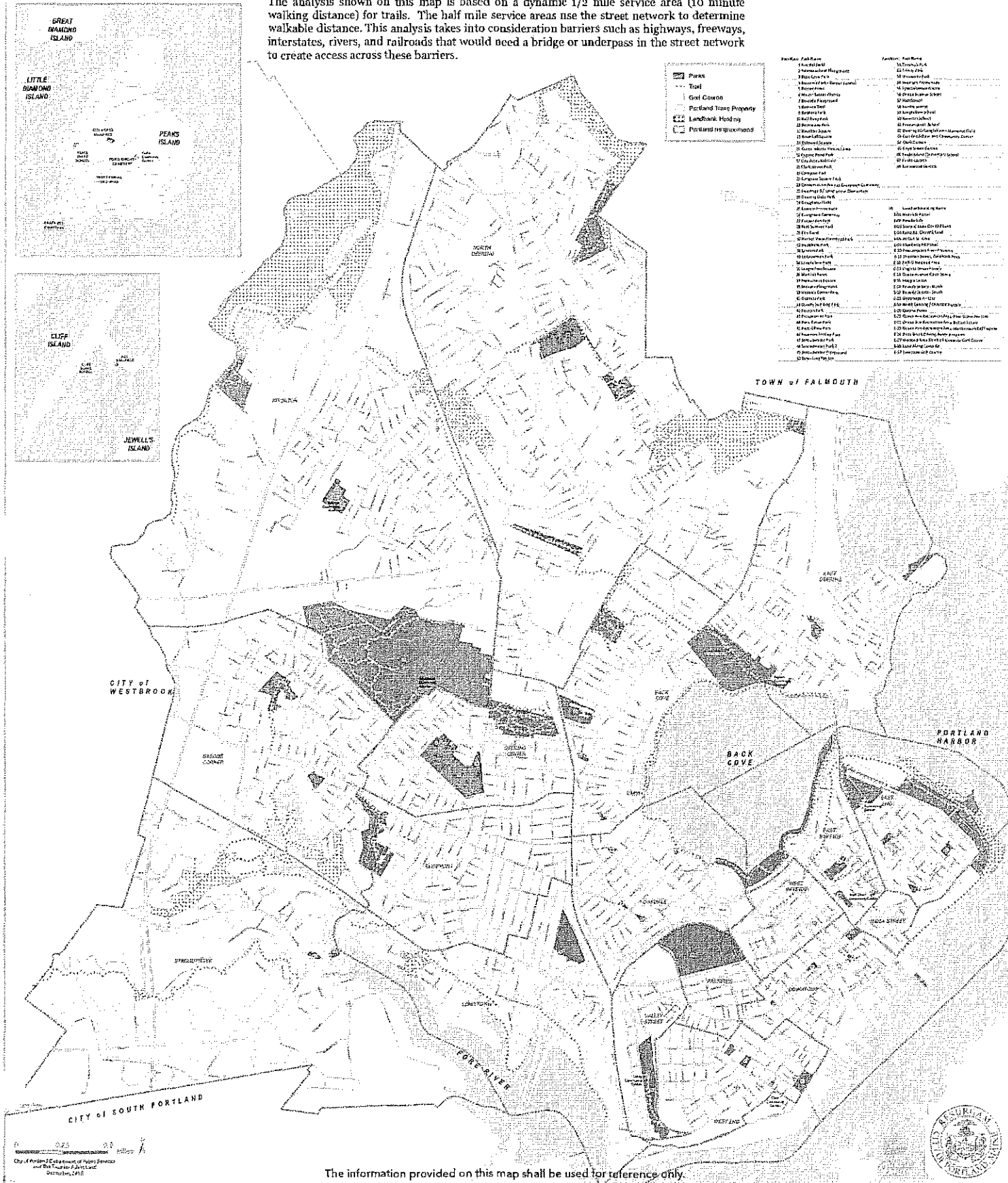
CITY OF PORTLAND, MAINE

TRAIL ACCESS (Half Mile Service Area)

The analysis shown on this map is based on a dynamic 1/2 mile service area (10 minute walking distance) for trails. The half mile service areas use the street network to determine walkable distance. This analysis takes into consideration barriers such as highways, freeways, interstates, rivers, and railroads that would need a bridge or underpass in the street network to create access across these barriers.



Trail Name	Trail Number	Trail Name	Trail Number
1. Back Bay	101	101. Back Bay	101
2. Back Bay	102	102. Back Bay	102
3. Back Bay	103	103. Back Bay	103
4. Back Bay	104	104. Back Bay	104
5. Back Bay	105	105. Back Bay	105
6. Back Bay	106	106. Back Bay	106
7. Back Bay	107	107. Back Bay	107
8. Back Bay	108	108. Back Bay	108
9. Back Bay	109	109. Back Bay	109
10. Back Bay	110	110. Back Bay	110
11. Back Bay	111	111. Back Bay	111
12. Back Bay	112	112. Back Bay	112
13. Back Bay	113	113. Back Bay	113
14. Back Bay	114	114. Back Bay	114
15. Back Bay	115	115. Back Bay	115
16. Back Bay	116	116. Back Bay	116
17. Back Bay	117	117. Back Bay	117
18. Back Bay	118	118. Back Bay	118
19. Back Bay	119	119. Back Bay	119
20. Back Bay	120	120. Back Bay	120
21. Back Bay	121	121. Back Bay	121
22. Back Bay	122	122. Back Bay	122
23. Back Bay	123	123. Back Bay	123
24. Back Bay	124	124. Back Bay	124
25. Back Bay	125	125. Back Bay	125
26. Back Bay	126	126. Back Bay	126
27. Back Bay	127	127. Back Bay	127
28. Back Bay	128	128. Back Bay	128
29. Back Bay	129	129. Back Bay	129
30. Back Bay	130	130. Back Bay	130
31. Back Bay	131	131. Back Bay	131
32. Back Bay	132	132. Back Bay	132
33. Back Bay	133	133. Back Bay	133
34. Back Bay	134	134. Back Bay	134
35. Back Bay	135	135. Back Bay	135
36. Back Bay	136	136. Back Bay	136
37. Back Bay	137	137. Back Bay	137
38. Back Bay	138	138. Back Bay	138
39. Back Bay	139	139. Back Bay	139
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41. Back Bay	141	141. Back Bay	141
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43. Back Bay	143	143. Back Bay	143
44. Back Bay	144	144. Back Bay	144
45. Back Bay	145	145. Back Bay	145
46. Back Bay	146	146. Back Bay	146
47. Back Bay	147	147. Back Bay	147
48. Back Bay	148	148. Back Bay	148
49. Back Bay	149	149. Back Bay	149
50. Back Bay	150	150. Back Bay	150
51. Back Bay	151	151. Back Bay	151
52. Back Bay	152	152. Back Bay	152
53. Back Bay	153	153. Back Bay	153
54. Back Bay	154	154. Back Bay	154
55. Back Bay	155	155. Back Bay	155
56. Back Bay	156	156. Back Bay	156
57. Back Bay	157	157. Back Bay	157
58. Back Bay	158	158. Back Bay	158
59. Back Bay	159	159. Back Bay	159
60. Back Bay	160	160. Back Bay	160
61. Back Bay	161	161. Back Bay	161
62. Back Bay	162	162. Back Bay	162
63. Back Bay	163	163. Back Bay	163
64. Back Bay	164	164. Back Bay	164
65. Back Bay	165	165. Back Bay	165
66. Back Bay	166	166. Back Bay	166
67. Back Bay	167	167. Back Bay	167
68. Back Bay	168	168. Back Bay	168
69. Back Bay	169	169. Back Bay	169
70. Back Bay	170	170. Back Bay	170
71. Back Bay	171	171. Back Bay	171
72. Back Bay	172	172. Back Bay	172
73. Back Bay	173	173. Back Bay	173
74. Back Bay	174	174. Back Bay	174
75. Back Bay	175	175. Back Bay	175
76. Back Bay	176	176. Back Bay	176
77. Back Bay	177	177. Back Bay	177
78. Back Bay	178	178. Back Bay	178
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80. Back Bay	180	180. Back Bay	180
81. Back Bay	181	181. Back Bay	181
82. Back Bay	182	182. Back Bay	182
83. Back Bay	183	183. Back Bay	183
84. Back Bay	184	184. Back Bay	184
85. Back Bay	185	185. Back Bay	185
86. Back Bay	186	186. Back Bay	186
87. Back Bay	187	187. Back Bay	187
88. Back Bay	188	188. Back Bay	188
89. Back Bay	189	189. Back Bay	189
90. Back Bay	190	190. Back Bay	190
91. Back Bay	191	191. Back Bay	191
92. Back Bay	192	192. Back Bay	192
93. Back Bay	193	193. Back Bay	193
94. Back Bay	194	194. Back Bay	194
95. Back Bay	195	195. Back Bay	195
96. Back Bay	196	196. Back Bay	196
97. Back Bay	197	197. Back Bay	197
98. Back Bay	198	198. Back Bay	198
99. Back Bay	199	199. Back Bay	199
100. Back Bay	200	200. Back Bay	200



The information provided on this map shall be used for reference only.



Appendix 4: Map of Portland Population Density

CITY OF PORTLAND, MAINE

Population Density



The information provided on this map shall be used for reference only.



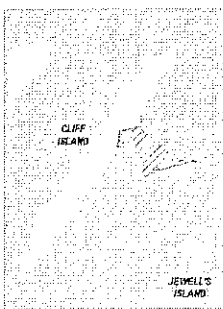
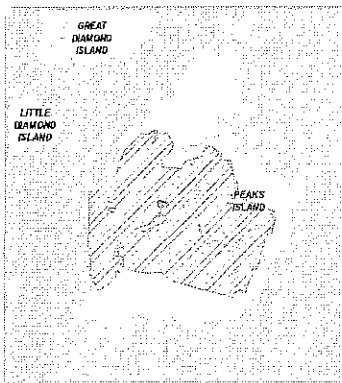
CITY OF PORTLAND, MAINE

Density of Low Income Individuals



CITY OF PORTLAND, MAINE

Senior Density (age 64+) - Park Accessibility



- Senior Density**
- High Density (4-8 per acre)
 - Moderate High Density (2-4 per acre)
 - Moderate Density (1-2 per acre)
 - Low Density (0-1 per acre)
- Other Features**
- Town
 - Golf Course
 - Landmarks (Buildings)
 - Public Transportation
 - Historic Sites
 - Waterfront
 - Portland Neighborhoods

Feature	Feature	Feature	Feature
1. Back Cove	11. Back Cove	21. Back Cove	31. Back Cove
2. Back Cove	12. Back Cove	22. Back Cove	32. Back Cove
3. Back Cove	13. Back Cove	23. Back Cove	33. Back Cove
4. Back Cove	14. Back Cove	24. Back Cove	34. Back Cove
5. Back Cove	15. Back Cove	25. Back Cove	35. Back Cove
6. Back Cove	16. Back Cove	26. Back Cove	36. Back Cove
7. Back Cove	17. Back Cove	27. Back Cove	37. Back Cove
8. Back Cove	18. Back Cove	28. Back Cove	38. Back Cove
9. Back Cove	19. Back Cove	29. Back Cove	39. Back Cove
10. Back Cove	20. Back Cove	30. Back Cove	40. Back Cove
11. Back Cove	21. Back Cove	31. Back Cove	41. Back Cove
12. Back Cove	22. Back Cove	32. Back Cove	42. Back Cove
13. Back Cove	23. Back Cove	33. Back Cove	43. Back Cove
14. Back Cove	24. Back Cove	34. Back Cove	44. Back Cove
15. Back Cove	25. Back Cove	35. Back Cove	45. Back Cove
16. Back Cove	26. Back Cove	36. Back Cove	46. Back Cove
17. Back Cove	27. Back Cove	37. Back Cove	47. Back Cove
18. Back Cove	28. Back Cove	38. Back Cove	48. Back Cove
19. Back Cove	29. Back Cove	39. Back Cove	49. Back Cove
20. Back Cove	30. Back Cove	40. Back Cove	50. Back Cove

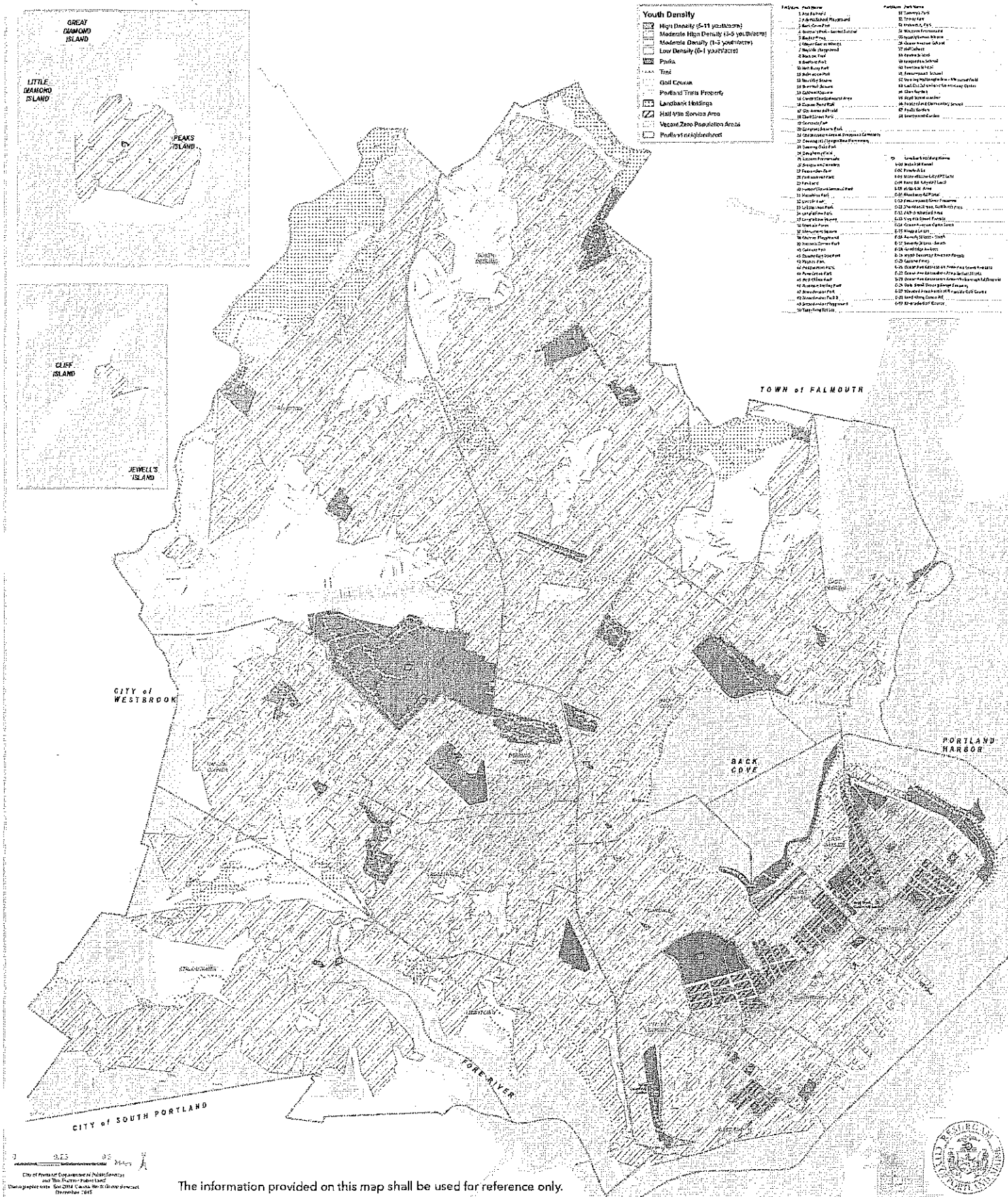


City of Portland Department of Public Services
and the Portland Water Bureau
Geographic Data for 2014 Census of State and County
November, 2015

The information provided on this map shall be used for reference only.



Young Density (age 19 and younger)



Appendix 5: Map of Park Equity

CITY OF PORTLAND, MAINE

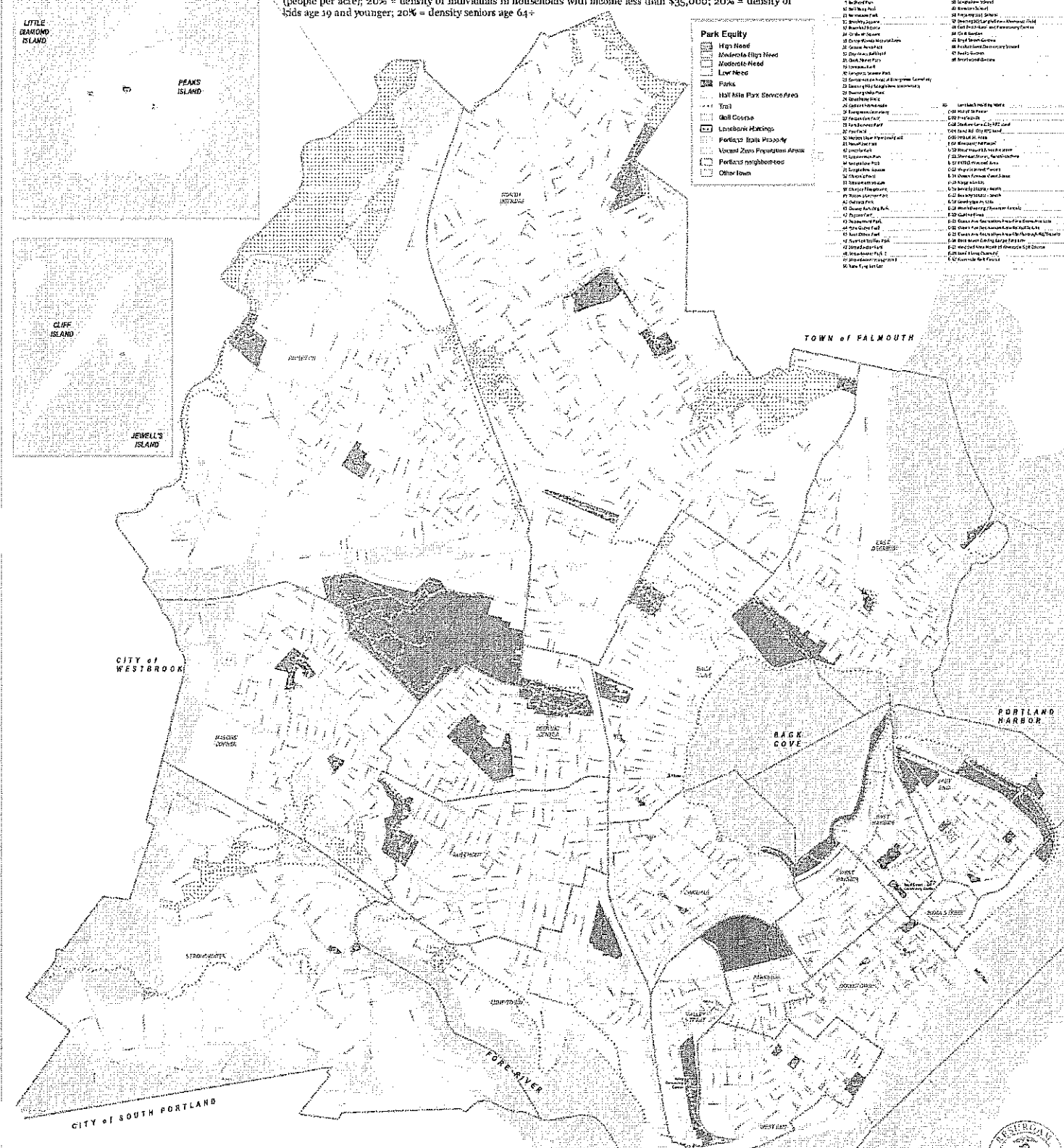
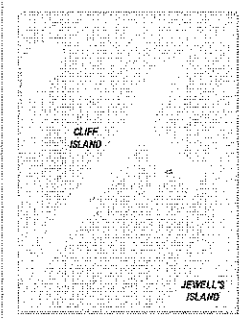
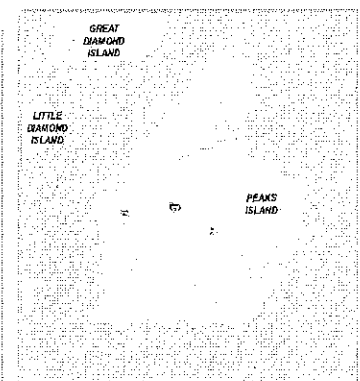
Park Equity

The analysis on this map shows a dynamic 1/2 mile service area (10 minute walking distance) for parks and trails. The half mile service areas use the street network to determine walkable distance. This analysis takes into consideration barriers such as highways, freeways, interstates, rivers, and railroads that would need a bridge or underpass in the street network to create access across these barriers.

The Park Equity result outlines and weights the following demographic profiles: 40% = population density (people per acre); 20% = density of individuals in households with income less than \$35,000; 20% = density of kids age 19 and younger; 20% = density seniors age 64+.

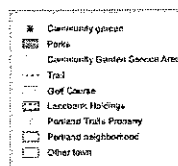
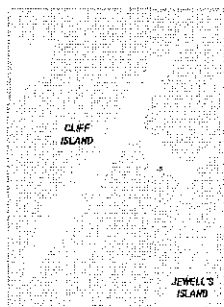
- Park Equity**
- High Need
 - Moderate High Need
 - Moderate Need
 - Low Need
 - Parks
 - Half Mile Park Service Area
 - Trail
 - Ball Courts
 - Landmark Buildings
 - Portland State University
 - Neighborhoods
 - Neighborhoods
 - Other Town

1. Back Bay	21. Old Port	41. Old Port
2. Back Bay	22. Old Port	42. Old Port
3. Back Bay	23. Old Port	43. Old Port
4. Back Bay	24. Old Port	44. Old Port
5. Back Bay	25. Old Port	45. Old Port
6. Back Bay	26. Old Port	46. Old Port
7. Back Bay	27. Old Port	47. Old Port
8. Back Bay	28. Old Port	48. Old Port
9. Back Bay	29. Old Port	49. Old Port
10. Back Bay	30. Old Port	50. Old Port
11. Back Bay	31. Old Port	51. Old Port
12. Back Bay	32. Old Port	52. Old Port
13. Back Bay	33. Old Port	53. Old Port
14. Back Bay	34. Old Port	54. Old Port
15. Back Bay	35. Old Port	55. Old Port
16. Back Bay	36. Old Port	56. Old Port
17. Back Bay	37. Old Port	57. Old Port
18. Back Bay	38. Old Port	58. Old Port
19. Back Bay	39. Old Port	59. Old Port
20. Back Bay	40. Old Port	60. Old Port
21. Back Bay	41. Old Port	61. Old Port
22. Back Bay	42. Old Port	62. Old Port
23. Back Bay	43. Old Port	63. Old Port
24. Back Bay	44. Old Port	64. Old Port
25. Back Bay	45. Old Port	65. Old Port
26. Back Bay	46. Old Port	66. Old Port
27. Back Bay	47. Old Port	67. Old Port
28. Back Bay	48. Old Port	68. Old Port
29. Back Bay	49. Old Port	69. Old Port
30. Back Bay	50. Old Port	70. Old Port
31. Back Bay	51. Old Port	71. Old Port
32. Back Bay	52. Old Port	72. Old Port
33. Back Bay	53. Old Port	73. Old Port
34. Back Bay	54. Old Port	74. Old Port
35. Back Bay	55. Old Port	75. Old Port
36. Back Bay	56. Old Port	76. Old Port
37. Back Bay	57. Old Port	77. Old Port
38. Back Bay	58. Old Port	78. Old Port
39. Back Bay	59. Old Port	79. Old Port
40. Back Bay	60. Old Port	80. Old Port
41. Back Bay	61. Old Port	81. Old Port
42. Back Bay	62. Old Port	82. Old Port
43. Back Bay	63. Old Port	83. Old Port
44. Back Bay	64. Old Port	84. Old Port
45. Back Bay	65. Old Port	85. Old Port
46. Back Bay	66. Old Port	86. Old Port
47. Back Bay	67. Old Port	87. Old Port
48. Back Bay	68. Old Port	88. Old Port
49. Back Bay	69. Old Port	89. Old Port
50. Back Bay	70. Old Port	90. Old Port
51. Back Bay	71. Old Port	91. Old Port
52. Back Bay	72. Old Port	92. Old Port
53. Back Bay	73. Old Port	93. Old Port
54. Back Bay	74. Old Port	94. Old Port
55. Back Bay	75. Old Port	95. Old Port
56. Back Bay	76. Old Port	96. Old Port
57. Back Bay	77. Old Port	97. Old Port
58. Back Bay	78. Old Port	98. Old Port
59. Back Bay	79. Old Port	99. Old Port
60. Back Bay	80. Old Port	100. Old Port

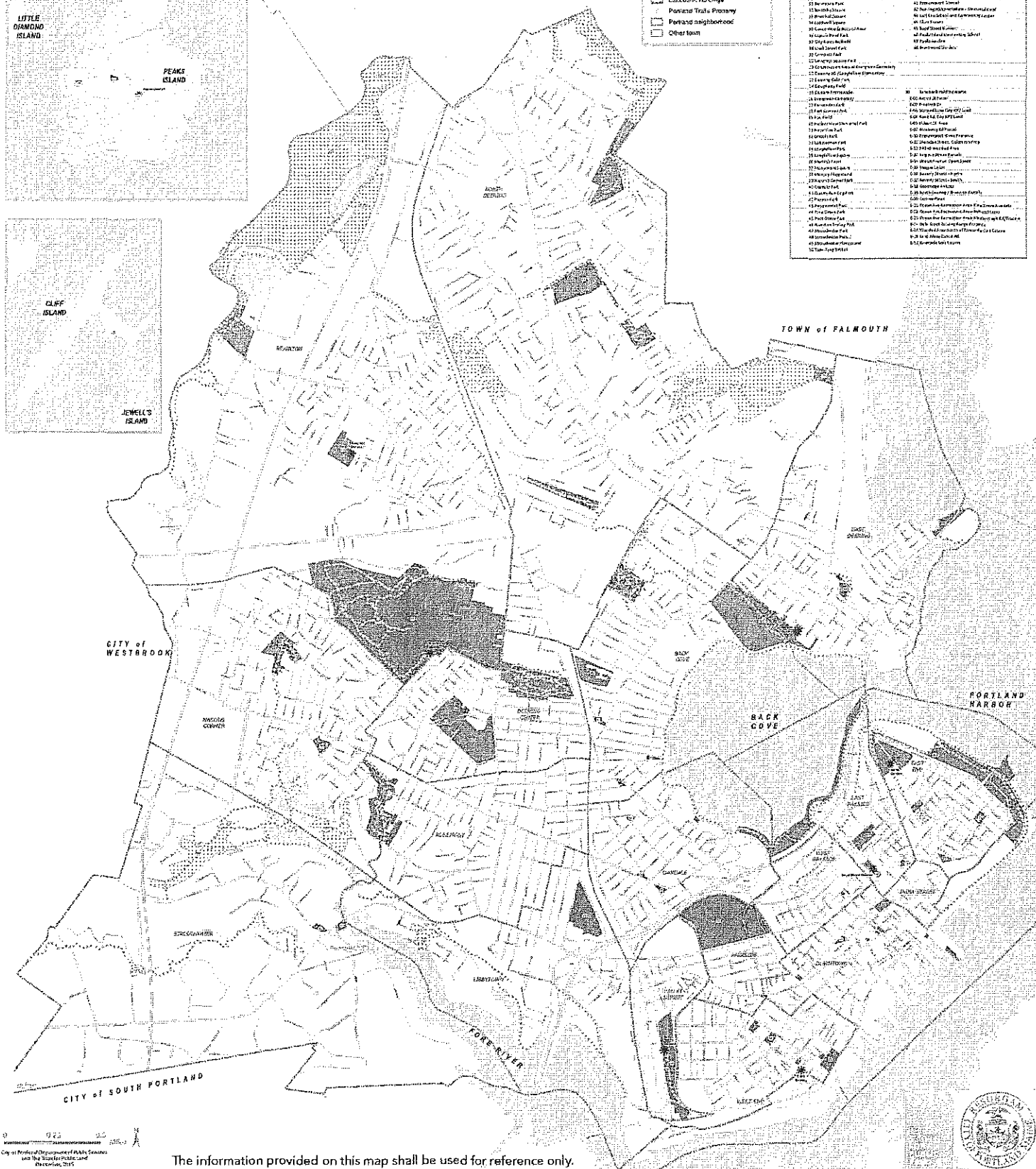


Appendix 6: Map of Community Gardens

Community Garden Half Mile Service Areas



English	Portuguese	Portuguese
1. Ash (fish)	1. Carpa	1. Carpa
2. Atlantic Salmon	2. Salmão Atlântico	2. Salmão Atlântico
3. Bass (fish)	3. Bacalhau	3. Bacalhau
4. Bluefish	4. Cavala	4. Cavala
5. Cod (fish)	5. Bacalhau	5. Bacalhau
6. Crayfish	6. Camarão	6. Camarão
7. Eel	7. Enguiça	7. Enguiça
8. Flounder	8. Solha	8. Solha
9. Grouper	9. Pescada	9. Pescada
10. Haddock	10. Bacalhau	10. Bacalhau
11. Mackerel	11. Sardinha	11. Sardinha
12. Salmon	12. Salmão	12. Salmão
13. Sea bream	13. Pescada	13. Pescada
14. Sole	14. Solha	14. Solha
15. Trout	15. Truta	15. Truta
16. Walleye	16. Salmão	16. Salmão
17. Whitefish	17. Pescada	17. Pescada
18. Yellow perch	18. Pescada	18. Pescada
19. Zander	19. Pescada	19. Pescada
20. Catfish	20. Carpa	20. Carpa
21. Pike	21. Enguiça	21. Enguiça
22. Sturgeon	22. Esturão	22. Esturão
23. Carp	23. Carpa	23. Carpa
24. Goldfish	24. Carpa	24. Carpa
25. Koi	25. Carpa	25. Carpa
26. Tilapia	26. Tilapia	26. Tilapia
27. Bass	27. Bacalhau	27. Bacalhau
28. Cod	28. Bacalhau	28. Bacalhau
29. Flounder	29. Solha	29. Solha
30. Grouper	30. Pescada	30. Pescada
31. Haddock	31. Bacalhau	31. Bacalhau
32. Mackerel	32. Sardinha	32. Sardinha
33. Salmon	33. Salmão	33. Salmão
34. Sea bream	34. Pescada	34. Pescada
35. Sole	35. Solha	35. Solha
36. Trout	36. Truta	36. Truta
37. Walleye	37. Salmão	37. Salmão
38. Whitefish	38. Pescada	38. Pescada
39. Yellow perch	39. Pescada	39. Pescada
40. Zander	40. Pescada	40. Pescada
41. Catfish	41. Carpa	41. Carpa
42. Pike	42. Enguiça	42. Enguiça
43. Sturgeon	43. Esturão	43. Esturão
44. Carp	44. Carpa	44. Carpa
45. Goldfish	45. Carpa	45. Carpa
46. Koi	46. Carpa	46. Carpa
47. Tilapia	47. Tilapia	47. Tilapia
48. Bass	48. Bacalhau	48. Bacalhau
49. Cod	49. Bacalhau	49. Bacalhau
50. Flounder	50. Solha	50. Solha
51. Grouper	51. Pescada	51. Pescada
52. Haddock	52. Bacalhau	52. Bacalhau
53. Mackerel	53. Sardinha	53. Sardinha
54. Salmon	54. Salmão	54. Salmão
55. Sea bream	55. Pescada	55. Pescada
56. Sole	56. Solha	56. Solha
57. Trout	57. Truta	57. Truta
58. Walleye	58. Salmão	58. Salmão
59. Whitefish	59. Pescada	59. Pescada
60. Yellow perch	60. Pescada	60. Pescada
61. Zander	61. Pescada	61. Pescada
62. Catfish	62. Carpa	62. Carpa
63. Pike	63. Enguiça	63. Enguiça
64. Sturgeon	64. Esturão	64. Esturão
65. Carp	65. Carpa	65. Carpa
66. Goldfish	66. Carpa	66. Carpa
67. Koi	67. Carpa	67. Carpa
68. Tilapia	68. Tilapia	68. Tilapia



Appendix 7: Summer 2015 Portland Park Evaluation Results

Summer 2015 Portland Park Evaluation

Objective:

The Trust for Public Land created a rapid assessment tool to evaluate the public parks' accessibility, active amenities, educational uses, supportive facilities, aesthetics, safety and maintenance conditions. The *Summer 2015 Portland Park Evaluation* is meant to provide a snapshot-in-time analysis to help assess comparative current park quality; provide a baseline for future evaluations; and inform decision-making regarding future investments.

The Trust for Public Land understands that park quality is not solely based upon these factors and that there are other elements that could be included in a comprehensive analysis (such as park design and/or surrounding land-use conditions), however due to resource constraints and our desire to provide a replicable and affordable tool, we developed and deployed this rapid park quality assessment tool to evaluate Portland's parks.

Process:

A total of 61 parks were evaluated over five days in mid-June by three staff from The Trust for Public Land.¹ Staff began with a three hour calibration session to assure consistent scoring between evaluators. The Trust for Public Land staff then met with two City of Portland staff to field review the tool with them. (Note: the tool had already been vetted with city staff and a subcommittee of the Portland Open Space Vision and Implementation Stakeholder Group, and it had been previously beta tested in the field).

Each park was evaluated for the following factors: accessibility; trails; park features; supportive facilities; safety and maintenance; and aesthetics. For parks that did not have certain features present (e.g. trail, active amenity, supportive facility, or other recreational and educational use), a N/A was denoted. All parks have the possibility of scoring a perfect score [5.0]. Additionally, while on site, the evaluators documented obvious (to the lay-person) location-specific deficiencies.

In tandem with the rapid assessment tool, evaluators also created an inventory of amenities (by amenity category) for each park and recorded the precise public access points for all 61 parks using GPS. This information is being integrated into Portland's GIS system.

¹ For purposes of this rapid park quality assessment, Portland city staff and Trust for Public Land staff defined a park as "any publicly owned open space in Portland that is intended to be used for passive or active recreation." Using this definition, city staff developed a list of parks for the park evaluation (See Appendix A). Trust for Public Land staff evaluated all of these parks for this evaluation except for 1 park on Peaks Island and 1 park on Cliff Island that they were not able to assess due to time constraints (denoted by asterisks).

Results:

The value of the rapid park assessment tool is not so much in judging the overall park system, but rather in providing a comparative analysis for parks within the system. Accordingly, in the sections that follow we list the highest scoring parks and lowest scoring parks. In the first section (directly below) we provide the overall results. Then we list results by category.

Overall Park Evaluation Score:

This is a cumulative weighted score of park access, trails, active amenities, other recreational, fitness, and educational uses, supportive facilities, safety and appearance concerns, and aesthetics.

Highest scored parks [all sites with scores 5.0 – 4.9]

Back Cove Trail
Boothby Square
Mayor Baxter Woods
Congress Square Park
Longfellow Square
Lobsterman Park
Post Office Park
Eastern Promenade

Lowest scored parks [all sites with scores 3.6 – 4.0]

Lincoln Park
Longfellow Elementary school
Riverton Trolley Park
Martin Point Park
Trinity Park
Barrows Park / Baxter's Sundial

Park Evaluation Score for Accessibility:

This category evaluates park entrances, safe and convenient access to entrances, transportation access, and accessibility to all park areas.

Highest scored parks [all sites with a score of 5.0]

Back Cove Trail
Boothby Square
Mayor Baxter Woods
Congress Square Park
Longfellow Square
Lobsterman Park
Post Office Park
Eastern Promenade
Tommy's Park
Hall School
Bayside Trail
Riverton School
Bell Buoy Park
Bramhall Square
Harbor View Memorial Park

Lowest scored parks [all sites with scores 3.0 – 4.0]

Martin Point Park
Barrows Park / Baxter's Sundial
Riverton Trolley Park
Belmade Park
Stroudwater Park 1
Quarry Run Dog Park
Fox Field
Pine Grove Park

Park Evaluation Score for Trails:

This category evaluates paved trails or paths, in addition to dirt trails. Not all parks contained trails.

Highest scored parks [all sites with a score of 5.0]:

Back Cove Trail
Mayor Baxter Woods
Post Office Park
Hall School
Bayside Trail
Riverton School
Presumpscot School
Ocean Avenue School
Deering HS / Longfellow Elementary
Deering High School / Longfellow – Presumpscot Park
Capisic Pond Park
University Park
Tate-Tyng Tot Lot
Payson Park
Fort Sumner Park
Munjoy Playground
Caldwell Square
Baxter Pines
Nason's Corner Park
Pine Grove Park
Quarry Run Dog Park

Lowest scored parks [all sites with scores 2.0 – 3.5]

Peppermint Park
Lincoln Park
Trinity Park
Longfellow Elementary School
Barrows Park / Baxter's Sundial

Park Evaluation Score for Active Amenities:

This category evaluates sports fields & courts, and other active recreational structures. Not all parks contained active amenities.

Highest scored parks [all sites with scores 5.0 – 4.5]

Back Cove Trail
Deering High School / Longfellow – Presumpscot Park
Quarry Run Dog Park
Peppermint Park
Adams School Playground
Heseltine Park
Ocean Avenue School
Deering Oaks Park
Eastern Promenade
Payson Park
Tate-Tyng Tot Lot
Munjoy Playground
Lyseth / Lyman Moore School Grounds
Bayside Playground

Lowest scored parks [all sites with scores 3.0 – 4.0]

Stroudwater Playground
Riverton Trolley Park
Longfellow Elementary School
Nason's Corner Park
Riverton School
Dougherty Field

Park Evaluation Score for Other Uses:

This category evaluates other recreational and educational uses. Not all parks contained other uses.

Highest scored parks [all sites with a score of 5.0]:

Deering High School / Longfellow – Presumpscot Park

Adams School Playground

Heseltine Park

Eastern Promenade

Payson Park

Lyseth / Lyman Moore School Grounds

Deering HS/ Longfellow Elementary

Western Promenade

Fox Field

Hall School

Clark Street Park

University Park

Fort Sumner Park

Caldwell Square

Baxter Pines

Pine Grove Park

Evergreen Cemetery

Conservation Area at Evergreen Cemetery

Longfellow Park

Fessenden Park

Bedford Park

Oat Nuts Park

Barrows Park / Baxter's Sundial

Boothby Square

Longfellow Square

Compass Park

Belmade Park

Lowest scored parks [all sites with scores 1.0 – 3.7]:

Longfellow Elementary School

Martin Point Park

Lincoln Park

Harbor View Memorial Park

Reiche School

Park Evaluation Score for Supportive Facilities:

This category evaluates supportive facilities such as permanent restrooms, sufficient number of trash cans, functioning drinking fountains, man-made shelters/natural shade, and benches.

Highest scored parks [all sites with a score of 5.0]:

Eastern Promenade
Payson Park
Western Promenade
Mayor Baxter Woods
Post Office Park
Evergreen Cemetery
Longfellow Park
Oat Nuts Park
Boothby Square
Longfellow Square
Compass Park
Belmade Park
Back Cove Trail
Congress Square Park
Deering Oaks Par
Lobsterman Park
Bell Buoy Park
Quarry Run Dog Park
Dougherty Field
Capisic Pond Park
Tommy's Park
Monument Square
Reiche School
Harbor View Memorial Park
Martin Point Park
Longfellow Elementary School
Peppermint Park
Tate-Tyng Tot Lot
Bramhall Square

Lowest scored parks [all sites with scores 1.0 – 3.0]:

Canco Woods Natural Area
Stroudwater Park 1
Bedford Park
Pine Grove Park

University Park
Deering High School / Longfellow – Presumpscot Park
Caldwell Square
Fort Sumner Park
Heseltine Park
Trinity Park
Stroudwater Playground
Riverton Trolley Park
Nason's Corner Park
Ocean Avenue School
Stroudwater Park 2
East End School and Community Center
Barrows Park / Baxter's Sundial
Fessenden Park
Lyseth / Lyman Moore School Grounds
Adams School Playground

Park Evaluation Score for Safety and Maintenance:

This category evaluates park context/surrounding environment, maintenance concerns, inappropriate park use, park design, directional signage, and nighttime safety.

Highest scored parks [all sites with a score of 5.0]

Longfellow Park
Boothby Square
Congress Square Park
Lobsterman Park
Fessenden Park
Trinity Trail
Back Cove Trail
Belmade Park
Deering HS/Longfellow Elementary
Stroudwater Playground
Caldwell Square
Bedford Park
Barrows Park / Baxter's Sundial

Lowest scored parks [all sites with scores 3.8 – 4.4]

Harbor View Memorial Park
Bayside Trail
Compass Park
Lincoln Park
Martin Point Park
Fox Field
Bell Buoy Park
Riverton Trolley Park
Bramhall Square
Fort Sumner Field
Dougherty Field

Park Evaluation Score for Aesthetics:

This category evaluates aesthetics; including: diversity of use and activity, variety and presence of vegetation, variety and coordination in programmed environments, high quality materials, sense of style, effective mitigation of noise and surrounding land uses, and history and culture celebrated by park design.

Highest scored parks [all sites with scores 5.0 – 4.9]

Oat Nuts Park
Conservation Area at Evergreen Cemetery
Presumpscot School
Adams School Playground
Heseltine Park
University Park
Pine Grove Park
Eastern Promenade
Congress Square Park
Back Cove Trail
Ocean Avenue School
Mayor Baxter Woods
Evergreen Cemetery
Lobsterman Park
Monument Square
Longfellow Square
Quarry Run Dog Park

Lowest scored parks [all sites with scores 3.4 – 4.3]

Bramhall Square
Fox Field
Lincoln Park
Longfellow Elementary School
Riverton Trolley Park
Barrows Park / Baxter's Sundial
Trinity Park
Bell Buoy Park
Bedford Park
Riverton School
Martin Point Park
Belmade Park
Compass Park
Tommy's Park

Appendix 8: Parks, Open Space, and Recreation Project Prioritization Criteria

Essential

1. Addresses public health and safety; reduces city liability (Highest score for projects that address an *imminent* public safety need)
2. Fulfills a legal mandate (compliance with local, state, and federal laws, such as ADA or Title IX)

Articulated Parks, Open Space, and Recreational Objectives

3. Advances the objectives or strategic priorities of adopted/articulated visions, plans, or policies (for example, the Portland Open Space Vision and Implementation Plan, Athletic Facilities Task Force Plan, or Eastern Promenade Master Plan). They may be specific to open spaces or city-wide visions, plans or policies

Financial Considerations

4. Cost avoidance: For example, (a) prevents costly infrastructure failures or unrecoverable deterioration of a functional or historic amenity; (b) avoids serious costs that could result from delaying the project; or (c) will measurably reduce operations and maintenance costs, including potential savings from energy and water use
5. Leverages external funds (for example, from federal matching funds or a private matching grant)
6. Meets requirements to access special funding streams (for instance, project is eligible to use impact fee revenue or funds for water quality improvements)
7. Funding availability for ongoing operations and maintenance costs resulting from this project is not likely to be an obstacle
8. A minor investment that would have a big impact on the character of a park or recreational facility

Timing/Efficiency

9. Seizes an opportunity that may be lost if no action is taken (for instance, an acquisition or funding opportunity, or an opportunity of public will)
10. Advances priorities of one or more departments simultaneously; bundles multiple projects to achieve cost efficiencies (for example, a roadway project that also replaces a deteriorated storm drain)
11. Project readiness: For example, (a) project is already under development (partially built) or continuation of a prior commitment or (b) project has a clear timeline, reliable estimates of costs for each major milestone, and no anticipated major hurdles likely to lead to schedule delays
12. Will ready a project for implementation (for instance, completion of an engineering plan or cost estimates)

System Equity and Community Livability

13. Improves geographic distribution of parks and recreation facilities; prioritizes bringing a new facility to a neighborhood for the first time (a.k.a., an underserved area) over improving or expanding an existing functional facility elsewhere
14. Improvements will serve an area with a very high population density or a high percentage of low-income residents, children, or seniors
15. Supports program offerings for multiple user groups and age cohorts

16. Prioritizes improvements to underperforming and/or deteriorating parks and recreation facilities over improvements to higher functioning parks and recreation facilities
17. Improves multiple sites simultaneously
18. Promotes health, wellness, and active lifestyles
19. Promotes environmental education, stewardship, and sustainability
20. Promotes personal and community enrichment and overall community livability

To reward the thoughtful efforts of departments that make strategic and judicious funding requests, The Trust for Public Land, together with the Steering Committee and Stakeholder Group, also recommend that the City Manager and City Council include the following two items in their citywide criteria.

- Advances the objectives or strategic priorities of adopted/articulated visions, plans, or policies (for example, the city's Comprehensive Plan, the Portland Open Space Vision and Implementation Plan, etc.).
- Project is ranked as a high priority by the department submitting this request, assuming the department has utilized an objective prioritization system (and has not simply submitting a wish list or requests that are more responsive to political pressure than long range strategic planning).

Appendix 9: Portland Open Space System: Services to Measure

Provision of Service	Objective	Who is responsible?	What is the resource requirement?	How important is it to measure?	Frequency of Measuring Progress?	Data collection strategy
1. Quality of open spaces	Each successive deployment of the rapid park quality assessment reveals a significant increase in the overall average park score (average of all park scores)	City of Portland	Deploy the rapid park quality assessment tool.	High	3 years	Deploy the rapid park quality assessment tool.
2. Maintenance of open spaces	For each park, create a maintenance plan. ¹ Eventually, each plan to take into account desired outcomes for that park	City of Portland	Develop a maintenance plan for each open space; maintenance staff to follow-plan; conduct periodic review of compliance with plans and effectiveness of maintenance plans	High	Annually ²	City to designate a staff person to be in charge of developing the maintenance plans, updating plans and monitoring compliance with them. (Note: may require other resources, such as consultant support)
3. Accessibility / distribution of open space amenities	When there is widespread public demand for certain types of amenities in parks, Portland will work to increase the distribution of those types of amenities across the park system.	City of Portland	Field work to verify access points, as needed; GIS specialist mapping analysis	High	5 years	Existing GIS, city staff update by taking inventory of open space amenities by type for each open space and link into GIS database.

¹ Consider having service standards for parks by category – e.g. natural playgrounds, manufactured playgrounds, landscaped trails, open parks, natural areas, developed areas, etc.

² Eventually progress should be measured annually, but there is recognition that it may take significant time to develop the initial maintenance plans.

4. Accessibility / distribution of open space	Every resident is within a 10 minute walk of a park or open space. ³	City of Portland	Field work to verify access points, as needed; GIS specialist mapping analysis	High	5 years	Existing GIS, city staff update by logging GPS access points for open spaces
5. Public dollars raised for the open space system	Advocate for public funding to help meet the financial needs of the open space system	City of Portland	City staff share budget information and allocation of budget	High	Annually	City staff to produce 1-2 page summary report at the end of each fiscal year
6. Private dollars raised for the open space system	Advocate for private funding to help meet the financial needs of the open space system	Friends and other non-profit groups	Friends and other non-profit groups to track and deliver annually this information. City to provide a template/form.	Medium	Annually	Friends and other non-profit groups provide 1-2 page summary report at the end of each fiscal year
7. Accessibility / distribution of parks for people with disabilities	Parks comply with federal standards	City of Portland	Field work to evaluate accessibility of all open spaces for disabled people	Medium	5 years	Hire consultant to do technical review of all open spaces
8. Programming of open spaces	Create and manage appropriate programming for parks	City of Portland	Satisfaction Survey administered with Portland residents	Medium	Annually	City staff to administer satisfaction survey to residents.
9. Forest and ecological health	Increase ecological health of open spaces by developing and implementing forest management plans for wooded parcels	City of Portland	Develop a forest management plan for wooded parcels and landscape management practices for non-wooded parcels. ⁴	Medium	3 years	(see examples 1 and 2 below), ask city college enviro science class and/or AmeriCorps team to do this evaluation – create key ecological attributes and make a “scorecard” that can be

³ City to consider major impediments, including pedestrians having to cross heavily traveled roadways.

⁴ Forest Management plans have been completed for most of Portland’s wooded park parcels using USDA / Urban & Community Forest grants via State of Maine Forest Service. Parks included: Baxter Woods, Baxter Pines, Pine Grove, Evergreen Cemetery woodlands, Hall School woodlands, University Park, Riverton Trolley Park, Riverside Golf Course, Oatnuts Park, and Presumpscot River Preserve.

	or modeling ecologically sound landscape management practices					used repeatedly
10. Open space inter-connectivity	Strive for better connectivity on foot or by bicycle	City of Portland, Portland Trails	Satisfaction Survey administered with Portland residents	Medium	3 years	City staff to administer satisfaction survey to residents. Ask trail groups to create prioritization lists
11. Crime prevention in open spaces	Prevent criminal activity in open spaces	City of Portland	Satisfaction Survey administered with Portland residents	Medium	3 years	City staff to administer satisfaction survey to residents.
12. Trees	Improve health and expand the number of trees in parks	City of Portland	Maintain "total count" of trees in parks and open spaces	Medium	5 years ⁵	City arborist to periodically count the trees.
13. Citizen stewardship	Increase and track volunteerism	Friends groups, other non-profits, and City of Portland	Friends groups to maintain list of total number of volunteers and volunteer hours; City staff and Parks Commission to follow-up with Friends groups and other non-profits to collect this information.	Low	Annually	City staff person to contact all Friends groups and non-profits to keep an annual list of total volunteer hours.
14. Community gardens	<i>The number provided meets the demand</i>	Cultivating Community, City of Portland	Cultivating Community to maintain "total count" of community garden plots created each year. City of Portland to maintain wait list of community garden plots.	Low	Annually	Ask Cultivating Community to monitor and evaluate the number of plots each year

⁵ Contingent on expert opinion of city arborist.

15. Events	Track and manage the registered events in open spaces	City of Portland	Maintain "total count" of events occurring in public open spaces – keep registration information for all events hosted in parks. ⁶	Low	Annually	City staff or volunteer group to create an online registration form for event hosts; track the date/time/location of all events in the park, with a follow up mandatory survey to the event host asking what facilities they used, with attendance
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⁶ City of Portland is monitoring provision of this service already.

Appendix 10: Comparison of 2007 and 2014/2015 Portland Parks and Recreation Survey Results

Comparison of 2007 and 2014/2015 Portland Parks and Recreation Survey Results

The following summarizes similarities and differences between the results of the 2007 and 2014/2015 Portland Parks and Recreation community surveys. There are differences in how each survey framed questions related to similar topics, and these are sometimes significant differences. This summary attempts to make comparisons based on reasonable interpretations of the major themes.

The 2007 survey was sent to a random sample of 2,000 households in the City, and 517 were completed. The survey was designed to obtain statistically valid results, and the designers report a high confidence level in the results.

The 2014-2015 survey was completed by participants who attended one of several meetings hosted by Portland Trails (70 respondents) and by an additional 1,037 respondents who took the survey on-line. 1107 surveys were completed. Because respondents self-selected to take the survey, the results are not statistically significant.

It is important to note that the family composition of survey respondents is different between the two surveys, and that the 2007 represents a distribution that is much closer to the background population. 48% of participants in the 2014/2015 survey had children under the age of 18 in their households. This compares to only 23% of 2007 survey respondents having household members under the age of 20. The US Census shows that only 21% of Portland households had children under the age of 18 living in them in 2010, which suggests that participation in the 2007 survey much better captured household composition.

This particular discrepancy probably has a significant effect on the reported rates of participation in field sports. In 2014/2015, there appears to be much more concern about athletic fields (and based on the 2007 survey, youth are participating in field sports at a significantly higher rate than adults). The results of the 2007 survey may be more reliable in this regard.

Park Visit Frequency

Respondents in 2014/2015 indicated visiting Portland's parks with much higher frequency. In 2014/2015, 100% of respondents visited Portland's parks at least once per year, whereas only 85% did in 2007. In 2007, only 54% visited the parks 11-19 times per year. In 2014/2015, however, 89% visited at least monthly, and 79% visited at least a few times per month.

2014/2015 Park Visit Frequency	
Daily	16%
A few times/week	51%
A few times/month	79%
Monthly	89%
A few times/year	100%
Never	0%

2007 Park Visit Frequency	
20 or more times/year	40%
11-19 times/year	54%
6-10 times/year	75%
1-5 times/year	98%
Never	15%

Most Frequently Visited Parks

The parks with the highest visit rates among respondents were strikingly similar between 2007 and 2014/2015. There are minor shifts in the proportion of respondents who visited various sites. For instance, twice as many 2007 respondents visited Fort Allen Park/Eastern Promenade than Western Promenade, but both parks were equally popular in 2014/2015.

	Percent of Respondents Visiting the Following Parks in 2014/2015	Percent of Respondents Visiting the Following Parks in 2007
Eastern Promenade (Trail?)*	85%	47%
Back Cove Trail	82%	65%
Deering Oaks Park	79%	63%
Payson Park	58%	45%
Peaks Island	52%	<i>Not provided as an option</i>
Western Promenade	50%	29%
Fort Allen Park / Eastern Promenade *	50%	57%
Evergreen Cemetery Woodlands	46%	35%
Congress Square Park	46%	<i>Not provided as an option</i>
Baxter Woods	44%	36%

* Eastern Promenade is listed twice on the 2014/2015 survey. The first listing provides the statistics for the Eastern Promenade Trail in the 2007 column.

Uses and Perceptions of the Parks and Recreation Facilities and Programming

Drawing comparisons in how respondents use and perceive the quality of the parks and recreation system is difficult due to the very different ways questions on these topics were asked.

However, a few observations...

In 2007, the highest percentage of respondents (56%) listed walking and biking trails in their top four most important amenities; in addition, the highest percentage of respondents selected it as their first choice. These respondents also showed high satisfaction levels with current amenities (even though expansion of trails was also a top investment priority).

In 2014/2015, 60% of respondents would like more hiking, biking, and walking trails. 43% would also like more open space and natural areas.

The next most important amenities for 2007 respondents were small neighborhood parks and large community parks. 29% and 25%, respectively, ranked these in their top four for most important parks and recreation system amenities. Respondents were also satisfied, for the most part, with current facilities. While swimming pools and indoor fitness/exercise facilities didn't rank in the top four in importance for respondents, they were viewed as important needs nonetheless, and satisfaction levels were not nearly as high for these facilities.

In 2014/2015, 46% respondents reported household participation in swimming, and 46% as well in field sports (see note at top of this document regarding survey demographics). Like 2007 respondents, there were high dissatisfaction levels with swimming facilities. One-third was dissatisfied with both swimming pools and sports fields.

Both the 2007 and 2014/2015 reveal very high levels of support for performing arts in the parks. In 2007, respondents ranked special events such as concerts in the parks as the most important (44%) and most needed (60%) recreational program type. In 2014/2015, the second highest percentage of respondents (38%) indicated that they would like to see more amphitheaters and performing arts in Portland's parks, second only to open space and natural areas. Both the 2007 and 2014/2015 surveys show a high value for and participation in nature programs and arts and crafts programs.

While only a small percentage of respondents indicate high participation in or value for senior programming in both 2007 and 2014/2015, this is the program area with the highest rates of dissatisfaction in both surveys.

Investment Priorities

Land acquisition for parks and open space was the top priority of respondents in both 2007 and 2014/2015. Though the statistics are not precisely comparable because of the different framing of the question in each survey, improvements to existing parks was a moderately high priority in both years.

2014/2015 How would you allocate funds if you had \$100 to spend?		2007	Willing to fund with City tax dollars	Very supportive of improvements
Acquire land for parks/open spaces	\$32	Acquire land for open spaces	65%	60%
Maintain parks /open spaces to higher standards	\$23	Develop walking/biking trails and connect existing	53%	63%
Renovate existing parks/open spaces	\$22	Upgrade existing parks	47%	55%
Develop new recreational facilities (i.e. pool, ice rink, rec center)	\$16	Develop new indoor recreation center	39%	45%
Offer new or more programming	\$7	Repair older park buildings and facilities	39%	52%
		Upgrade existing athletic fields	17%	37%
		Acquire land for new athletic fields	17%	29%
		Other	5-10%	16-19%

Willingness to Invest Tax Dollars

The willingness of respondents to use their taxes to fund the parks and recreation system contrasts starkly between 2007 and 2014/2015. It is unclear whether this represents as dramatic a change as it appears or if this is related to differences in the framing of the question. In 2007, respondents were asked about how or whether they would be willing to fund increased parks and recreation operation costs. They were provided the option of increased taxes as well as other options. In 2014/2015, respondents were asked whether they would favor a general obligation bond to fund acquisition of lands for athletic fields, parks, open spaces, and trails.

In 2007, only 7% of all respondents were willing to fund the increased costs of operating the parks and recreation system through higher taxes and no increase in user fees. 47% were willing to fund increased costs of operation with a combination of increased taxes and user fees. 34% were willing to fund the increased costs only with increased user fees, while 12% felt that operating hours should be cut instead of increasing funding.

This contrasts starkly with 2014/2015 survey results. 90% of 2014/2015 respondents would vote for a general obligation bond to acquire lands for parks and recreation system.

Appendix 11: Funding Gaps

Summary of Parks & Open Space Budget Requests and Allocations: *Fiscal Years 2014 - 2016*

The following summarizes:

- All parks, open space, and recreation general fund capital requests and allocations for fiscal years 2014 (2013-2014), 2015 (2014-2015), and 2016 (2015-2016)
- All parks, open space, and recreation operating funds requests and allocations for fiscal years 2014 and 2015¹

The narrative and tables illustrate the gap between the funding requests of the Departments of Public Works and Recreation & Facilities and what the City allocates toward these requests. The true gap between system-wide needs and funding allocations may be larger than these numbers reflect as department staff, and even advocates, may limit their requests to what they perceive as realistically fundable in the current fiscal context.

In this document, parks, open space, and recreational functions are defined as the functions carried out by the Divisions of Cemeteries, Forestry & Horticulture, and Districting in the Department of Public Works and by the Divisions of Athletic Facilities, Recreation, Aquatics, Therapeutic Recreation, and the Ice Arena and Golf Course in the Department of Recreation and Facilities. We understand that this approach will not capture every investment in parks, open space, and recreation (it excludes vehicles and solid waste management, for example), and that it will inadvertently capture some investments that occur elsewhere (such as street tree maintenance). This method is intended to give a meaningful impression of the funding picture given the data categories that are available.²

Projects included in the following summaries of capital requests and allocations are those that correspond to these same functions. Due to differences in how these projects are categorized between Portland's municipal and capital budgets and from year to year, there may be minor discrepancies.

Capital Budgets

The tables on the following three pages – one for each fiscal year – summarize the details related to funding requests and allocations for parks, open space, and recreation capital projects. Listed projects include those classified under the “Parks, Fields, Trails” capital projects category as well as those related to facilities such as the golf course, ice arena, or swimming pools. Projects recommended for funding in

¹Due to the fact that the 2016 Municipal Budget is not yet publicly available, we are only able to provide this information for fiscal years 2014 and 2015.

² Throughout this appendix, for the Department of Public Works charts, we used the full monetary and personnel figures for Cemeteries, Forestry and Horticulture, and Districting even though the budgets and staff for these divisions serve both parks and non-parks functions. The Department of Public Works does not track budgets and personnel that are directly related to parks and open space. (For instance, they weren't able to provide documentation that separated out non-parks functions, such as for burial plots or street trees, from the Divisions we categorized as parks-related, nor could they provide information on the parks-related functions of the Construction, Engineering, Solid Waste, and other divisions that we did not categorize as parks-related.) Also, many of the other divisions we are not including actually also performing park functions. Though these functions tend to be quite small for each division, cumulatively, they are not small. In sum, the break outs simply aren't clear. We could tease some elements apart, but not others. It simply was not possible for us to accurately do a finer grained analysis.

future years of the five year Capital Improvement Plan cycle (scheduled requests) are included for context in grey, but requested dollar amounts are only shown for current year project funding requests.

There are several patterns that emerge from the following data.

- There is a significant, but unequal gap, between what the Departments of Public Works and Recreation and Facilities are requesting and what they are being awarded. The Department of Recreation and Facilities is allocated funds for their requests with a much higher frequency.
- The Department of Recreation and Facilities' requests follow a clear scheduling pattern that suggests that funding priorities have been planned over several year periods.
- The Department of Public Works project funding requests almost perfectly mirror the priorities advanced by the Friends of the Parks Groups and Neighborhood Associations.

When looking at current year funding requests, over all three fiscal years, the Department of Public Works cumulatively³ requested funding of \$5.4 million for 24 projects. The City allocated just under \$1 million, or 18% of the requested amount, to ten of those projects. During the same period, The Department of Recreation & Facilities requested almost \$4 million for 19 projects scheduled for the immediate budget cycle. The City awarded funding of \$2.7 million, or 68% of the amount requested, for 13 of those projects.

³ Repeated requests are included only one time.

Fiscal Year 2016 Capital Budget Requests & Allocations

Project	Departmental Request ⁴	City Council Approved CIP Recommendation ⁵	Appropriated Funds ⁶	Difference
Department of Public Works				
Western Promenade Walkways	\$51,000	(annual fund financed) \$50,000	\$50,000	(\$1,000)
Complete Eastern Cemetery "Dead House" Restoration	\$18,000	(annual fund financed) \$20,000	\$20,000	\$2,000
Capisic Pond Park Improvements	\$2,250,000	(bond financed) \$565,000	\$565,000	(\$1,685,000)
East End Beach Parking Lot Paving	\$35,000	\$0	\$0	(\$35,000)
Lincoln Park Walkways Repair	\$235,000	\$0	\$0	(\$235,000)
Deering Oaks Lighting	\$110,000	\$0	\$0	(\$110,000)
Lincoln Park Fence Repair	\$224,000	\$0	\$0	(\$224,000)
Monument Square Rehabilitation (\$700,000 more for FY 2017)	\$300,000	\$0	\$0	(\$300,000)
Eastern Cemetery Retaining Wall Repair Along Federal Street	\$935,000	\$0	\$0	(\$935,000)
Deering Oaks Parking Lot Paving	\$41,000	\$0	\$0	(\$41,000)
Longfellow Park – Internal Walkways	\$33,000	\$0	\$0	(\$33,000)
Evergreen Cemetery – Maintain Trees (\$190,000 more for FY 2017-2020)	\$50,000	\$0	\$0	(\$50,000)
Tree Planting Program (\$15,000 more annually)	\$15,000	\$0	\$0	(\$15,000)
Restroom Facilities at Deering Oaks (for FY 2019)				
TOTAL: Department of Public Works	\$4,279,000	\$635,000	\$635,000	(\$3,662,000)
Department of Recreation & Facilities				
Ice Arena Bleachers Replacement	\$100,000	(bond financed) \$100,000	\$100,000	\$0
Payson Park Softball Field "A" – Amenity and Field Upgrades	\$200,000	(bond financed) \$200,000	\$200,000	\$0
Lyman Moore Sports Complex Renovation	\$275,000	(bond financed) \$275,000	\$275,000	\$0
Golf Course Rehabilitation (\$100,000 more annually)	\$100,000	(bond financed) \$100,000	\$100,000	\$0
Riverton Pool Ultraviolet Water Treatment System	\$50,000	(bond financed) \$50,000	\$50,000	\$0
Riverton Pool Dectron Unit Replacement	\$300,000	\$0	\$0	(\$300,000)
Dougherty Field Master Plan (\$200,000 more for FY 2018)	\$450,000	\$0	\$0	(\$450,000)
Playground at Riverton School	\$250,000	\$0	\$0	(\$250,000)
Softball Field at Riverton School	\$75,000	\$0	\$0	(\$75,000)
Multipurpose Field "B" at Payson Park	\$100,000	\$0	\$0	(\$100,000)
North Golf Course Clubhouse (For FY 2017)				
North Course Bathroom with Concessions (For FY 2016)				

⁴ From two documents obtained from the City's Information Technology Department. One is headed "Department Project List by Requested Year" and the other is headed "CIP Funding Request 2016."

⁵ From "Table B. Recommended 2016 Capital Projects – General Fund [Cash and Financed]" and/or "Table C. Recommended Capital Improvement Plan – General Fund" of the City of Portland Capital Improvement Plan FY 2016 – FY 2020.

⁶ Appropriations of bond financed projects found in the ORDER APPROPRIATING \$18,731,000 OF BOND PROCEEDS FOR THE CITY'S 2016 CAPITAL IMPROVEMENT PROGRAM. Appropriations for annual fund projects are assumed as the Municipal Budget for FY 2016 has not yet been made publicly available.

Playground at Hall School (For FY 2017)				
Practice Fields at Deering High School (For FY 2017)				
Lights and Irrigation at Deering Oaks Baseball Field (For FY 2017)				
Softball Field "A" Lights at Payson Park (For FY 2018)				
Softball Field Lights at Riverton School (For FY 2018)				
Playground at Longfellow School (For FY 2018)				
North Course Clubhouse Landscaping (For FY 2018)				
Driving Range (For FY 2018)				
Tennis Court Lighting at Deering Oaks Park (For FY 2019)				
TOTAL: Department of Recreation and Facilities Management	\$1,900,000	\$725,000	\$725,000	(\$1,175,000)
Miscellaneous Departments				
Congress Square Redesign (\$1,000,000 more for FY 2017)	\$568,640	\$0	\$0	(\$568,640)
PACTS Martin's Point East Coast Greenway Trail Connection (For FY 2017 and 2020)				
TOTAL	\$568,640	\$0	\$0	(\$568,640)
Land Bank				
Land Bank	unknown	\$73,000	unknown	unknown

Fiscal Year 2015 Capital Budget Requests & Allocations

Project	Departmental Request ⁷	City Council Approved CIP Recommendation ⁸	Appropriated Funds ⁹	Difference
Department of Public Works				
East End Beach Parking Lot Paving	\$35,000	(annual fund financed) \$35,000	\$35,000	\$0
Water Line Replacement at Evergreen Cemetery	\$15,000	(annual fund financed) \$15,000	\$15,000	\$0
Evergreen Cemetery Wall along Stevens Avenue Repair, Ph. II	\$70,000	(bond financed) \$70,000	\$70,000	\$0
Capisic Pond Improvements	\$2,250,000	\$563,000 (Contingent upon receipt of grant funds and Sewer Fund allocation)	\$0 (Sewer funds not appropriated)	(\$2,250,000)
Lincoln Park Walkways Repair	\$235,000	Recommended for FY 2017	\$0	(\$235,000)
Evergreen Cemetery Expansion	\$250,000	Recommended for FY 2017	\$0	(\$250,000)
Deering Oaks Lighting	\$110,000	Recommended for FY 2017	\$0	(\$110,000)
Lincoln Park Fence Repair	\$224,000	Recommended for FY 2017	\$0	(\$224,000)
Pt. Sumner Park Lighting Improvements	\$100,000	Recommended for FY 2019	\$0	(\$100,000)
Restroom Facilities at Deering Oaks	\$300,000	Recommended for FY 2019	\$0	(\$300,000)
Western Promenade Walkways	\$51,000	\$0	\$0	(\$51,000)
Monument Square Rehabilitation (\$500,000 more for FY 2016)	\$261,000	\$0	\$0	(\$261,000)
Eastern Cemetery Retaining Wall Repair Along Federal Street	\$935,000	\$0	\$0	(\$935,000)
Deering Oaks Parking Lot Paving	\$41,000	\$0	\$0	(\$41,000)
TOTAL: Department of Public Works	\$4,877,000	\$683,000	\$120,000	(\$4,757,000)
Department of Recreation & Facilities				
Payson Park Softball Field "A" – Amenity and Field Upgrades	\$400,000	(bond financed) \$200,000 (\$200,000 more for FY 2016)	\$200,000	(\$200,000)
North Golf Course Clubhouse (\$200,000 more for FY 2016)	\$225,000	(bond financed) \$225,000 (\$200,000 more for FY 2016)	\$225,000	\$0
Payson Park Playground and Splashpad	\$50,000	(bond financed) \$50,000	\$50,000	\$0
Reiche Pool Pump Room/Pumps Replacement	\$30,000	(annual fund financed) \$30,000	\$30,000	\$0
Roof at Ice Arena	\$215,000	(bond financed) \$150,000	\$150,000	(\$65,000)
Softball Field at Riverton School	\$75,000	Recommended for FY 2017	\$0	(\$75,000)
Riverton Pool Ultraviolet Water Treatment System	\$50,000	Recommended for FY 2019	\$0	(\$50,000)
Golf Course Rehabilitation (\$100,000 more annually)	\$100,000	Recommended for FY 2019	\$0	(\$100,000)
Driving Range	\$45,000	\$0	\$0	(\$45,000)

⁷ From "Table G. Requested Capital Projects – General Fund" of the City of Portland Capital Improvement Plan (City Manager Recommended) FY 2015 – FY 2019.

⁸ From "Table B. Recommended 2015 Capital Projects – General Fund [Cash and Financed]" and "Table C. Recommended Capital Projects – General Fund" of the City of Portland Capital Improvement Plan (City Manager Recommended) FY 2015 – FY 2019.

⁹ Appropriations of bond financed projects found in the ORDER APPROPRIATING \$15,911,000 OF BOND PROCEEDS FOR THE CITY'S 2015 CAPITAL IMPROVEMENT PROGRAM. Appropriations for annual fund projects found in the "Approved Capital Expenditures FY15" table on pages 9-10 of the City of Portland Municipal Budget July 1, 2014 – June 30, 2015.

Bleachers at Ice Arena (For FY 2016)		Recommended for FY 2017		
Lyman Moore Sports Complex (For FY 2016)		Recommended for FY 2017		
Playground at Riverton School (For FY 2016)		Recommended for FY 2017		
Multipurpose Field "B" at Payson Park (For FY 2016)				
Dougherty Field Master Plan (For FY 2016/2018)				
North Course Bathroom with Concessions (For FY 2016)				
Playground at Hall School (For FY 2017)				
Practice Fields at Deering High School (For FY 2017)				
Lights and Irrigation at Deering Oaks Baseball Field (For FY 2017)				
Softball Field "A" Lights at Payson Park (For FY 2018)				
Softball Field Lights at Riverton School (For FY 2018)				
Playground at Longfellow School (For FY 2018)				
North Course Clubhouse Landscaping (For FY 2018)				
Tennis Court Lighting at Deering Oaks Park (For FY 2019)				
TOTAL: Department of Recreation & Facilities	\$1,190,000	\$655,000	\$655,000	(\$535,000)
Miscellaneous Departments				
Congress Square Redesign, Phase I (For FY 2016/2017)		Recommended for FY 2016/2017		
PACTS Martin's Point East Coast Greenway Trail Connection (For FY 2016/2017)		Recommended for FY 2019		
TOTAL	\$0	\$0	\$0	\$0
Land Bank				
Land Bank	unknown	\$63,000	unknown	unknown

Fiscal Year 2014 Capital Budget Requests & Allocations

Project	Departmental Request ¹⁰	City Council Approved CIP Recommendation ¹¹	Appropriated Funds ¹²	Difference
Department of Public Works				
West Commercial Street Trail Design and Construction (\$200,000 more for FY 2015)	\$70,000	(bond financed) \$70,000 (\$170,000 more for FY 2015)	\$70,000	\$0
Eastern Cemetery "Dead House" and City Tomb Repair	\$25,000	(bond financed) \$25,000 (B)*	\$25,000	\$0
Western Promenade Walkways and Retaining Wall Construction	\$100,000	(bond financed) \$60,000 (B)* (Retaining Wall Only)	\$60,000	(\$40,000)
Evergreen Cemetery Wall along Stevens Avenue Repair	\$90,000	(bond financed) \$20,000 (B)*	\$20,000	(\$70,000)
Western Cemetery Fence and Section of Retaining Wall Replacement	Not specified	\$20,000 (C)*	\$0	Not specified
Public Park at High Street and Spring Street Design and Construction (\$225,000 more for FY 2015)	\$25,000	\$0	\$0	(\$25,000)
Evergreen Cemetery Expansion	\$250,000	\$0	\$0	(\$250,000)
Lincoln Park Walkways Repair	\$235,000	\$0	\$0	(\$235,000)
Back Cove Trail (North Side) Realignment and Retaining Wall Removal	\$165,000	\$0	\$0	(\$165,000)
Lincoln Park Fence Repair	\$224,000	\$0	\$0	(\$224,000)
Ft. Sumner Park Lighting Improvements	\$100,000	\$0	\$0	(\$100,000)
Eastern Cemetery Retaining Wall along Federal Street Repair	\$935,000	\$0	\$0	(\$935,000)
Water Service into Eastern Cemetery Extension	Not requested	(bond financed) \$15,000 (B)*	\$15,000	n/a
Sidewalls and Roof Fort Allen Gazebo Reconstruction and Repainting	Not requested	(bond financed) \$30,000 (B)*	\$30,000	n/a
Capisic Pond Park Improvement (For FY 2015/2016)		(bond financed) \$80,000 (B)*	\$80,000	
Parks, Field, Trails (Other)		Recommended annual allocations for FY 2015-2018		
TOTAL: Department of Public Works	\$2,219,000	\$320,000	\$300,000	(\$2,044,000)
Department of Recreation & Facilities				
Turf and Track Replacement at Fitzpatrick Stadium	\$1,050,000	(bond financed) \$1,050,000	\$1,050,000	\$0
North Golf Course Club House Facility Improvements	\$150,000	(bond financed) \$150,000 (B)*	\$150,000	\$0
Golf Course Club House Restaurant Area Improvements	\$70,000	(bond financed) \$70,000 (B)*	\$70,000	\$0
Reiche Pool Filter System and Kiwanis Pool Rehabilitation	\$50,000	\$50,000	\$50,000	\$0
Payson Park Playground and Splashpad Replacement/Repair	\$50,000	\$0	\$0	(\$50,000)

¹⁰ From "Table F. Requested Capital Projects – General Fund" of the City of Portland Capital Improvement Plan FY 2014 – FY 2018.

¹¹ From "Table B. Recommended 2014 Capital Projects – General Fund Financed" and/or "Table C. Recommended Summary 2014-2018 Capital Projects – General Fund" of the City of Portland Capital Improvement Plan FY 2014 – FY 2018. See note above.

¹² An Appropriation Order for the 2014 CIP could not be located online. Due to the inconsistency noted above, a call was placed to the City Manager's office to identify which projects were actually funded.

Riverton Pool Ultraviolet Water Treatment System (For FY 2015)				
Lyman Moore Sports Complex Renovation (For FY 2015)				
Playground at Riverton School Replacement (For FY 2015)				
Playground at Longfellow School Replacement (For FY 2015)				
Softball Field at Riverton School Renovation (For FY 2015)				
Multipurpose Field "B" at Payson Park Renovation (For FY 2015)				
Ice Arena Roof Refinishing (For FY 2015)				
Ice Arena Bleachers Replacement (For FY 2015)				
Playground at Hall School Replacement (For FY 2016)				
Practice Fields at Deering High School Renovation (For FY 2016)				
Lights and Irrigation at Deering Oaks Baseball Field (For FY 2016)				
Softball Field "A" Lights at Payson Park Replacement (For FY 2017)				
Softball Field Lights at Riverton School Replacement (For FY 2017)				
Deering Oaks Park Tennis Court Lighting Installation (For FY 2017)				
TOTAL: Department of Recreation and Facilities Management	\$1,370,000	\$1,320,000	\$1,320,000	(\$50,000)
Miscellaneous Departments				
PACTS Martin's Point East Coast Greenway Trail Connection (For FY 2016/2017)		Recommended for FY 2016/2017		
TOTAL	\$0	\$0	\$0	\$0
Land Bank				
Land Bank	unknown	\$73,000	unknown	unknown

* Projects recommended for funding in fiscal year 2014 should be listed in both "Table B. Recommended 2014 Capital Projects – General Fund" and "Table C. Recommended Summary 2014-2018 Capital Projects – General Fund" of the *City of Portland Capital Improvement Plan FY 2014 – FY 2018*. Unfortunately, these two tables contain entirely different 2014 parks and recreation project listings. Table B lists ten 2014 projects under the "Parks, Fields, Trails" and "Golf Course" headings (in addition to one aquatics project). Only two of those projects are similarly reflected in Table C. In addition, Table C lists one project that is not listed in Table B. All projects listed in either table are shown here. Letters in parentheses indicate if a project was listed in only Table B or only Table C (rather than in both tables).

Operating Budgets

Between fiscal years 2014 and 2015, the general fund budget increased by 3.2% from just under \$171 million to over \$176 million. During the same time, the funds dedicated primarily to parks, open space, and recreation functions increased by 4.2% in the Department of Public Works and 4.7% in the Department of Recreation.¹³ The Divisions of Cemeteries, Forestry & Horticulture, and Districting are those that primarily serve parks and open space functions in the Department of Public Works. The budgets of these Divisions make up less than one-fifth the total Public Works budget. In the Department of Recreation and Facilities, the Divisions primarily serving parks and recreation functions are the Ice Arena, Athletic Facilities, Recreation, Aquatics, Therapeutic Recreation, and the Golf Course. Together, the budgets of these divisions are approximately 37% of the total Recreation and Facilities budget. Projected Public Works tax levy revenue was \$12.2 million in FY 2015 and almost \$12.6 million in FY 2014. Projected recreation and facilities management tax levy revenue was \$3.6 million in both FY 2015 and 2014.

Fiscal Year 2015 Operating Budget Requests & Allocations¹⁴

The gap between what the Department of Public Works requested for parks and open space management and what they were allocated was over \$193,000 in FY 2015. Unfunded requests include the salary for an additional full-time maintenance worker in the Cemeteries Division and costs for temporary help and contractual services across all three Divisions. Unfunded parks and recreation requests for the Department of Recreation and Facilities were relatively minor in FY 2015 and primarily affected contractual services.

Department/Division	Departmental Request	City Allocation (from Municipal Budget)	Difference	Percent Unfunded	Percent of Dept. Budget	Percent of City General Fund Budget
Department of Public Works	\$18,082,944	\$16,331,323	\$1,751,621	9.7%		
Cemeteries	\$670,472	\$586,028	\$84,444	12.6%	3.6%	
Forestry & Horticulture	\$693,495	\$658,815	\$34,680	5.0%	4.0%	
Districting	\$2,114,821	\$2,040,611	\$74,210	3.5%	12.5%	
TOTAL for Parks, Open Space, and Recreation Functions	\$3,478,788	\$3,285,454	\$193,334	5.6%	20.1%	1.9%
Department of Recreation and Facilities	\$11,948,579	\$11,732,029	\$216,550	1.8%		
Ice Arena	\$533,013	\$533,013	\$0	0.0%	4.5%	
Athletic Facilities	\$793,084	\$772,084	\$21,000	2.6%	6.6%	
Recreation	\$1,615,139	\$1,605,139	\$10,000	0.6%	13.7%	
Aquatics	\$404,512	\$404,512	\$0	0.0%	3.4%	
Therapeutic Recreation	\$159,168	\$159,168	\$0	0.0%	1.4%	

¹³ In the Department of Public Works, the Divisions of Cemeteries, Forestry & Horticulture, and Districting are being defined as those primarily serving parks, open space, and recreation functions. In the Department of Recreation and Facilities, the Divisions of the Ice Arena, Athletic Facilities, Recreation, Aquatics, Therapeutic Recreation, and the Golf Course are being defined as those primarily serving parks, open space, and recreation functions.

¹⁴ From *City of Portland Municipal Budget July 1, 2014– June 30, 2015*. Budgets do not include revenues from the recreation division.

Golf Course	\$790,569	\$784,069	\$6,500	0.8%	6.7%	
TOTAL for Parks, Open Space, and Recreation Functions	\$4,295,485	\$4,257,985	\$37,500	0.9%	36.3%	2.4%

Fiscal Year 2014 Operating Budget Requests & Allocations¹⁵

In FY 2015, unfunded requests for Department of Public Works parks and open space functions totaled \$121,000. The majority of these funds were requested for temporary help. The gap between what the Department of Recreation & Facilities requested for parks and recreation functions was almost \$200,000. Over half was an unfunded request for golf course supplies. The remainder represents a mix of supplies, contractual services, and temporary help requests split across all parks and recreation serving Divisions.

Department/Division	Departmental Request	City Allocation (from Municipal Budget)	Difference	Percent Unfunded	Percent of Dept. Budget	Percent of City General Fund Budget
Department of Public Works	\$18,059,684	\$16,916,779	\$1,142,905	6.3%		
Cemeteries	\$604,192	\$589,617	\$14,575	2.4%	3.5%	
Forestry & Horticulture	\$615,264	\$590,514	\$24,750	4.0%	3.5%	
Districting	\$2,054,429	\$1,972,349	\$82,080	4.0%	11.7%	
TOTAL for Parks, Open Space, and Recreation Functions	\$3,273,885	\$3,152,480	\$121,405	3.7%	18.6%	1.8%
Department of Recreation and Facilities	\$11,384,183	\$10,829,178	\$555,005	4.9%		
Ice Arena	\$518,567	\$515,429	\$3,138	0.6%	4.8%	
Athletic Facilities	\$750,922	\$737,172	\$13,750	1.8%	6.8%	
Recreation	\$1,580,026	\$1,566,426	\$13,600	0.9%	14.5%	
Aquatics	\$399,007	\$394,007	\$5,000	1.3%	3.6%	
Therapeutic Recreation	\$160,313	\$157,763	\$2,550	1.6%	1.5%	
Golf Course	\$854,412	\$694,527	\$159,885	18.7%	6.4%	
TOTAL for Parks, Open Space, and Recreation Functions	\$4,263,247	\$4,065,324	\$197,923	4.6%	37.5%	2.4%

¹⁵ From City of Portland Municipal Budget July 1, 2013 – June 30, 2014.

Appendix 12: Project Leaders

Steering Committee Members:

Planning Commission Representatives:

Diane Davison
Michael Mertaugh
Dory Waxman

Land Bank Commission Representatives:

Tom Jewell
Colleen Tucker
Bryan Wentzell

Advisors:

Rick Knowland, City of Portland, Planning Department
Troy Moon, City of Portland, Department of Public Works
Sally DeLuca, City of Portland, Department of Recreation and Facilities

Stakeholder Group Members:

Community Representatives:

Jeremy Bloom
Christine Cantwell
Kristen Dow
Jan Kearce
Bobbi Keppel
David LaCasse
Laura Mailander
Nat May
Pat O'Donnell
Jamie Parker
Alex Pozzy
Anne Pringle
Bill Needleman
Nathan Robbins
Amy Segal
Rebecca Schaffner

City Staff:

Mike Bobinsky
Sally DeLuca
Rick Knowland
Troy Moon
Bethany Sanborn

Note: All Steering Committee members also served as members of the Stakeholder Group.

Com 8-15/16
Tab 11 3-7-16

Portland, Maine



Yes. Life's good here.

MEMORANDUM

TO: Mayor Strimling and Members of the City Council
FROM: Katherine Jones, City Clerk
DATE: February 11, 2016
RE: voting at the Expo re: Hall School Referendum

I was recently informed that the Expo will be unavailable for the April 5, 2016 Hall School Referendum. The Sea Dog's Opening Dinner, which is a ticketed event, has been booked for this day. As a result of this conflict, and instead of trying to relocate to another facility, I am going to combine two precincts, (District 2-1, Reiche and 2-2 Expo) and have both precincts vote at Reiche School for this election only.

Title 21-A specifies that I must inform the Secretary of State's office if there is going to be a change in polling locations (Title 21-A § 631-A, sub§3). I did this notification and have been informed by the Deputy Secretary of State, Julie Flynn that the City does not need additional approval from the State to make this temporary polling location change for a municipal elections. The City Code also does not require any specific approvals to make this temporary change.

Therefore, I am placing this communication on the March 7, 2016 City Council agenda for notice purposes only.

Thank you for your time.

*Order 173-15/16
Tab 12 3-7-16*

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

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

**ORDER ACCEPTING EASEMENT
FROM GREAT DIAMOND ISLAND HOMEOWNERS ASSOCIATION**

ORDERED, that an easement from Great Diamond Island Homeowners Association on portions of its land adjacent to leased land for a Transfer Station is hereby accepted in substantially the form attached hereto; and

BE IT FURTHER ORDERED, that the City Manager, the Finance Director or their designee is hereby authorized to execute said documents and any other related documents necessary or convenient to carry out the intent of said documents and this Order; and

BE IT FURTHER ORDERED, that this order is enacted as an Emergency, pursuant to Article II, Section 11 of the Portland City Charter, in order to make it effective immediately and to not delay the construction of the Great Diamond Island Transfer Station.

MEMORANDUM
City Council Agenda Item

TO: Mayor and City Council

FROM: Troy Moon

DATE: 2/15/2016

DISTRIBUTION: City Manager, Mayor, Anita LaChance, Sonia Bean, Danielle West-Chuhta, Nancy English, Julie Sullivan

SUBJECT: Order ...

SPONSOR: City Manager

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading _____ Final Action X

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

Construction activity is commencing and council action is required to record the easement as required by the site plan.

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

I. SUMMARY OF ISSUE (Agenda Description)

The City is constructing a solid waste transfer station on property leased from the Diamond Cove Homeowners Association (DCHA) in order to facilitate efficient collection and removal of waste material and recycling from Great Diamond Island and Little Diamond Island. In order to comply with the site plan approval, the City must construct part of a soil filter and a driveway that extends beyond the boundary of the leased property. DCHA has offered the City an easement for this purpose.

II. REASON FOR SUBMISSION (Summary of Issue/Background)

The City has a lease from the DCHA to build and operate a solid waste transfer station on property owned by the association. Council has approved funds for this project in the CIP and work is slated to begin. In order to fulfill conditions outlined in the approved site plan, the City must construct some infrastructure in two small areas adjacent to the leased property. The first easement is for an underdrain soil filter for storm water management that is largely on the leased property but extends a short distance beyond the lease boundary. The second allows the

construction of a paved driveway and the planting of several trees designed to provide visual buffer for the transfer facility.

III. INTENDED RESULT

Authorization to record easements, which will allow construction of the elements described above.

IV. COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

DCHA is offering the easements without cost to the City.

VI. STAFF ANALYSIS

City staff has worked collaboratively with the leadership of the Diamond Cove Homeowner's Association to craft these easements that will allow construction of the soil filter and driveway on property adjacent to the land leased for the transfer station. These elements, which are required by the site plan, will enable capture of storm water from the transfer station as well as complete the driveway, enabling efficient access.

VII. RECOMMENDATION

Approval of the order as the easements allows construction of elements required by the approved site plan.

VIII. LIST ATTACHMENTS

Easement Deed
Transfer Station Lease

Prepared by: Troy Moon

Date: 2/15/2016

Bean/agendamemo/rev7/20/15

EASEMENT DEED

THIS EASEMENT DEED is delivered by **DIAMOND COVE HOMEOWNERS ASSOCIATION**, a Maine not-for-profit corporation with a mailing address of c/o Foreside Real Estate Management, 76 Elm Street, Portland, Maine 04101 ("Grantor"), and accepted by the **CITY OF PORTLAND**, a body politic and corporate with a mailing address of 389 Congress Street, Portland, Maine 04101 ("City").

WHEREAS, Grantor and City have entered into a Lease Agreement for Transfer Station dated April 17, 2014, as amended by First Amendment dated September 30, 2014 and Second Amendment of even date herewith (as amended, the "Lease"), regarding a solid waste transfer and recycling facility to be constructed and operated by the City at certain leased "Premises" on Great Diamond Island in Portland, Maine and more particularly described in the Lease;

WHEREAS, the Portland Planning Authority gave Level II site plan approval of said solid waste transfer and recycling facility on May 28, 2015 (the "Planning Approval"), including approval of a final Site Plan prepared by Sebago Technics and last revised May 26, 2015 (the "Site Plan");

WHEREAS, in approving said facility, the Maine Department of Environmental Protection gave a Site Location of Development Act Minor Approval dated November 5, 2014, and also a Solid Waste License dated May 8, 2015 (collectively, the "DEP Approvals");

WHEREAS, in connection with said facility and consistent with the Planning Approval and the DEP Approvals, the City will install a stormwater filtration system, certain tree plantings and landscaping, and certain road paving, all located adjacent to but outside of the leased Premises; and

WHEREAS, Grantor has agreed to grant an easement for such purposes;

NOW THEREFORE, Grantor does hereby remise and release and forever quitclaim to the City the certain nonexclusive easements and rights of way described below, and on, under and over the real property as shown on plan attached hereto as Exhibit A, which is incorporated herein by reference.

Easement Area 1:

An easement and right of way below, on, under, and over the real property marked as "Easement Area 1" on Exhibit A for the following purposes: to install and perpetually maintain an underdrained soil filter with all necessary fixtures and appurtenances for conveying storm water and to lay, relay, replace, repair, maintain, clean and remove said filter with all necessary fixtures and appurtenances; to trim, cut down and remove trees, bushes, and other vegetation of all kinds, to remove debris and deposits of any kind and to alter and re-grade the contours of said Easement Area 1 to be consistent with the Site Plan and to such extent as in the sole judgment of the City is necessary or appropriate for any of the above purposes; and to enter upon said Easement Area 1 at any and all times for any of the foregoing purposes. Reserving to the Grantor and its successors and assigns the use and enjoyment of said Easement Area 1 and for such purposes only as will not unreasonably interfere temporarily or otherwise with the use thereof by the City, its successors and assigns for the purpose above mentioned, provided that no building or any kind of permanent structure, including, but not limited to, walls and fences, shall be erected on said easement area by the Grantor, its successors or assigns; and that the Grantor, its successors and assigns shall not remove earth from said easement without the written permission of the Grantee, its successors and assigns.

Easement Area 2:

An easement and right of way below, on, under, and over the real property marked as "Easement Area 2" on Exhibit A for the following purposes: to construct and perpetually maintain a paved driveway within Easement Area 2 for the purpose of accessing the transfer station depicted on Exhibit A and to lay, relay, replace, repair, and maintain said driveway; to plant, maintain, and replace trees along said driveway as generally depicted in "Easement Area 2" on Exhibit A; to trim, cut down and remove trees, bushes, and other vegetation of all kinds, to remove debris and deposits of any kind and to alter and re-grade the contours of said Easement Area 2 to be consistent with the Site Plan and to such extent as in the sole judgment of the City is necessary or appropriate for any of the above purposes; and to enter upon said Easement Area 2 at any and all times for any of the foregoing purposes. Reserving to the Grantor and its successors and assigns the use and enjoyment of said Easement Area 2 and for such purposes only as will not unreasonably interfere temporarily or otherwise with the use thereof by the City, its successors and assigns for the purpose above mentioned.

The foregoing easement rights are granted and accepted on the following terms and conditions:

1. Term; Assignment. This Easement shall be coterminous with the Lease, and shall automatically expire and terminate upon the expiration or termination of the Lease. Upon expiration or termination of the Lease, the City, its successors or assigns shall, upon the

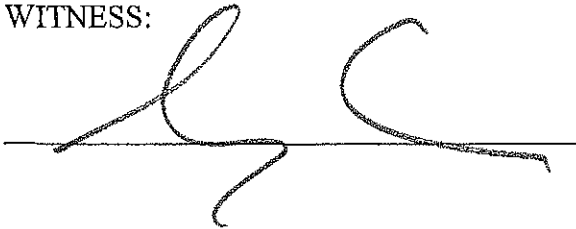
written request of Grantor, its successors or assigns, execute an affidavit in recordable form indicating that the rights under this Easement have been extinguished and that this Easement is of no further effect. The City's interest in this Easement may not be assigned separately from its interest in the Lease.

2. Use and Maintenance by City. The City shall install, maintain and replace (as necessary), during the term of this Easement, the landscaping elements, the visual screening, the stormwater filtration system, and the road paving within the easement areas as shown on the Site Plan, and shall maintain the easement areas in a responsible, clean and orderly manner and in compliance with the DEP Approvals, the Planning Approval, the DCHA Declaration (as defined in the Lease), and applicable laws, rules and regulations. The City shall use the easement areas solely in connection with the development, construction (including landscaping) and maintenance of the transfer station facility on the leased Premises in accordance with the Lease, but the easement areas may not be used by the City for any purposes other than as specifically set forth in this Easement. Without limiting the generality of the foregoing:
 - a. no trash compaction, recycling services, or storage of trash or materials may be conducted within the easement areas;
 - b. the City will not knowingly or intentionally store or process hazardous waste on the easement areas;
 - c. the City will not be permitted to build any improvements on the easement areas, other than those shown on the Site Plan ;
 - d. there shall be no parking, or staging or storage of equipment on the easement areas; and
 - e. the general public (non-Diamond Cove residents) shall not be allowed by the City to have access to the easement areas.
3. Default. Any default by the City in the performance of any of the terms, covenants, agreements or conditions herein shall be deemed a default by the City under the Lease.

SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the said Diamond Cove Homeowners Association has hereunto caused this instrument to be signed by Matthew Hoffner, its Director and President, duly authorized, and delivered as of the 14th day of October, 2015.

WITNESS:



DIAMOND COVE HOMEOWNERS
ASSOCIATION

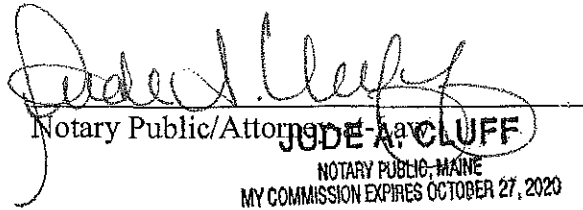

Name: Matthew Hoffner
Its Director and President

STATE OF MAINE
CUMBERLAND, ss.

October 14, 2015

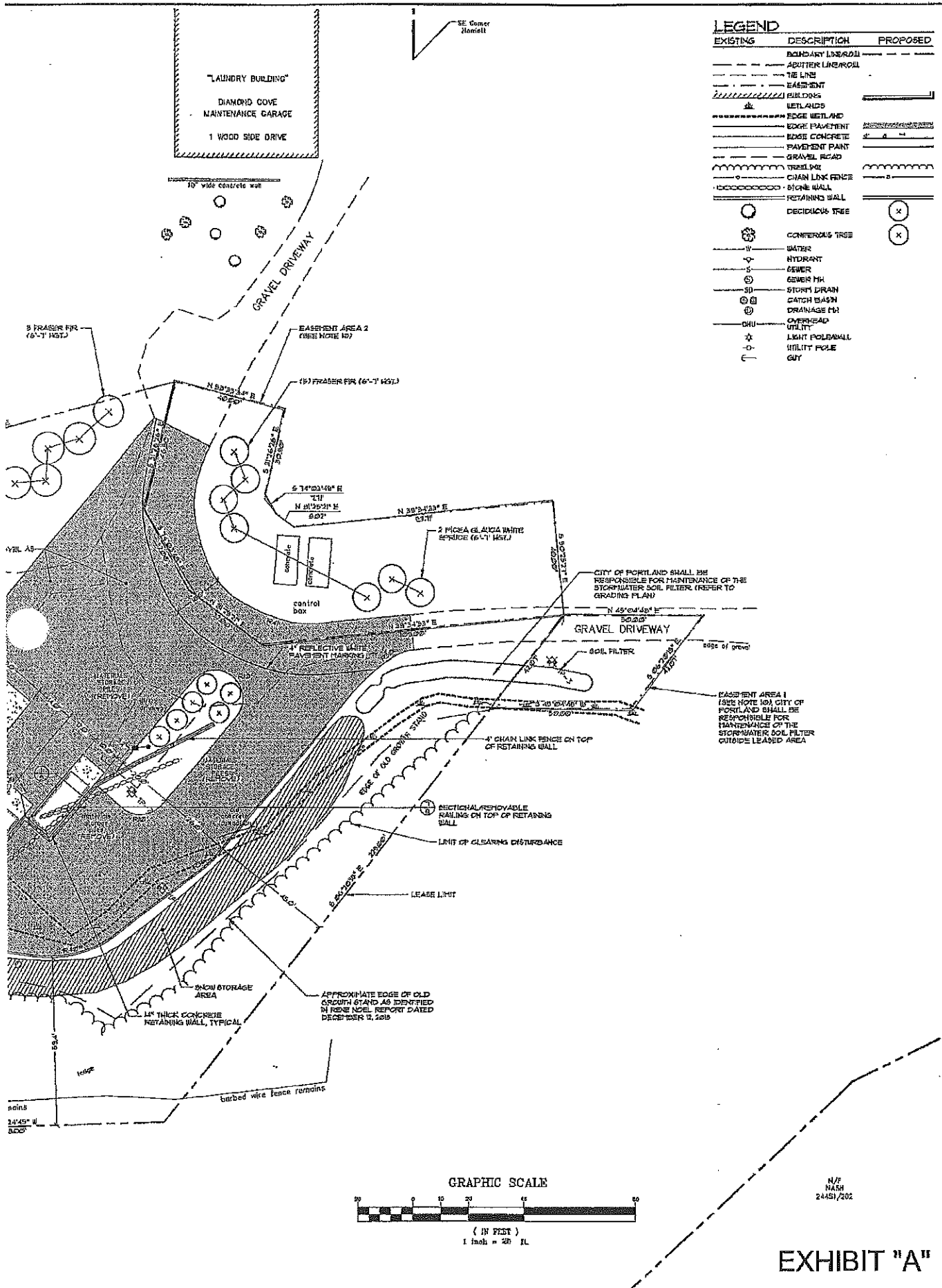
Personally appeared the above-named, Matthew Hoffner, in his capacity as Director and President of Diamond Cove Homeowners Association, and acknowledged the foregoing instrument to be his free act and deed and the free act and deed of Diamond Cove Homeowners Association.

Before me,


Notary Public/Attorney at Law
JUDE A. CLUFF
NOTARY PUBLIC, MAINE
MY COMMISSION EXPIRES OCTOBER 27, 2020

Print Name

Exhibit A



SEBAGO
TECHNICAL SERVICES
70 JANUARY RD., CLAYTON, MAINE 04405
TEL: 207-594-1100 FAX: 207-594-1101

SEBAGO
TECHNICAL SERVICES
70 JANUARY RD., CLAYTON, MAINE 04405
TEL: 207-594-1100 FAX: 207-594-1101

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**SECOND AMENDMENT TO
LEASE FOR TRANSFER STATION
BY AND BETWEEN
CITY OF PORTLAND
AND
DIAMOND COVE HOMEOWNERS ASSOCIATION**

THIS SECOND AMENDMENT TO LEASE is made as of this 14th day of October, 2015, to the **LEASE AGREEMENT FOR TRANSFER STATION** dated April 17, 2014 (hereinafter, the "**LEASE**") by and between the **CITY OF PORTLAND**, a municipal corporation located in Cumberland County, State of Maine, (hereinafter the "**CITY**"), and **DIAMOND COVE HOMEOWNERS ASSOCIATION**, a Maine not-for-profit corporation doing business on Great Diamond Island, Maine (hereinafter, the "**LESSOR**").

W I T N E S S E T H:

WHEREAS, the **LEASE** provides for the **CITY** to develop, construct, maintain, and operate a transfer station on certain premises owned by the **LESSOR**, as more fully described in the **LEASE**; and

WHEREAS, the "Commencement Date" of the Lease occurred on May 28, 2015; and

WHEREAS, Section 1(A) of the **LEASE**, as amended by the September 30, 2014 First Amendment to Lease for Transfer Station (the "First Amendment") provides that the **LEASE** shall automatically and immediately terminate if the **CITY** does not substantially complete the construction of the transfer station pursuant to the terms of the **LEASE** by October 15, 2015 (the "Construction Deadline"); and

WHEREAS, Section 1(A) of the **LEASE**, as amended by the First Amendment, provides that the **LEASE** shall automatically and immediately terminate if the transfer station is not operational by December 1, 2015 (the "Operation Deadline"); and

WHEREAS, because construction of the transfer station has not yet begun, the construction of the transfer station is not likely to be substantially complete by the Construction Deadline and is not likely to be operational by the Operation Deadline; and

WHEREAS, the **CITY** and the **LESSOR** desire to extend the Construction Deadline, and the Operation Deadline in order to avoid the automatic termination of the **LEASE** and allow the City to develop, construct, and maintain the transfer station pursuant to the **LEASE**.

NOW, THEREFORE, the parties agree to amend the LEASE as follows:

1. Construction Deadline. The Construction Deadline, which, pursuant to section 1(A) of the LEASE, as amended, is currently October 15, 2015, shall be extended to June 1, 2016.
2. Operation Deadline. The Operation Deadline, which, pursuant to section 1(B) of the LEASE, as amended, is currently December 1, 2015, shall be extended to July 1, 2016.
3. SURVIVING TERMS. Any and all terms of the LEASE not herein amended shall remain in full force and effect and are hereby ratified and confirmed.

IN WITNESS WHEREOF, the said CITY OF PORTLAND has caused this Second Amendment to Lease to be signed and sealed by Jon P. Jennings, its City Manager, thereunto duly authorized, and DIAMOND COVE HOMEOWNERS ASSOCIATION has caused this Second Amendment To Lease to be signed by Matthew Hoffner, its Director and Operations Officer, thereunto duly authorized, the day and year first above written.

WITNESS:

CITY OF PORTLAND

By:



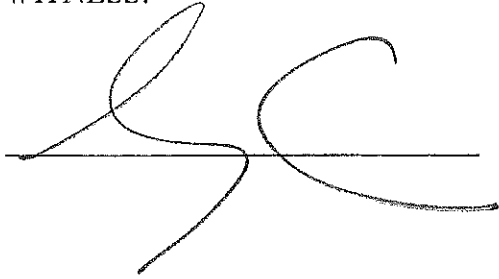
Jon P. Jennings
Its Acting City Manager

Approved as to form:



Corporation Counsel's Office

WITNESS:

A handwritten signature, possibly reading 'SC', written over a horizontal line.

**DIAMOND COVE HOMEOWNERS
ASSOCIATION**

By: 
Matthew Hoffner
Its President

*Order 144-15/16
Tab 13 3-7-16*

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

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

**ORDER GRANTING EASEMENTS
TO CENTRAL MAINE POWER COMPANY AND NORTHERN NEW ENGLAND
TELEPHONE OPERATIONS, LLC FOR PORTLAND TECHNOLOGY PARK**

ORDERED, that easements are hereby granted to Northern New England Telephone Operations LLC, d/b/a FairPoint Communications-NNE and Central Maine Power Company in substantially the form attached hereto as Attachment 1, for utility lines and access on land owned by the City of Portland and known as Portland Technology Park; and

BE IT FURTHER ORDERED, that the City Council hereby authorizes the City Manager, the Finance Director or their designee to execute said documents and any other related documents necessary or convenient to carry out the intent of said documents; and

BE IT FURTHER ORDERED, that this order is enacted as an Emergency, pursuant to Article II, Section 11 of the Portland City Charter, in order to make it effective immediately and thereby not delay the closing for the sale of this property.



Economic Development Department
Gregory A. Mitchell, Director

MEMORANDUM
City Council Agenda Item

DISTRIBUTE TO: City Manager, Mayor, Anita LaChance, Sonia Bean, Danielle West-Chuhta, Nancy English, Julianne Sullivan

FROM: Greg Mitchell, Economic Development Director
Nelle Hanig, Business Programs Manager

DATE: February 19, 2016

SUBJECT: Review and Approval of Two Utility Easements at Portland Technology Park

SPONSOR: Jon P. Jennings, City Manager

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st reading and final action: March 7, 2016

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

Recorded easements are among the items that need to be in place before the amended subdivision plat for the Portland Technology Park can be finalized and signed by the Planning Board. Once they are completed, along with condominium documents, the City can close on the sale of Unit 4 to Patrons Oxford Insurance Company. Staff is requesting that this item be passed as an emergency because of the need to close with Patrons Oxford by the following week.

PRESENTATION: (List the presenter(s), type and length of presentation)
Greg Mitchell - 5 minutes

I. ONE SENTENCE SUMMARY:

Easements must be granted to Central Maine Power (CMP) and Fairpoint Communications in order for these utilities to run their lines into the Portland Technology Park (under the sidewalk), and provide their services to future occupants of the Park.

II. AGENDA DESCRIPTION:

Two utility easements need approval from the City Council in order for Portland to grant access to CMP and Fairpoint to run their lines into the Portland Technology Park and maintain them. These two easements are being provided to the City Council for its review and approval.

III. BACKGROUND:

CMP and Fairpoint advised the City to wait until there was a first buyer before moving forward on bringing their lines into the Park. Now that the City is a month away from closing with Patrons and the company is less than two months away from beginning construction, it is time to bring these utilities into the Park. In order to accomplish this, easements from the City are needed to grant CMP and Fairpoint access to install and maintain their lines under the sidewalk, adjacent to the Park road.

IV. INTENDED RESULT AND OR COUNCIL GOAL ADDRESSED:

Promote economic development in the City in a manner that provides for increased property values, diversification across industry sectors, and well-paying jobs.

V. FINANCIAL IMPACT:

There is no cost associated with approval of these easements.

VI. STAFF ANALYSIS AND BACKGROUND THAT WILL NOT APPEAR IN THE AGENDA DESCRIPTION:

Patrons Oxford would like to close on Unit 4 at the Portland Technology Park just as soon as possible, so they can begin preparing the property for construction. In order for the closing to occur, all easements need to be signed and recorded, followed by signing and recording of the subdivision plat, followed by declaring and recording the condominium declaration and plat. Everything is working its way toward completion. The City Council's approval of the two utility easements is one of the important steps toward reaching the goal of closing with Patrons Oxford.

VII. RECOMMENDATION:

Staff recommends that the City Council approve the easements for Central Maine Power and Fairpoint Communications. Staff is requesting that this item be passed as an emergency because of the need to close with Patrons Oxford by the following week.

VIII. LIST ATTACHMENTS:

- Easement from City of Portland to Central Maine Power
- Easement from City of Portland to Northern New England Telephone Operations LLC (d/b/a FairPoint Communications-NNE)

Prepared by: Nelle Hanig, Business Programs Manager
Date: February 19, 2016

WO# 10300035280
Form 1199, Rev. 07/08

Easement
Underground Line

CITY OF PORTLAND, a municipal corporation organized and existing under the laws of the State of Maine with a mailing address of 389 Congress St, Portland, ME, 04101 (Grantor(s)), for consideration given, grants to **CENTRAL MAINE POWER COMPANY**, a Maine Corporation with an office at 83 Edison Drive, Augusta, Maine 04336 and its respective successors and assigns (collectively Grantee), with quitclaim covenants, the right and easement, in common with others, to erect, bury, maintain, rebuild, replace, patrol, operate, and remove and do all other actions involving electric distribution equipment and facilities, consisting of wires and cables to be placed in existing underground conduit, together with all necessary fixtures and appurtenances under a portion of the surface of the land conveyed to the Grantor(s) in the City of Portland, Cumberland County, Maine by deed recorded in the Cumberland County Registry of Deeds, Book 15211, Page 31. Said portion (the "Easement Premises") is more particularly described in Exhibit A attached hereto and incorporated herein by reference (the "Easement Premises"). The Easement Premises are part of the area identified as "Easement Area 1" on the Second Amended Subdivision Plat Of Portland Technology Park Condominium, Rand Road, Portland, Maine, dated September 29, 2011, prepared by SGC Engineering, LLC for the City of Portland – Declarant, and approved by the City of Portland Planning Board on December 8, 2015, to be recorded in the Cumberland County Registry of Deeds. The said equipment and facilities are attached to a line commencing at Pole/Pad 22H, Rand Rd, Portland and extending to include Pole(s)/Pad(s) manholes 1 through 6, Technology Park Drive (aka Easement Area 1). This easement is an easement in gross and is not for the sole purpose of serving the Grantor(s) or Grantor's land. The rights granted herein include the right to keep the surface of ground above its underground cables and other electrical equipment free from structures, improvements and growth which, in the judgment of the Grantees, may interfere with the proper operation or maintenance of said underground cables; and the right to enter upon the land of the Grantor(s) for any and all of the foregoing purposes.

Grantee shall promptly remove all waste, tools, and all material and equipment after each permitted entry upon Easement Area 1 pursuant to this easement.

The rights herein granted are subject to any leases, easements, rights, restrictions, and/or mortgages of record, including but not limited to those matters addressed in the attached exhibits, insofar as same are now in force and applicable.

WITNESS the hand(s) and seal(s) of Grantor(s) duly authorized representatives on March ____, 2016.

Signed, Sealed and Delivered in the presence of:

CITY OF PORTLAND

Witness

Brendan O'Connell, Finance Director

STATE OF MAINE
CUMBERLAND, ss.

_____, 2016

Personally appeared the above-named Brendan O'Connell in his capacity as the Finance Director of the City of Portland, and acknowledged the foregoing instrument to be his free act and deed and the free act and deed of the City of Portland.

Before me,

Notary Public/Attorney at Law

Printed Name

EXHIBIT A

Utility Easement over EASEMENT AREA 1 of the Portland Technology Park:

A certain utility easement across lands situated on the southerly side of Rand Road in the City of Portland, Cumberland County, State of Maine, and bounded and described as follows:

Commencing at a point on the southerly sideline of Rand Road, said point being marked with a 5/8" rebar with cap (PLS#2002) located at the northeasterly corner of a parcel of land now or formerly of the City of Portland as described in a deed recorded in Book 15211, Page 31 of the Cumberland County Registry of Deeds;

Thence, from said Point of Commencement, S62°51'57"W a distance of one hundred twelve and 43/100 (112.43') feet along the southerly sideline of Rand Road to a 5/8" rebar with cap (PLS #2002) found, thence S81°40'58"W a distance of three hundred sixty nine and 39/100 (369.39') feet along the southerly sideline of Rand Road to a 5/8" rebar with cap (PLS #2002) found, thence Westerly along the southerly sideline of Rand Road a distance of forty eight and 62/100 (48.62') feet along a curve to the right with a radius of one thousand one hundred eighty and 00/100 (1180.00') feet to a monument to be set and the Point of Beginning of Easement Area 1 herein described,

Thence from said Point of Beginning Southwesterly a distance of two hundred eighty one and 21/100 (281.21') feet along a curve to the right (not tangent with the previous course) with a radius of two hundred thirty and 00/100 (230.00') feet to a monument (to be set), said curve having a chord bearing of S37°22'03"W and a chord distance of two hundred sixty four and 02/100 (264.02) feet

Thence S35°54'43"E a distance of twenty and 97/100 (20.97') feet to a point,

Thence Southwesterly a distance of forty and 37/100 (40.37') feet along a curve to the right (not tangent with the previous course) with a radius of two hundred fifty and 00/100 (250.00') to a point, said curve having a chord bearing of S75°30'34"W and a chord distance of forty and 32/100 (40.32) feet,

Thence S80°08'06"W a distance of one hundred twenty five and 99/100 (125.99') feet to a monument (to be set),

Thence Southwesterly a distance of one hundred seventy five and 29/100 (175.29') feet along a curve to the left with a radius of one hundred fifty and 00/100 (150.00') feet to a monument (to be set),

Thence S12°59'08"W a distance of one hundred forty two and 05/100 (142.05') feet to a monument (to be set),

Thence Southwesterly a distance of one hundred forty three and 10/100 (143.10') feet along a curve to the right with a radius of three hundred fifty and 00/100 (350.00') feet to a monument (to be set),

Thence S36°24'40"W a distance of forty two and 76/100 (42.76') feet to a point,

Thence Southwesterly a distance of one hundred forty one and 33/100 (141.33') feet along a curve to the right with a radius of three hundred thirty nine and 00/100 (339.00') to a point,

Thence S75°00'00"W a distance of sixty nine and 87/100 (69.87') feet to a point,

Thence S15°00'00"E a distance of seventeen and 60/100 (17.60') feet to a point,

Thence S29°19'50"W a distance of seventy five and 02/100 (75.02') feet to a point

Thence S87°29'56"W a distance of nineteen and 03/100 (19.03') feet to a point,

Thence Southwesterly, westerly and northwesterly a distance of two hundred seventy three and 30/100 (273.30') feet along a curve to the right (not tangent with the previous course) with a radius of eighty five and 00/100 (85.00') feet to a point, said curve having a chord bearing of N76°47'08"W and a chord distance of one hundred sixty nine and 88/100 (169.88') feet,

Thence N50°49'40"E a distance of one hundred ninety and 32/100 (190.32') feet to a point,

Thence Northeasterly a distance of seventy one and 09/100 (71.09') feet along a curve to the left (not tangent with the previous course) with a radius of eighty nine and 00/100 (89.00') feet to a point, said curve having a chord bearing of N71°42'16"E and chord distance of sixty nine and 21/100 (69.21') feet,

Thence Northeasterly a distance of twenty six and 82/100 (26.82') feet along a reverse curve to the right with a radius of ninety five and 00/100 (95.00') feet to a point, said curve having a chord bearing of N56°54'40"E and chord distance of twenty six and 73/100 (26.73') feet,

Thence N65°00'00"E a distance of five and 88/100 (5.88') feet to a point,

Thence Southeasterly a distance of thirty five and 37/100 (35.37') feet along a curve to the right with a radius of twenty five and 00/100 (25.00') feet to a point, said curve having a chord bearing of S74°28'25"E and chord distance of thirty two and 49/100 (32.49') feet,

Thence N50°25'32"E a distance of sixty two and 08/100 (62.08') feet to a point,

Thence N45°00'00"E a distance of sixty one and 90/100 (61.90') feet to a point,

Thence N23°58'49"E a distance of sixty and 69/100 (60.69') feet to a point,

Thence N63°52'43"W a distance of eight and 11/100 (8.11') feet to a point,

Thence Northeasterly a distance of forty six and 88/100 (46.88') feet along a curve to the left (not tangent with the previous course) with a radius of two hundred seventy and 00/100 (270.00') feet to a monument (to be set), said curve having a chord bearing of N17°57'37"E and chord distance of forty six and 82/100 (46.82') feet,

Thence N12°59'08"E a distance of one hundred forty two and 13/100 (142.13') feet to a monument to be set,

Thence Northeasterly a distance of seventy three and 11/100 (73.11') feet along a curve to the right (not tangent with the previous course) with a radius of two hundred thirty and 00/100 (230.00') feet to a point, said curve having a chord bearing of N22°14'22"E and chord distance of seventy two and 80/100 (72.80') feet,

Thence Northwesterly a distance of sixty four and 22/100 (64.22') feet along a curve to the right (not tangent with the previous course) with a radius of seventy four and 58/100 (74.58') feet to a point, said curve having a chord bearing of N39°39'58"W and chord distance of sixty two and 25/100 (62.25') feet,

Thence N15°00'00"W a distance of two and 94/100 (2.94') feet to a point,

Thence N75°00'00"E a distance of one hundred forty one and 62/100 (141.62') feet to a monument (to be set),

Thence Northeasterly a distance of sixty four and 00/100 (64.00') feet along a curve to the right (not tangent with the previous course) with a radius of two hundred thirty and 00/100 (230.00') feet to a monument (to be set), said curve having a chord bearing of N72°09'49"E and a chord distance of sixty three and 79/100 (63.79') feet

Thence N80°08'06"E a distance of one hundred twenty five and 99/100 (125.99') feet to a monument (to be set),

Thence N32°26'19"E a distance of twenty three and 23/100 (23.23') feet to a point,

Thence N00°04'04"E a distance of seventy nine and 87/100 (79.87') feet to a point,

Thence S89°51'35"E a distance of one hundred fourteen and 00/100 (114.00') to a monument (to be set),

Thence Northerly a distance of fifty six and 12/100 (56.12') feet along a curve to the left (not tangent with the previous course) with a radius of one hundred seventy and 00/100 (170.00') feet to a monument (to be set) at the southerly sideline of Rand Road, said curve having a chord bearing of N14°13'36"E and a chord distance of fifty five and 87/100 (55.87') feet,

Thence Easterly a distance of sixty and 59/100 (60.59') feet along a curve to the left (not tangent with the previous course) and the southerly sideline of Rand Road with a radius of one thousand one hundred eighty and 00/100 (1180.00') feet to the Point of Beginning, said curve also having a chord bearing of N85°30'52"E and chord distance of sixty and 58/100 (60.58') feet.

The above described area is more particularly depicted as "Easement Area 1" on a plan entitled "Second Amended Subdivision Plat of Portland Technology Park Condominium – Rand Road – Portland, Maine" prepared by SGC Engineering, LLC, dated September 29, 2011 and approved by the City of Portland Planning Board on December 8, 2015, to be recorded.

Bearings referenced herein are grid north.

SUBJECT TO all rights, easements, and restrictions of record, including (without limitation) the following:

1. Rights and easements granted to the Portland Pipe Line Company in a deed dated August 28, 1941, recorded in Deed Book 1646, Page 189 (CCRD) and in a deed dated May 24, 2012, recorded in Deed Book 29703, Page 129 (CCRD).
2. Rights and easements granted to Portland Trails in a deed dated July 16, 2012 and recorded in Deed Book 30001, Page 66 (CCRD) as amended by an Amendment to And Partial Release of Conservation Easement to Portland Trails to be recorded in the CCRD of near or even date herewith.
3. Rights and easements granted to Portland Water District to Easement Area 1 in a deed to be recorded in the CCRD of near or even date herewith.
4. Rights and easements granted to Northern Utilities, Inc. d/b/a/ Unitil to be recorded in the CCRD of near or even date herewith.

5. Rights and easements granted to Northern New England Telephone Operations LLC d/b/a Fairpoint Communications-NNE to be recorded in the CCRD of near or even date herewith.
6. Declaration of Condominium for the Portland Technology Park to be recorded.
7. Such statement of facts and conditions as shown on a Subdivision Plat of Portland Technology Park Condominium prepared by SGC Engineering, LLC dated September 29, and recorded in CCRD Plan Book 212, page 324, as amended by a First Amended Subdivision Plat of Portland Technology Park Condominium prepared by SGC Engineering, LLC dated September 29, 2011, last revised May 1, 2015, and recorded in CCRD Plan Book 215, Page 250, and as further amended by a Second Amended Subdivision Plat of Portland Technology Park Condominium prepared by SGC Engineering, LLC dated September 29, 2011, and approved by the City of Portland Planning Board on December 8, 2015, to be recorded in the Cumberland County Registry of Deeds.

EASEMENT DEED*Underground Line*

KNOW ALL MEN BY THESE PRESENTS, that **THE CITY OF PORTLAND**, a body politic and corporate organized and existing under the laws of the State of Maine having a mailing address of **389 Congress Street, Portland, Maine 04101 ("Grantor")**, in consideration of One Dollar and other valuable consideration (the sum being less than one hundred dollars) paid by **NORTHERN NEW ENGLAND TELEPHONE OPERATIONS LLC**, (d/b/a FairPoint Communications-NNE) ("Grantee"), a Delaware Limited Liability Company, with a place of business at 1 Davis Farm Road Portland, Maine 04103 the receipt whereof is hereby acknowledged, does hereby grant unto the said NORTHERN NEW ENGLAND TELEPHONE OPERATIONS LLC, their successors and assigns, the rights and easement, to construct, erect, bury, rebuild, replace, operate, maintain and do all other actions involving telecommunication distribution equipment and facilities, consisting of wires and cables to be placed in duct of existing underground conduit, together with all necessary fixtures and appurtenances connected therewith, along, under and across a portion of the land conveyed to the Grantor by deed recorded in the Cumberland County Registry of Deeds, Book 15211, Page 31. Said portion (the "Easement Premises") are more particularly described in Exhibit A attached hereto and incorporated herein by reference (the "Easement Premises"). The Easement Premises is part of the area identified as "Easement Area 1" on the Second Amended Subdivision Plat Of Portland Technology Park Condominium, Rand Road, Portland, Maine, dated September 29, 2011, prepared by SGC Engineering, LLC for the City of Portland – Declarant, and approved by the City of Portland Planning Board on December 8, 2015, to be recorded in the Cumberland County Registry of Deeds.

(Rand Road, Portland Technology Park Drive)

See EXHIBIT A: Utility Easement over EASEMENT AREA 1 of the Portland Technology Park

The Grantee shall have the further right to enter said Easement Area 1 for all of the herein stated purposes and to connect said, conduits, cables and wires which are located or which may be placed in parcels of land, public ways, adjacent or contiguous to the aforesaid premises. Grantee shall also have the right to cut, trim, and remove such trees, bushes and growth as the Grantee may from time to time reasonably deem necessary for the safe and efficient operation and maintenance of Grantees facilities.

Grantee hereby covenants and agrees to indemnify, defend, and hold harmless Grantor from and against any and all loss, damage, cost, expense, or liability based on personal injury, death, loss, or damage to property suffered or incurred by any employee, licensee, or agent of Grantee, which may arise from Grantees exercise of its rights herein granted hereunder, except and in proportion to the extent such loss, damage, cost, expense, or liability is due in whole or in part by Grantor, its agents, employees, guests, or invitees.

IN WITNESS WHEREOF, the said **The City of Portland** has hereunto set its hands and signed as a sealed instrument this _____ day of _____, 2016.

**SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF**

THE CITY OF PORTLAND

By: **Brendan O'Connell, Finance Director**

STATE OF MAINE

County of Cumberland

_____, 2016

Personally appeared the above named Brendan O'Connell, Finance Director of the City of Portland, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of the said **City of Portland** before me,

Notary Public / Attorney

My Commission Expires/Bar# _____

Printed Name: _____

EXHIBIT A

Utility Easement over EASEMENT AREA 1 of the Portland Technology Park:

A certain utility easement across lands situated on the southerly side of Rand Road in the City of Portland, Cumberland County, State of Maine, and bounded and described as follows:

Commencing at a point on the southerly sideline of Rand Road, said point being marked with a 5/8" rebar with cap (PLS#2002) located at the northeasterly corner of a parcel of land now or formerly of the City of Portland as described in a deed recorded in Book 15211, Page 31 of the Cumberland County Registry of Deeds;

Thence, from said Point of Commencement, S62°51'57"W a distance of one hundred twelve and 43/100 (112.43') feet along the southerly sideline of Rand Road to a 5/8" rebar with cap (PLS #2002) found, thence S81°40'58"W a distance of three hundred sixty nine and 39/100 (369.39') feet along the southerly sideline of Rand Road to a 5/8" rebar with cap (PLS #2002) found, thence Westerly along the southerly sideline of Rand Road a distance of forty eight and 62/100 (48.62') feet along a curve to the right with a radius of one thousand one hundred eighty and 00/100 (1180.00') feet to a monument to be set and the Point of Beginning of Easement Area 1 herein described,

Thence from said Point of Beginning Southwesterly a distance of two hundred eighty one and 21/100 (281.21') feet along a curve to the right (not tangent with the previous course) with a radius of two hundred thirty and 00/100 (230.00') feet to a monument (to be set), said curve having a chord bearing of S37°22'03"W and a chord distance of two hundred sixty four and 02/100 (264.02) feet,

Thence S35°54'43"E a distance of twenty and 97/100 (20.97') feet to a point,

Thence Southwesterly a distance of forty and 37/100 (40.37') feet along a curve to the right (not tangent with the previous course) with a radius of two hundred fifty and 00/100 (250.00') to a point, said curve having a chord bearing of S75°30'34"W and a chord distance of forty and 32/100 (40.32) feet,

Thence S80°08'06"W a distance of one hundred twenty five and 99/100 (125.99') feet to a monument (to be set),

Thence Southwesterly a distance of one hundred seventy five and 29/100 (175.29') feet along a curve to the left with a radius of one hundred fifty and 00/100 (150.00') feet to a monument (to be set),

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Thence S75°00'00"W a distance of sixty nine and 87/100 (69.87') feet to a point,

Thence S15°00'00"E a distance of seventeen and 60/100 (17.60') feet to a point,

Thence S29°19'50"W a distance of seventy five and 02/100 (75.02') feet to a point,

Thence S87°29'56"W a distance of nineteen and 03/100 (19.03') feet to a point,

Thence Southwesterly, westerly and northwesterly a distance of two hundred seventy three and 30/100 (273.30') feet along a curve to the right (not tangent with the previous course) with a radius of eighty five and 00/100 (85.00') feet to a point, said curve having a chord bearing of N76°47'08"W and a chord distance of one hundred sixty nine and 88/100 (169.88') feet,

Thence N50°49'40"E a distance of one hundred ninety and 32/100 (190.32') feet to a point,

Thence Northeasterly a distance of seventy one and 09/100 (71.09') feet along a curve to the left (not tangent with the previous course) with a radius of eighty nine and 00/100 (89.00') feet to a point, said curve having a chord bearing of N71°42'16"E and chord distance of sixty nine and 21/100 (69.21') feet,

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Thence Southeasterly a distance of thirty five and 37/100 (35.37') feet along a curve to the right with a radius of twenty five and 00/100 (25.00') feet to a point, said curve having a chord bearing of S74°28'25"E and chord distance of thirty two and 49/100 (32.49') feet,

Thence N50°25'32"E a distance of sixty two and 08/100 (62.08') feet to a point,

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Thence Northwesterly a distance of sixty four and 22/100 (64.22') feet along a curve to the right (not tangent with the previous course) with a radius of seventy four and 58/100 (74.58') feet to a point, said curve having a chord bearing of N39°39'58"W and chord distance of sixty two and 25/100 (62.25') feet,

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curve having a chord bearing of N72°09'49"E and a chord distance of sixty three and 79/100 (63.79') feet,

Thence N80°08'06"E a distance of one hundred twenty five and 99/100 (125.99') feet to a monument (to be set),

Thence N32°26'19"E a distance of twenty three and 23/100 (23.23') feet to a point,

Thence N00°04'04"E a distance of seventy nine and 87/100 (79.87') feet to a point,

Thence S89°51'35"E a distance of one hundred fourteen and 00/100 (114.00') to a monument (to be set),

Thence Northerly a distance of fifty six and 12/100 (56.12') feet along a curve to the left (not tangent with the previous course) with a radius of one hundred seventy and 00/100 (170.00') feet to a monument (to be set) at the southerly sideline of Rand Road, said curve having a chord bearing of N14°13'36"E and a chord distance of fifty five and 87/100 (55.87') feet,

Thence Easterly a distance of sixty and 59/100 (60.59') feet along a curve to the left (not tangent with the previous course) and the southerly sideline of Rand Road with a radius of one thousand one hundred eighty and 00/100 (1180.00') feet to the Point of Beginning, said curve also having a chord bearing of N85°30'52"E and chord distance of sixty and 58/100 (60.58') feet.

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3. Rights and easements granted to Portland Water District to Easement Area 1 in a deed to be recorded in the CCRD of near or even date herewith.
4. Rights and easements granted to Northern Utilities, Inc. d/b/a/ Unitil to be recorded in the CCRD of near or even date herewith.
5. Rights and easements granted to Central Maine Power Company to be recorded in the CCRD of near or even date herewith.
6. Declaration of Condominium for the Portland Technology Park to be recorded.
7. Such statement of facts and conditions as shown on a Subdivision Plat of Portland Technology Park Condominium prepared by SGC Engineering, LLC dated September 29, and recorded in CCRD Plan Book 212, page 324, as amended by a First Amended Subdivision Plat of Portland Technology Park Condominium prepared by SGC Engineering, LLC dated September 29, 2011, last revised through May 1, 2015, and recorded in CCRD Plan Book 215, Page 250, and as further amended by a Second Amended Subdivision Plat of Portland Technology Park Condominium prepared by SGC Engineering, LLC dated September 29, 2011 and approved by the City of Portland Planning Board on December 8, 2015, to be recorded in the Cumberland County Registry of Deeds.

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

*Order 175-15/16
Tab 14 3-7-16*

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

**ORDER APPROVING PORTLAND TECHNOLOGY PARK CONDOMINIUM
DECLARATION**

ORDERED, that the Condominium Declaration for the Portland Technology Park is hereby approved in substantially the form attached hereto as Attachment 1; 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.



Economic Development Department
Gregory A. Mitchell, Director

MEMORANDUM
City Council Agenda Item

DISTRIBUTE TO: City Manager, Mayor, Anita LaChance, Sonia Bean, Danielle West-Chuhta, Nancy English, Julianne Sullivan

FROM: Greg Mitchell, Economic Development Director
Nelle Hanig, Business Programs Manager

DATE: February 22, 2016

SUBJECT: Review and Approval of Portland Technology Park Condominium Declaration.

SPONSOR: Jon P. Jennings, City Manager

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading and final action: March 7, 2016

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

Declaring and recording the Portland Technology Park Condominium Association is among the items that need to be in place before the City can close with Patrons Oxford Insurance on the purchase of Site 4 at the Park. Staff is requesting that this item be passed as an emergency because of the need to close with Patrons Oxford by the following week.

PRESENTATION: (List the presenter(s), type and length of presentation)
Greg Mitchell - 5 minutes

I. ONE SENTENCE SUMMARY:

City Council approval of the Declaration for the Portland Technology Park Condominium Association is needed, prior to the City declaring the condominium and recording it.

II. AGENDA DESCRIPTION:

As the owner/developer of the Portland Technology Park, the City is the entity to declare the condominium prior to the first sale of a unit in the Park. Given that the closing for Patrons Oxford is scheduled for mid-March, staff will record the Declaration with the Cumberland County Registry of Deeds after the Council approves it (attached).

III. BACKGROUND:

The Condominium Declaration was drafted by Ron Epstein, an attorney with Jensen Baird who has expertise in commercial condominiums. The document went through several drafts based on conversations among City staff, the project engineers and Mr. Epstein. Recently, it went through final edits based on input from Patrons Oxford.

Once the Condominium is declared and Patrons closes on Site 4, the City and Patrons will comprise the members of the Portland Technology Park Condominium Association. As the next site at the Park is sold, that owner will become the third member, and so on as additional sites are sold. Once all seven sites are sold, the City of Portland will no longer own any property at the Portland Technology Park and will no longer be a member of the Association

IV. INTENDED RESULT AND OR COUNCIL GOAL ADDRESSED:

Promote economic development in the City in a manner that provides for increased property values, diversification across industry sectors, and well-paying jobs.

V. FINANCIAL IMPACT:

The cost of declaring the condominium and recording the Declaration will be approximately \$250. The Economic Development Department has available funds to cover this cost.

VI. STAFF ANALYSIS AND BACKGROUND THAT WILL NOT APPEAR IN THE AGENDA DESCRIPTION:

Patrons Oxford would like to close on Site 4 at the Portland Technology Park in mid-March, if not sooner, so that they can begin clearing the property and preparing it for construction. In order for the closing to occur, the Portland Technology Park Condominium Declaration needs to be declared and the declaration recorded.

Please note that there remain blanks in the document for the book and page of the recorded subdivision plat and various easements. All are being finalized and will be recorded and blanks filled in prior to the recording of the Condominium Declaration.

RECOMMENDATION:

Staff recommends that the City Council approve of the Declaration document so that the Portland Technology Park Condominium Association can be declared and recorded. Staff is requesting that this item be passed as an emergency because of the need to close with Patrons Oxford by the following week.

VII. LIST ATTACHMENTS:

- Condominium Declaration for the Portland Technology Park Condominium Association.
- Condominium Plat (Schedule B)
- Portland Technology Park Design Guidelines (Schedule F)

Prepared by: Nelle Hanig, Business Programs Manager
Date: February 22, 2016

DECLARATION OF CONDOMINIUM
PORTLAND TECHNOLOGY PARK CONDOMINIUM

This Declaration of Condominium is executed as of this 1st day of _____, 2016 by the City of Portland, a municipality existing under the laws of the State of Maine, pursuant to the Maine Condominium Act, Chapter 31 of Title 33 of the Maine Revised Statutes of 1964, as amended, 33 M.R.S.A. §1601-101 et seq. (hereinafter the "Act").

ARTICLE I: CREATION OF CONDOMINIUM; DEFINED TERMS

A. Declaration of Property. The City of Portland, a municipality existing under the laws of the State of Maine (hereinafter the "Declarant"), with an address of 389 Congress Street, Portland, Maine, owner in fee simple of the land described in Schedule A annexed hereto located in the City of Portland, County of Cumberland and State of Maine (hereinafter the "Land"), hereby submits the Land, together with all buildings, improvements, easements, rights, privileges and appurtenances now or hereafter thereon or pertaining thereto (hereinafter the "Property") and together with the rights and easements described in Schedule A hereto and subject to all covenants, restrictions, and easements described or referred to in Schedule A, to the provisions of the Act, as amended from time to time. The Declarant hereby declares and creates with respect to the Property a condominium, known as Portland Technology Park Condominium (hereinafter the "Condominium"). The Property is depicted on the Condominium Plat of Portland Technology Park Condominium prepared by SGC Engineering, LLC dated March 17, 2014, as revised _____ (hereinafter the "Plat"), which Plat is recorded in the Cumberland County Registry of Deeds. A reduced true copy of the Plat is attached to this Declaration as Schedule B. The Property shall hereafter be held, sold and conveyed subject to the terms, provisions, conditions, covenants, easements and restrictions set forth in this Declaration of Condominium, as amended from time to time (hereinafter the "Declaration") and in the Act, which shall run with the Property and bind and inure to the benefit of all owners of the Property or any portion thereof, their respective heirs, successors and assigns. Pursuant to the Act, Portland Technology Park Condominium Association, a Maine nonprofit corporation under Title 13-B of the Maine Revised Statutes of 1964, as amended (hereinafter the "Association") shall be the Unit Owners' Association under the Act.

B. Defined Terms. Capitalized terms used in this Declaration shall have the meanings specified hereinabove or hereinbelow or, if not otherwise defined in this Declaration, as it may be amended from time to time, or on the Plat, shall have the same meanings as specified in the Act:

(1) "Allocated Interests" mean: (a) the Common Element Interest, (b) the Common Expense Liability, and (c) the votes in the Association, allocated to each Unit pursuant to this Declaration.

(2) "Assignable Limited Common Elements" has the meaning provided in Article IV(C) of this Declaration.

(3) "Association" means the Portland Technology Park Condominium Association, which is the association of the Unit Owners organized pursuant to Section 1603-101 of the Act as a nonprofit corporation under the Maine Nonprofit Corporation Act.

(4) "Building(s)" means the buildings now existing or hereafter erected on the Land within the boundaries of a Unit, as well as other improvements comprising a part of the Buildings or intended to be

used for purposes incidental to the use of a Building.

(5) "Bylaws" mean the Bylaws of the Association as adopted pursuant to the Act and this Declaration for the regulation and management of the Property, including such amendments thereof as may be adopted from time to time.

(6) "Common Elements" mean all portions of the Condominium other than the Units.

(7) "Common Element Interest" has the meaning provided in Article IV(E) of this Declaration.

(8) "Common Expenses" mean expenditures made by or financial liabilities of the Association together with any allocation to reserves and include, but are not limited to, (a) the cost of maintenance, management, operation, repair, renovation, restoration and replacement of the Common Elements and such parts of the Units as to which pursuant to this Declaration it is the responsibility of the Association to maintain, repair and replace, (b) the cost of all insurance premiums on all policies of insurance required to be or which have been obtained by the Executive Board pursuant to the provisions of this Declaration and the fees and disbursements of the Insurance Trustee, if any, (c) such amounts as the Executive Board may deem necessary for general operating reserve funds, reserve funds for replacements and such other reserve funds as the Executive Board may periodically establish, (d) such amounts as the Executive Board may deem necessary to compensate for any deficits in receipts over expenses for previous periods of time, (e) the charges and fees for energy, electricity, heat, water, gas and sewer services and any other utilities furnished to the Condominium to the extent not separately metered to individual Units and charged to individual Unit Owners; and (f) such other costs and expenses that may be declared by the Act, this Declaration, the Bylaws, or resolution or agreement by the Executive Board or Unit Owners to be Common Expenses of the administration, operation, maintenance and repair of the Condominium and the Property and the rendering of all related services to Unit Owners.

(9) "Common Expense Liability" has the meaning provided in Article VI(A) of this Declaration.

(10) "Condominium Documents" mean this Declaration, the Plat, the Bylaws and any Rules and Regulations adopted pursuant thereto by the Executive Board, as amended from time to time.

(11) "Declarant" means the City of Portland, a municipality existing under the laws of the State of Maine, its successors and assigns and all successors to any Special Declarant Rights hereunder.

(12) "Declarant Control Period" means the entire time period which extends from the date of the recording of this Declaration until the earlier of (a) seven (7) years following the conveyance of the first Unit to a Purchaser, or (b) sixty (60) days after the conveyance to Purchasers of seventy-five percent (75%) of the Units, including any Units which Declarant has reserved the Development Rights to create.

(13) "Development Rights" has the meaning specified in Article V of this Declaration and Section 1601-103(11) of the Act.

(14) "Eligible Mortgage Holder" means the holder of record of a recorded first Mortgage on a Unit in the Condominium which has delivered written notice to the Association by prepaid United States mail, return receipt requested, or by delivery in hand securing a receipt therefor, stating the name and address of such holder, the name and address of the Owner of the Unit encumbered by such Mortgage, the identifying number of such Unit, and containing a statement that such Mortgage is a recorded first mortgage.

(15) "Executive Board" means the Executive Board or Board of Directors of the Association authorized to act pursuant to this Declaration and the Act on behalf of the Association.

(16) "Insurance Trustee" has the meaning provided in Article XI of this Declaration.

(17) "Limited Common Elements" mean those portions of the Common Elements the exclusive use of which is reserved as an appurtenance to one or more, but fewer than all, of the Units as allocated pursuant to this Declaration.

(18) "Limited Common Expenses" mean the Common Expenses for services benefiting fewer than all the Units, which are assessed pursuant to this Declaration exclusively against the Units benefited in accordance with Section 1603-115(c)(2) of the Act pursuant to Article IV(K) hereof.

(19) "Mortgage" means a recorded mortgage or deed of trust encumbering a Unit in the Condominium held by a Mortgagee; "Mortgagee" means the holder of a recorded Mortgage or deed of trust encumbering a Unit in the Condominium.

(20) "Recorded" means that an instrument has been duly entered of record in the Cumberland County Registry of Deeds.

(21) "Special Declarant Rights" has the meaning provided in Article V of this Declaration and Section 1601-103(25) of the Act.

(22) "Unit" means a part of the Property designated for separate ownership or occupancy, the boundaries of which are described in Article III and shown on the Plat.

ARTICLE II: IDENTIFICATION AND LOCATION OF CONDOMINIUM; ASSOCIATION

The name of the Condominium is Portland Technology Park Condominium. The name of the Association organized under the Act is Portland Technology Park Condominium Association. The Condominium is located in the City of Portland, County of Cumberland and State of Maine (which location is more particularly described in Schedule A hereto). The address of the Condominium is 300 Rand Road, Portland, Maine.

ARTICLE III: DESCRIPTION OF PROPERTY AND UNITS

A. Description of the Property. A legally sufficient description of the Property included in the Condominium is set forth in Schedule A attached hereto and made a part hereof.

B. Maximum Number of Units. Declarant has created 7 Units pursuant to this Declaration, which is the maximum number of Units that the Declarant has the right to create in the Condominium.

C. Description and Boundaries of Units. The Unit numbers, the location of Units created by this Declaration and the dimensions of the vertical boundaries of each Unit are shown on the Plat. The boundaries of each Unit created by this Declaration are shown on the Plat and are described as follows:

(i) Horizontal Boundaries: The Units shall have no horizontal boundaries.

(ii) Vertical (Parametric) Boundaries: The vertical boundaries of each Unit are as shown on the Plat.

Each Unit includes the space within the Unit boundaries and any Buildings and other improvements lying within the boundaries described in subparagraph (ii) above. If any chute, flue, duct, wire, conduit, bearing

wall, bearing column or any other fixture lies partially within and partially outside the designated boundaries of a Unit, any portion thereof serving only that Unit is a Limited Common Element allocated solely to that Unit, and any portion thereof serving more than one Unit or any portion of the Common Elements is a part of the Common Elements. Subject to the foregoing provisions, all spaces, interior partitions and other fixtures and improvements within the boundaries of a Unit are a part of the Unit.

A list of all Unit numbers, locations (all as shown more fully on the Plat), and Common Element Interests and Common Expense Liability and votes in the Association appurtenant to each Unit is attached hereto as Schedule C, and such Allocated Interests are subject to change in the circumstances and manner described in Schedule C hereto.

D. Subdivision or Relocation of Unit Boundaries. Subject to applicable provisions of this Declaration, applicable law and environmental, subdivision and land-use ordinances and regulations, the subdivision of Units and/or relocation of boundaries between Units will be permitted at the expense of the Unit Owners of the Unit or Units to be so subdivided and the boundaries of which are to be so relocated, upon the prior written approval of the Association and subject to compliance with the provisions therefor set forth in Section 1602-113 and Section 1602-112 of the Act.

E. Alteration of Partitions. Subject to applicable provisions of law, ordinances, and land-use regulations, a Unit Owner may, after acquiring an adjoining Unit or adjoining part of an adjoining Unit, remove or alter any intervening partition or create apertures therein, even if the partition in whole or in part is a Common Element, if such acts do not impair the structural integrity or mechanical systems of the Buildings in which such Units are located or lessen the support of any portion of the Property. Removal of partitions or creation of apertures under this subparagraph is not an alteration of boundaries.

F. Maintenance Responsibilities. Notwithstanding the ownership of the various portions of the Common Elements and the Units by virtue of the foregoing boundary descriptions, the Units and the related Limited Common Elements shall be maintained and repaired by each Unit Owner and the Common Elements shall be maintained and repaired by the Association except that if damages are inflicted to any Common Elements, the Unit Owner responsible for the damage is liable for the prompt repair thereof, all in accordance with the provisions of Section 1603-107(a) of the Act, except as may be expressly set forth to the contrary in this Declaration. The Association shall have the easement right, but not the obligation, to maintain any landscaping and other areas within Unit boundaries not occupied by structures, and to charge the cost thereof to the Unit owner.

ARTICLE IV: COMMON ELEMENTS AND LIMITED COMMON ELEMENTS

A. Common Elements. The Common Elements are all parts of the Property other than the Units.

B. Allocation of Limited Common Elements. A description, including the location and dimensions of all Limited Common Elements other than portions of the Property described as Limited Common Elements pursuant to Section 1602-102(2) and (4) of the Act, and the identifications of the Unit or Units to which the Limited Common Elements are hereby allocated are set forth or shown on the Plat and/or described herein. The allocation of Limited Common Elements to the Units cannot be altered except with the written consent of the Owners and Mortgagees of record of the Units affected by the reallocation of Limited Common Elements, and in compliance with the provisions of Section 1602-108(b) of the Act. Limited Common Elements other than those described in Sections 1602-102(2) and (4) of the Act consist of the following: (a) parking areas and driveways (that are labeled on the Plat as Limited Common Elements appurtenant to a specific Unit); (b) portions of the Property shown on the Plat as Limited Common Elements; (c) storm water drainage facilities that benefit one or more, but fewer than all, of the Units; and (d) any shared driveways, utility lines and mechanical equipment, each assigned respectively to the Units

served thereby. Use of Limited Common Elements shall be subject to any restrictions, conditions or limitations that may be imposed by the Portland Planning Board.

C. Limited Common Elements to be Subsequently Allocated by Declarant. There is no real estate which may be subsequently allocated as Limited Common Elements, other than Limited Common Elements specified in Section 1602-102(2)-(4) of the Act or the Limited Common Elements already allocated. The Declarant may, without consent or action by the Unit Owners or any Mortgagee, allocate each such Assignable Limited Common Element as a Limited Common Element pursuant to the provisions of Section 1602-108 of the Act by causing appropriate amendments to this Declaration or to the Plat to be executed and recorded.

D. Association Rights to Reserve Common Elements. "Reserved Common Elements" are those parts of the Common Elements which the Executive Board may designate from time to time for use by less than all Unit Owners or by non-Unit Owners for specified periods of time. The Executive Board of the Association shall have the power in its discretion from time to time to grant revocable licenses in designated Reserved Common Elements and to establish a reasonable charge for the use and maintenance thereof. Such designation by the Board shall not be construed as a sale or disposition of the Common Elements.

E. Common Element Interest. The fraction of undivided interest in the Common Elements appurtenant to each Unit (the "Common Element Interest") is allocated to each Unit as set forth in Schedule C. The Common Element Interest appurtenant to each Unit is a fraction determined in the manner described in Schedule C.

F. Common Elements to Remain Undivided. The Common Element Interest of a Unit shall be inseparable from each Unit, and any conveyance, lease, devise or other disposition or mortgage or other encumbrance of any Unit shall extend to and include the Common Element Interest, whether or not expressly referred to in the instrument effecting such transfer. Except as otherwise provided by law or this Declaration, the Common Element Interests and the fee titles to the respective Units conveyed therewith shall not be separately conveyed, transferred, alienated or encumbered and each of said Common Element Interests shall be deemed to be conveyed, transferred, alienated or encumbered with its respective Unit notwithstanding that the description in the instrument of conveyance, transfer, alienation or encumbrance may refer only to the fee title to the Unit.

G. Partition or Division of Common Elements. The Common Elements shall remain undivided and no action for partition or division of any part thereof shall be permitted, unless otherwise provided by law and permitted by this Declaration.

H. Amendment of Interest in Common Elements. Except with respect to the subdivision or conversion of Units as provided in Article III(D), or as otherwise provided in the Act, the Common Element Interest appurtenant to each Unit shall have a permanent character, shall be inseparable from each Unit and shall not be altered or changed except by the recording of an amendment to this Declaration, duly executed by all of the Unit Owners and all of the holders of record of any first Mortgage liens upon the Units.

I. Use of Common Elements. Except as otherwise limited by this Declaration or the Bylaws or by the Executive Board pursuant to its powers, each Unit Owner, tenant and occupant of a Unit, and the guests, customers, clients, agents and employees of such Unit Owner, tenant and occupant, may use the Common Elements in common with all other Unit Owners and tenants or occupants of other Units, and their respective guests, customers, clients, agents and employees, in accordance with the purposes for which they are intended without hindering or encroaching upon the lawful rights of the other Unit Owners, upon the following terms:

(1) Parking shall not be permitted on the main road (Easement Area #1 as described in Schedule A hereto). Parking of permitted motor vehicles shall be only in any Limited Common Elements appurtenant to the Unit or other areas designated as spaces for parking. No unattended vehicles shall at any time be left in such a manner as to impede the passage of traffic or to impair access to parking areas. Parking areas and all Common Elements shall at all times be kept free of unreasonable accumulations of debris or rubbish of any kind and no junk or derelict vehicle or other vehicle on which current registration plates are not displayed shall be kept upon any of the Common Elements. Vehicle repairs other than ordinary light maintenance are not permitted on the Property.

(2) Except for such signs as may be posted by the Declarant for promotional or marketing purposes, no signs of any character shall be erected, posted or displayed upon, in, from or about any Unit or Common Element without the prior written approval of the Executive Board or a committee designated by the Executive Board except as otherwise provided in this subparagraph, the Bylaws or any rules promulgated in writing by the Association, which approval will not be unreasonably withheld, conditioned or delayed. The foregoing provisions of this subparagraph shall not apply to a Mortgagee in possession of a Unit as a result of foreclosure, judicial sale or a proceeding in lieu of foreclosure. Upon prior written notice, the Executive Board shall approve a publicly displayed, adequately-sized, directional and identifying sign(s) that complies with applicable City codes, declaring the name or names and location of the business of the occupant of a Unit.

(3) No Unit Owner shall obstruct any of the Common Elements nor shall any Unit Owner place or cause or permit anything to be placed on or in any of the Common Elements without the approval of the Board. Nothing shall be altered or constructed in or removed from the Common Elements except with the prior written consent of the Executive Board. The Common Elements and any part of a Unit not occupied by a Building shall be kept clean and free of debris.

(4) The Executive Board, the Association, any Unit Owner and the Declarant shall not be considered a bailee, however, of any personal property stored on the Common Elements (including vehicles parked on the Common Elements), whether or not exclusive possession of the particular area is given to a Unit Owner for parking purposes, and shall not be responsible for the security of such personal property or for any loss or damage thereto, whether or not due to negligence, except to the extent covered by insurance in excess of any applicable deductible.

(5) Common Elements shall be maintained by the Association in accordance with the Forestry Management Plan approved by the Portland Planning Board or by the Planning Division Director.

(6) An 'umbrella' Traffic Demand Management plan for the Condominium and its Unit Owners shall be maintained by the Association, so long as the Planning Division Director requires the Association to maintain such an umbrella plan. To the extent there are costs related to changes to this 'umbrella' Traffic Demand Management plan incurred because of the development of a particular Unit, those costs shall be a Limited Common Expense allocated to that particular unit; otherwise, costs related to the 'umbrella' Traffic Demand Management plan shall be a Common Expense.

J. Alteration to Common Elements by Unit Owner. Subject to any necessary governmental land use or regulatory approvals, a Unit Owner may make improvements and alterations within the boundaries of its Unit. No Unit Owner shall impair any easement or hereditament therein without the unanimous consent of the Unit Owners affected thereby. No Unit Owner shall alter any of the Common Elements or paint or otherwise change the appearance of the Common Elements (including the Limited Common Elements) or paint or otherwise change the exterior appearance of his Unit or any other portion of the Condominium without the prior written approval of the Association acting by the Executive Board, which approval will not be unreasonably withheld.

K. Limited Common Elements and Expense. "Limited Common Expenses" mean: (a) the Common Expenses associated with the maintenance, repair or replacement of a Limited Common Element which shall be assessed against the Units to which that Limited Common Element is assigned, and (b) the Common Expenses for services benefiting fewer than all the Units, which are assessed exclusively against the Units benefited in accordance with the use of such services as permitted by Section 1603-115(c) of the Act. The owner of a Unit shall maintain, repair and replace all Limited Common Elements relating to that Unit except as may otherwise be provided in this Declaration and if the Unit Owner fails to commence to maintain, repair and replace any defect, which in the reasonable judgment of the Association is in need of repair, within 30 days after written notice from the Association of the defect, and to continue such maintain, repair or replacement with reasonable diligence to completion, the Association may (but shall have no obligation to) maintain, repair and replace such Limited Common Elements and shall assess, except as otherwise provided herein, as a Limited Common Expense, the Common Expenses associated with the maintenance, repair or replacement of such Limited Common Elements. The Association shall also have the right to assess an individual Unit for Common Expenses if the Common Expenses shall be incurred due to the negligence, neglect or misconduct of the Owner of such Unit. Maintenance and repair of any shared utility lines and facilities, shared driveways and any shared mechanical equipment will be assessed as a Limited Common Expense against the Unit or Units benefited. Notwithstanding anything to the contrary contained herein, for purposes solely for parking areas, landscaping, sidewalks and the like that may be located within the boundary lines of a Unit, such area shall be maintained by the Unit owner, and if the Unit owner fails to do so, may be maintained by the Association (but the Association shall have no obligation to do so), and the cost thereof shall be assessed as a Limited Common Expense against such Unit.

L. Maintenance of Common Elements. The Association shall be responsible for the maintenance, repair and replacement (unless, in the opinion of the Executive Board such expense was necessitated by the negligence, misuse or neglect of a Unit Owner) of all of the Common Elements (except as otherwise provided in Article IV(K) hereof with respect to the Limited Common Elements) whether located inside or outside of the Units, the cost of which shall be charged to the Unit Owners as a Common Expense except as otherwise provided in Article IV(K). Except as otherwise provided in this paragraph or in Article IV(K), the Association shall be responsible for the maintenance (including but not limited to (i) minimum annual and as needed inspection and maintenance of all drainage facilities; (ii) snow and ice removal from the main road; (iii) repair and replacement (unless, such expense was necessitated by the negligence, misuse or neglect of a Unit Owner)) of all of the Common Elements whether located inside or outside of the Units, the cost of which shall be charged to the Unit Owners as a Common Expense. The maintenance, repair and replacement of Common Elements located within a Unit, or for which the Unit Owner is otherwise responsible, to the extent required for the functioning of or for connecting utilities to the Property and Units shall be furnished by the Association as part of the Common Expenses except as provided in Article IV(K), Article IV(J) and/or in Article VI(B). The maintenance, repair and replacement of Common Elements located within a Unit, or for which the Unit Owner is otherwise responsible, to the extent required for the functioning of or for connecting utilities to the Property and Units shall be furnished by the Association as part of the Common Expenses except as provided in Article IV(K).

The Association, as part of its obligations under this paragraph, shall be obligated to maintain, repair and replace the main road (and the adjoining sidewalk and drainage facilities that adjoin the main road) that leads from Rand Road to the Units, the location of such road, sidewalks and drainage facilities being described as Easement Area #1 in Schedule A hereto. Such obligations shall include all costs and expenses, including all ordinary and extraordinary expenses, and all major and capital repairs and replacements as well as all ordinary repairs and maintenance, including snow and ice removal, sanding, salting and other treatment, repaving, striping, resurfacing, grading, rebuilding and reconstruction as needed in order to provide high quality, safe and orderly access to the Units. Declarant will continue to own the fee of such road but has provided easements to the Association and Unit owners over such road as set forth in

Schedule A hereto (Easement Area #1). Accordingly, the Association agrees to be responsible for all costs and expenses of every kind and nature whatsoever relating to such road, and the Association agrees to indemnify, defend and hold Declarant harmless from any liability or injury, loss, accident or damage to any person or property, and from any claims, actions, proceedings and expenses and costs in connection with the road or relating in any way thereto or any injury or liability occurring thereon or relating thereto (including without limitation attorney's fees and expenses) arising in whole or in part from (i) the omission, fault, willful act, negligence or other misconduct of the Association, the unit owners, any licensees, guests, visitors or invitees or from any use made or thing done and occurring on said road; or (ii) the failure of Association to perform and discharge its covenants and obligations under this Declaration. The Association shall maintain liability insurance, naming Declarant as an additional insured, with respect to the road and adjoining drainage facilities (including gravel wetlands 1, 3 and 8) and sidewalk and shall provide certificates of such insurance to Declarant in accordance with Article XI hereof.

The Association is also obligated to comply with (a) the post-construction storm water management plan that applies to common element and limited common element storm water facilities, in accordance with Section 32-38 of the City of Portland, Storm Water Ordinance, as amended from time to time, and in accordance with the provisions set forth in Schedule D hereto, as amended from time to time with the approval of the Portland Planning Board, including the filing of annual reports; and (b) the post development inspection, maintenance and reporting requirements set forth as standard conditions of approval for the Maine Department of Environmental Protection Site Location of Development Permit for the property. The Association may assess, as a limited common expense to the Unit(s) benefited, a reasonable portion of the costs relating to the portion of the storm water management plan and such DEP post development inspection, maintenance and reporting requirements that relates to limited common element drainage facilities; all other expenses of the post-construction storm water management plan shall be assessed as common expenses.

If the Association fails to perform its obligations described in this paragraph, the Declarant shall have the right, but not the obligation, to perform such obligations and to maintain and repair the road, sidewalk and drainage facilities and the Association agrees to reimburse Declarant, on demand, for such costs thereof.

M. Maintenance of Unit. Each Unit Owner shall keep and maintain his Unit and its equipment, appliances, landscaping and appurtenances in good order, condition and repair and in clean and sanitary condition, whether such maintenance and repair shall be structural or nonstructural, ordinary or extraordinary, and shall do all redecorating, painting and varnishing which may at any time be necessary to maintain the good appearance and condition of his Unit. No Unit Owner shall sweep or throw, or permit to be swept or thrown, from his Unit any dirt, debris or other substance, except as permitted by applicable law and applicable land use permits. In addition, each Unit Owner shall be responsible for all damage to any other Units or to the Common Elements resulting from his failure or negligence to make any of the repairs required by this Article. Each Unit Owner shall perform his responsibility in such manner as shall not unreasonably disturb or interfere with the other Unit Owners. Each Unit Owner shall promptly report to the Executive Board or the managing agent any defect or need for repairs for which the Association is responsible.

N. Liability of Owner. Each Unit Owner shall be liable, and the Association shall have a lien against his Unit for the expense of maintenance, repair or replacement of any damage to the Common Elements or to another Unit caused by such Unit Owner's act, neglect or carelessness or by that of any Unit Owner's guests, agents or tenants. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy, or abandonment of any Unit or its appurtenances. Nothing herein contained, however, shall be construed so as to modify any waiver by insurance companies of rights of subrogation against such Unit Owner.

O. Maintenance, Owner Self-Help. If the Association fails to comply with its obligation to maintain, replace or repair any part of the Condominium as specified in this Declaration, within a reasonable time after the owner of a Unit requests that such required maintenance, replacement or repair be performed by the Association, then such Unit owner shall have the right to perform the required maintenance, replacement or repair, provided that no work done by a Unit Owner shall impair or jeopardize the structural integrity of the Building or any part of the Condominium. Any Unit Owner may at any time commission an engineer's report regarding the necessity or advisability of such maintenance, replacement or repair, and may present that report to the Association. If the Unit Owner has performed such maintenance, replacement or repair pursuant to this paragraph, the Unit Owner may seek reimbursement from the Association as a Common Expense for any portion of any expense so incurred by the Unit Owner, the cost of which would not have been allocated to such Unit Owner. If, after a reasonable time, a Unit Owner is not satisfied with or disagrees with the Association's response, such Unit Owner may submit the dispute, including, without limitation, any request for reimbursement of expenses, if applicable, to arbitration in accordance with the terms of this Article VII(B). The expenses of such arbitration shall be a Common Expense. If the arbitrator finds in favor of the Unit Owner that commissioned the engineering report, the expense of such report shall be a Common Expense. Otherwise, such expense shall be borne by said Unit Owner.

ARTICLE V: SPECIAL DECLARANT RIGHTS

A. Development Rights. Declarant shall have and hereby reserves the Development Rights: (a) to create Common Elements and/or Limited Common Elements (including parking spaces and drives as shown on any amendment prepared by Declaration to the Plat, as the same may be modified from time to time with the approval of the Portland Planning Board, and shared utility lines and facilities and shared drives) in connection with the Units, Common Elements and Limited Common Elements for Units 1 through 7, any such new Common Elements or new Limited Common Elements (including additional parking areas, driveways and any shared mechanical equipment and rooms) to be substantially as shown on an amended Plat approved by the City of Portland Planning Board; (b) to combine Units 6 and 7 into one Unit and to incorporate the area between said Units shown on the Plat as subject to the Development Rights into said combined Unit; and (c) to change the size, arrangement and location of Units and Limited Common Elements (prior to conveyance of the Unit to a Unit owner), subject to approval by the Portland Planning Board, all to the fullest extent permitted by law and subject to limitations provided in this Article V(A) and without the vote or consent of the Executive Board, any Unit Owner or any Mortgagee.

Declarant reserves the Development Rights set forth in this Article V(A) until the thirtieth (30th) anniversary date of the recording of this Declaration.

B. Condominium Association and Executive Board Access. Declarant reserves in favor of itself, the Association and its Executive Board, officers, agents and employees, any managing agent and every other person authorized by the Executive Board the irrevocable right and easement to have access to each Unit as provided in Section 1603-107(a) of the Act as may be necessary for the inspection, maintenance, repair or replacement of any of the Common Elements and Limited Common Elements therein or accessible therefrom or the making of any addition or improvements thereto; or to make repairs to any Unit, the Common Elements or the Limited Common Elements if such repairs are reasonably necessary for the public safety or to prevent damage to any other Unit or Units, the Common Elements or the Limited Common Elements; or to abate any violation of law, orders, rules or regulations of the Association or of any governmental authorities having jurisdiction thereof. In case of an emergency, such right of entry shall be immediate whether or not the Unit Owner is present at the time. The Association and its Executive Board shall have the right to grant to third parties permits, licenses and easements over and through the Common Elements for utilities and other purposes reasonably necessary or useful for the proper maintenance and

operation of the Condominium. The Association shall also have the right and easement to install, maintain and replace from time to time an entrance sign for the Portland Technology Park on the Limited Common Element area allocated to Unit #1 in a location adjacent to the Park road.

C. Declarant's Easement for Marketing. Declarant reserves the right with respect to its marketing of Units to use the Common Elements for the ingress and egress of itself, its officers, employees, agents, contractors and subcontractors and for prospective purchasers of Units. The Declarant also reserves the right to use any Units owned or leased by the Declarant as models, management offices, sales offices for this and other projects or customer service offices. The Declarant reserves the right to relocate the same from time to time within the Property; upon relocation, the furnishings thereof may be removed. The Declarant further reserves the right to maintain on the Property such advertising signs and lighting as may comply with applicable governmental regulations, which may be placed in any location on the Property and may be relocated or removed, all at the sole discretion of the Declarant. Further, the Declarant shall have the right to erect temporary offices on the Common Elements for models, sales, management, customer service and similar purposes. This easement shall continue until the Declarant has conveyed all Units to Purchasers.

D. Declarant's Easements for Construction. Declarant reserves the easement, right and privilege without let or hindrance with respect to the creation of the Units, Common Elements, Limited Common Elements, the Development Rights specified in Paragraph A hereinabove and other improvements of the Condominium, to go upon any and all of the Property except for Units and the related Limited Common Elements conveyed to Purchaser for purposes of construction, reconstruction, maintenance, repair, renovation, replacement, improvement or correction of the Units and Common Elements and for completion of the improvements indicated on the Plat. Furthermore, the Declarant reserves an easement in the Units and Common Elements pursuant to Section 1602-116 of the Act for the purpose of discharging Declarant's obligations and exercising the Special Declarant rights reserved pursuant to this Declaration. These easements shall continue until all Units in the Condominium are conveyed by Declarant.

E. Declarant's Right to Connect With Utilities and Drainage. Declarant further reserves an easement to connect with and make use of utility lines, wires, pipes and conduits and drainage lines and facilities located on the Property for construction purposes on the Property, provided that Declarant shall be responsible for the cost of service so used, and to use the Common Elements for ingress and egress and construction activities and for the storage of construction materials and equipment used in the completion of the Units and Common Elements. This easement shall continue until the Declarant has conveyed all Units.

F. Declarant's Right to Grant Easements. Declarant shall have the right, until the Declarant has conveyed all Units to Purchasers, to grant and reserve easements and rights of way through, under, over and across the Property for construction purposes, and for the installation, maintenance and inspection of the liens and appurtenances for public or private water, sewer, drainage, gas, electricity, telephone and other utilities. The Units and Common Elements shall be, and are hereby, made subject to easements in favor of the Declarant, appropriate utility and service companies and governmental agencies or authorities for such utility and service lines and equipment as may be necessary or desirable to serve any portion of the Property. The easements created in this Paragraph shall include, without limitation, rights of Declarant, or the providing utility or service company, or governmental agency or authority to install, lay, maintain, repair, relocate and replace gas lines, pipes and conduits, water mains and pipes, sewer and drain lines, elevators, telephone wires and equipment, air conditioning, heating systems, ventilation systems, electric wires, conduits and equipment and ducts and vents over, under, through, along and on the Units and Common Elements. Notwithstanding the foregoing, Declarant shall not grant any such easements that adversely affect any buildings constructed by any Unit Owner.

G. Alteration of Common Elements by Declarant. Declarant reserves the right (but shall have no

obligation) to modify, alter, remove or improve defective, obsolete or nonfunctional portions of the Common Elements, including without limitation any equipment, fixtures and appurtenances when in the Declarant's judgment it is necessary or desirable to do so, until all Units have been conveyed to Purchasers.

H. Transfer of Special Declarant Rights; Termination and Surrender. Declarant reserves the right to transfer from time to time to any one or more transferees any or all reserved Special Declarant Rights in accordance with Section 1603-104 of the Act. Notwithstanding any other provisions in this Declaration, this Article may not be amended without the prior written consent of the Declarant. Notwithstanding the foregoing, Declarant may surrender or terminate any rights reserved under this Article at any time by recording an instrument so providing in the Cumberland County Registry of Deeds.

The Development Rights and Special Declarant Rights set forth in this Article V shall terminate 30 years after the date of this Declaration or at any earlier date as expressly set forth above.

ARTICLE VI: ASSESSMENTS FOR COMMON EXPENSES

A. Common Expense Liability. Except as provided in Article IV(K), Article IV(L), and Article VI(B), the Common Expense Liability (which is the allocation to each Unit or Unit Owner of the respective liability of each Unit Owner for Common Expenses) allocated to each Unit is a fraction of the Common Expenses assessed against all of the Units that is equal to the Common Element Interest appurtenant to the respective Unit as set forth in Schedule C.

B. Allocation of Assessments of Common Expenses. The total amount of Common Expenses shall be assessed against the Units in the following proportions: (1) the Common Expenses that are not Limited Common Expenses shall be assessed against all of the Units in proportion to the relative Common Expense Liabilities of all the Units; (2) the Limited Common Expenses shall be assessed solely against each Unit benefited except as otherwise provided in this Declaration; except as provided in Article IV(K) and Article IV(L), if a Limited Common Expense benefits more than a single Unit, that Limited Common Expense shall be assessed solely against each Unit benefited equally against the Units to which Limited Common Elements are assigned or appurtenant; (3) assessments to pay a judgment against the Association shall be made as a Limited Common Expense against the Units included in the Condominium at the time such judgment was entered; and (4) any utilities which are separately metered shall be supplied by the public utility company serving the area directly to each Unit through a separate meter and each Unit Owner shall be required to pay the bills for utilities consumed or used in his Unit, and any utilities which are not separately metered shall be paid by the Association and charged to the Unit owners as a Common Expense.

The Declarant shall not be liable for any assessments for any Units until after the later to occur of the first conveyance of a Unit to a third person other than an affiliate of the Declarant or the first Common Expense assessment by the Association. Assessments for Common Expenses shall commence on the first day of the first month following the date of the first conveyance of a Unit to a person other than the Declarant.

C. Payment Obligations. Each Unit Owner shall pay to the Association or its authorized representative on the first day of each month, or on such other date that the Association may determine in writing, one-twelfth of the Common Expenses, including Limited Common Expenses, assessed on an annual basis against his Unit in the proportions required in Paragraph B of this Article in accordance with the Bylaws and subject to Section 1603-103(c) of the Act. If for any reason the Association shall revise the annual budget of the Association in accordance with the Bylaws and subject to Section 1603-103(c) of the Act whereby the Common Expenses or any component thereof may be increased, thence commencing on the first day of the first month subsequent to the adoption of such revised budget each Unit Owner shall pay to the Association or its authorized representative one-twelfth of any such revised annual Common

Expenses including Limited Common Expenses assessed against his Unit in the proportions required in Paragraph B of this Article.

D. Interest; Acceleration. In the event of a default by any Unit Owner in paying any sum assessed against his Unit which continues for a period in excess of thirty (30) days, interest at a rate of interest to be established annually by the Executive Board which shall not exceed the lower of the maximum interest rate allowed by law which may be charged by the Association at such time or eighteen percent per annum shall be imposed on the principal amount unpaid from the date when due until paid. If the Executive Board shall fail to set such rate, it shall be deemed to have been set at the rate of Eighteen Percent (18%) per annum. The Association shall have the right to establish and impose charges for late payment of assessments. In any case where an assessment against a Unit Owner is payable in installments, upon a default by such Unit Owner in the timely payment of any two consecutive installments, the maturity of the remaining total of the unpaid installments of such assessments may be accelerated at the option of the Executive Board, and the entire balance of the annual assessment may be declared due and payable in full by the service of notice to such effect upon the defaulting Unit Owner by the Executive Board or its representatives.

E. Lien for Assessments. The total annual assessment levied against each Unit for Common Expenses including Limited Common Expenses, revised Common Expenses including Limited Common Expenses, or any special assessment, and any other sums duly levied against the Unit pursuant to this Declaration, the Bylaws, or the Act and all interest thereon and charges for late payment thereof and legal fees and other costs of collection thereof shall constitute the personal liability of the Owner of the Unit so assessed and also shall, until fully paid, constitute a lien against the Unit in favor of the Association from the date upon which such assessment, special assessment or other sum such as interest becomes due as provided in Section 1603-116 of the Act. Such lien shall, with respect to annual assessments, be effective on the first day of each fiscal year of the Association as to the full amount of the annual assessment, and, as to special assessments and other sums duly levied, on the first day of the next month which begins more than ten (10) days after delivery to the Unit Owner of notice of such special assessment or levy. Such lien is prior to all other liens and encumbrances on a Unit except (a) liens and encumbrances recorded before the recordation of this Declaration, (b) a first Mortgage recorded before or after the date on which the assessment sought to be enforced becomes delinquent, and (c) liens for real estate taxes and other governmental assessments or charges against the Units; provided, however, that such lien is not subject to the provisions of 14 M.R.S.A. §4561 and 18-A M.R.S.A. §2-201, et seq., as they or their equivalents may be amended or modified from time to time.

F. Enforcement. The lien for assessments described in Paragraph E of this Article may be enforced and foreclosed by the Association in like manner as a mortgage on real estate as provided in Section 1603-116(a) of the Act or by any other means presently or hereafter provided by law or in equity. A suit to recover a money judgment for unpaid assessments, interests, penalties, and costs of collection may be maintained against the Unit Owner personally without foreclosing or waiving the lien securing such assessments and a foreclosure may be maintained notwithstanding the pendency of any suit to recover a money judgment. During the pendency of any such suit, the Unit Owner shall be required to pay a reasonable rental of the Unit for any period prior to the sale pursuant to any judgment or order of any Court having jurisdiction over such sale.

G. Exemption from Expenses by Waiver of Use of Common Elements or Unit Elements. No Unit Owner may exempt himself from Common Expense Liability with respect to the payment of assessments for Common Expenses by waiver of the enjoyment of the right to use any of the Common Elements or by abandonment of his Unit or otherwise. The obligation to pay assessments for Common Expenses is absolute and unconditional and shall not be subject to set-offs or counterclaims.

H. Reduction of Expenses. All receipts from payments, fees or charges for the use, rental,

operation, or allocation as a Reserved Common Element, of any and all Common Elements shall be applied first to reduce the Common Expense relating to the use of that Common Element giving rise to such Common Expense and any excess thereof shall be applied to Common Expenses generally.

I. Surplus Funds. If at the end of any fiscal year any amounts accumulated from assessments for Common Expenses and income from the operation of the Common Elements to which such Common Expenses pertain shall exceed the amount required or actual Common Expenses and provision for Common Expenses and any payment of reserves for future Common Expenses, such excess shall be applied to the reserve fund unless credited by the Association to each Unit Owner in proportion to their respective Common Expense Liabilities to reduce until exhausted the next monthly installments due from Unit Owners. Similarly, any surplus funds of the Association not so applied to the reserve fund and remaining after payment of or provision for Limited Common Expenses after application to Common Expenses as provided in Paragraph H of this Article, shall be credited to the Owners of the Units giving rise to such Limited Common Expenses in the proportions provided in Paragraphs B and H of this Article to reduce until exhausted the next monthly installments of assessments for such respective Expenses due from such Unit Owners. Surplus funds shall not otherwise be paid or credited to Unit Owners.

J. Service Charges. The Association shall have the express power to separately charge a Unit and the owner thereof for services rendered to that Unit. Such charges shall be a lien on the Unit with the same status as a lien for common expense assessment under this Declaration and Bylaws, which lien for service charges may be foreclosed in like manner as a mortgage on real estate. The recordation of this Declaration constitutes record notice of the lien. Service charges shall include without limitation: (1) if a Unit Owner, his agents or tenants request the Association to perform repair and maintenance work on his Unit or damages the Common Elements or fails to perform maintenance and repair work required, the expense thereof as determined by the Executive Board or its designee may be assessed as a Service Charge; (2) fees, if any, which may be established by the Executive Board for use and maintenance of water, sewer, heat and/or other utility services; and (3) insurance premiums on permanent improvements to Units installed by Unit Owners and insured by the request of the Unit Owner with the Association's hazard insurance carrier.

K. Liability. In a voluntary conveyance, the purchaser of a Unit shall be jointly and severally liable with the Seller for all unpaid common charges, assessments, service charges, interest and costs of collection up to the time of the grant or conveyance, although the Purchaser shall not be prevented from exercising any right to recover from the Seller the amounts paid for those assessments and common charges. A purchaser or prospective purchaser under a purchase and sale contract for a Unit may obtain, upon request and the payment of such fee as may be established from time to time by the Executive Board, a statement from the Association setting forth the amount of unpaid common charges, assessments and service charges, interest and costs of collection against the Unit as of the date of grant or conveyance and such other items required by the Act. The purchaser shall not be liable for, and the Unit conveyed shall not be subject to a lien for any unpaid amounts due from the Seller before the statement date in excess of the amount set forth in the statement except interest and costs of collection accrued thereafter.

ARTICLE VII: UNIT OWNERS ASSOCIATION

A. Owners Association and Bylaws. Each Unit Owner shall be a member of the Association, a non-profit corporation organized under the laws of the State of Maine known as Portland Technology Park Condominium Association. Membership shall be appurtenant to the Units, and the transfer of title to a Unit shall automatically transfer the membership appurtenant to that Unit to the transferee or transferees. A mortgage, however, shall not transfer membership until foreclosure or sale in lieu of foreclosure. The Bylaws of the Association, which govern the operation and management of the Association, are attached hereto as Schedule E. The Association shall have all the powers granted pursuant to Section 1603-102 of the Act including the power to assign its right to future income.

B. Executive Board Powers, Declarant Control Period. Except as otherwise provided in Section 1603-103(b) of the Act, the Executive Board may act on behalf of the Association, shall have all of the powers necessary for the administration of the affairs of the Association and may do all such acts and things as are not by the Act or this Declaration or the Bylaws required to be exercised and done by the Association. The affairs of the Association shall be governed by an Executive Board composed of no less than three (3) and no more than seven (7) natural persons. Prior to the Transition Election provided for by below, the Executive Board shall be composed of three (3) natural persons appointed by the Declarant. The Declarant shall have the right during the Declarant Control Period to appoint, remove and replace from time to time any and all members of the Executive Board and officers of the Association, without the necessity of obtaining resignations. The appointees of the Declarant need not be Unit Owners. After the Transition Election, at least a majority of the members of the Executive Board shall be Unit Owners or spouses of Unit Owners, or in the case of a Unit Owner which is a corporation, partnership, limited liability company, trust or estate, a designated agent thereof. Each Unit Owner shall have the right to appoint or elect one member of the Executive Board. The transition from Declarant-appointed members of the Executive Board to Unit Owners other than the Declarant shall occur as follows:

(i) No later than the earlier of (a) sixty (60) days after the conveyance of seventy-five percent (75%) of the Units to Purchasers or (b) seven (7) years following conveyance of the first Unit to a Purchaser, or at such earlier date as the Declarant in its sole discretion shall specify, the Transition Meeting of the Association and Transition Election shall be held at which all of the members of the Executive Board and the officers of the Association shall all resign, and the Unit Owners, including the Declarant if the Declarant owns one or more Units, shall thereupon elect successor members of the Executive Board to act in the place and stead of those resigning.

(ii) The Declarant may voluntarily surrender the right to appoint and remove officers and members of the Executive Board before termination of the Declarant Control Period, but in that event it may require, for the duration of the Declarant Control Period, that specified actions of the Association or Executive Board, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before such actions can become effective. In determining whether the Declarant Control Period has terminated, the percentage of the Units conveyed is presumed to be that percentage which would have been conveyed if all the Units were included in the Condominium that the Declarant has created or reserved in this Declaration the Development Rights to create.

C. Disputes. The Association and any aggrieved Unit Owner shall have an appropriate right of action, together with any and all appropriate remedies under the Act, in law or equity, against any of the Unit owners or the Association for failure to comply with any provision of this Declaration or with any decision of the Association made pursuant thereto. The Executive Board shall have the authority to seek a declaratory judgment or other appropriate judicial relief in order to assist it in carrying out its responsibilities under this Article, except as hereinafter provided. Notwithstanding the rights of action described in the preceding two sentences, any dispute resulting in a deadlock among the Executive Board members or described in Article III or Article IV hereof shall be submitted to arbitration in accordance with the procedures set forth herein. In such cases, all of the members of the Executive Board shall, within thirty days after such deadlock occurs, attempt to agree upon a single arbitrator to settle the dispute. If the members are unable to agree on a single arbitrator within such thirty-day period, then the dispute shall be settled by a single arbitrator in accordance with the rules of the American Arbitration Association. The expenses of such arbitration shall be a Common Expense. All Unit Owners and the Association shall be bound by the arbitration decision, including, without limitation, any determination regarding the entitlement of a Unit owner to reimbursement of expenses incurred pursuant to Article IV(O). No other right of action shall arise with respect to a dispute arising out of an Executive Board deadlock or a dispute over maintenance, replacement or repair of all or any part of the Common Elements.

ARTICLE VIII: LIMITATION OF LIABILITY

A. Limited Liability of the Executive Board. No member of the Executive Board or officer of the Association, except to the extent of his or her willful misconduct or gross negligence: (1) shall be liable for the failure of any service to be obtained by the Executive Board and paid for by the Association, or for injury or damage to persons or property caused by the elements or by another Unit Owner or person on the Property, or resulting from electricity, gas, water, rain, dust or sand which may leak or flow from the outside or from any part of the Buildings, or from any of its pipes, drains, conduits, or equipment, or from any other place; (2) shall be liable to the Unit Owners as result of the performance of the Executive Board members' duties for any mistake of judgment, negligence or otherwise; (3) shall have any personal liability in contract to a Unit Owner or any other person or entity under any agreement, check, contract, deed, lease, mortgage, instrument or transaction entered into by them on behalf of the Executive Board or the Association in the performance of the Executive Board members' duties; (4) shall be liable to a Unit Owner, or such Unit Owner's tenants, employees, agents, customers or guests, for loss or damage caused by theft of or damage to personal property left by guests in a Unit, or in or on the Common Elements or Limited Common Elements; (5) shall have any personal liability in tort to a Unit Owner or any other person or entity, direct or imputed, by virtue of acts performed by or for them; or (6) shall have any personal liability arising out of the use, misuse or condition of the Buildings, or which might in any other way be assessed against or imputed to the Executive Board members as a result of or by virtue of the performance of their duties. Notwithstanding the foregoing, any liability of the City of Portland or any representative thereof shall be limited as set forth in the Maine Tort Claims Act.

B. Indemnification. Each member of the Executive Board, in his capacity as an Executive Board member, officer or both, shall be indemnified by the Association against all expenses and liabilities, including attorney's fees, reasonably incurred by or imposed upon him in connection with any proceeding in which he may become involved by reason of his being or having been a member and/or officer of the Executive Board, or any settlement of any such proceeding, whether or not he is an Executive Board member, officer or both at the time such expenses are incurred, except in such cases wherein such Executive Board member and/or officer is adjudged guilty of willful misconduct or gross negligence in the performance of his duties; provided that, in the event of a settlement, this indemnification shall apply only if and when the Executive Board (with the affected member abstaining if he is then an Executive Board member) approves such settlement and reimbursement as being in the best interests of the Association; and provided further that, indemnification hereunder with respect to any criminal action or proceeding is permitted only if such Executive Board member and/or officer had no reasonable cause to believe his conduct was unlawful. The indemnification by the Unit Owners set forth in this Paragraph shall be paid by the Association on behalf of the Unit Owners and shall constitute a Common Expense and shall be assessed and collectible as such. Such right of indemnification shall not be deemed exclusive of any other rights to which such Executive Board member and/or officer may be entitled as a matter of law or agreement or by vote of the Unit Owners or otherwise.

C. Defense of Claims. Complaints brought against the Association, the Executive Board or the officers, employees or agents thereof in their respective capacities as such, or the Condominium as a whole, shall be directed to the Executive Board of the Association, which shall promptly give written notice thereof to the Unit Owners and the Eligible Mortgage Holders and the Mortgagees of Units identified to the Association, and such complaints shall be defended by the Association. The Unit Owners shall have no right to participate in such defense other than through the Association.

ARTICLE IX: EMINENT DOMAIN

A. Entire Unit. If any Unit and/or its Limited Common Elements shall be taken or condemned by

any authority having the power of eminent domain, or if part of a Unit and/or its Limited Common Elements is taken or condemned by any authority having the power of eminent domain leaving the Unit Owner with a remnant which may not practically or lawfully be used for any purpose permitted by this Declaration, the award for such taking or condemnation shall be paid to the Unit Owner as compensation for his Unit, its Limited Common Elements and its Allocated Interest in the Common Elements, whether or not any Common Elements are taken or condemned. Upon such taking or condemnation, unless the decree provides otherwise, that Unit's entire Allocated Interests shall be automatically reallocated to the remaining Units in proportion to the respective Allocated Interests of those Units prior to the taking or condemnation, and the Association shall promptly prepare, execute and record as a Common Expense an amendment to this declaration reflecting such reallocation. Any remnant of a Unit remaining after part of a Unit is taken or condemned under this Article IX(A) shall thereafter be a Common Element.

B. Part of Unit. Except as otherwise provided in Paragraph A, if part of a Unit and/or its Limited Common Elements is taken or condemned by any authority having the power of eminent domain, any award therefor shall be paid to the Owner of such Unit as compensation for the reduction in value of the Unit and/or the related Limited Common Elements and its Allocated Interest in the Common Elements, whether or not any Common Elements are taken or condemned. After such part of a Unit and/or its Limited Common Elements is taken or condemned that Unit's Allocated Interests shall be reduced in proportion to the reduction in relative value of the Unit as determined by the Executive Board, except that the votes in the Association and Common Expense Liability of a Unit shall not be changed by any partial taking.

C. Common Elements. If part of the Common Elements shall be taken or condemned by any authority having the power of eminent domain, the Association shall notify the Owners and the Eligible Mortgage Holders of the Units affected and shall represent the Unit Owners in any condemnation proceedings or in negotiations, settlements and agreements with the condemning authority, and the portion of the award attributable to the Common Elements taken shall be paid to the Association for the use and benefit of the Unit Owners and their Mortgagees as their interests may appear. Each Unit Owner appoints the Association as attorney-in-fact for the purposes described in this paragraph. Subject to the provisions of Article IX(D), the Association shall divide any portion of remaining Common Elements among the Unit Owners and their Mortgagees, in proportion to their respective interests in the Common Elements prior to such taking or condemnation, but the portion of the award attributable to the acquisition of any Limited Common Element shall be equally divided among the Owners of the Units to which such Limited Common Element was allocated at the time of such taking or condemnation. The Association shall promptly prepare, execute and record as a Common Expense an amendment to this Declaration reflecting such reallocation.

D. Decree, Prior Liens. The court decree shall be recorded. Notwithstanding anything to the contrary in this Article, lien holders on any Unit, Common Element or Limited Common Element, shall have a lien on any such awards in order of priority of their respective liens.

ARTICLE X: REPAIR AND RECONSTRUCTION AFTER FIRE OR OTHER CASUALTY

The Association is not responsible for the costs of restoring or repairing any damage to Units or the Limited Common Elements. Subject to any necessary governmental land use or regulatory approvals, each Owner shall repair or replace his Unit and the related Limited Common Elements and the improvements and personal property located therein at the Unit Owner's expense. Any portion of the Common Elements (other than the Limited Common Elements) damaged or destroyed shall be repaired or replaced promptly by the Association unless: (i) the Condominium is terminated; (ii) repair or replacement would be illegal under any state or local health or safety statute or ordinance; or (iii) One Hundred percent (100%) in interest of the Unit Owners vote not to rebuild. The cost of repair or replacement in excess of insurance proceeds or not covered by any deductible shall be a common expense, provided however that notwithstanding any other

provision of the Declaration, each Owner of a Unit shall be responsible for the payment of the costs of repair or replacement to his or her Unit and the related Limited Common Elements. Each Unit Owner shall promptly report to the Board of Directors or the managing agent any defect or need for repairs for which the Association is responsible.

ARTICLE XI: INSURANCE

A. General. No later than the date of the first conveyance of a Unit to a person other than the Declarant, the Association, shall obtain and maintain as a Common Expense, the policies of insurance described below to the extent such policies shall be reasonably available. If such insurance is not maintained, then the Association shall give written notice thereof to the Unit Owners and the Eligible Mortgage Holders. To the extent that such insurance subsequently becomes unavailable, the Association shall obtain as a substitution the most comparable insurance available. The Board of Directors is hereby irrevocably appointed as attorney-in-fact for each Unit Owner and for each Mortgagee and Eligible Mortgage Holder and for each owner of any other interest in the Property, for purchasing and maintaining the insurance, for the collection and disposition of any insurance, including distribution pursuant to Section 1603-113(c) of the Condominium Act, for the negotiation of losses and execution of releases of liability, and for the execution of all documents, and performance of all other acts necessary to accomplish these purposes.

B. Property and Casualty Insurance for Common Elements. The Association shall obtain and maintain in effect an "all-risk" fire and casualty insurance policy covering the Common Elements (other than the Limited Common Elements) with extended coverage, vandalism, malicious mischief, windstorm, debris removal, cost of demolition and water damage endorsements, issued by an insurance company authorized to do business in the State of Maine, insuring the Common Elements (other than the Limited Common Elements), and any supplies and common personal property belonging to the Association, excluding the Units, any Unit improvements, Limited Common Elements, the land, foundations, excavations, and other similar items customarily excluded from property insurance policies, improvements installed by Unit Owners and excluding furniture, furnishings, inventory, equipment and other personal property supplied or installed by Unit Owners. The policy shall cover the interests of and name as insureds the Association, the Board of Directors, and all Unit Owners and their Mortgagees as their insurable interests may appear.

The Association's blanket or master insurance policy shall be in an amount equal to one hundred percent (100%) of the then current fair market value of such insured Common Elements (exclusive of the land, excavations, foundations and other similar items customarily excluded from such coverage), without deduction for depreciation. Such insurance policy may, at the option of the Board of Directors, contain such deductible as the Board of Directors shall reasonably deem appropriate. Unless otherwise established by the Board of Directors from time to time, a Unit Owner shall pay the expense of repair of damage to the Common Elements caused by the fault or negligence of the Unit Owner or his guests and invitees in the amount of any deductible or other amounts not covered by the insurance. The Association shall not be responsible for the costs of repair of damage to the Units or the Limited Common Elements.

Such casualty insurance policy shall also include the following provisions:

(i) The following endorsements or their equivalent: (a) "no control," meaning that coverage shall not be prejudiced by any act or neglect of any occupant or Unit Owner or their agents, when such act or neglect is not within the control of the insured, or the Unit Owners collectively, nor by any failure of the insured, or the Unit Owners collectively, to comply with any warranty or condition with regard to any portion of the Condominium over which the insured, or the Unit Owners collectively, have no control; (b) "Construction Code Endorsement" or "increased cost of construction," (c) "agreed amount" or elimination

of co-insurance clause; and (d) "inflation guard," when it can be obtained.

(ii) That any "no other insurance" clause shall expressly exclude individual Unit Owners' policies from its operation, so that the physical damage policy purchased by the Board of Directors shall be deemed primary coverage and any individual Unit Owners' policies shall be deemed excess coverage, and in no event shall the insurance coverage obtained and maintained by the Board of Directors hereunder provide for or be brought into contribution with insurance purchased by individual Unit Owners or their Mortgagees;

(iii) The recognition of any Insurance Trust Agreement whereby the Board of Directors may designate in writing an Insurance Trustee to hold any insurance proceeds in trust for disbursement, as provided in Section C below; and

(iv) A standard "mortgagee clause" which shall: (a) provide that any reference to a mortgagee in such policy shall mean and include all holders of mortgages of any Unit, in their respective order and preference, whether or not named therein; (b) provide that such insurance as to the interest of any mortgagee shall not be invalidated by any act or neglect of the Association or owners or any persons under any of them; and (c) waive any provision invalidating such mortgagee clauses by reason of the failure of any mortgagee to notify the insurer of any hazardous use or vacancy, and requirement that the mortgagee pay any premium thereon, and any contribution clause.

C. Casualty Losses, Adjustment and Payment; Insurance Trustee. Any loss covered by the insurance policy described in Section B above shall be adjusted with the Association acting through its Board of Directors, but the insurance proceeds shall be payable to the Insurance Trustee designated for that purpose, if any, as provided in the Condominium Act and otherwise to the Association, and not to any Mortgagee.

The Insurance Trustee or the Association as applicable shall hold any insurance proceeds in trust for Unit Owners, Mortgagees and other lien holders as their interests may appear. The Board of Directors shall cause the Insurance Trustee or the Association to obtain a surety bond in 100% of the amount of the insurance proceeds for the faithful performance of the duties as insurance trustee before it shall be entitled to receive such proceeds. Subject to the provisions of this Article, the Bylaws and Section 1603-113(e) of the Condominium Act, the proceeds shall be disbursed first for the repair or restoration of the damage to the Common Elements. Unit Owners, Mortgagees and other lien holders are not entitled to receive payment of any portion of the proceeds, unless either (i) there is a surplus of proceeds after the damaged Common Elements have been repaired or restored, or (ii) the decision has been made not to repair or restore the damage as provided in Section 1603-113(h) of the Condominium Act, or (iii) the Condominium is terminated in whole or part.

D. Liability Insurance. The Board of Directors shall obtain and maintain, as a Common Expense, comprehensive general public liability insurance (including medical payments insurance) and property damage insurance in such limits as the Board may from time to time determine, insuring each Board of Directors member, the managing agent, each Unit Owner and the Declarant against any liability to the public or to the Unit Owners (and their invitees, agents and employees) covering all occurrences commonly insured against for death, bodily injury or property damage, arising out of the maintenance, ownership or use of the Common Elements (and also with respect to the fee interest in Easement Area #1 owned by the City of Portland, which area consists generally of the main road, and adjoining sidewalk and drainage facilities, including gravel wetlands 1, 3 and 8), and for any legal liability resulting from suits or actions related to employment contracts to which the Association is a party. Such insurance shall expressly cover any liability of Declarant as owner of the fee of the main road and adjoining sidewalk and drainage facilities, (including gravel wetlands 1, 3 and 8) (Easement Area #1 as described in Schedule A hereto). Such insurance shall be issued on a comprehensive liability basis and shall contain: (a) a cross liability

endorsement, under which the rights of a named insured under the policy shall not be prejudiced with respect to his action against another named insured; (b) hired and non-owned vehicle coverage; (c) a "severability of interest" endorsement, which shall preclude the insurer from denying liability to a Unit Owner because of negligent acts of the Association or of another Unit Owner; and (d) a broad form liability extension endorsement including "personal injury," contractual liability, and other coverage commonly included in such broad form endorsement. The Board of Directors shall review such limits once each year, but in no event shall such insurance be less than one million dollars (\$1,000,000.00) covering all claims for bodily injury or property damage arising out of one occurrence.

E. Additional Required Provisions. All insurance policies required to be carried by the Association under this Article shall in addition contain the following provisions or features:

(i) The insurer waives any right to claim by way of subrogation against the Declarant, the Association, the Board of Directors, the managing agent or the Unit Owners, and their respective agents, employees and visitors;

(ii) The Declarant, so long as the Declarant shall own any Unit, shall be protected by all such policies as a Unit Owner;

(iii) Each Unit Owner is an insured person under the policy with respect to liability arising out of the ownership of an undivided interest in the Common Elements or membership in the Association;

(iv) The insurer waives its right to subrogation under the policy against any Unit Owner;

(v) No act or omission by any Unit Owner, unless acting within the scope of his authority on behalf of the Association, will void the policy or be a condition to recovery under the policy; and

(vi) If at the time of a loss under the Association's policy, there is other insurance in the name of a Unit Owner covering the same risk covered by the policy, the Association's policy provides primary insurance.

F. Other Insurance. The Board of Directors shall obtain and maintain as a Common Expense:

(i) To the extent reasonably available, "directors and officers" liability insurance, to satisfy the indemnification obligations of the Association;

(ii) Workers' compensation insurance, if and to the extent necessary to meet the requirements of law;

(iii) Flood insurance if any or all of the Property is located in a special flood hazard area equal to the greater of 100% of the insurable value of the Property or the maximum coverage available under the appropriate national Flood Insurance Administration program. A blanket or master policy shall be obtained which includes a maximum deductible of the lesser of \$5,000 or one percent (1.00%) of the policy face amount; and

(iv) Such other insurance as the Board of Directors may determine, as may be requested by a majority of the Unit Owners (including, without limitation, "fidelity bond" coverage).

G. Memoranda and Cancellation. All insurers that shall issue an insurance policy or policies under this Article shall issue certificates or memoranda of insurance to the Association, and, upon request, to any Unit Owner or Mortgagee.

All such insurers issuing the policy may not cancel (including cancellation for non-payment of premium), substantially modify, or refuse to renew such policy or policies until twenty (20) days after notice of the proposed cancellation of non-renewal has been mailed to the Association, the Declarant, the managing agent, each Unit Owner and each Mortgagee to whom a certificate or memorandum of insurance has been issued at their respective last known addresses.

H. Separate Insurance to be Maintained by Owners. Each Unit Owner shall, at his own expense, obtain insurance for his Unit, any Unit improvements and fixtures, furniture, furnishings or other personal property supplied or installed by Unit Owners and personal property and for his personal liability as well as upon any improvements made by him to his Unit under coverage normally called "improvements and betterments coverage," whether installed before or after the date of the recording of this Declaration, and all Limited Common Elements related to the Unit owned by the Unit Owner, provided however, that no Unit Owner shall be entitled to exercise his right to acquire or maintain such insurance coverage which would decrease the amount which the Association on behalf of all Unit Owners may realize under any insurance policy maintained by the Association, or to cause any insurance coverage maintained by the Association to be brought into contribution with insurance coverage obtained by a Unit Owner. All such Unit Owner's policies shall contain waivers of subrogation against the Association.

THE OWNER'S INSURANCE SHALL BE THE SOLE SOURCE OF RECOVERY FOR ANY INJURY OR DAMAGE TO THE UNIT OF THE UNIT OWNER AND ITS CONTENTS, INCLUDING, BUT NOT LIMITED TO, DAMAGE BY FIRE, THEFT, VANDALISM, WATER DAMAGE OR OTHER CASUALTY, AND FOR ANY INJURIES WITHIN THE UNIT TO THE UNIT OWNER AND THE UNIT OWNER'S AGENTS, SERVANTS, INVITEES, EMPLOYEES OR GUESTS AND THE PERSONAL PROPERTY IN THE UNIT. EACH OWNER SPECIFICALLY WAIVES ANY RIGHTS OF SUBROGATION BY THE UNIT OWNER'S INSURER AGAINST THE ASSOCIATION FOR ANY INJURY OR DAMAGE TO THE UNIT AND ITS CONTENTS, INCLUDING, BUT NOT LIMITED TO, DAMAGE BY FIRE, THEFT, VANDALISM, WATER DAMAGE OR OTHER CASUALTY, AND FOR ANY INJURIES WITHIN THE UNIT TO THE UNIT OWNER AND ITS AGENTS, SERVANTS, INVITEES, EMPLOYEES OR GUESTS AND ANY PERSONAL PROPERTY. EACH UNIT OWNER WAIVES ANY CLAIMS AGAINST THE ASSOCIATION FOR SUCH LOSSES, EVEN IF DUE TO THE ALLEGED OR ACTUAL NEGLIGENCE OR FAULT OF THE ASSOCIATION.

At the request of the Association any Unit Owner who obtains an individual insurance policy covering any portion of the Condominium shall file a certificate or copy of such individual policy or policies with the Board of Directors within thirty (30) days after the purchase of such insurance but failure to request or provide such certificate or insurance copies shall not impair any terms of this Declaration.

ARTICLE XII: ADDITIONAL RESTRICTIONS ON USE, OCCUPANCY OR ALIENATION

A. Use and Occupancy Restrictions. Each Unit shall be occupied and used subject to the following restrictions: (1) each Unit will be used solely for nonresidential purposes; (2) each Unit will be used solely for such purposes as permitted from time to time under the Zoning Ordinance of the City of Portland; and (3) each Unit will be subject to reasonable rules and regulations as adopted by the Association from time to time. Nothing in this Declaration shall be construed to prohibit the Declarant from exercising any easements and rights reserved by the Declarant pursuant to this Declaration for any purposes including promotional, marketing or display purposes, from using any appropriate portion of the Common Elements for exercising these reserved rights, settlement of sales of Units and for customer service purposes, or from leasing Units owned by Declarant as provided in this Declaration.

B. Buildings; Design Review. No Building (or other structure) shall be erected, altered or

placed within any Unit unless its design, location (including certification by a licensed surveyor that all structures to be built shall be within the boundaries of the Unit), utility siting, exterior siding, roofing and trim materials, and all auxiliary structures are consistent with the site plan approved by the City of Portland Planning Board. Each Unit Owner erecting a Building within a Unit shall construct the Unit in accordance with the approved plans and specifications and at the Unit Owner's sole cost and expense. All construction activities, including the siting of a Building, shall be in accordance with all local, state and federal laws, codes, ordinances and regulations. Prior to the commencement of excavation, clearing, construction, reconstruction, or alteration of any improvements on any Unit, the Unit Owner shall obtain all required permits and approvals from the City of Portland Planning and Urban Development Department. All improvements to a Unit shall be constructed in accordance with the Approved Plans for that Unit. All material modifications to or variances from the Approved Plans during construction must be approved in advance.

C. Construction Standards. The standards and requirements for construction of buildings and site work on the Property set forth in the Design Guidelines attached hereto as Schedule F are intended to insure that all such buildings and site work will be of design, quality, workmanship and materials which are compatible and harmonious with the natural setting of the area and the other buildings on the Property. All construction of any improvements upon any Unit and Limited Common Element area shall be completed in accordance with such standards and requirements. All buildings must comply with the City of Portland's Green Building Code. The Declarant, during the Declarant Control Period, and thereafter, the Association, with the prior written consent of a majority of the Unit Owners, may waive any provision of the Design Guidelines; any such waiver shall not be binding unless set forth in writing and signing by the parties agreeing to the waiver. Nothing herein shall relieve a Unit Owner from the obligation to seek a waiver from the Portland Planning Board; provided that no Unit Owner shall seek a waiver of the Design Guidelines from the Portland Planning Board without first receiving a waiver from the Declarant or the Association.

D. City of Portland Site Plan Ordinance Requirements. Notwithstanding the foregoing, all site plans for each Unit and for the Limited Common Elements shall be subject to the Site Plan Review requirements set forth in Chapter 14 of the City of Portland's Code of Ordinance. The Association shall not have the authority to waive or alter any design review, construction or other conditions imposed by the City of Portland Planning Board pursuant to such Ordinance, except to the extent that any such conditions are modified by the Planning Board.

E. Use and Maintenance of Units. Each Unit Owner shall be solely responsible for the maintenance, replacement and repair of its Unit and shall keep its Unit free from rubbish and trash of any kind. Each Unit Owner shall keep trash, garbage and other waste in sanitary containers and any sand, gravel, salt or similar materials in appropriate locations within the boundaries of a Unit, and in accordance with all local, state and federal laws, codes, ordinances and regulations, and any Rules and Regulations established by the Association's Executive Board. No Owner shall do or permit to be done any act in the Condominium or within a Unit which may be, or is, or may become a nuisance as defined by state or local ordinances or regulations. Nothing shall be done or kept in any Unit or in the Common Elements which will increase the rate of insurance for the Property or any part thereof applicable without the prior written consent of the Executive Board. No Unit Owner shall permit anything to be done or kept in its Unit or in the Common Elements which will result in the cancellation of insurance on the Property or any part thereof or which would be in violation of any law, regulation or administrative ruling. No waste will be committed on the Unit or the Common Elements. Trash, garbage and other waste shall be kept only in sanitary containers and shall be disposed of in such manner as may be prescribed from time to time in the Rules and Regulations established by the Executive Board. No articles of personal property belonging to any Unit Owner shall be stored in any portion of the Common Elements except in a storage area specifically designated by the Executive Board or the managing agent, if any. No Unit Owner shall make any alterations, repairs or modifications to or connections with the common utility lines or facilities serving the

Property without the prior written consent of the Executive Board or a committee designated by the Executive Board, as appropriate. The City of Portland shall not be responsible for providing any services to the Unit Owners or the Association such as waste removal, snow plowing or road maintenance or repair.

F. Leasing Restrictions. No Unit Owner shall lease a Unit other than by written lease requiring the lessee to comply with the Condominium Documents and rules and regulations of the Association. Subject to applicable land use and zoning restrictions, portions of less than the entire Unit may be leased, subleased or licensed. Each Unit Owner shall, promptly following the execution of any lease of a Unit, notify the Association in writing of the name of the tenant and the term of the lease and any options in the lease to renew, extend or purchase. The Declarant retains and reserves the right, without complying with the restrictions contained in the foregoing Paragraphs, to enter into leases with any persons for the occupancy of any of the Units owned by the Declarant during the period ending 30 years from the date of this Declaration, except that no lease will be entered for a term of less than 30 days.

G. Voluntary Resale of Units. The following provisions apply to the sales of Units by all Unit Owners other than the Declarant: No Unit Owner shall be liable for the payment of any part of the Common Expenses assessed against his Unit subsequent to the date of recordation of a bona fide conveyance in fee of such Unit by the Owner. In a voluntary transfer of a Unit, the grantee of the Unit shall be jointly and severally liable with the grantor for all unpaid assessments and special assessments for Common Expenses made by the Executive Board against the latter up to the time of the recordation of grantor's transfer, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. However, any person who shall have entered into an agreement to purchase a Unit from a Unit Owner shall be entitled to a certificate from the Executive Board as provided by Section 1604-108(b) of the Act, and the grantee shall not be liable for, nor shall the Unit conveyed be subject to a lien for, any assessments or unpaid special assessments made by the Executive Board against the grantor for Common Expenses in excess of those disclosed on such certificate. All Unit Owners shall comply with Section 1604-108 of the Act. Except as provided in this Article, there are no other restrictions governing the voluntary transfer of a Unit.

H. Rules and Regulations. Each Unit, appurtenant Limited Common Elements and the Common Elements shall be subject to all restrictions contained in the Unit deed, this Declaration, the Bylaws of the Association, and any reasonable Rules and Regulations adopted by the Association from time to time, as amended from time to time. The Association and the Unit Owners shall also comply with all applicable laws, governmental regulations and ordinances and land use permit and license requirements.

I. Title. Every Unit Owner shall promptly cause to be duly recorded the deed, lease, assignment or other conveyance to it of its Unit or other evidence of its title thereto and file such evidence of its title with the Executive Board through the Secretary or Manager.

ARTICLE XIII: APPLICABILITY; COMPLIANCE AND DEFAULT

A. Applicability. This Declaration shall be applicable to the Property. All present and future Owners and tenants, their guests, servants, agents and employees and any other person or persons that shall be permitted to use a Unit or the Common Elements shall be subject to this Declaration, the Bylaws and to such rules and regulations as may be issued by the Executive Board of the Association from time to time to govern the conduct of its members and the use and occupancy of the Property. Ownership, rental or occupancy of any of the Units in the Condominium shall be conclusively deemed to mean that said Owner, tenant or occupant has accepted and ratified this Declaration, the Bylaws and the rules and regulations of the Association and will comply with them. The acceptance of a deed or conveyance (other than as security) or the entering into of a lease or the entering into of occupancy of any Unit (other than possession by a Mortgagee prior to either the completion of foreclosure or the acceptance of a deed to the Unit subject to the

Mortgage held by such Mortgagee) shall signify that the provisions of this Declaration and the Bylaws, the rules and regulations of the Condominium and the decisions of the Executive Board are accepted and ratified by such Owner, tenant or occupant, and all of such provisions shall be deemed and taken to be covenants running with the land and shall bind any person having at any time any interest or estate in such Unit, as though such provisions were recited and stipulated at length in each and every deed or conveyance or lease thereof.

B. Compliance and Default. (1) Each Unit Owner shall be governed by and shall comply strictly with the terms, covenants, conditions and restrictions of this Declaration, Bylaws and the rules and regulations adopted pursuant thereto, and the same as they may be amended from time to time. The Executive Board shall have the power to adopt, amend and enforce compliance with such reasonable rules and regulations relative to the operation, use and occupancy of the Units and the Common Elements consistent with the provisions of this Declaration and the Act, including, but not limited to the appointment of such committees and the enactment and enforcement of such enforcement procedures and penalties for violations as the Executive Board shall deem appropriate. Any such rules and regulations shall be adopted or amended, from time to time, by means of appropriate resolutions duly approved by the Executive Board in accordance with the Bylaws. A copy of such rules and regulations and copies of any amendments thereto shall be delivered or mailed to each Owner or occupant of a Unit promptly after the adoption thereof, and shall become binding upon all Owners, their successors in title and assigns, and occupants. Failure of a Unit Owner to comply with the terms of this Declaration, the Bylaws and the rules and regulations adopted pursuant thereto, as the same may be amended from time to time, shall entitle the Association or Unit Owners to the remedies provided in this Declaration and the Act, and also to the following relief, none of which remedies shall be exclusive of any other remedies: (1) Suits: Failure to comply with the terms of this Declaration, the Bylaws and the rules and regulations adopted pursuant thereto, as the same may be amended from time to time, shall entitle the Association or any aggrieved Unit Owner to sue for the recovery of damages or for injunctive relief, or both; such relief shall not be exclusive of other remedies provided by law; (2) Costs and Attorney's Fees: In any proceeding arising because of an alleged failure of a Unit Owner to comply with the terms of the Condominium Documents and rules and regulations adopted pursuant thereto, as the same may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and reasonable attorney's fees; provided, however, that no attorney's fees may be recovered against the Executive Board in any such action unless the court shall first expressly find that the Executive Board acted in bad faith. (3) No Waiver of Rights: The failure of the Declarant, or the Executive Board, or any Unit Owner to enforce any covenant, restriction or other provision of the Act, the Condominium Documents or the rules and regulations adopted pursuant thereto, shall not constitute a waiver of the right to do so thereafter.

C. Appeal and Hearing Procedure; Actions by Owners. No Unit Owner shall have the right to object, challenge, commence any suit at law or in equity or take any other action under any act, power or authority now in force or hereafter adopted except after following such procedures as are established by the Executive Board by rule or regulation consistent with the provisions of this Paragraph. The Executive Board, or a committee as may be appointed by the Executive Board, shall hear appeals from Unit Owners or lessees of alleged violations of the Condominium Documents and rules and regulations of the Association. Unit Owners shall not have the right to appeal assessments for or collections of assessments for Common Expenses. The Executive Board or such committee shall hold a hearing on any such appeal within thirty (30) days after the receipt by the Executive Board of a formal notice of appeal from a Unit Owner or resident. A decision shall be issued in writing by the Executive Board within ten (10) days after the conclusion of the hearing. The Executive Board shall have the right to establish various rules and procedures governing the operation and administration of the appeal and hearing process and the enforcement of the Condominium Documents and rules and regulations. Unless the internal remedies provided by this Paragraph and such rules and regulations as may be promulgated by the Executive Board shall be expressly waived by the Association or the Association fails or refuses to act, no action at law or in

equity shall be commenced by any Unit Owner or resident until such internal remedy is pursued to exhaustion. Any action by a Unit Owner against any other Unit Owner or resident arising out of any term, covenant or condition contained in the Condominium Documents or any rule or regulation made pursuant thereto shall be subject to the same procedures. In hearings before the Executive Board or the committee designated by the Executive Board, all parties shall be entitled to be represented by counsel.

ARTICLE XIV: MORTGAGES OF UNITS; RIGHTS OF MORTGAGEES

A. Right to Mortgage. Each Unit Owner shall have the right to mortgage or encumber his own respective Unit together with the Allocated Interests appurtenant to such Unit. Except as otherwise permitted by Section 1603-112 of the Act and subject to this Declaration, no Unit Owner shall have the right or authority to mortgage or otherwise encumber in any manner whatsoever the Common Elements or any part thereof except his own Unit and the Limited Common Elements and Allocated Interests appurtenant to his Unit. A Unit Owner who mortgages his Unit shall notify the Executive Board in writing of the name and address of his Mortgagee(s) and shall file a conformed copy of the note and mortgage with the Executive Board; provided, however, that failure to do so shall not in any way affect the validity or enforceability of any mortgage.

B. Mortgage Foreclosure. Any Mortgagee of a Unit holding a recorded first mortgage on a Unit that obtains title to the Unit pursuant to the remedies provided in the Mortgage, or through a completed foreclosure of the Mortgage, or through deed (or assignment) in lieu of foreclosure, shall take the Unit with the Allocated Interests appurtenant thereto free of such claims and liens for unpaid assessments for Common Expenses, interest and costs levied against such Unit which accrue prior to the acquisition of title to such Unit by the Mortgagee, other than the proportionate share of the Common Expenses which become due and payable from and after the date on which the Mortgagee shall acquire title to the Unit through a completed foreclosure of deed (or assignment) in lieu of foreclosure.

C. Notices to Eligible Mortgage Holder. The Association shall send written notice by prepaid United States mail to each Eligible Mortgage Holder at the address identified pursuant to Article XVII(C) of this Declaration of the following proposed actions either within a reasonable period prior to the taking of any such proposed actions or at the time that notice thereof is given to Unit Owners unless another time is specified herein: (1) any condemnation loss or any casualty loss which affects a material portion of the Condominium or any Unit in which there is a first Mortgage held by such Eligible Mortgage Holder; (2) notice of any default or delinquency in the payment of assessments for Common Expenses or any other charges owed by an Owner of a Unit subject to a Mortgage held of record by such an Eligible Mortgage Holder, or any other default in the performance or payment by such an Owner of a Unit of any obligation under this Declaration, the Bylaws or any rules and regulations of the Association, which delinquency or other default continues for a period of sixty (60) days, to the Eligible Mortgage Holder of the Mortgage to which such Owner's Unit is subject; (3) any lapse, cancellation or material modification of any insurance policy or fidelity bond required to be maintained under the Declaration or Bylaws by the Association; (4) the proposed use of any proceeds of Property Insurance required to be obtained and maintained by the Association pursuant to Section 1603-113, subsection (a) of the Act, for purposes other than repair or restoration of the damaged property; (5) the adoption by the Executive Board of any proposed budget under Section 1603, subsection (c) of the Act, the date of the meeting of Unit Owners scheduled to consider ratification of such proposed budget, and a summary of the proposed budget; (6) any proposed action which would require the consent of a specified percentage of Eligible Mortgage Holders as specified in Paragraph E of this Article; (7) the termination of the Condominium pursuant to Section 1602-118 of the Act and this Declaration; (8) a change in the Allocated Interests appurtenant to any Unit, a change in the boundaries of a Unit, or the subdivision of a Unit; (9) the merger or consolidation of the Condominium with another condominium; or (10) the conveyance or subjection to a security interest of any portion of the Common Elements. Upon written request of any Eligible Mortgage Holder, the Association will provide an audited

financial statement of the Association for the preceding fiscal year.

D. Mortgagee Approval Rights. For purposes of this Paragraph and the following subparagraphs, where approval by a stated percentage of Eligible Mortgage Holders is required, such approval shall be based upon one (1) vote for each Unit on which a mortgage is held. Any repair, replacement or restoration of the Condominium, after a partial condemnation or damage due to an insurable hazard, shall be performed as provided in this Declaration, unless other action is approved by at least fifty-one (51%) percent of Eligible Mortgage Holders. Any election to terminate the legal status of the Condominium pursuant to Section 1602-118 of the Act, and this Declaration after substantial destruction or a substantial taking in condemnation of the Condominium Property shall require the approval of at least fifty-one (51%) percent of all Eligible Mortgage Holders. Any abandonment or termination of the legal status of the Condominium pursuant to Section 1602-118 of the Act by act or omission for reasons other than said substantial destruction or taking shall require the prior written approval of at least fifty-one (51%) percent of Eligible Mortgage Holders of first Mortgages on Units. Any abandonment, partition, subdivision, encumbrance, sale or transfer of any of the Common Elements (except for grant easements for utilities or other public purposes consistent with the intended use of the Common Elements) by act or omission shall require the prior written approval of at least fifty-one (51%) percent of the Eligible Mortgage Holders. With respect to amendments to the Condominium Documents other than amendments to the Condominium Documents or termination of the Condominium made as a result of destruction, damage, or condemnation as provided in this Article, the approval of at least fifty-one percent (51%) of the Eligible Mortgage Holders shall be necessary to terminate the Condominium as provided hereinabove.

The written consent or approval of at least fifty-one (51%) percent of the Eligible Mortgage Holders of Units affected by such amendments, shall be required to add or amend any material provisions of the Condominium Documents which establish, provide for, govern or regulate any of the following matters: (i) Voting; (ii) assessments, assessment liens or subordination of such liens; (iii) reserves for maintenance, repair and replacement of the Common Elements (or Units if applicable); (iv) insurance or fidelity bonds; (v) rights to use of the Common Elements; (vi) responsibility for maintenance and repair of the Common Elements of the Condominium; (vii) expansion or contraction of the Condominium or the addition, annexation or withdrawal of property to or from the Condominium; (viii) the interests in the Common Elements or Limited Common Elements; (ix) convertibility of Units into Common Elements or of Common Elements into Units; (x) leasing of Units; (xi) imposition of any restriction on a Unit Owner's right to sell, transfer, or otherwise convey his Unit; (xii) any proposed action described in Paragraph C(4), C(7), C(8), C(9) or C(10) of this Article; (xiii) a decision by the Association to establish self-management when professional management had previously been required by an Eligible Mortgagee; or (xiv) any provisions which are for the express benefit of Eligible Mortgage Holders. An addition or amendment to the Condominium Documents shall not be considered material if it is for the purpose of correcting technical errors.

An Eligible Mortgage Holder who receives a written request to approve any additions or amendments which do not constitute either a material change to the Condominium Documents or any amendment described in the preceding paragraph hereof and who does not deliver to the requesting party a negative response within thirty (30) days after the giving of notice shall be deemed to have approved such request in writing.

E. Voting and Other Rights of Eligible Mortgage Holders. In the event of any default by a Unit Owner in payment of assessments or performance of obligations pursuant to the Condominium Documents as more fully described in Paragraph C(2) of this Article, the Eligible Mortgage Holder of the Mortgage on such Owner's Unit shall have the right but not the obligation to cure such default. In addition to, but not by way of limitation of, all rights granted to Eligible Mortgage Holders pursuant to this Declaration to cast the votes allocated to a Unit in lieu of the Unit Owner, any Eligible Mortgage Holder, or its representative, shall

have the right to attend meetings of the Association and Executive Board of the purposes of discussing the matters described in Paragraphs C(4), C(5), C(7), C(8), C(9) and C(10). No provision of the Condominium Documents shall be deemed or construed to give a Unit Owner, or any other person, priority over the rights of any Eligible Mortgage Holder pursuant to its Mortgage in the case of a distribution to Unit Owners of insurance proceeds or condemnation awards for losses to or a taking of Units, Common Elements, or both. Each Eligible Mortgage Holder shall be entitled to examine the financial records and books of account of the Association upon reasonable prior written notice to the Association.

F. Rights of First Refusal. Notwithstanding anything to the contrary elsewhere contained in this Declaration, the Bylaws or said rules and regulations, in the event that the Unit Owners in the future adopt any right of first refusal (which right may be adopted only by amending this Declaration) in the case of the sale of any Unit, such right of first refusal shall not affect, impair or apply to the right of any Mortgagee to: (1) foreclose or take title to the Unit pursuant to the remedies provided in the Mortgage, (2) accept a deed (or assignment) in lieu of foreclosure in the event of a default by a mortgagor, or (3) sell or lease a Unit acquired by the procedures hereinabove set forth.

G. Mortgagee Priority. No provision of the Condominium Documents shall be deemed or construed to give a Unit Owner, or any other person, priority over the rights of any Eligible Mortgage Holder pursuant to its Mortgage in the case of a distribution to Unit Owners of insurance proceeds or condemnation awards for losses to or a taking of Units, Common Elements, or both.

ARTICLE XV: AMENDMENTS

Except in cases of amendments to this Declaration that may be unilaterally executed and recorded by the Association as described in Sections 1601-107, Eminent Domain, 1602-108(c), Allocation of Limited Common Elements, 1602-113(a) Reallocation of Boundaries Between Adjoining Units, 1602-113, Subdivision of Units and 1602-1117(a), Amendment of Declaration, of the Act and except in cases of amendments to this Declaration by certain Unit Owners, as described in Sections 1602-108(b), Reallocation of Limited Common Elements, 1602-1112(a), Relocation of Boundaries Between Adjoining Elements, 1602-1113(a), Relocation of Boundaries Between Adjoining Units, 1602-113(b), Subdivision of Units, or 1606-118(h), Termination of Condominium, of the Act, and except in cases of amendments to the Declaration that may be executed by the Declarant under Section 1602-109(f) Plats and Plans or under Section 1602-110, Exercise of Development Rights of the Act, and subject to the other provisions of this Declaration and of the Act, this Declaration and the Plat may be amended as follows:

A. Before Any Conveyance. Prior to the conveyance of any Unit by the Declarant to a Unit Owner other than as security for an obligation, the Declarant shall have the right to amend and re-amend this Declaration in any manner that the Declarant may deem appropriate.

B. After First Conveyance. After the first conveyance of a Unit by a Declarant, the terms of the following subparagraphs shall apply to the amendment of this Declaration:

(1) Notice. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting of the Executive Board in which a proposed amendment is considered, and shall be served upon all Unit Owners in the manner provided in Article XVII(a) for service of notices and upon Eligible Mortgage Holders in the manner identified in Article XVII(C).

(2) Resolution. An amendment may be proposed by either the Executive Board or by Unit Owners holding in the aggregate no less than 1/5th of the votes in the Association. No resolution of the Executive Board adopting a proposed amendment shall be effective unless it has been adopted at a meeting of the Association duly called and held in accordance with the Bylaws of the affirmative vote of at least 2/3rds in

voting interest of the Unit Owners and then executed and recorded as provided in Paragraph B(5) of this Article.

(3) Agreement. In the alternative, an amendment may be made by an agreement signed by the record Owners of the Units to which at least 2/3rds of the votes in the Association are allocated in the manner required for the execution of a deed and acknowledged by at least one of them, and such amendment shall be effective when recorded.

(4) Certain Amendments. Notwithstanding the foregoing provisions of this Article, except as otherwise permitted by the Act and provided in this Declaration, no amendment may increase the number of Units or change the boundaries of any Unit, the Allocated Interests allocated to a Unit, or the uses to which any Unit is restricted without the unanimous consent of the Unit Owners and the consent of the Eligible Mortgage Holders representing or holding mortgages on Units having at least 2/3rds of the votes in the Association. No amendment of this Declaration shall make any change which would in any way affect any of the rights, privileges, powers and options of the Declarant, its successors or assigns, unless the Declarant, or its successors or assigns shall join in the execution of such amendment.

(5) Execution and Recording. A copy of each amendment shall be attached to or included with a certificate, certifying that the amendment was duly adopted, which certificate shall be executed and acknowledged by such officer or officers of the Association and/or member or members of the Executive Board designated for that purpose in the Bylaws. The amendment shall be effective when such certificate and copy of the amendment are recorded.

(6) Notice and Challenge. No action to challenge the validity of an amendment to this Declaration adopted by the Association pursuant to this Article may be brought more than one year after such amendment is recorded. After each amendment to this Declaration adopted pursuant to this Article has been recorded, notice thereof shall be sent to all Unit Owners and to all Eligible Mortgage Holders at the address last furnished to the Executive Board, but failure to send such notices shall not affect the validity of such amendment. The Association shall make copies of the Declaration and all amendments thereto available for inspection at reasonable times upon reasonable request for such inspection.

ARTICLE XVI: EASEMENTS AND LICENSES

A. Recorded Easements and Licenses. The recording data for recorded easements and licenses appurtenant to or included in the Condominium or by virtue of any reservation contained in this Declaration are stated and set forth in Schedule A hereto. Declarant also hereby excepts and reserves the conservation easement and related access easements described in Schedule A hereto and Declarant shall have the right to assign such conservation easement and access easements, in common with Declarant, to a conservation trust or land trust or non-profit corporation.

B. Utilities, Pipes and Conduits. Each Unit Owner shall have an easement in common with all other Unit Owners to use all pipes, wires, ducts, cables, conduits, public utility lines and other Common Elements serving his Unit and located in any of the other Units. Each Unit shall be subject to an easement in favor of all other Unit Owners to use the pipes, ducts, cables, wires, conduits, public utility lines and other Common Elements serving such other Units and located in such Unit. The Association and its Executive Board shall have the right to grant to third parties additional permits, licenses and easements over and through the Common Elements for utilities, roads and other purposes reasonably necessary or useful for the proper maintenance and operation of the Condominium.

C. Structural Support. Each Unit shall have an easement to the extent necessary for structural and adjacent support over every other Unit and over the Common Elements, and each Unit and the Common

Elements shall be subject to an easement for structural and lateral support in favor of every other Unit.

D. Ingress, Egress and Regress. Each Unit Owners shall have an easement, subject to any rules and regulations established by the Executive Board, in common with all other Unit Owners to use the entrances, exists, corridors and other Common Elements as a means of ingress, egress and regress to and from the Property and the adjoining public streets. The Executive Board shall not and cannot establish any rules and regulations depriving any Unit Owner of reasonable ingress, egress and regress to and from his Unit, the Property and Common Elements, and the adjoining public streets.

E. Encroachments. If any portion of the Common Elements or Limited Common Elements hereafter encroaches upon any Unit, or if any Unit hereafter encroaches upon any other Unit or upon any portion of the Common Elements or Limited Common Elements, as a result of settling or shifting of any Building or Buildings in which they are located or otherwise than as a result of the purposeful or negligent act or omission of the Owner of the encroaching Unit, or of the Association in the case of encroachments by the Common Elements or Limited Common Elements, a valid easement appurtenant to the encroaching Units, Common Elements or Limited Common Elements for the encroachment and for the maintenance of the same shall exist for so long as the encroachment shall exist. In the event that any Building shall be partially destroyed as a result of fire or other casualty or as a result of taking by the power of, or in the nature of, eminent domain or by an action or deed in lieu of condemnation, and then is rebuilt, encroachments of a portion or portions of the Common Elements or Limited Common Elements upon any Unit or of any Unit upon any other Unit or upon any portion of the Common Elements or Limited Common Elements, due to such rebuilding, shall be permitted, and valid easements appurtenant to the encroaching Units, Common Elements or Limited Common Elements for such encroachments and the maintenance thereof shall exist so long as the Building as so rebuilt shall stand.

F. Common Elements Easement in Favor of Unit Owners. The Common Elements (including, but not limited to, the Limited Common Elements) shall be and are hereby made subject to the following easements in favor of the Units benefited: (1) for the installation, repair, maintenance, use, removal and/or replacement of lighting fixtures, electrical receptacles, and other electrical installations which are Common Elements adjacent to such Unit; provided that the installation, repair, maintenance, use, removal or replacement of any such item does not unreasonably interfere with the use of any part of the Common Elements, adversely affect either the thermal or acoustical character of any Building or impair or structurally weaken any Building; (2) for driving and removing nails, screws, bolts and other attachment devices into the Unit side surface of the stone, block, brick or other masonry walls bounding the Unit and the Unit side surface of the studs which support the dry wall or plaster perimeter walls bounding the Unit the bottom surface of floor joists above the Unit to the extent such nails, screws, bolts and other attachment devices may encroach into a part of a Common Elements adjacent to such Unit; provided that any such action will not unreasonably interfere with the common use of any part of the Common Elements, adversely affect either the thermal or acoustical character of any Building or impair or structurally weaken any Building; and (3) for the maintenance of the encroachment of any lighting devices, outlets, exhaust fans, ventilation ducts, registers, grilles and similar fixtures which serve only one Unit but which encroach into any part of any Common Elements or Limited Common Elements on the date this Declaration is recorded.

G. Association's Rights. The Association shall have a reasonable right of entry upon any Unit to make emergency repairs and to do other work reasonably necessary for the proper maintenance or operation of the Condominium. The Association shall have the right to grant permits, licenses and easements over the Common Elements for utilities, ways and other purposes reasonably necessary or useful for the proper maintenance or operation of the Condominium. The Association has a right of access to each Unit for the purpose of making inspections or for the purpose of correcting any condition originating in this Unit or elsewhere and threatening another Unit or a Common Elements, or for the purpose of performing installations, alterations or repairs to the mechanical or electrical services, other Common Elements or

Units, provided that requests for entry are made in advance and that any such entry is at a time reasonably convenient to the Unit Owner, and provided further that judicial proceedings shall be instituted by the Association before any items of construction can be altered or demolished. In case of an emergency, such right of entry shall be immediate, whether the Unit Owner is present at the time or not.

H. Special Declarant Rights. The Association, Executive Board and others and Declarant, its successors and assigns have the easements specified in this Article of this Declaration entitled Special Declarant Rights.

ARTICLE XVII: NOTICES TO UNIT OWNERS BY ASSOCIATION

A. To Unit Owners. All notices, demands, bills, statements or other communications affecting the Condominium shall be given to Unit Owners by the Association in writing and shall be deemed to have been duly given if delivered personally or sent by United States mail, postage prepaid, or if such notification is of a default or lien, sent by registered or certified United States mail, return receipt requested, postage prepaid, addressed to the Unit Owner at the address which the Unit Owner shall designate in writing and file with the Secretary of the Association, or if no such address is so designated, the address of the Unit of such Unit Owner who is the record owner thereof.

B. To the Association. All notices, demands, statements or other communications affecting the Condominium given by the Association shall be in writing and shall be deemed to have been duly given to the Association if delivered personally or sent by United States mail, postage prepaid, return receipt requested, addressed to the Association at the principal office of the managing agent, or if there shall be no managing agent, then to the Secretary of the Association at the address of the Unit of which the Secretary is the record Unit Owner thereof.

C. Eligible Mortgage Holder. All notices, demands or other communications affecting the Condominium given by the Association to any Eligible Mortgage Holder shall be in writing and shall be deemed to have been duly given if delivered personally or sent by United States mail, postage prepaid, addressed to the Eligible Mortgage Holder at the address identified pursuant to this Declaration.

ARTICLE XVIII: TAXATION

A. Separate Taxation. If there is any Unit Owner other than the Declarant, each Unit and its Allocated Interests shall be deemed to be a separate tax parcel and shall be separately taxed and assessed by the City of Portland. Except to any extent required by law, neither the Buildings, the Property nor any of the Common Elements shall be deemed to be or assessed as a separate tax parcel.

B. Units Not Yet Separately Assessed. In the event that for any year real estate taxes assessed by the City of Portland are not separately taxed and assessed to each separate Unit Owner but are taxed on the Property as a whole, then each Unit Owner shall pay his proportionate share thereof in accordance with his respective Common Element Liability.

ARTICLE XIX: TERMINATION OF CONDOMINIUM

The Condominium shall not be terminated except as provided in and subject to Section 1602-118 of the Act and by agreement of Unit Owners of Units to which at least eighty (80%) percent of the votes in the Association are allocated and at least 80% of the votes of Eligible Mortgage Holders.

ARTICLE XX: INAPPLICABILITY AND WAIVER

EACH UNIT OWNER, TENANT AND THEIR RESPECTIVE CUSTOMERS, CLIENTS, INVITEES, GUESTS, LICENSEES, SERVANTS, EMPLOYEES AND ANY OTHER PERSON OR PERSONS THAT SHALL BE PERMITTED TO USE A UNIT, THE COMMON ELEMENTS, OR BOTH, BY VIRTUE OF OWNERSHIP, RENTAL OR OCCUPANCY OF ANY UNIT, THE COMMON ELEMENTS OR BOTH, WAIVE AND RELINQUISH THE APPLICATION OF ALL THE PROVISIONS, RIGHTS AND REMEDIES PROVIDED IN ARTICLE 4 OF THE ACT RELATING TO EVERY ASPECT OF THE CONDOMINIUM AND THE MARKETING AND SALE OF UNITS.

ARTICLE XXI: MISCELLANEOUS

A. Interpretation; Conflict. In the event of any conflict or discrepancy between this Declaration, the Bylaws and the Plat, this Declaration shall govern. If any provision of this Declaration, the Bylaws or the rules and regulations, or any section, sentence, clause, phrase, or word therein, or the application thereof in any circumstances be judicially held in conflict with any applicable laws, including, but not limited to, the Condominium Act, then the laws shall be deemed controlling; but the validity of the remainder of this Declaration, the Bylaws and rules and regulations, and the application of any such provision, section, clause, phrase, or word in other circumstances shall not be affected thereby and all of the other provisions of this Declaration shall continue in full force and effect as if such invalid provision had never been included herein. The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of this Declaration or the intent of any provisions hereof. The use of the singular number in this Declaration shall be deemed to include the plural, and the use of any one gender shall be deemed applicable to all genders. No provision contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same irrespective of the number of violations or breaches which may occur. Any dispute or disagreement between Unit Owners with respect to interpretation or application of this Declaration or the Bylaws or rules and regulations shall be determined by the Board of Directors, which determination shall be final and binding on all parties.

B. Remedies Cumulative. All rights, remedies and privileges granted to the Executive Board of a Unit Owner pursuant to any terms, provisions, covenants or conditions of the Condominium Documents shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies, or privileges as may be granted to such party hereunder or by any instruments or documents incorporated herein by reference or at law or in equity.

C. No Obligation to Construct Buildings or Parking Areas. Nothing contained in this Declaration or on the Plat shall be deemed to impose upon the Declarant, or any successor Declarant, any liability or obligation to build, construct or provide any Buildings, parking areas, amenities or other improvements to the Property.

IN WITNESS WHEREOF, the City of Portland by _____, its _____, hereunto duly authorized, has executed and delivered this Declaration as of the date first above written.

Signed, Sealed and Delivered
In the Presence of:

City of Portland

By: _____
_____, Its _____

Portland Technology Park Condominium

Association

By: _____
_____, Its _____

STATE OF MAINE
CUMBERLAND, ss.

Personally appeared the above-named _____, as _____ of the City of Portland, this ____ day of _____, 2016 and acknowledged the foregoing instrument to be his free act and deed in said capacity and the free act and deed of said City of Portland.

Notary Public/Attorney-at-Law

SCHEDULE A
PORTLAND TECHNOLOGY PARK CONDOMINIUM
DECLARATION OF CONDOMINIUM

A certain lot or parcel of land situated southerly of Rand Road in Portland, Maine and bounded and described as follows:

A certain lot or parcel of land situated on the northerly side of Westbrook Street, so called, along with other land situated northerly of, but not adjacent to said Westbrook Street, in the City of Portland, County of Cumberland, State of Maine, being depicted as Parcel #2 and Parcel #3, on a plan entitled "Standard Boundary Survey — Snyder/Barris Properties - Westbrook Street, Portland, Maine" dated October 1997, revised 12/01/99, prepared by Land Services Inc. - Land Surveyors - Raymond, Maine, said lots or parcels of land being more particularly bounded and described as follows:

Parcel #2: Beginning at 1" iron pipe at the northeasterly corner of land now or formerly of Central - Maine Power Company (Book 2035, Page 306 C.C.R.D.), and the northwesterly corner of land now or formerly of Central Maine Power Company (Book 2035, Page 351, C.C.R.D.); and the southwesterly corner of land now or formerly of Simon A. Snyder & Jason A. Snyder (Book 4962, Page 222 C.C.R.D.) and the Theodore Barris & Therese Barris Trust (Book 11815, Page 84 C.C.R.D.);

Thence S 63°-48'-15"W along land of said Central Maine Power Company (Book 2035, Page 306, C.C.R.D.), a distance of 343.63 feet to a granite monument to be set;

Thence N 79°-18'-45"W along land of said Central Maine Power Company (Book 2035, Page 306 C.C.R.D.), a distance of 462.04 feet to a granite monument to be set and land now or formerly of Simon Snyder;

Thence in a general northeasterly direction along land now or formerly of Simon Snyder, and along a circular curve to the right (not tangent to the last described line), circumscribed by a radius of 858.29 feet, an arc distance of all 811.33 feet to a granite monument to be set at a point of reverse curvature;

Thence in a general northeasterly direction along land now or formerly of Simon Snyder, and along a circular curve to the left, circumscribed by a radius of 550.00 feet, an arc distance of 257.33 feet to a granite monument to be set;

Thence N 27°-18'-56"E along land now or formerly of Simon Snyder, a distance of 318.42 feet to a point and land of said Snyder, and Barris Trust;

Thence S 23°-54'-50"E along land of said Snyder and Barris Trust, a distance of 568.32 feet to a 1-1/4" iron pipe;

Thence S 68°-51'-40"W along land of said Snyder and Barris Trust, a distance of 213.99 feet to a 16" caliper tree stump;

Thence S 05°-34'-03"W along land of said Snyder and Barris Trust, a distance of 76.72 feet to a 1-1/4" iron pipe;

Thence S 03°-52'-28"E along land of said Snyder and Barris Trust, a distance of 271.21 feet to a point;

Thence S 18°-02'-23"E along land of said Snyder and Barris Trust, a distance of 170.94 feet to the point of beginning.

The above described parcel contains 13.17 acres. All bearings are referenced to grid north.

Parcel #3: Beginning at a 1" iron pipe at the northeasterly corner of land now or formerly of Central Maine Power Company (Book 2035, Page 306, C.C.R.D.), and the northwesterly corner of land now or formerly of Central Maine Power Company (book 2035, page 351, C.C.R.D.), and the southeasterly corner of land now or formerly of Simon A. and Jason. A. Snyder (Book 4962, Page 216, C.C.R.D.);

Thence N 18°-02'-23"W along land of said .Snyder, a distance of 170.94 feet to a point;

Thence N 03°-52'-28"W along land of said Snyder, a distance of 271.21 feet to a 1-1/4" iron pipe;

Thence N 05°-34'-03"E along land of said Snyder, a distance of 76.72 feet to a 16" caliper stump;

Thence N 68°-51'-40"E along land of said Snyder, a distance of 213.99 feet to a 1-1/4" iron pipe;

Thence N 23°-54'-50"W along land of said Snyder, a distance of 568.32 feet to a point, and land now or formerly of Simon Snyder;

Thence N 27°-18'-56"E along land now or formerly of Simon Snyder, a distance of 221.04 feet to a granite monument to be set;

Thence N 71°-58'-27"E along land now or formerly of Simon Snyder, a distance of 129.63 feet to a granite monument to be set;

Thence in a general easterly direction along land now or formerly of Simon Snyder, and along a circular curve to the left (not tangent to the last described line) circumscribed by a radius of 1180.00 feet, an arc distance of 496.51 feet to a granite monument to be set;

Thence N 81°-40'-58"E along land now or formerly of Simon Snyder, a distance of 369.39 feet to a granite monument to be set;

Thence N 62°-51'-57"E along land now or formerly of Simon Snyder, a distance of 112.43 feet to a granite monument to be set, and land now or formerly of Simon A. Snyder & Jason A. Snyder, and the Theodore Barris & Therese Barris Trust (Book 14687, Page 118 C.C.R.D.);

Thence S 25°-07'-48"E along land of said Snyder, and Barris Trust, and along land now or formerly of Union Water-Power Company (Book 14420, Page 130, C.C.R.D.), a distance of 670.92 feet to a granite monument to be set and the northeasterly corner of land now or formerly of Central Maine Power Company (Book 2035, Page 351, C.C.R.D.);

Thence S 79°-15'-29"W along land of said Central Maine Power Company (Book 2035, Page 351, C.C.R.D.), a distance of 390.28 feet to a granite monument to be set;

Thence S 48°-17'-29"W along land of said Central Maine Power Company (Book 2035, Page 351, C.C.R.D.), a distance of 833.98 feet to a granite monument to be set;

Thence S 63°-48'-15"W along land of said Central Maine Power Company (Book 2035 Page 351, C.C.R.D.), a distance of 408.29 feet to the point of beginning;

The above described parcel contains 26.82 acres. All bearings are referenced to grid north.

Together with the rights and easements relating to such parcels described or referenced in the deed from Simon A. Snyder et al. to the City of Portland, dated December 7, 1999 and recorded in the Cumberland County Registry of Deeds, Book 15211, Page 31.

Notwithstanding the foregoing, the City of Portland excepts and reserves the fee title to Easement Area #1 described below and does not submit the fee title of Easement Area #1 to this Declaration of Condominium, but does submit to this Declaration of Condominium and hereby grants for the benefit of the owners of each Unit in the Condominium, their respective heirs, successors and assigns, described below and for the benefit of the Portland Technology Park Condominium Association, its successors and assigns, the following described perpetual rights and easements for the following described purposes across said Easement Area #1, which easements shall be appurtenant to and run with the land described above in this Schedule A and shall be for the following described purposes:

a. Access Right of Way: The perpetual right and easement to pass and repass on foot and with vehicles at any and all times together with the right to enter from time to time within said areas to inspect, install, construct, maintain, repair, rebuild, replace and remove fill, pavement and other facilities and appurtenances intended to facilitate or improve access over such premises.

b. Utilities: Together with the perpetual right and easement to install, construct, erect, lay, relay, repair, inspect, operate, maintain, rebuild, replace and remove utility conduits, pipes and mains, and poles and wires with all necessary fixtures and appurtenances upon, through, under or over such premises for any and all utilities including but not limited to electric power, transmission and distribution lines, other energy, transmission and distribution lines, gas mains, cable-television, telephone and other communications or intelligence lines, together with suitable and sufficient lines, pipes, cables, mains, poles and towers with sufficient foundations together with wires strung upon and extending between the same, above or below ground, together with all necessary facilities, fixtures, anchors, guys, crossarms, and other equipment and appurtenances and also for conveying and transmitting water, sewerage, wastewater and other liquids and substances together with the right at all times to make connection with all of said facilities to land adjoining the premises.

c. Drainage: Together with the perpetual right and easement to enter such areas and to install, construct, lay, relay, maintain, inspect, repair, rebuild, replace and remove drainage lines, pipes, swales, conduits, manholes, gravel wetlands, mains and other equipment and facilities for drainage purposes together with all necessary fixtures and appurtenances, and to make connection therewith to the property described in Schedule A, and to flow and direct water into such areas.

d. Landscaping: Together with the perpetual right and easement to fill, grade, landscape, seed, plant grass, trees and shrubs, to mow, cut and trim the same and to remove and replace the same.

e. Related Rights: Together with the perpetual right and easement in connection with or in exercising any of the above described rights to enter such areas and to work, fill, excavate, tunnel, trench and/or landfill with such areas, and to trim, clear, cut down and remove trees, timber and bushes to such extent as is reasonably necessary or appropriate for any of the above described purposes.

Easement Area #1 is bounded and described as follows (such easement area being the location of the main road (and the adjoining sidewalk and drainage facilities) that provides access to the Units or to the Limited Common Element driveways that lead to the Units):

Commencing at a point on the southerly sideline of Rand Road, said point being marked with a 5/8" rebar with cap (PLS#2002) located at the northeasterly corner of a parcel of land now or formerly of the City of Portland as described in a deed recorded in Book 15211, Page 31 of the Cumberland County Registry of Deeds; thence, from said Point of Commencement, S62°51'57"W a distance of one hundred twelve and 43/100 (112.43') feet along the southerly sideline of Rand Road to a 5/8" rebar with cap (PLS #2002) found, thence S81°40'58"W a distance of three hundred sixty nine and 39/100 (369.39') feet along the southerly sideline of Rand Road to a 5/8" rebar with cap (PLS #2002) found, thence Westerly along the southerly sideline of Rand Road a distance of forty eight and 62/100 (48.62') feet along a curve to the right with a radius of one thousand one hundred eighty and 00/100 (1180.00') feet to a monument to be set and the Point of Beginning of Easement Area 1 herein described,

Thence from said Point of Beginning Southwesterly a distance of two hundred eighty one and 21/100 (281.21') feet along a curve to the right (not tangent with the previous course) with a radius of two hundred thirty and 00/100 (230.00') feet to a monument (to be set), said curve having a chord bearing of S37°22'03"W and a chord distance of two hundred sixty four and 02/100 (264.02) feet

Thence S35°54'43"E a distance of twenty and 97/100 (20.97') feet to a point,

Thence Southwesterly a distance of forty and 37/100 (40.37') feet along a curve to the right (not tangent with the previous course) with a radius of two hundred fifty and 00/100 (250.00') to a point, said curve having a chord bearing of S75°30'34"W and a chord distance of forty and 32/100 (40.32) feet,

Thence S80°08'06"W a distance of one hundred twenty five and 99/100 (125.99') feet to a monument (to be set),

Thence Southwesterly a distance of one hundred seventy five and 29/100 (175.29') feet along a curve to the left with a radius of one hundred fifty and 00/100 (150.00') feet to a monument (to be set),

Thence S12°59'08"W a distance of one hundred forty two and 05/100 (142.05') feet to a monument (to be set),

Thence Southwesterly a distance of one hundred forty three and 10/100 (143.10') feet along a curve to the right with a radius of three hundred fifty and 00/100 (350.00') feet to a monument (to be set),

Thence S36°24'40"W a distance of forty two and 76/100 (42.76') feet to a point,

Thence Southwesterly a distance of one hundred forty one and 33/100 (141.33') feet along a curve to the right with a radius of three hundred thirty nine and 00/100 (339.00') to a point,

Thence S75°00'00"W a distance of sixty nine and 87/100 (69.87') feet to a point,

Thence S15°00'00"E a distance of seventeen and 60/100 (17.60') feet to a point,

Thence S29°19'50"W a distance of seventy five and 02/100 (75.02') feet to a point

Thence S87°29'56"W a distance of nineteen and 03/100 (19.03') feet to a point,

Thence Southwesterly, westerly and northwesterly a distance of two hundred seventy three and 30/100 (273.30') feet along a curve to the right (not tangent with the previous course) with a radius of eighty five and 00/100 (85.00') feet to a point, said curve having a chord bearing of N76°47'08"W and a chord distance of one hundred sixty nine and 88/100 (169.88') feet,

Thence N50°49'40"E a distance of one hundred ninety and 32/100 (190.32') feet to a point,

Thence Northeasterly a distance of seventy one and 09/100 (71.09') feet along a curve to the left (not tangent with the previous course) with a radius of eighty nine and 00/100 (89.00') feet to a point, said curve having a chord bearing of N71°42'16"E and chord distance of sixty nine and 21/100 (69.21') feet,

Thence Northeasterly a distance of twenty six and 82/100 (26.82') feet along a reverse curve to the right with a radius of ninety five and 00/100 (95.00') feet to a point, said curve having a chord bearing of N56°54'40"E and chord distance of twenty six and 73/100 (26.73') feet,

Thence N65°00'00"E a distance of five and 88/100 (5.88') feet to a point,

Thence Southeasterly a distance of thirty five and 37/100 (35.37') feet along a curve to the right with a radius of twenty five and 00/100 (25.00') feet to a point, said curve having a chord bearing of S74°28'25"E and chord distance of thirty two and 49/100 (32.49') feet,

Thence N50°25'32"E a distance of sixty two and 08/100 (62.08') feet to a point,

Thence N45°00'00"E a distance of sixty one and 90/100 (61.90') feet to a point,

Thence N23°58'49"E a distance of sixty and 69/100 (60.69') feet to a point,

Thence N63°52'43"W a distance of eight and 11/100 (8.11') feet to a point,

Thence Northeasterly a distance of forty six and 88/100 (46.88') feet along a curve to the left (not tangent with the previous course) with a radius of two hundred seventy and 00/100 (270.00') feet to a monument (to be set), said curve having a chord bearing of N17°57'37"E and chord distance of forty six and 82/100 (46.82') feet,

Thence N12°59'08"E a distance of one hundred forty two and 13/100 (142.13') feet to a monument to be set,

Thence Northeasterly a distance of seventy three and 11/100 (73.11') feet along a curve to the right (not tangent with the previous course) with a radius of two hundred thirty and 00/100 (230.00') feet to a point, said curve having a chord bearing of N22°14'22"E and chord distance of seventy two and 80/100 (72.80') feet,

Thence Northwesterly a distance of sixty four and 22/100 (64.22') feet along a curve to the right (not tangent with the previous course) with a radius of seventy four and 58/100 (74.58') feet to a point, said curve having a chord bearing of N39°39'58"W and chord distance of sixty two and 25/100 (62.25') feet,

Thence N15°00'00"W a distance of two and 94/100 (2.94') feet to a point,

Thence N75°00'00"E a distance of one hundred forty one and 62/100 (141.62') feet to a monument (to be set),

Thence Northeasterly a distance of sixty four and 00/100 (64.00') feet along a curve to the right (not tangent with the previous course) with a radius of two hundred thirty and 00/100 (230.00') feet to a monument (to be set), said curve having a chord bearing of N72°09'49"E and a chord distance of sixty three and 79/100 (63.79') feet

Thence N80°08'06"E a distance of one hundred twenty five and 99/100 (125.99') feet to a monument (to be set),

Thence N32°26'19"E a distance of twenty three and 23/100 (23.23') feet to a point,

Thence N00°04'04"E a distance of seventy nine and 87/100 (79.87') feet to a point,

Thence S89°51'35"E a distance of one hundred fourteen and 00/100 (114.00') to a monument (to be set),

Thence Northerly a distance of fifty six and 12/100 (56.12') feet along a curve to the left (not tangent with the previous course) with a radius of one hundred seventy and 00/100 (170.00') feet to a monument (to be set) at the southerly sideline of Rand Road, said curve having a chord bearing of N14°13'36"E and a chord distance of fifty five and 87/100 (55.87') feet,

Thence Easterly a distance of sixty and 59/100 (60.59') feet along a curve to the left (not tangent with the previous course) and the southerly sideline of Rand Road with a radius of one thousand one hundred eighty and 00/100 (1180.00') feet to the Point of Beginning, said curve also having a chord bearing of N85°30'52"E and chord distance of sixty and 58/100 (60.58') feet.

The above described area is more particularly depicted as "Easement Area 1" on a plan entitled "First Amended Subdivision Plat of Portland Technology Park Condominium – Rand Road – Portland, Maine" prepared by SGC Engineering, LLC and last revised September 28, 2015, which Plan is recorded in the Cumberland County Registry of Deeds, Plan Book ____, Page ____.

The Property described above that is hereby made subject to this Declaration is subject to:

1. Rights and easements granted to Portland Electric Company in an instrument dated July 19, 1907, recorded at said Registry in Book 812, Page 109.

2. Rights and easements granted to Portland Water District in instruments dated June 24, 1932, recorded at said Registry in Book 1399, Page 463, as modified by an Easement Modification Agreement, dated April 10, 2015 and recorded in Book 32209, Page 68; and dated June 3, 1954, recorded at said Registry in Book 2181, Page 48.

3. Rights and easements acquired by the State of Maine as set forth in Notice of Layout and Taking dated December 6, 1977, recorded at said Registry in Book 4146, Page 333 and the premises are also subject to controlled access as a part of the Maine Turnpike Authority's Westbrook/Rand Road Interchange Layout recorded in said Registry of Deeds in Book 16645, Page 311.

4. Terms and conditions of right of way location as set forth in a deed to Central Maine Power Company dated March 7, 1951, recorded at said Registry in Book 2035, Page 306.

5. Rights and easements granted to Portland Water Company in an instrument dated November 13, 1879, recorded at said Registry in Book 594, Page 207.

6. Rights and easements granted to Portland Electric Company in an instrument dated July 19, 1907, recorded at said Registry in Book 812, Page 197.

7. Rights and easement granted to Portland Pipeline Company in an instrument dated August

28, 1941, recorded at said Registry in Book 1646, Page 189, as amended by the Quitclaim Deed Without Covenant from the Portland Pipeline Company to the City of Portland, dated May 24, 2012 and recorded in said Registry, Book 29703, Page 129.

8. Terms and conditions of right of way location as set forth in deed to Harold C. Bonnell, et al. dated February 1, 1939, recorded at said Registry in Book 1573, Page 130, and in deed to Central Maine Power Company dated February 21, 1951, recorded at said Registry in Book 2035, Page 351.

9. Rights and easements acquired by Portland Water District as set forth in Certificate dated July 16, 1912, recorded at said Registry in Book 899, Page 281, and as shown on Plan entitled Portland Water District, South Portland Connection, Right of Way dated June 1912, recorded at said Registry in Plan Book 12, Page 69.

10. Portland Water District Sebago Pipe Line Right of Way as shown on Plans No. 12 and 13 dated July 1910, recorded at said Registry in Plan Book 12, Page 27.

11. Rights and easements reserved by Arthur F. Maxfield, et al. as set forth in an instrument dated September 30, 1957, recorded at said Registry in Book 2378, Page 109.

12. License Agreement by and between Central Maine Power Company, Maine Electric Power Company and AT&T Communications of New England, Inc. as evidenced by Memorandum of License dated February 1, 1994, recorded at said Registry in Book 13368, Page 208.

13. Rights and easements reserved by Central Maine Power Company, and terms, conditions, restrictions, and covenants relating to use, construction and maintenance of right of way, as set forth in deed to Union Water-Power Company dated December 22, 1998, recorded at said Registry in Book 14420, Page 130.

14. Rights and easements reserved by Union Water-Power Company, and terms, conditions, restrictions, and covenants relating to use, construction and maintenance of any roadway and/or utility services, as set forth in deed dated April 14, 1999, recorded at said Registry in Book 14687, Page 118.

15. Rights and easements reserved by Central Maine Power Company, and terms, conditions, restrictions, and covenants relating to use, construction and maintenance of any roadway and/or utility services, as set forth in Easement dated April 14, 1999, recorded at said Registry in Book 14687, Page 122.

16. Rights and easements reserved by Simon A. Snyder et al. in their deed to the City of Portland, dated December 7, 1999 and recorded in the Cumberland County Registry of Deeds, Book 15211, Page 31.

17. Rights and easements granted by Declarant to Portland Trails by easement recorded in said Registry of Deeds in Book 17232, Page 298 and by Easement Deed, dated _____ and recorded in the Cumberland County Registry of Deeds in Book _____, Page _____. (The previous easement deed dated July 16, 2012 and recorded in Book 30001, Page 66 was released in a deed dated _____ and recorded in the Cumberland County Registry of Deeds, Book _____, Page _____.

18. Such statement of facts and conditions as shown on a First Amended Subdivision Plat of Portland Technology Park Condominium prepared by SGC Engineering, LLC dated September 29, 2011 and revised through September 28, 2015 recorded in the Cumberland County Registry of Deeds, Plan Book _____, Page _____.

19. Easement Deed from the City of Portland to Portland Water District, dated _____ and recorded in the Cumberland County Registry of Deeds in Book _____, Page _____. (The previous easement deed dated November 19, 2012 and recorded in Book 30292, Page 125 was released in a deed dated _____ and recorded in the Cumberland County Registry of Deeds, Book _____, Page _____.)

20. Terms and conditions set forth in the State of Maine Department of Environmental Protection Site Location of Development Act Orders dated April 6, 2012 and recorded in the Cumberland County Registry of Deeds in Book 29531, Page 116 and dated April 7, 2015 and recorded in Book 32197, Page 14.

21. Rights and easements set forth in two Gas Line Easements granted to Northern Utilities, Inc. d/b/a/ Unitil, dated April 1, 2015 and recorded in the Cumberland County Registry of Deeds in Book 32209, Page 58 and by easement deed dated _____ and recorded in the Cumberland County Registry of Deed in Book _____, Page _____. (The previous easement deed dated April 1, 2015 and recorded in Book 32209, Page 50 was released in a deed dated _____ and recorded in the Cumberland County Registry of Deeds, Book _____, Page _____.)

SCHEDULE B
PORTLAND TECHNOLOGY PARK CONDOMINIUM
DECLARATION OF CONDOMINIUM

[Copy of Plat]

SCHEDULE C
PORTLAND TECHNOLOGY PARK CONDOMINIUM
DECLARATION OF CONDOMINIUM

The Unit numbers, fraction of ownership of Common Elements, fraction assessment of Common Element expense, and number of votes in the Portland Technology Park Condominium Association are as follows:

<u>Unit Number</u>	<u>Votes</u>	<u>Fraction of ownership of Common Elements and fraction assessment of Common Expense Liability</u>
1	1	1/7 th
2	1	1/7 th
3	1	1/7 th
4	1	1/7 th
5	1	1/7 th
6	1	1/7 th
7	1	1/7 th

The formula or method used to establish those allocations of votes consisted of an equal allocation to each Unit, with one vote being allocated to each Unit. The formula or method used to establish the allocations of Common Expense Liability and ownership of the Common Elements interest consisted of an equal allocation to each Unit.

Notwithstanding the foregoing, (a) as long as Declarant owns at least three or more Units on which no buildings are located, the number of votes, fraction of ownership of Common Elements, and the allocation of Common Expense Liability collectively to the Units owned by Declarant on which no buildings are located, shall each be a fraction, the numerator of which shall be three and the denominator of which shall be three plus the number of Units owned by any person or entity other than the Declarant, plus the number of Units, if any, owned by the Declarant on which buildings are located, and the number of votes, fraction of ownership of Common Elements and allocation of Common Expense Liability to each Unit that has been conveyed by Declarant to another person or entity and to each Unit owned by the Declarant on which buildings are located shall be a fraction, the numerator of which shall be one and the denominator of which shall be the number of Units owned by any person or entity other than the Declarant plus three plus the number of Units then owned by the Declarant on which buildings are located; and (b) as long as Declarant owns two Units on which no buildings are located, the number of votes, fraction of ownership of Common Elements, and the allocation of Common Expense Liability collectively to the Units owned by Declarant on which no buildings are located, shall each be a fraction, the numerator of which shall be two and the denominator of which shall be two plus the number of Units owned by any person or entity other than the Declarant plus the number of Units owned by Declarant on which buildings are located, and the number of votes, fraction of ownership of Common Elements and allocation of Common Expense Liability to each Unit that has been conveyed by Declarant to another person or entity and to each Unit owned by the Declarant on which a building is located shall be a fraction, the numerator of which shall be one and the denominator of which shall be two plus the number of Units owned by any person or entity other than the Declarant plus the number of Units then owned by Declarant on which buildings are located.

SCHEDULE D

Inspection and Maintenance Requirements

General inspection and maintenance during and after construction must take place in accordance with the requirements outlined in Chapter 500, Stormwater Management, Appendix B, Inspection and Maintenance, and Stormwater Management, Maine Department of Environmental Protection publication No. DEPLW0738. The condominium association will be responsible for implementing maintenance and inspection requirements for the stormwater management systems associated with the development. During the period that the City of Portland is the only member or one among other members of the condominium association, the contact person under responsible charge for this, until such time as this responsibility is transferred (as noted below), is:

John Emerson
Wastewater Facilities Coordinator
55 Portland Street
Portland, Maine 04101
Phone: (207) 874-8468

Upon development of the building sites, additional members will join the condominium association. These documents outline the maintenance and inspection responsibilities of the individual building tenants and the condominium association.

The responsible party will ensure that stormwater management facilities are properly maintained and inspected. Specifically, the underdrained soil filters, stormwater gravel wetlands, outlet structures, outlet pipes, culverts, roadways and parking lots will be inspected and maintained per the guidance outlined herein.

Inspection and Maintenance of Stormwater Systems

Upon completion of the project, the condominium association (association) will assume responsibility for overseeing the property, including the inspection and maintenance of the site's stormwater drainage system and treatment measures. The inspection and maintenance outlined in Chapter 500 Stormwater Regulations, and in the Maine Department of Environmental Protection's Stormwater BMP Manual, will be followed. Inspection and maintenance activities subject to the Post-Construction Stormwater Management Plan will be carried out in conformance with Chapter 32 of the City of Portland Code of Ordinances as follows.

A person with knowledge of stormwater management and erosion and sediment control, including municipal and state regulations and the standards and conditions in the permit, shall conduct the inspections and perform maintenance of the facilities at least annually. The association is responsible for maintaining records of all inspection and maintenance activities, to be submitted in the annual report to the City Department of Public Services (DPS) on or by June 30th of each year, certifying the successful inspection of all BMPs and that noted deficiencies in the stormwater management facilities have been repaired. The association shall include the DPS filing fee with the annual report.

Specifically, the condominium association will assume inspection and maintenance responsibility for the underdrained soil filters and gravel wetlands.

The condominium association will also be required to submit a certification of the following to the Maine Department of Environmental Protection within three months of the expiration of each five-year interval from the date of issuance of the permit.

- a) Identification and repair of erosion problems. All areas of the project site have been inspected for areas of erosion, and appropriate steps have been taken to permanently stabilize these areas.
- b) Inspection and repair of stormwater control system. All aspects of the stormwater control system have been inspected for damage, wear, and malfunction, and appropriate steps have been taken to repair or replace the system, or portions of the system.
- c) Maintenance. The erosion and stormwater maintenance plan for the site is being implemented as written, or modifications to the plan have been submitted to and approved by the department, and the maintenance log is being maintained.

Pavement and Drainage Structures

All proposed drainage structures located on site, such as culverts, basins and piping, shall be inspected annually to ensure they are being well maintained and are adequate in carrying stormwater flows throughout the site. Parking and paved areas, such as the access road, will be inspected annually each spring. Visual inspections will enable site roads and parking areas to be kept clean and clear through periodic sweeping (at minimum annually) and winter plowing as required. The inspections will also ensure pavement markings are repainted as needed to maintain proper traffic circulation and parking space delineation. Paved areas will be plowed and sanded as often as necessary to maintain safety. Periodic sweeping of pavement (at minimum annually) will keep the parking areas clean and will reduce the amount of sediment available to enter the stormwater management systems, in turn reducing the need to clean these systems.

Gravel Wetland Systems

Gravel Wetlands maintain a saturated gravel bed and provide treatment of stormwater through physical chemical and biological processes within the plants and gravels/soils of the system. Gravel Wetlands are well suited for poorly draining sub-soils due to the limited hydraulic head requirement (difference in elevation between what flows in and what flows out) and lack of required separation from the groundwater table. Because infiltration is not designed to occur, separation from groundwater is not required and the systems are sited much like stormwater ponds.

Monitoring and maintenance is critical for the proper operation of gravel wetland systems. First year post-construction monitoring differs primarily by its increased frequency to assure proper vegetative establishment and system functioning. Post-construction routine monitoring is based on USEPA requirements for good housekeeping practices.

Unlike other filtration systems, a subsurface gravel wetland is a subsurface, horizontal filtration system and does not rely upon the surface soils for treatment. As such, surface infiltration rates are expected to be low and are not used for the criteria for cleaning/maintenance. Rather, stormwater conveyance into the subsurface gravel layer is the critical hydraulic performance measure.

1st Year Post-Construction: Inspection frequency should be after every major storm in the first year following construction.

- ☐ Ensure system drains within 24-72 hrs (within the design period, but also not so quickly as to

minimize stormwater treatment).

- ☐ Water plants as necessary during the first growing season
- ☐ Re-vegetate poorly established areas as necessary
- ☐ Treat diseased vegetation as necessary
- ☐ Quarterly inspection of side slopes, earthen embankments, forebays and inlets; repair eroded areas, especially on slopes
- ☐ Check inlets, outlets, and overflow spillway for blockage, structural integrity, and evidence of erosion.

Post-Construction: Inspection frequency should be at least every 6 months thereafter. Inspection frequency can be reduced to annually following 2 years of monitoring that indicates the rate of sediment accumulation is less than the cleaning criteria listed herein. Inspections should focus on:

- ☐ Check the filter surface for dense, complete, root mat establishment across the wetland surface. Thorough vegetation with grasses, forbs, and shrubs is necessary.
- ☐ Check the gravel wetland surface for standing water or other evidence of riser clogging, such as discolored or accumulated sediments. More detail in section below.
- ☐ Check the sedimentation forebay for sediment accumulation, trash, and debris.
- ☐ Ensure system drains within 24 to 72 hrs.
- ☐ Check inlets, outlets, valves, weir walls, orifice structures, and overflow spillway for blockage, structural integrity, and evidence of erosion.
- ☐ Check side slopes and earthen embankments; repair eroded areas, especially on slopes.
- ☐ Remove decaying vegetation, litter, and debris.

Gravel Wetland Maintenance

Cleaning Criteria for Sedimentation Forebay: Sediment should be removed from the sedimentation chamber (forebay) on an annual basis. Sediment can be removed with hand tools or hand operated power equipment (power brooms, vac equipment, etc.). If larger equipment is necessary, this equipment should not track on the wetland surface. Disturbed areas should be revegetated as necessary. Removed sediments should be dewatered (if necessary) and disposed of in accordance with state solid waste guidance.

Cleaning Criteria for Gravel Wetland Treatment Area: Sediment should be removed from the gravel wetland surface when it accumulates to a depth of several inches across the wetland surface. Sediment should be removed with hand tools or hand operated power equipment (power brooms, vac equipment, etc) rather than heavy construction equipment to avoid compaction of the gravel wetland surface. If larger equipment is necessary, this equipment should work adjacent to the gravel wetland and should not track on the wetland surface. Removed sediments should be dewatered (if necessary) and disposed of in accordance with state solid waste guidance.

Draining and Flushing Gravel Wetland Treatment Area: For maintenance it may be necessary to drain or flush the treatment cells. Flushing of the risers and horizontal subdrains is most effective with the entire system drained. Flushed water and sediment should be collected and properly disposed.

Inlets: Inlets to each stormwater treatment area should be kept open and in good working condition. This is particularly important around curb breaks and/or sidewalk culverts. These locations should be marked on the roadway at the completion of construction to allow for winter snow removal. All eroded areas should be repaired.

Initial Turf Maintenance (when applicable): Sod or seeded areas at inlets or along gravel wetland embankments should ideally be mowed no lower than 3" for optimum grass health and to minimize erosion.

Large Debris: Large debris within the ponding area should be removed.

Weeds in the Gravel Wetland Area: Periodic weeding of the gravel wetland areas and forebays may be necessary, particularly in the landscaped portions of the stormwater management system. Hand weeding is required as the use of herbicides is not recommended.

Surface Mulch Layer (when applicable): Areas devoid of mulch should be remulched by hand. Every year, in the spring, a fresh layer of mulch should be added to the soil filter area as needed.

Sedimentation (or Apparent Clogging) of Wetland Surface Area: To correct a standing water problem, the following remedial actions are recommended:

1. Check adjacent groundwater levels. High seasonal groundwater may influence system drain-down. Inspect system outlet for inundation or debris blockages.
2. Evaluate the drainage area to the treatment area to identify any potential sources of sediment, such as an erosive condition, that may be contributing to the clogging of the device. If a source is identified, it is recommended that that source be eliminated to the fullest extent practicable before proceeding with the remaining recommendations provided below.
3. Flush the subdrains. Use cleanouts to flush the subdrains. Sediment in the drains may be preventing the system from draining. Make sure to provide a way to capture any flushed sediment before it enters the stream environment or storm drain system downstream of the device. If, after flushing the subdrains, the device continues to hold water, the wetland soil may be contaminated. As such, following the guidelines provided below is recommended.
4. Gage the extent of soil contamination. To do this, it is recommended that one or more test pits be dug with a shovel and that the soil layer be evaluated for contamination. Once the levels of contamination have been determined (for example, the top 4" of soil appears to be contaminated), it is recommended that you proceed with the remaining remedial actions.
5. Harvest the plants (when applicable). Care should be taken in the removal and temporary storage of the plants so that as many as possible can be harvested for replanting in the wetland area once the functioning of the device has been restored sufficiently.
6. Remove the top few inches of contaminated soil plus an additional 2-inch of soil, and replace the removed soil with a clean soil mix in accordance with the soil mix specification.
7. Monitor the function of the system during the next two to three rain events. If the device appears to be draining as intended (e.g., there is no standing water 72 hours following a rain event), proceed with the remaining remedial actions. If the area continues to hold standing water, then the entire soil mix and the subdrains may need to be removed and replaced. Reuse of any undamaged subdrains may be possible once they have been cleaned thoroughly.
8. Replant the harvested plants, and replace any plants that were rendered unusable during or following their removal from the soil filter area.
9. Water the plants in the soil filter for the next two or more weeks unless there is sufficient rainfall. This will help the plants to reestablish.

In addition to the inspection and maintenance of stormwater systems, parking and paved areas, such as the access road, will be inspected annually each spring. Visual inspections will enable site roads and parking areas to be kept clean and clear through contracting periodic sweeping and winter plowing as required. The inspections will also ensure pavement markings are repainted as needed to maintain proper traffic circulation and parking space delineation. Paved areas will be plowed and sanded as often as necessary to maintain public safety. Periodic sweeping of pavement will keep the parking areas clean and will reduce the amount of sediment available to enter the gravel wetlands, in turn reducing the need to clean these devices.

Stormwater inspection and maintenance requirements are summarized in more detail in the following Stormwater Inspection Checklist and Stormwater Management Maintenance Tasks and Recommended Schedule.

Underdrained Soil Filter Systems

The underdrained soil filters will be inspected semi-annually in spring and fall. Additionally, for the first six months, each filter will be inspected following major storm events. These inspections will ensure that there is no erosion in the soil filter, the filter remains capable of filtering runoff within two days, and sediment does not build up. Should the soil filter to drain within 72 hours, the top several inches of the filter media will be removed and replaced with fresh material. Attachment 12.8 includes an inspection form to be used during all soil filter inspections.

Maine DEP recommends mowing at least twice each year to allow visual inspection and to prevent the growth of woody plants. Sediment will be removed annually. Any eroding areas will be repaired immediately. Should a basin or swale fail to filter the runoff from a storm within two days, the soil filter layer may need to be retiled. No basin or swale will be used for snow storage or for any activities that involve heavy foot traffic. Vehicle traffic within the filter basin will not be allowed.

**PARKING LOT/DRIVEWAY
ANNUAL VISUAL INSPECTION RECORD**

Conduct inspection in the spring, but perform periodic sweeping as necessary throughout the year and plow and sand parking areas during the winter.

Parking Lot #/Location _____
Date/Time _____
Weather Conditions _____
Inspector (s) _____

1. Problems observed:

Cracking or broken Pavement: _____
Ponding or signs of ponding: _____
Sediment: _____
Trash: _____
Oil: _____
Faded striping: _____
Other: _____

2. Follow-up actions required following inspection (i.e. sweeping, repainting lines, repair pavement or islands):

3. Name and title of person(s) notified of inspection results:

Name	Title	date
------	-------	------

Name	Title	date
------	-------	------

4. Signature of inspector: _____

Name	Title
------	-------

date

STORMWATER INSPECTION CHECKLIST

Inspection by: _____

Date: _____

Stormwater Management Feature	Condition			
Vegetative cover on slopes	no bare spots, no evidence of rill erosion		some bare spots, some rill erosion	large bare areas, extensive erosion
Drainage channels/Ditches	no erosion, channels clear		some erosion and siltation	major erosion, channels clogged
Gravel Wetlands/ Underdrained Soil Filters	no siltation		some siltation	heavily silted in
Gravel Wetlands/ Underdrained Soil Filters	sideslopes free of erosion		some erosion on sideslopes	sideslopes heavily eroded
Gravel Wetlands/ Underdrained Soil Filters	inlet free of erosion		some erosion at inlet	inlet heavily eroded
Gravel Wetlands/ Underdrained Soil Filters	inlet / outlet clear		some debris	completely blocked
Gravel Wetlands/ Underdrained Soil Filters	no erosion on outlet weir		some rutting or erosion	deeply rutted and washed out

Recommended Actions: _____

Actions Completed: _____ Date: _____ Mgr. Approval: _____

STORMWATER MANAGEMENT MAINTENANCE TASKS AND RECOMMENDED SCHEDULE

TASKS	SEDIMENT FOREBAY	ROCK SANDWICHES	OUTLET CONTROL STRUCTURES	GRAVEL WETLANDS	UNDERDRAINED SOIL FILTERS	CULVERTS	SCHEDULE
Inspect for sediment accumulation	X	X	X	X	X	X	Annually
Remove sediment accumulation	X	X	X	X	X	X	As needed
Clean debris	X	X	X	X	X	X	Early spring, fall and after major storm
Inspect for Erosion	X	X	X	X	X		As needed
Reestablish vegetation in erosion areas	X	X	X	X	X		Early spring
Rake out dead vegetation	X	X		X	X		Early spring, fall
Replace stone rip-rap			X	X	X	X	Every 3 – 5 years as needed
Inspect structural elements during wet weather and compare to as-built plans			X	X	X		Annually
Make adjustments or replacements as determined by wet weather observations	X			X	X		As needed
Keep records of all inspections and maintenance activities	X	X	X	X	X	X	Annually
Have a professional engineer perform emergency inspections upon identification of severe problems	X	X	X	X	X	X	As needed

SCHEDULE E

PORTLAND TECHNOLOGY PARK CONDOMINIUM BYLAWS OF PORTLAND TECHNOLOGY PARK CONDOMINIUM ASSOCIATION

ARTICLE I: Name, Location, and Fiscal Year.

Section 1. Name. The name of the corporation is Portland Technology Park Condominium Association (the "Corporation").

Section 2. Location. The principal office of the Corporation shall be located at 300 Rand Road, Portland, Maine.

Section 3. Fiscal Year. The fiscal year of the Corporation shall, unless otherwise decided by the Board of Directors, ends December 31.

ARTICLE II: Purposes.

Section 1. Purposes. The purposes of said Corporation are to act on behalf of its members collectively as their governing body with respect to the administration, maintenance, repair and replacement of certain property which will be submitted to the provisions of Maine Condominium Act, Title 33, Chapter 31, Section 1601-101 *et seq.* and to be known as Portland Technology Park Condominium Association and as such to own and acquire any real estate or interest or rights therein or appurtenances thereto and any and all personal property in connection therewith as may be incidental or necessary to such purpose.

ARTICLE III: Members.

Section 1. Membership. The owner or owners of record from time to time of each Unit of the Condominium, shall constitute one member of the Corporation, and each such member shall have the fraction of common interest, common expenses liabilities and voting rights in the Corporation that are set forth in the Declaration of Condominium of the Portland Technology Park Condominium recorded in the Cumberland County Registry of Deeds, as it may be amended from time to time.

Section 2. Termination of Membership. The membership of each Unit owner shall terminate when he ceases to be a Unit owner, and upon the sale, transfer or other disposition of his ownership interest in the property his membership in the Corporation shall automatically be transferred to the new Unit owner succeeding to such ownership interest.

Section 3. Meetings and Notice. Meetings of members shall be held at the Condominium in Portland, Maine. An annual meeting of the members shall be held on the first Tuesday in October in each year, commencing with October 1, 2016 at 4 p.m. Special meetings of the members may be called by the President, the Board of Directors or upon a petition signed by fifty (50) percent of the members. Written notice of any meeting shall be given to each member by the Secretary not less than ten (10) days nor more than thirty (30) days before the meeting by mailing it postage prepaid to the member's mailing address or to any other mailing address designated in writing by the member. The notice shall specify the time and place of the meeting and the items on the agenda.

Section 4. Quorum and Voting. A quorum for any meeting shall be constituted by persons entitled to cast 50 percent of the votes for election of the executive board, attending in person or represented by proxy.

Except as otherwise provided, any specified percentage of Unit Owners means a vote by the Owners of those Units to which are allocated the same specified percentage of the Votes in the Association that are cast in person or by proxy at any meeting of the Association at which a quorum is present in person or by proxy, and for all voting purposes, each Unit Owner shall have a vote equal to the Votes in the Association allocated to its Unit. The approval by a specified percentage of Eligible Mortgage Holders is based upon one (1) vote for each Mortgage held. The terms "majority vote" or "majority of Unit Owners" shall mean a vote by the Owners of those Units to which are allocated more than fifty percent (50%) of the Votes in the Association that are cast in person or by proxy at any meeting of the Association at which a quorum is present in person or by proxy.

The Votes in the Association allocated to a Unit can only be cast as a unit and cannot be split. If a Unit is owned of record by one person, that Unit Owner's right to vote shall be established by the record title to the Unit. If ownership of a Unit is in more than one person, the person who shall be entitled to cast the Votes allocated to that Unit shall be the person named in a certificate executed by all of the Owners of such Unit and filed with the Secretary of the Association. If ownership of a Unit is in a corporation, partnership, limited liability company, trust or estate, the officer or employee of that corporation, partner of that partnership, manager or member of that limited liability company, trustee of that trust, or agent of that estate, entitled to cast for the corporation, partnership, limited liability company, trust or estate the Votes allocated to such Unit shall be designated in a certificate for that purpose executed by the president or a vice president of that corporation, and attested to by the secretary or clerk of that corporation, executed by all the partners of that partnership, by all of the members of that limited liability company, or executed by all the beneficiaries of that trust, or executed by either all the devisees of that estate or by order of the probate court and filed with the Secretary of the Association. Such certificates of multiple owners, corporations, partnerships, limited liability companies, trusts or estates shall be valid until revoked by a subsequent certificate similarly executed and filed with the Secretary of the Association. Wherever the vote, approval or disapproval of a Unit Owner is required by this Declaration or the Act, such vote, approval or disapproval shall be made only by the person who would be entitled pursuant to such certificate to cast at any meeting of the Association the Vote allocated to such Unit. If the person named or designated in said certificate for a particular Unit shall be absent from a meeting of the Association, no person may cast the Vote allocated to that Unit at the meeting, although the presence at the meeting of a non-named or non-designated co-Owner or member, officer or employee of such Owner shall be counted in determining whether a quorum is present. If a multiple Owner of a Unit (that is not a partnership, limited liability company, trust, estate or corporation) has failed to file said certificate with the Secretary of the Association and only one of the multiple Owners is present at a meeting of the Association, he or she shall be entitled to cast at the meeting all the Votes allocated to that Unit without establishing the concurrence of the absent Owner just as though that person were the sole Owner of the Unit. If a multiple Owner of a Unit (that is not a partnership, trust, limited liability company, estate or corporation) has failed to file said certificate with the Secretary and if more than one Owner of that Unit is present at the meeting, the Votes allocated to that Unit may be cast only in accordance with the agreement of a majority of the multiple Owners present at the meeting. Such majority agreement shall be conclusively presumed if any one of those multiple Owners shall cast the Vote allocated to the Unit without protest being promptly made to the person presiding over the meeting by any other Owners of that Unit.

ARTICLE IV: The Board of Directors.

Section 1. Composition. The Board of Directors shall consist of three members initially, and will be increased as Units are sold by the Declarant to reflect the provision in the Declaration that each Unit Owner may elect or appoint one member of the Board of Directors.

Section 2. Election and Term. The directors, except as provided in Article III, Section 5 and Sections 7 and 8 of this Article, shall be elected by the Unit owners at the annual meeting. Each Unit

Owner may elect or appoint one member of the Board of Directors. The directors shall hold office until their successors have been elected.

Section 3. Powers. The business of the Corporation shall be managed by the Board of Directors which shall have and may exercise all the powers of the Corporation, except those powers reserved to the members by the Act or by these Bylaws. The Board shall have the power to engage a managing agent for the property and to fix the term, compensation and authority of the manager or managing agent which, initially, shall be the Declarant.

Section 4. Meetings of Directors. Meetings of the Board of Directors may be held at any time and place upon call by the President or by a majority of the Directors, reasonable notice thereof being given to each Director. Notice that a meeting has been called may be given by the President, Secretary or Assistant Secretary, if one is appointed, or by one of the Directors. Notice of any meeting of the Board of Directors may be waived in writing signed by the person or persons entitled to such notice, whether before or after the time of such meeting, and shall be equivalent to the giving of such notice. Attendance of a Director at such meeting shall constitute a waiver of notice thereof, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because such meeting is not lawfully convened. Neither the business to be transacted at, nor the purpose of, any meeting of the Board of Directors need be specified in the notice, or waiver of notice, of such meeting.

Section 5. Quorum and Voting. A majority of the directors then in office shall constitute a quorum. A majority of less than a quorum may, from time to time postpone to a new time or place any meeting and the adjourned meeting may be held without further notice. If a quorum exists, a majority of the directors present may take any action, except the removal of a director for cause which shall require a majority vote of all directors then in office.

Section 6. Action by Consent. Any action required or permitted to be taken at any meeting of the Board of Directors may be taken without a meeting if a written consent thereto is signed by all the directors. The Secretary shall file such written consent with the records of the meetings of the Board of Directors. Such consent shall be treated as a vote of the Board of Directors for all purposes.

Section 7. Vacancies. A vacancy in the Board of Directors shall be filled by the owner of the Unit that appointed the Director to hold office for the unexpired term of the director whose place is vacant and until his successor is elected.

Section 8. Removal. A director may be removed from office by a vote of all of the owners of the Unit or Units that elected such Director. A director may be removed for cause by a majority vote of all directors then in office.

Section 9. Compensation. Directors shall not receive compensation for their services except as provided by resolution of a majority of the members of the Corporation. Directors shall be reimbursed for any out-of-pocket expenses incurred which are reasonable and necessary in performing their duties on behalf of the Corporation.

Section 10. Delegation to Managing Agent. The Board of Directors may delegate to a managing agent all of the powers of the Board, except the responsibility of preparing the annual budget and any supplemental budgets and any powers requiring approval of any specified percentage of members.

ARTICLE V: Officers.

Section 1. Designation and Qualification. The officers of the Corporation shall consist of a

President, a Treasurer, a Secretary and such other officers as the Board of Directors may elect. The President and Treasurer shall be members, or spouses of members, or in the case of a Unit owner which is a Corporation, partnership, trust or estate, a designated agent thereof. The Secretary need not be a member, but shall be a resident of Maine.

Section 2. Election and Term. All officers shall be elected by the Board of Directors at its first meeting following the annual meeting of the members and shall hold office until the first meeting of the Board of Directors following the next annual meeting of members and until their successors are elected.

Section 3. President. The President shall be a Director and shall be the chief executive officer of the Corporation. The President shall have general supervision and control of the business of the Corporation subject to the direction of the Board of Directors and shall also have such other powers and duties as the Board of Directors may decide. The President shall preside at all meetings of the members and at all meetings of the Board of Directors. If the President is absent from any meeting of the members or Board of Directors, the Treasurer shall preside at such meeting. The President shall prepare, execute, certify and record amendments to the Declaration on behalf of the Corporation.

Section 4. Treasurer. The Treasurer shall have, subject to the direction of the members or Board of Directors, general charge of the financial affairs of the Corporation and shall keep full and accurate records thereof, which shall always be open to the inspection of any member or holder of a first mortgage on a Unit. He shall render to the President and directors, at the regular meetings of the Board of Directors, or whenever they may require it, a statement of the accounts of his transactions as Treasurer and of the financial condition of the Corporation.

Section 5. Secretary. The Secretary shall record the proceedings of all meetings of the members and of the Board of Directors in books kept for that purpose. Record books of members' meetings shall be open at all reasonable times to the inspection of any member or holder of a first mortgage on a Unit. The Secretary shall also keep the membership transfer books of the Corporation. He shall notify the members and the directors of all meetings in accordance with the Bylaws. If the Secretary is absent from any meeting of the members or the Board of Directors, a Temporary Secretary shall be chosen to exercise the duties of the Secretary at such meeting.

Section 6. Vacancies. A vacancy in any office may be filled by the Board of Directors by the election of a successor to hold office for the unexpired term of the officer whose place is vacant and until his successor is chosen and qualified.

Section 7. Removal. All officers may be removed from their respective offices by the Board of Directors.

Section 8. Resignation. Any officer may at any time resign his office by a resignation in writing delivered to the Corporation at its principal office or to the President or Secretary. Such resignation shall be effective upon receipt and acceptance thereof shall not be necessary to make it effective unless it so states.

Section 9. Compensation. The officers shall receive no compensation for their services unless expressly provided for in a resolution adopted by the majority of the members of the Corporation. The officers shall be reimbursed for any out-of-pocket expenses incurred which are reasonable and necessary in performing their duties on behalf of the Corporation.

ARTICLE VI: Assessments.

Section 1. Budget. The Board of Directors shall cause to be prepared an estimated annual budget

for each fiscal year of the Corporation. Such budget shall take into account the estimated common expenses and cash requirements for the year, including salaries, wages, payroll taxes, supplies, materials, parts, services, maintenance, repairs, replacements, landscaping, insurance, fuel, snow removal, trash pickup and other common expenses (as distinguished from individual mortgage payments, real estate taxes and individual telephone, electricity and other individual utility expenses billed or charged to the separate members on an individual or separate basis rather than a common basis). The Board shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the common areas and limited common areas. The reserve fund shall be included in the budget and maintained out of regular assessments for common expenses. To the extent that the assessments and other cash income collected during the preceding year shall be more or less than the expenditures for such preceding year, the surplus or deficit, as the case may be, shall also be taken into account in setting the budget and determining assessments for the current year so as to credit to such assessment any surplus from the preceding year or repay to said reserve fund any deficit from the preceding year.

The failure or delay of the Executive Board to prepare or adopt a budget for any fiscal year shall not constitute a waiver or release in any manner of a Unit Owner's obligation to pay its allocable share of the Common Expenses as herein provided whenever the same shall be determined and, in the absence of any annual budget or adjusted budget, each Unit Owner shall continue to pay each monthly installment at the monthly rate established for the previous fiscal year until the new annual or adjusted budget shall have been adopted.

Any provision or limitation on expenditures contained herein or in the Declaration to the contrary notwithstanding, the Executive Board or the manager may, on behalf of the Association and the Owners without prior notice or consent, expend any amount, or incur a contractual obligation in any amount, required to deal with emergency conditions which may involve a danger to life or property or may threaten the safety of the Condominium or the owners or occupants of Units or may threaten the suspension of any necessary service to the Condominium or may involve the immediate damage to or destruction of the Common Elements.

Section 2. Payment. The estimated annual budget for each fiscal year shall be approved by the Board of Directors, and copies thereof shall be furnished to each member and eligible mortgage holder within thirty (30) days of adoption, and in any event not later than 90 days after the beginning of such year. The Board shall set a date for a meeting of the members to consider ratification of the budget not less than fourteen (14) or more than thirty (30) days after mailing of the budget. Notice of said meeting shall accompany the budget. Unless at that meeting all members reject the budget, the budget is deemed ratified, whether or not a quorum is present. In the event the proposed budget is rejected, the periodic budget last ratified by the members shall be continued until such time as the members ratify a subsequent budget proposed by the Board of Directors. On or before the first day of the next quarter and of each succeeding month or quarter of the year covered by the annual budget, each member shall pay, as his respective monthly or quarterly assessment for the common expenses, one-twelfth (1/12) or one-fourth (1/4), as the case may be, of his proportionate share of the common expenses for such year as shown by the annual budget, all as determined by the Board of Directors. Such proportionate share for each member shall be in accordance with his respective ownership interest in the common areas and facilities. No member shall be relieved of his obligation to pay his assessments for common expenses by abandoning or not using his Unit or the common areas and facilities.

Section 3. Statements. Within ninety (90) days after the end of each year covered by an annual budget, or as soon thereafter as shall be practicable, the Treasurer shall cause to be furnished to each member a statement for such year so ended, showing the receipts and expenditures and such other information as he may deem desirable.

Section 4. Separate Accounts. The Treasurer shall cause to be kept a separate account for each member showing the respective assessments charged to and paid by such member, and the status of his account from time to time.

Section 5. Additional Assessments. In the event that during the course of any year, it shall appear to the Treasurer that the monthly assessments, determined in accordance with the estimated annual budget for such year, are insufficient or inadequate to cover the estimated common expenses for the remainder of such year, then the Board of Directors shall prepare and approve a supplemental budget covering the estimated deficiency for the remainder of such year, and shall cause the same to be presented to the members for ratification in the same manner as the budget. Upon ratification of the supplemental budget, a supplemental assessment shall be made to each member for his proportionate share of such supplemental budget.

Section 6. Common Expenses. It shall be the duty of every member to pay his proportionate share of the common expenses, in the same ratio as his fraction of ownership in the common areas and facilities. If any member shall fail or refuse to make any such payment of the common expenses when due, the amount thereof together with interest at the rate established by the Corporation, costs and reasonable attorney's fees shall constitute a lien on such Unit. The Corporation shall have the authority and responsibility to exercise and enforce any and all rights and remedies as provided for in Maine Revised Statutes, Title 33, Chapter 31, the Declaration and these Bylaws, or otherwise available at law or in equity for the collection of all unpaid assessments.

Section 7. Budget Expenses. The President and/or Treasurer, subject to Board direction, shall have the authority to enter into contracts on behalf of the Corporation for work and expenses provided in the budget and to make payment therefor from the funds of the Corporation.

Section 8. Expenses Assessed Subsequent to Conveyance of Unit. A member may not exempt himself from liability for his shares of common expenses subsequently to be assessed by a conveyance of his Unit to the Corporation, except by approval of all of the other members and their first mortgagees.

Section 9. Availability of Documents. The Corporation is required to make available to Unit owners, lenders and the holders, insurers and guarantors of the first mortgage on any Unit current copies of the Declaration, Bylaws and any other rules and regulations governing the condominium and other books, records and financial statements of the Corporation. In addition thereto, the Corporation shall also make available to prospective purchasers current copies of the Declaration, Bylaws, other rules governing the condominium, and the most recent annual audited financial statement, if such is prepared. The Corporation may impose a reasonable charge for copies.

ARTICLE VII: Amendments.

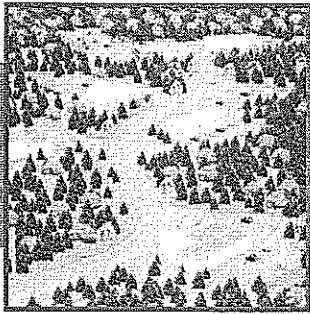
Section 1. Amendment of Bylaws. These Bylaws may be amended or modified from time to time by action or approval of all of the members, except that no amendment may violate the provisions of Maine Revised Statutes, Title 33, Chapter 31.

Section 2. Amendment of Declaration. The Declaration may be amended in accordance with the terms thereof. Except for amendments exercising Development Rights by Declarant, the President and/or Treasurer of the Corporation shall execute a certificate setting forth the text of the amendment, which certificate shall be attested by the Secretary and recorded in the Cumberland County Registry of Deeds.

SCHEDULE F
PORTLAND TECHNOLOGY PARK CONDOMINIUM
DECLARATION OF CONDOMINIUM

DESIGN GUIDELINES

The Design Guidelines prepared by Scott Simons Architects and Woodard and Curran, Inc., dated August 8, 2012, as amended, as filed with the Portland Planning Board are hereby incorporated herein by reference.



DESIGN GUIDELINES

for

PORTLAND TECHNOLOGY PARK

City of Portland, Maine

08.08.2012

Prepared By:

Scott Simons Architects and
Woodard & Curran, Inc.

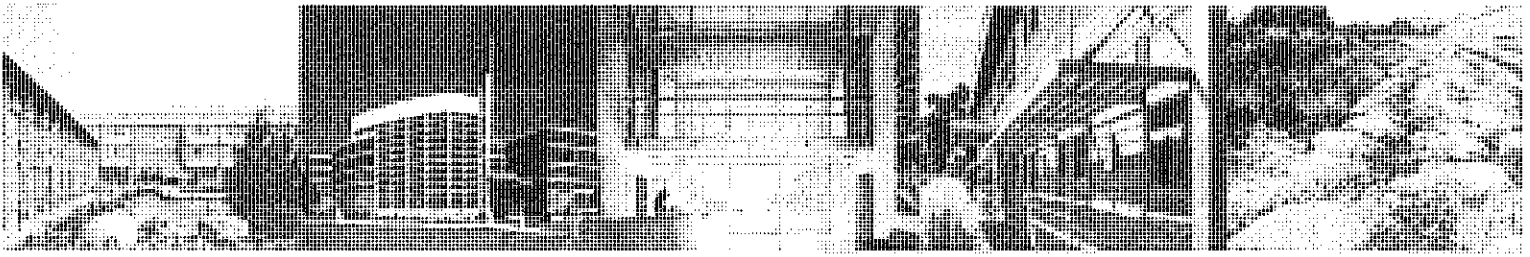
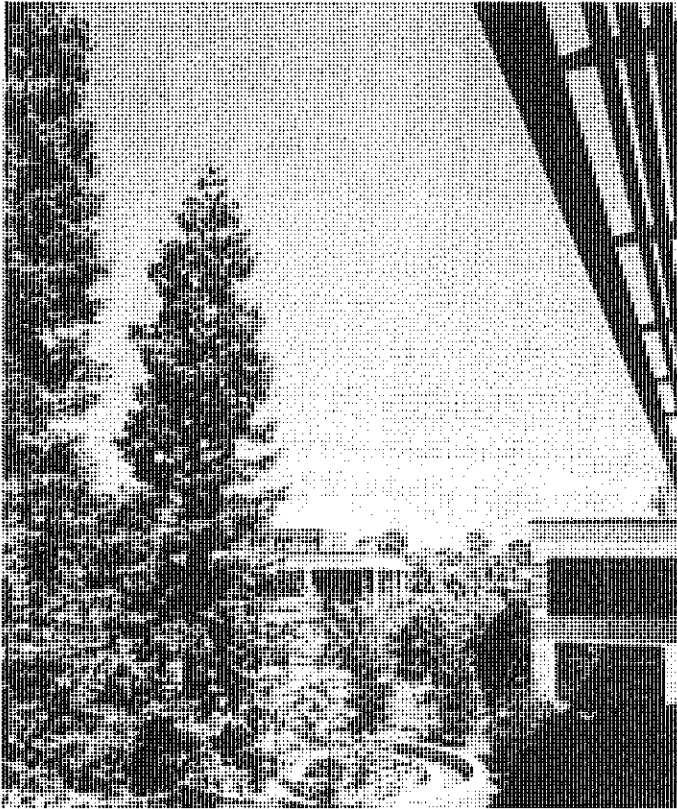


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Landscape design plays a vital role in a well designed office park by providing sun shading and in an eye pleasing humane environment.

INTRODUCTION

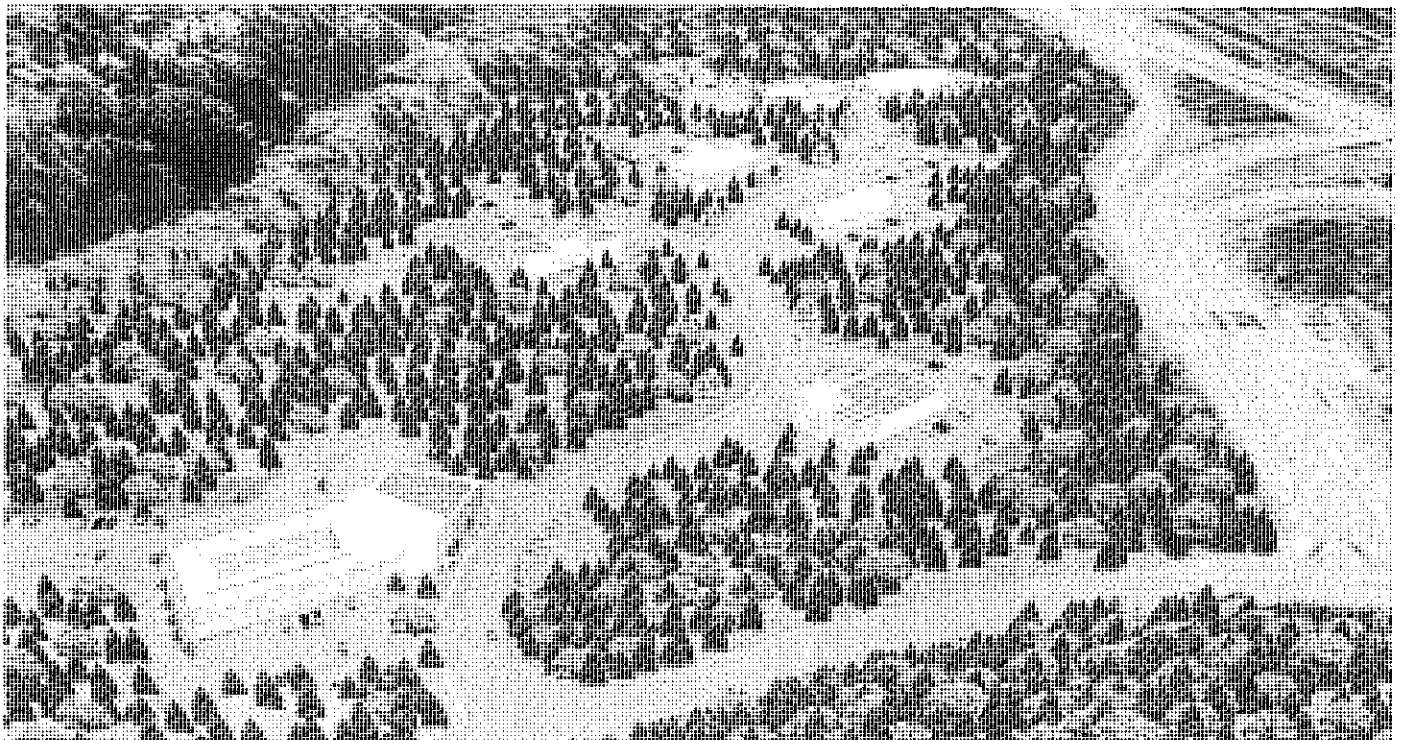
The development of the Portland Technology Park Development (PTPD) offers an opportunity to create a quality working environment expressing its own unique identity while, at the same time, becoming a model of environmental sustainability and a vital and integral part of the City of Portland. In general the achievement of these two goals requires:

Adherence to a code of design standards specifically identified for the building and open space.

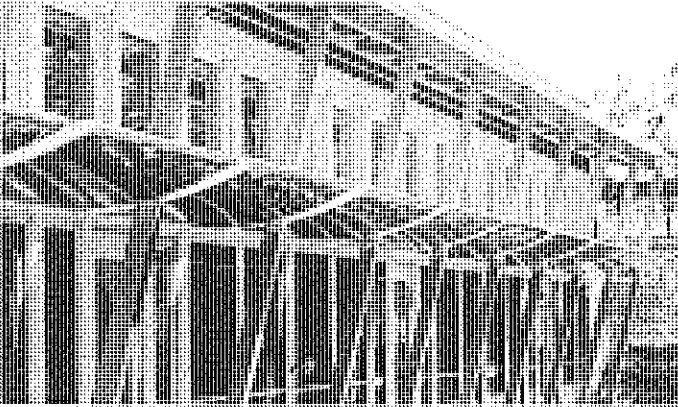
Adherence to energy and environmental codes equal to or better than those required in the City of Portland Green Building Code.

The use of an architectural language that reflects the regional culture and the use of the building.

It is the intention of these guidelines to ensure a cohesive physical environment fitted properly to its site and its community. The guidelines are not meant to restrict the creative interpretation of Architects working at the Portland Technology Park Development in future years, but should be viewed as an opportunity to participate in the creative process of developing a timeless, sustainable and beautiful Technology Park Campus



A rendering of the proposed development from the North with the Rt 95 on-ramp shown to the right. Buildings shown are only examples which meet the intent of the Design Guidelines, they are not actual proposed designs. Rendering by Scott Simons Architects.



Buildings should be situated appropriately in the landscape with the long side facing south for passive solar opportunities. Solar shading devices in this building at USM Gorham prevent overheating in the summer while allowing for the sun to enter in the winter.

-University of Southern Maine Childcare by TFH Architects, Gorham, ME

DEVELOPMENT GOALS

The City's goal for the PTPD property is to create a forward thinking, low impact, environmentally friendly Technology Park development. The City reserves the right to review all development proposals for compliance with the Design and Energy/Environmental Standards listed below and to request changes and/or revisions to bring the design into conformance with the PTPD standards and goals.

Design Quality

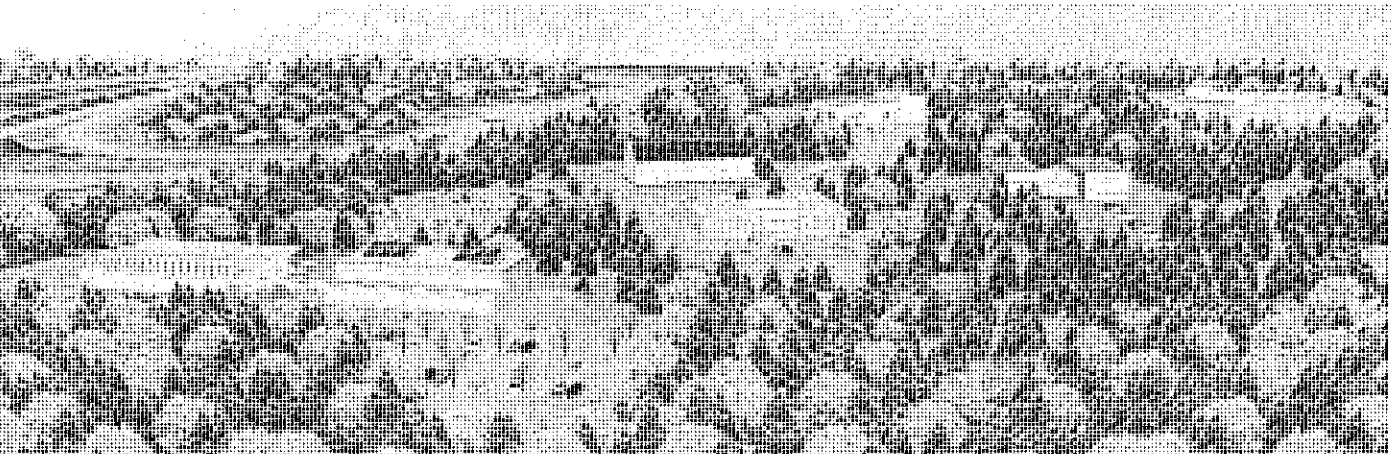
To achieve the City's goal they encourage proposals that are developed by innovative, well respected design professionals. All proposals for the PTPD unit areas shall be designed by an architect licensed to practice in the State of Maine. They shall include a complete set of drawings showing all exterior elements of the building, a colored rendering of the buildings exterior, and a sample board of the proposed exterior materials.

Durability

Development proposals for the PTPD unit areas shall be designed to last a minimum of 50 years without major repair or replacement. Materials shall be selected that have proven track record of performance in climates similar to that of Maine, that are attractive, durable, and easy to maintain.

Energy/Environmental Performance

Development proposals for the PTPD unit areas shall be designed to achieve a minimum performance level that is consistent with the City's Green Building Code. Specific recommendations for performance are also outlined under Design Standards, below.



Rendering of the proposed development from the South with Rt 95 shown to the left. Buildings shown are only examples which meet the intent of the Design Guidelines, they are not actual proposed designs. Rendering by Scott Simons Architects.

SITE DESIGN

Design Relationship to Site

Individual building developments shall demonstrate a reasonably unified design relative to other building developments and common areas within the park. Compatibility of design shall include such elements as building architecture and layout (see Building Design Standards), pedestrian and vehicular circulation plans, design of open spaces, drainage, topography, vegetation and preservation of natural features. Integration of open spaces and natural features may be achieved by incorporation of outdoor amenities for the benefit of users of the site, such as outdoor seating areas, trash and recycling receptacles, and interconnectivity with adjacent trail networks.

Stormwater Management and Site Design

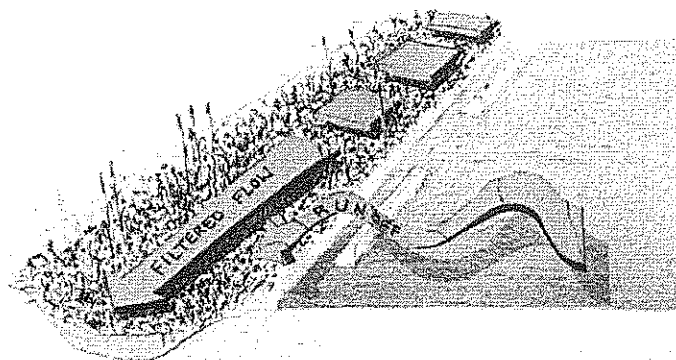
Low impact stormwater management and site design shall seek to mimic the existing site hydrology by limiting piped infrastructure, limiting increases to the steepness of site grades, and maximizing surface stormwater conveyance and treatment through the use of gravel wetlands. Stormwater management design shall seek to maintain the natural wetland hydrology of the site through the addition of constructed gravel wetlands, underdrained soil filters, pervious roadway base (rock sandwich), and drainage channel protections. Stormwater management design shall consist of curb cuts with surface flow to sediment forebays, followed by gravel wetlands or underdrained soil filters in place of traditional closed drainage systems.

Stormwater management and site design shall limit disruption of natural hydrology by reducing impervious cover and managing stormwater runoff through a stormwater management plan focused on maintaining natural hydrology, treatment of the water quality volume (as defined by Maine DEP), and stream channel protection. Stormwater management design shall manage runoff rate from storm events which contribute to stream channel erosion, such as the 1 and 2 year, 24 hr rainfall events. The post development runoff rate will match the pre-development rate.

Site design, good housekeeping plans and site maintenance plans should consider reducing or eliminating sources of contaminants and reducing pollutants from stormwater runoff. Site design may seek to maintain surface hydrology through means of pervious layers below roadways, driveways or parking lots in lieu of traditional, closed pipe culverts, which channelize flow. Site design shall seek to avoid or minimize impacts to the natural, wooded wetlands that encompass much of the site. Site design should seek to implement pervious surfaces, be it by reducing paved areas or by utilizing pervious hardscape technologies (pervious pavements, pervious pavers).



Horizontal sunshading reduces solar gain and planting softens and cools the hard surfaces of the pedestrian walkways and parking.



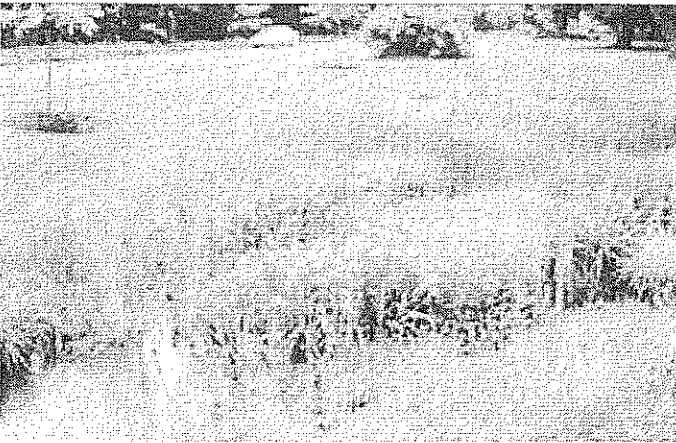
Parking lots will slope to gravel wetlands with open drainage channels. Image Courtesy of New York MTA.



Rendering of the PTPD looking south towards building unit area 4 and gravel wetlands on the right.



Planted gravel wetlands along the road edge will serve to capture and filter runoff and the native trees and landscape will be largely preserved.



Stormwater treatment wetland, Photo Courtesy of Stormwater Magazine.



Constructed wetland for stormwater treatment; Town of Acton, MA; design by Woodard & Curran Inc.

Materials or Wastes

No materials or wastes shall be deposited on any area of the site in such form or manner that they may be transferred beyond the lot boundaries by natural causes or forces. All stumps and debris generated by site clearing activities shall be utilized on site for temporary erosion control measures or immediately removed and reused offsite to the maximum possible extent. Building construction contractors shall develop a construction debris sorting and recycling plan. Building construction debris shall be recycled to the maximum extent practical.

Building tenants shall develop or implement existing recycling programs, and shall be responsible for contracting with a waste management service that provides recycling programs for paper, metal and plastic waste streams.

Building tenants shall develop and implement pollution prevention programs. Pollution prevention activities should include sweeping of paved areas (minimum of twice per year), minimization or elimination of the use of fertilizers, pesticides or herbicides on landscaped areas, strategic winter deicer use, and safe and sheltered outdoor material storage.

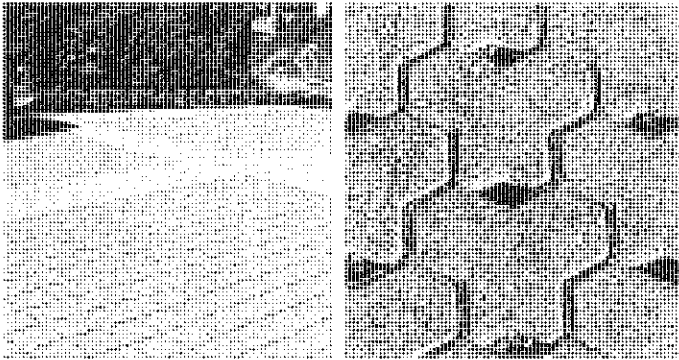
All material which might cause fumes or dust, or constitute a fire hazard if stored out-of-doors, shall be stored in enclosed containers.

Soil Erosion and Sediment Control

Reduce pollution from construction activities by controlling soil erosion, waterway sedimentation and airborne dust generation. This should be accomplished by following the erosion and sedimentation control plan developed for the overall site, in addition to the latest Maine DEP approved erosion and sediment control measures. Frequent, documented inspection of erosion and sediment control measures during construction shall be required in accordance with local and state regulations.

Traffic

Development proposals shall identify all proposed traffic controls (signage and striping), traffic-related pedestrian features, parking areas, and interior traffic circulation for each building site if the layout of the site differs from the permitted PTPD plan. A Traffic Movement Permit exists for the PTPD, and was based on an anticipated traffic generation for the full build-out of the permitted PTPD site. Development proposals shall modify the overall PTPD Traffic Movement Permit if the anticipated traffic generation numbers for any individual development site exceed the anticipated pro-rata share of the traffic forecast for the full site in the Traffic Movement Permit.



Examples of pervious pavers.

Parking Lots

Parking lots should be carefully integrated into the Development with respect to site access, building access and landscape qualities. Parking spaces should be designed to reduce impervious surface area as much as possible, and provide, where possible, preferred parking for low-emitting and fuel-efficient vehicles for 5% of the total vehicle parking capacity of the site. Confirmation via a parking analysis is required to justify the development of the maximum number and associated size (ranging from 8'-2" x 18' to 9' x 18') of parking spaces as approved and shown in the subdivision plat and overall site plan, which is different for each building unit but generally between 3-4 spaces/1,000 square feet of building area.

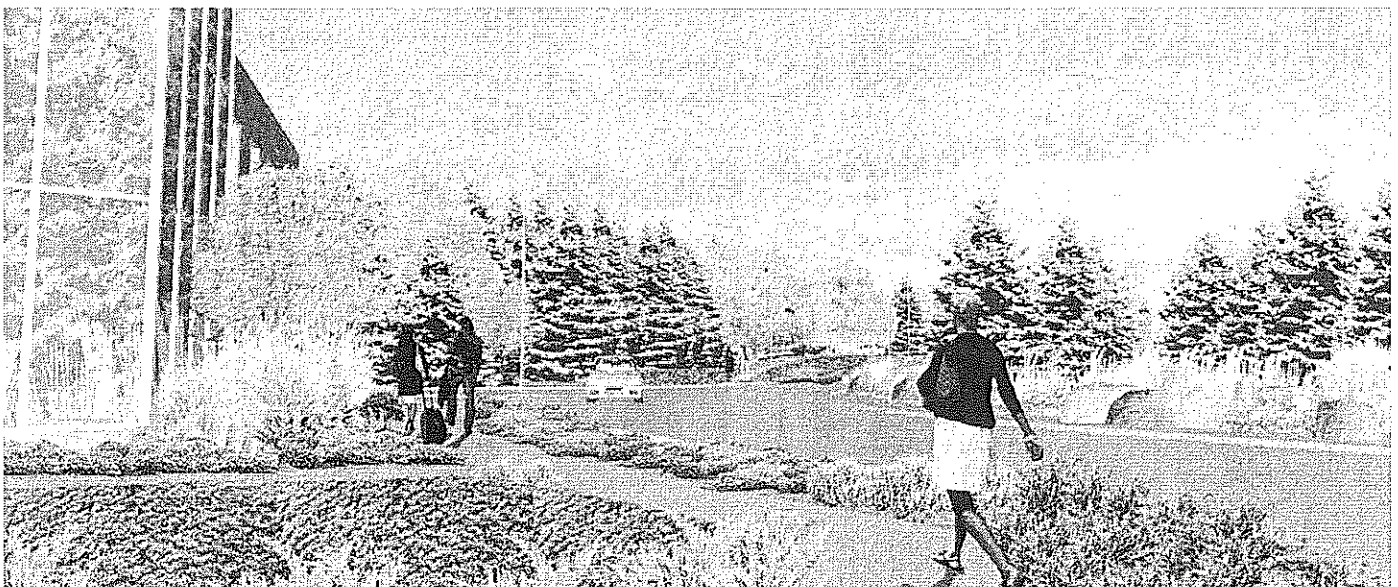
Reduce heat islands to minimize impact on microclimate and human and wildlife habitat. Consider providing any combination of the following strategies for 50% of the site hardscape (including roads, sidewalks, courtyards and parking lots): Shade (within 5 years of occupancy), paving materials with a solar reflective index (SRI) of at least 29 and/or open grid pavement system.

Sidewalks

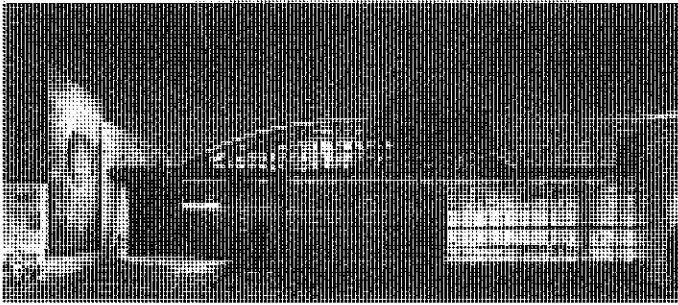
Development proposals shall include internal sidewalks, illustrating the manner in which the developer will provide this amenity to take advantage of the topography and natural features of the site. Internal site sidewalks shall seek to limit impervious surface ratio while providing safe egress, maintaining appropriate desire line pathways, and enhancing building entrances, as applicable to each building development area. Design of sidewalks should consider use of pervious pavement products, such as pervious concrete or pervious pavers as they reduce sheet flow at the extremities of the parking lots by allowing rain to permeate the ground evenly across the walkway.



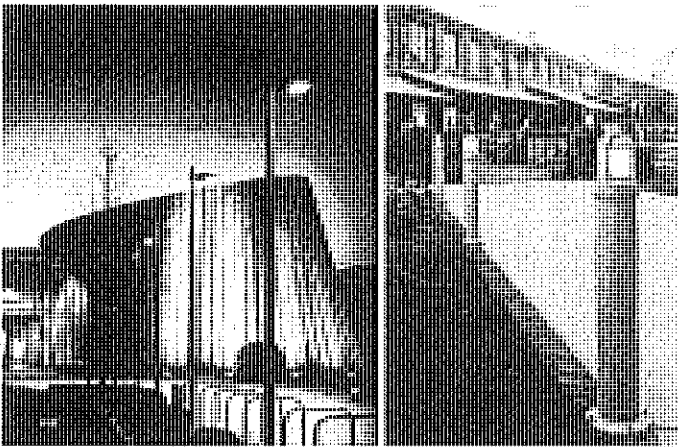
An example of acceptable light poles, furniture, sidewalks, and landscape design.



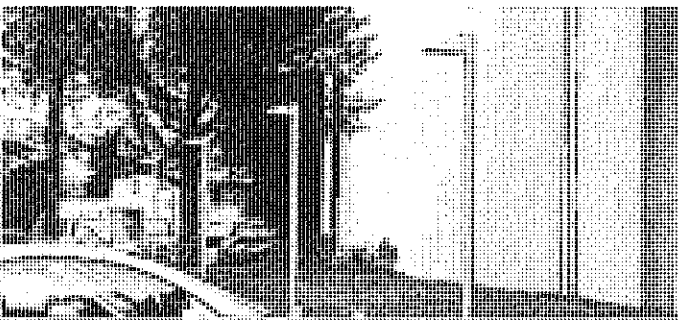
Rendering of the entry to the PTPD with building unit area 1 to the left, demonstrating the intent of the landscaping and sidewalks. The tall grasses and boulders to the right show the intended look of the proposed gravel wetlands. Rendering by Scott Simons Architects.



An example of subtle yet strong and beautiful lighting and signage.



Pedestrian walkways should be lit with bollard type fixtures (right) and parking areas should be lit with pole mounted down-lights (left).



Parking lot lighting should be pole mounted and shielded to direct light downward.

Bicycle Racks

Encourage reduction in pollution and land development impacts from automobile use. It is required to provide bicycle parking in accordance with city standards. Shower and changing facilities in the building are encouraged.

EXTERIOR LIGHTING

Lighting strategies should seek to provide efficient, safe light levels, good color quality light, and minimal light pollution. Development proposals shall identify the location and style of lighting to be used in the development, and shall be accompanied by a lighting photometric plan in accordance with City Site Plan Review requirements. All roadway, driveway and parking areas shall be required to provide a light fixture of the same make, model, pole type and base design as the fixture chosen for the main access roadway (not selected at this time). Sizes can vary to accommodate specific use requirements.

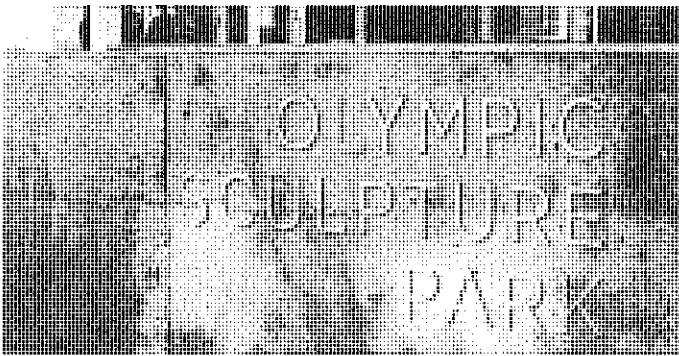
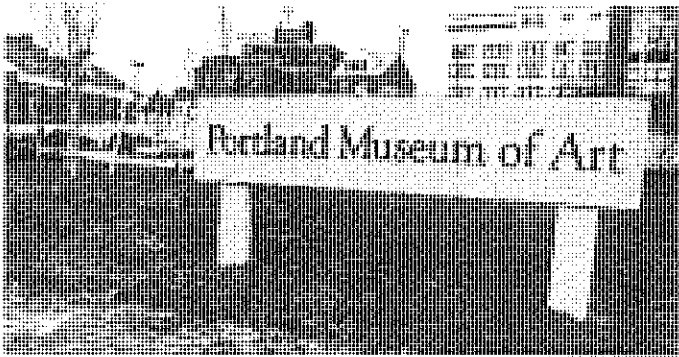
All lighting fixtures shall be hooded or shielded so that the light shines downward. Efforts shall be made to minimize light trespass from the building and site, reduce sky-glow to increase night sky access, improve nighttime visibility through glare reduction and reduce development impact on nocturnal environments. The use of low energy or LED fixtures is encouraged. Light color should be uniform. The use of high pressure sodium lights is not allowed. All exterior lighting shall conform to the Site Lighting Standards of the City of Portland Technical Manual.

Light fixtures associated with the building and walkways should be of a style and height that enhance the architectural character of the buildings. Illumination of parking lots with large flood lights mounted on the building is not allowed; small, pole mounted fixtures along the edges of the lots are encouraged, and taller pole mounted fixtures will be allowed provided they meet the applicable standards of the City of Portland's Technical Manual. The objective is to provide a more even illumination, less glare, more security, and be more in scale with the desired character of the PTP Campus.

Pedestrian pathways should be illuminated with lamp post or bollard type light fixtures, of a scale and character in keeping with the size of the pathways they are serving.

Entrance way lighting should develop in a hierarchical way, with primary entrances receiving higher quality and quantity of illumination, to reflect their relative importance.

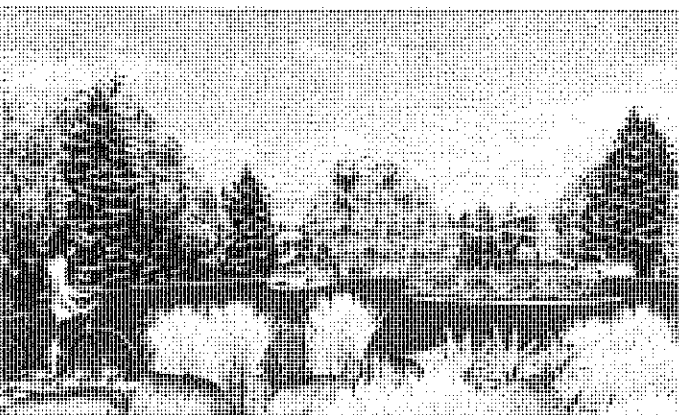
Landscape lighting can be developed to supplement other lighting, and can enhance the character of the PTP Campus. Overall, the exterior lighting should enhance the architecture and the landscaped environment, be placed in an orderly way throughout the Development to reinforce the building and pathway patterns, and harmonize with other signage and site furniture to contribute



Examples of acceptable signage.



An example of a parking lot which is integrated into the landscape. The use of grass lawns is discouraged, however.



Rendering of the PTPD looking towards building unit areas 6 and 7 with gravel wetlands in the foreground. Rendering by Scott Simons Architects.

to the desired appearance of the PTP campus. It should help attain a safe, attractively illuminated nighttime environment that complements the appeal of the daytime environment.

SIGNAGE

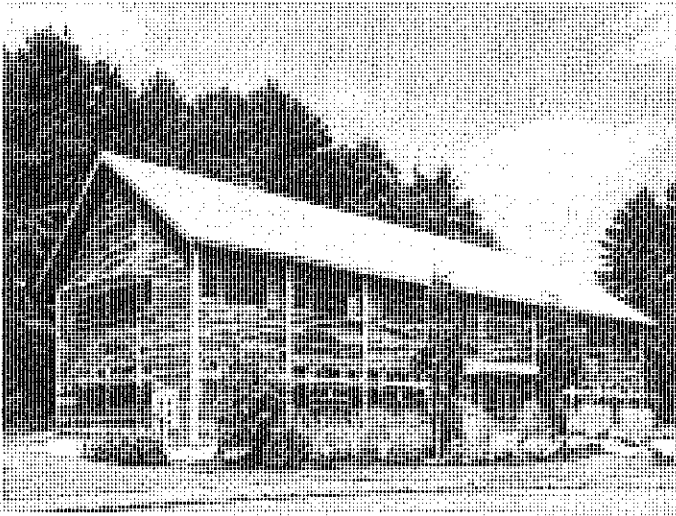
Development proposals shall identify all proposed signage. Signs shall be designed in proportion and constructed of permanent materials and shall be coordinated with the building and landscaping design through the use of appropriate materials and finishes. Well-designed signage is encouraged in the Development, both in front of the building and on the building, as allowed by the City's existing ordinances. The use of raised metal letters, individual metal letters, and etched masonry or wood is encouraged; surface mounted plastic letters and interior-lit box signs are not allowed. Signs should be illuminated at night either from behind the raised lettering or with focused floodlights.

LANDSCAPING

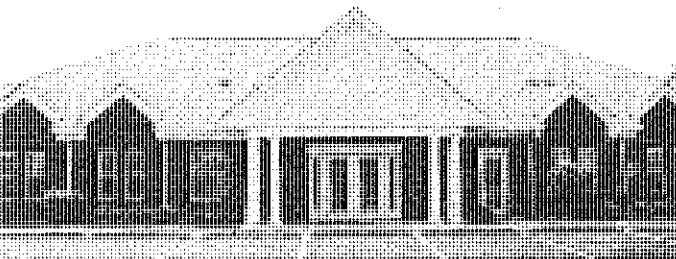
Development proposals shall include a landscaping plan and maintenance program developed by a licensed Landscape Architect in the State of Maine. The landscaping plan shall be developed in conformance with the landscaping and landscape preservation standards outlined in the City's Technical Manual and Land Use Ordinance. All developed land areas not covered by structures, parking areas or circulation facilities shall be landscaped and maintained. In order to soften the visual impact of large expanses of pavement in parking lots, vegetation shall be planted or retained where feasible on islands or planting strips. Each building development is encouraged to provide vegetation within the developed areas of their site matching to and blending with the natural woodland features of the adjacent, undeveloped areas.

Maintained lawn areas and non-native tree and plant species are discouraged. Mulched and planted areas, wildflower and conservation mix grasses and native plant and tree species are encouraged. The use of low water demand plantings is encouraged, so far as they are sited properly and can thrive in the soils and site conditions of the property. Further, each parking area shall be required to provide landscaping as outlined the City of Portland's Code of Ordinances.

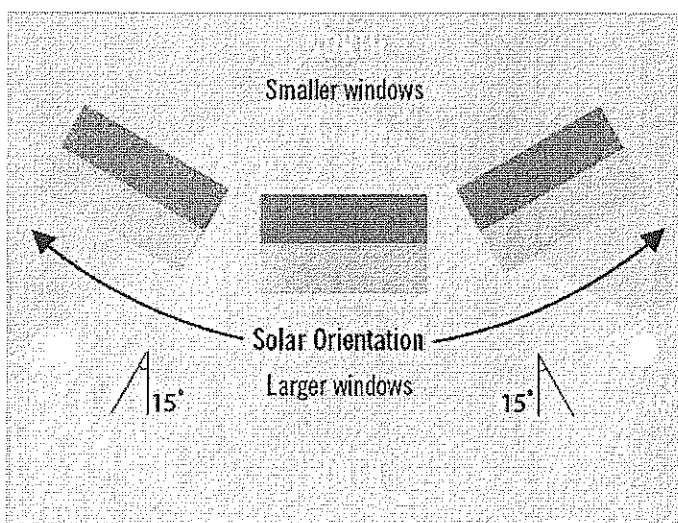
If maintained lawn areas are desired, these areas should be managed in a way to maximize soil and turf health. Lawn management should follow the guidance of the Maine Yardscaping partnership (<http://www.yardscaping.org/>).



Cascon Headquarters by Scott Simons Architects in Yarmouth, ME



This type of office building is discouraged in the modern PTPD. It is a poor reference to classical architectural forms and motifs which have little to do with the function of the building or contemporary architecture.



Proper solar orientation with the long side of the building facing south allows for solar gain in the winter months and opportunities for sun-shading on the south side in the summer.

BUILDING DESIGN STANDARDS

Building Massing and Form

The Master Plan envisions a series of one story and two story buildings developed along a curving roadway, as illustrated in the Site Plan, with natural, open space between them. All buildings should be oriented within 15 degrees of true south, to maximize their solar orientation. Rectangular footprints are encouraged, with the long sides of the rectangle facing south to maximize the opportunities for solar shading and passive solar heat gain.

Simple building forms of a contemporary style are envisioned, that sit calmly on their sites that will foster a cohesive setting for the campus. Natural colors and materials are encouraged as in the above example of the Cascon Headquarters which has a vernacular form with modern fenestration and details. It is a simple, strong volume with thoughtful detailing to control water, snow and sun. Tacked on architectural features used to mimic an architectural style such as the example to the left is discouraged. It is a poor reference to classical architectural forms and motifs which have little to do with the function of the building or to contemporary architecture.

Zoning Standards

Each building site shall meet the zoning requirements as identified within the Office Park Zone, Chapter 14 – Land Use, in the City of Portland City Code of Ordinance. Buildings shall not be greater than 55 feet in height; front yard (50'), side yard (25') and rear yard (50') setbacks between a building structure and the property line of the overall site parcel shall be maintained; pavement setbacks (15') between paved surfaces and the property line of the overall site parcel shall be maintained; a minimum number of parking spaces of 2.5/1,000 sf of building space shall be provided. The parking requirement may be waived upon review and approval by the planning authority if the building tenant can demonstrate that an alternate parking demand is anticipated for a particular building use. Reduction of paved parking areas is encouraged. See Parking Lots section of this document for further information.

BUILDING ENVELOPE

Exterior Siding

A wide variety of exterior siding materials is acceptable within the development. The goal of the Master Plan is to achieve an overall sense of continuity, quality, and durability, as well as innovation. The use of modern and "high tech" materials is encouraged, provided they are well designed and detailed. Exterior wall assemblies must meet or exceed the Maine Uniform Building and Energy Code.

Brick is a classic exterior building material in New England and can be used for the buildings in the PTP Development. Other masonry products in contrasting or non-contrasting colors or textures, such as precast concrete, granite, terra cotta tiles, etc. may also be used either in conjunction with brick or as the primary exterior material. Exposed concrete block and split faced concrete block is not allowed.

Metal (Alucabond, Alpolic or equivalent) and synthetic (Trespa or equivalent) wall Panels and fiber cement siding (Hardiplank, Cemplanck or equivalent) are acceptable for the exterior siding material, provided they meet the durability goals of the Development. These materials are frequently used as a "rain screen", which is encouraged in the Development. Corrugated metal panels (PacClad or equivalent) are also acceptable, provided they are used in a way that does not make the buildings appear to be "industrial". Metal trim, copings, fascias, etc. are acceptable, provided the character and colors are compatible with the exterior siding material(s) and in keeping with the intent of the Master Plan.

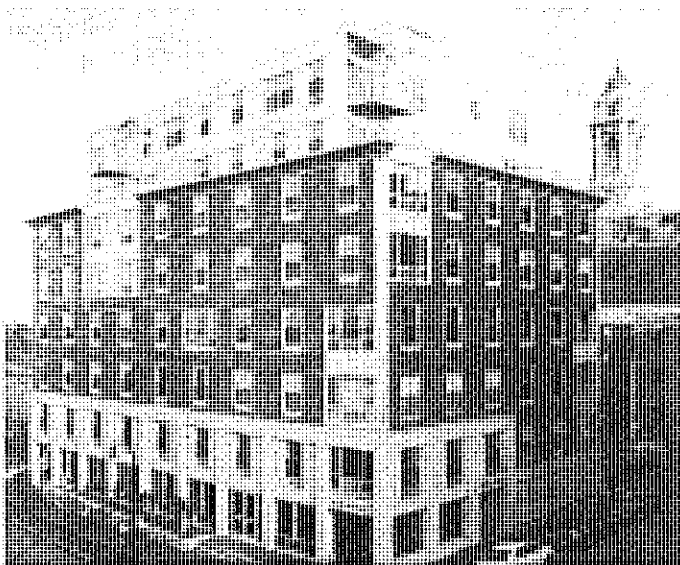
The use of wood siding is acceptable provided it is properly treated for long-term durability. The use of painted wood siding is discouraged, because of its maintenance requirements. Vinyl siding may not be used.

High performance glass "curtainwalls" and/or "storefront" systems can be used as an exterior siding material, provided they exceed the Maine Uniform Building and Energy Code by 10%.

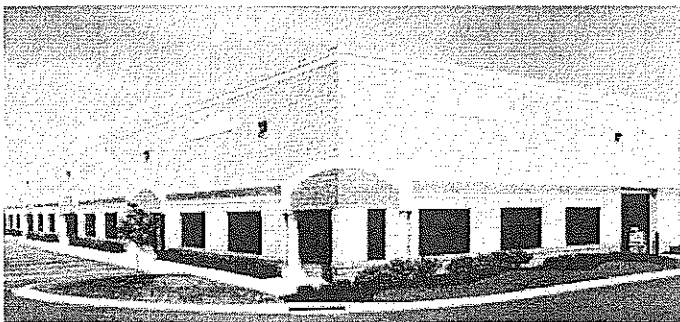
Windows

Minimum standards include double glazed high performance windows, with an all-window R-value which meets or exceeds the Energy Code (current code is 0.35 U-factor). High performance, double glass wall construction is encouraged, as are other innovative ways of using glass that achieve these performance goals.

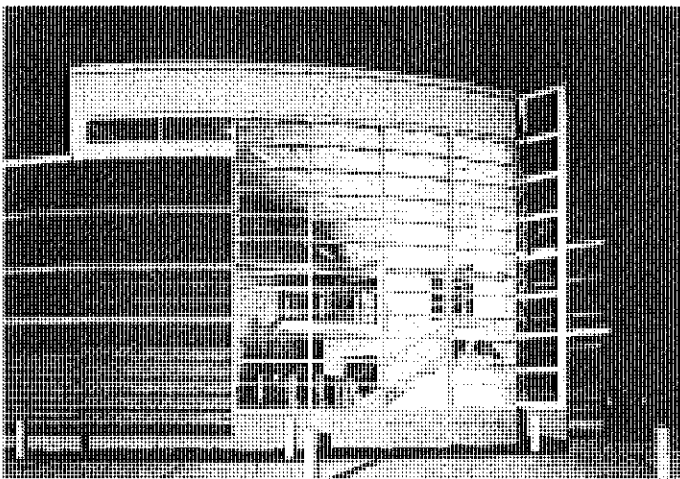
Exterior window finishes can be aluminum, fiberglass, natural wood (provided they have a durable finish), and painted steel. Window frames shall be thermally broken for increased R value. Solid vinyl windows are not allowed. Highly reflective or mirrored glass may not be used. Visible Light Transmittance is encouraged to be 72% or better.



The Chestnut Street Lofts in Portland by TFH Architects blends corrugated metal cladding with rich masonry for a high quality exterior envelope. Careful detailing is essential to make this successful. Note calm and cohesive color palette.



The use of split face CMU such as in this generic building is not allowed. Note lack of relationship to the local climate and built environment.



JSA Architects' entrance to the Maine Med building successfully attracts visitors to its entrance and allows you to experience the interior from the sidewalk. Patterning within the masonry and a blend of metal and glass give the modern entry distinction.



Natural wood siding can provide a great sense of warmth in combination with metal roofs, structure and sun shades. A dynamic and beautiful landscape grounds the building and enlivens the pedestrian edge.
-Cascon Headquarters in Yarmouth, ME by Scott Simons Architects

Horizontal sunshades or overhangs are recommended to cover 75% of the windows on the south exposure of the building. The exterior sun control devices should prevent direct sun penetration at noon during July and August. Vertical sunshades are encouraged on the west exposure to control solar heat gain during July and August. Properly designed shading devices will allow the sun to enter during the winter months and block the sun during the hottest months.

Entrances

Entrances must be visible from the street or entrance drive to the property. Covered entrances are required to provide a transition into the building from the rain, snow and wind. Roof canopies, roof projections, and/or recessed doors are encouraged; vestibules with inner and outer sets of doors are strongly recommended, to manage heat loss at the entrance. Walk-off mats or grills are recommended in the vestibule to reduce the amount of dirt and moisture brought into the building.

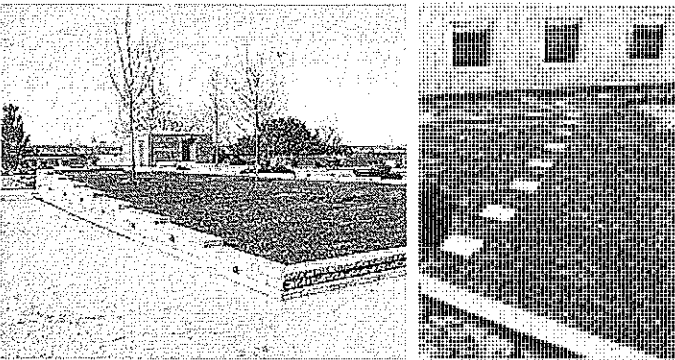
Roofs

Roofs may be sloped or flat. Flat roofs should be single ply membrane type with a minimum pitch of 1/4 inch per foot. Pitched roofs must be minimum 25 year, "architectural grade" fiberglass shingles, or a standing seam metal roof or another equally durable material which meets the design goals of the Development.

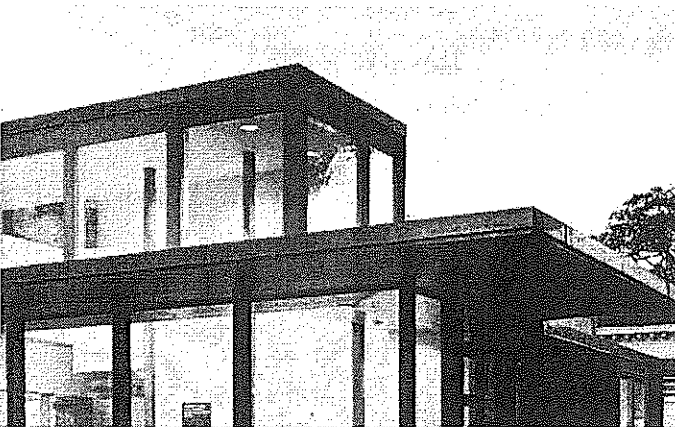
As a means to reduce the "heat island effect" and reduce cooling loads, roofing material is encouraged to have a Solar Reflective Index (SRI) of minimum 29 where the pitch is greater than 2:12. Where the roof is less than or equal to a 2:12 pitch, it is encouraged to be SRI 78 or better. "Green roofs" are encouraged, to help manage stormwater run-off from the roof and reduce "heat island effect".

Exterior Trim and Detailing

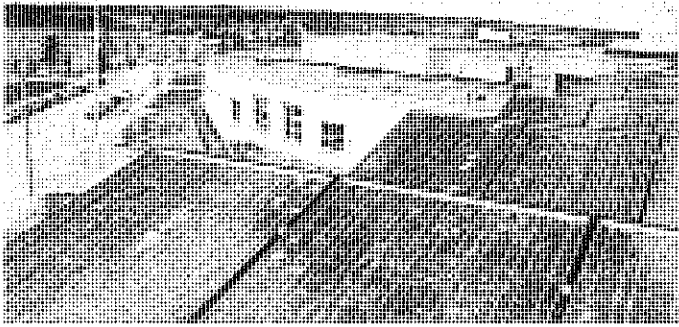
Exterior trim shall be designed to complement the exterior siding of the building. Masonry, metal, wood and synthetic materials may be used provided they are well detailed, durable, and appropriate for the development. Drip edges, copings, flashings, and other metal trim pieces associated with the roofs should be the same finish and color as the metal roofing material so as to appear as a cohesive element.



The Design Guidelines encourage green roofs such as these examples in Portland. Left: Bayside Apartment Building. Right: East End School by Stephen Blatt Architects.



Flashing and trim details should have clean lines and carefully articulated edges. -Waynflete School Arts Center by Scott Simons Architects.



Photovoltaics at Portland's East End School. -Stephen Blatt Architects

ENERGY & ENVIRONMENTAL STANDARDS

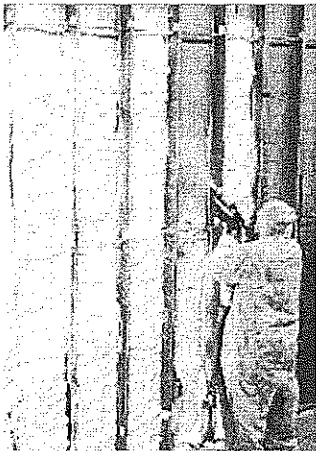
The goal for the Development is to encourage innovation, high quality, and high performance in all the buildings built in the PTP Campus. To achieve their energy objectives, the City has established a Green Building Code. They also encourage innovative proposals that will help make the campus a leader in sustainable development.

Building Materials

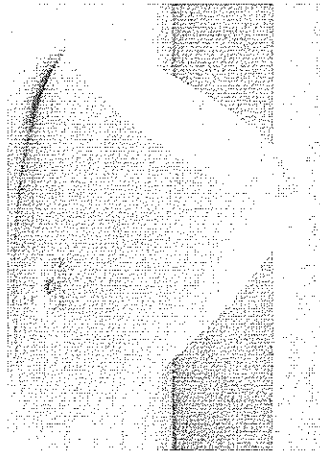
The use of environmentally friendly products in the design and construction of all buildings in the Development is encouraged. Building materials shall be selected to insure the use of products with the lowest environmental impact, wherever possible. Life cycle cost data, highest possible recycled material content, readily renewable resources (bamboo, wheat board, etc.), locally sourced materials, lowest VOC rating, highest energy efficiency, and other factors shall be analyzed in all recommendations for the selection of materials and systems for all buildings in the Development. Materials shall conform to the standards set forth in the Maine Uniform Building and Energy Code.

Exterior Envelope Thermal Performance

Wall and roof assemblies shall meet or exceed the Maine Uniform Building and Energy Code. It is recommended that roof assemblies be a minimum of R-49 (Code: R-38) and wall assemblies be R-30 (Code: R-21) or greater.



Spray foam insulation creates a tight thermal envelope with minimal air leakage.



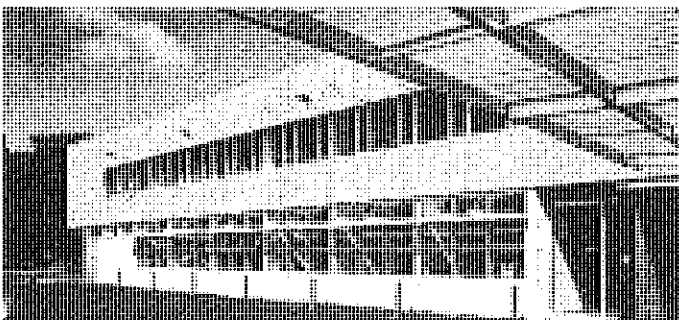
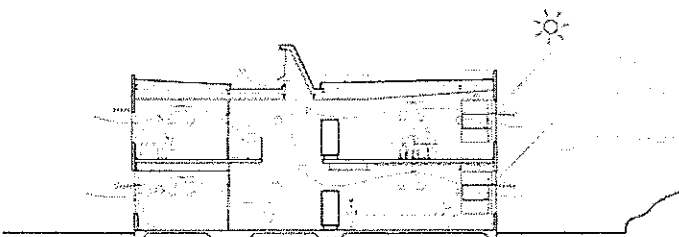
Waterless urinals significantly reduce water use.

Water Conservation

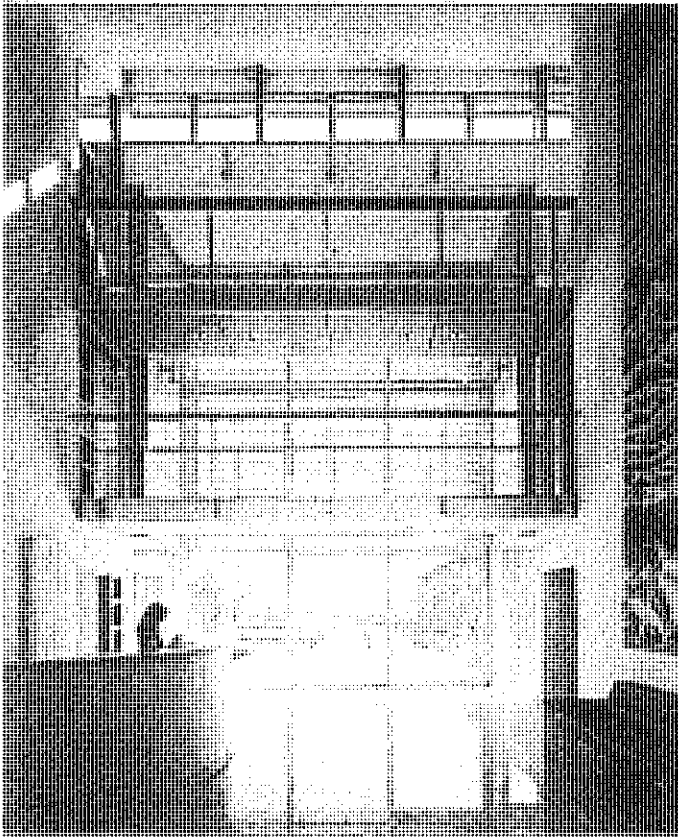
The use of dual flush toilets, ultra low flow or waterless urinals, motion sensors for all faucets, and other water saving features are recommended. The use of graywater and rain water harvesting for irrigation and toilet flushing is encouraged. This will reduce the long term utility costs to the owner and the impact on the public water and sewer systems.

Shading Devices and Ventilation

Solar shading devices are encouraged on a minimum of 75% of south facing windows. See section "Windows" on pages 11 and 12 for further requirements. Solar shading devices and operable windows allow views and natural ventilation while keeping the sun's heat at bay. Providing a way for built-up hot air to escape at the top of the building allows for a "stack effect" to occur, bringing in fresh air from the windows and allowing the heated air to flow upwards and out the vent or operable window. These techniques foster a healthy and comfortable work environment with minimal heating and cooling loads. See adjacent diagram and examples.



An office building example in Auckland, NZ by Architectus uses operable windows and solar shading devices to naturally control the indoor air quality.



*Appropriate natural daylighting significantly reduces the need for lighting and its associated energy consumption which lowers operational costs.
-Rare Headquarters in England by Feilden Clegg Bradley Studios*



Rooftop photovoltaics can offset the building's energy consumption and put energy back into the grid. -NASA Sustainability Base by McDonough + Partners

Lighting

Lighting electrical loads account for approximately 25% of the energy use of commercial buildings. Careful attention to reducing the watts/SF of development will go a long way towards reducing overall energy consumption. Appropriate use of natural daylighting and occupancy sensors can significantly reduce electrical loads.

The use of energy efficient LED and/or florescent light fixtures is highly recommended, not only to meet the State's energy code but to meet the goals of the PTP Campus.

Mechanical Systems

The mechanical systems shall be designed to minimize energy consumption and maximize human comfort throughout the range of operating conditions. While the most important part of energy conservation comes in a well insulated and tightly sealed building envelope, the design of the HVAC system is critical to meeting these goals and the City's Green Building Code.

Alternative Energy

Renewable energy use is encouraged as a means to decrease the use of fossil fuels and the release of harmful gasses and toxins into the environment. Many systems have a short pay-back time line and will significantly decrease the annual operating budget of the building. The use of photo-voltaic cell arrays to power the building is encouraged, both on the building and remotely located from the building as site constraints allow. The use of solar hot water roof panels is also encouraged, to generate hot water for use in the building. Rooftop mounted panels are acceptable.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN PRINCIPLES

Development proposals shall be designed incorporating Crime Prevention Through Environmental Design (CPTED) principles, as outlined in the City's Technical Manual. Development proposals shall create formal and informal natural surveillance networks on the site to increase on-site visibility and the safety of legitimate users and to deter potential offenders.

Physical Features

The placement and design of physical features shall maximize visibility to allow for surveillance opportunities to and from site features such as entrances and exits, walkways, assembly areas, corridors, stairways, windows, parking lots, landscaping, fences or walls, and any other physical attributes.

Lighting

The lighting of the site and building shall meet the lighting guidelines of this document, the City's technical standards for site lighting, and shall enable users to observe movement and activities on the site during the day and at night. Motion sensor activated lighting is permitted to provide adequate illumination of the site at night while still complying with applicable lighting curfew standards. Specifically, the lighting plan should satisfy the following criteria:

Create nighttime illumination of pedestrian travel paths and gathering areas, entrances and exits, and parking lots by achieving the following:

- Provide a clear view of an area from a distance and enable anyone moving in or immediately around it to be easily seen.
- Deny potential hiding spaces adjacent to existing and proposed pedestrian travel routes.
- Permit facial identification at a distance of at least 30' and create the perception of being identified.

Mechanical Surveillance Systems

If necessary, mechanical surveillance systems such as CCTV may be installed to monitor areas not easily observed such as parking lots and garages.

Access Management

Development proposals shall be designed to provide visible pathways and to offer proper guidance for legitimate users to access the site and to discourage unauthorized use of the site.

Orientation and Wayfinding

Development proposals shall be designed so that the layout, features and/or signage clearly guide the movement of vehicles and pedestrians along safe and predictable paths both during the daytime and nighttime. Specifically, the development proposals shall satisfy the following criteria:

- Placement of signage, lighting fixtures, landmarks, and landscape design features shall clearly guide users to and from the facility.
- Site features shall be designed to avoid the creation of entrapment zones that afford users no opportunity to escape or retreat from an approaching hazard.

Mechanical Access Control

If necessary, mechanical access control systems may be implemented such as assigning personnel at key building entry points or establishing other procedures such as mechanical auto closing devices, key cards, gates and other locking devices.

Territorial Reinforcement

Proposed developments shall be designed to clearly delineate private, semi-private, and public space.

EDWARD K. STRIMLING (MAYOR)
LINDA S. RAY (1)
STEPHEN R. THIBODEAU (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

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

*Order 176-15/16
Tab 15 3-7-16*

**ORDER REFERRING PESTICIDES ORDINANCE TO THE
SUSTAINABILITY AND ENERGY COMMITTEE**

ORDERED, that the City Council hereby refers the attached Pesticides Ordinance to the Sustainability and Energy Committee; and

BE IT FURTHER ORDERED, that the Sustainability and Energy Committee review the attached ordinance, as well as any other relevant materials regarding pesticides, vote and provide its final recommendation on this issue to the City Council.

Purpose

The purpose of this article is to safeguard the health and welfare of the residents of the City of South Portland and to conserve and protect the City's water and natural resources. South Portland strives to make organic pest management the primary management tool in our community so that synthetic pesticide use and its damaging effects on the health and welfare of residents and the environment are significantly curtailed.

Findings

WHEREAS, The State of Maine is one of only 7 states, and the District of Columbia, that uphold the rights of localities to restrict pesticides, and this should be seen as an opportunity to affect positive change;

WHEREAS, the EPA, the Committee on Environmental Health of the American Academy of Pediatrics, the National Academy of Sciences, and the 2010 President's Cancer Panel have all concluded that pesticide exposure is linked to reproductive disorders, birth defects, learning disabilities, neurological disease, endocrine disorders, and cancer;

WHEREAS, the EPA acknowledges, along with esteemed Mt. Sinai Children's Environmental Health Center, that children, with their developing bodies and brains, are especially vulnerable to the harmful effects of lawn and garden pesticides. Children's behavior (hand to mouth interactions, proximity to the ground, walking or running through lawns instead of paved sidewalks, especially where there are none), dispose children to far more contact with lawn pesticides than adults;

WHEREAS, pesticides are harmful to pets, wildlife including threatened and endangered species, soil microbiology, plants, and natural ecosystems;

WHEREAS, the City of South Portland has five streams designated by the Maine Department of Environmental Protection (MEDEP) as "urban impaired" for failing to meet state water quality standards primarily due to adverse impacts from surrounding development. All of these streams drain to Casco Bay, which is widely recognized as a natural asset of significant ecological and economic value. The Bay faces long-term threats from stormwater runoff and the use of pesticides has the potential to exacerbate these threats;

WHEREAS, the use of hazardous pesticides is not necessary to create and maintain green lawns and landscapes given the availability of viable non-toxic alternative practices and products;

WHEREAS, people have a right not to be involuntarily exposed to pesticides in the air, water or soil that inevitably result from chemical drift and contaminated runoff;

WHEREAS, recognizing that if an emergency public health situation warrants the use of pesticides, which would otherwise not be permitted under this ordinance, the Pest Management Advisory Committee shall have the authority to grant a temporary waiver on a case-by-case basis after an evaluation of all alternative methods and materials.

WHEREAS, numerous communities and municipalities are embracing a precautionary approach to the use of toxic pesticides in order to adequately protect people and the environment from pesticides' harmful effects.

Definitions

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

Commercial Agriculture: involves the production of crops for sale, crops intended for widespread distribution to wholesalers or retail outlets and any non-food crops.

Golf course: an area of land laid out for golf with a series of 9, 18 or more holes. Mini-golf courses are not considered golf courses.

Inert ingredient: Any substance (or group of structurally similar substances if designated by the Environmental Protection Agency), other than an active ingredient, which is intentionally included in a pesticide product, except as provided by EPA 40 CFR §174.3.

Invasive Species: An invasive plant is defined as a plant that is not native to a particular ecosystem, whose introduction does or is likely to cause economic or environmental harm or harm to human health. For purposes of this ordinance, invasive species include those listed by the Maine Bureau of Agriculture, Conservation and Forestry as currently invasive, potentially or probably invasive, and highly likely but not currently invasive.

Natural, organic or "Non-synthetic": A substance that is derived from mineral, plant, or animal matter and does not undergo a synthetic process as defined in section 6502(21) of the Organic Foods Production Act (7 U.S.C. 6502(21)).

Organic pest management: An extension of the principles and practices of organic agriculture to the care of turf and landscape.

Pests: are considered undesirable terrestrial or aquatic plants, insects, fungi, bacteria, viruses, nematodes, rodents, birds, animals, or other micro-organisms (except viruses, bacteria or other micro-organisms on or in living

persons or other living animals) declared to be a pest under federal or state laws.

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

Pest Management Advisory Committee (PMAC): shall act in an advisory capacity to develop and oversee the ordinance, and advise the City Manager or his/her designee of any problems encountered or amendments required to achieve the full and successful implementation of this article including granting waivers.

Synthetic: a substance that is formulated or manufactured by a chemical process or by a process that chemically changes a substance extracted from naturally occurring sources, except that such term shall not apply to substances created by naturally occurring biological processes.

Provisions

The following provisions shall be applicable to all turf, landscape and outdoor pest management activities conducted within the City of South Portland, on both public and private land.

(a) Permitted:

Use or application of natural, organic land care protocols.

All pest control products that can be used on Maine Organic Farmers and Gardeners Association Certified Farms, and/or products certified by the Organic Materials Review Institute and/or the Washington State Dept. of Agriculture and/or permitted by the USDA National Organic Program.

(b) Prohibited:

Use or application of synthetic pesticides on City-owned and private property, other than pesticides classified by the US Environmental Protection Agency as exempt materials under 40 CFR 152.25, and those products permitted by the Organic Materials Review Institute and/or the Washington State Dept. of Agriculture.

Exemptions

The following applications are exempt from the provisions of this ordinance:

- a. Commercial agriculture;
- b. Pet supplies such as shampoos and tick and flea treatments;
- c. Disinfectants, germicides, bactericides, and virucides;
- d. Insect repellents;
- e. Rat and rodent control supplies;
- f. Swimming pool supplies;
- g. Aerosol products;
- h. General use paints, stains and wood preservatives and sealants.

Prohibited pesticides may also be applied for the following purposes:

1. **Health and Safety** – Pesticides can be used to control plants that are poisonous to the touch, such as poison ivy; insects that bite, sting, are venomous or are disease carrying, like mosquitoes; and animals or insects that may cause damage to a structure, such as carpenter ants or termites.
2. **Golf course playing surfaces** – including tees, fairways, greens and roughs are conditionally exempt from this ordinance if the owner or operator of the golf course submits and makes public an annual management plan. The plan shall include: a map or plan of the golf course showing all application areas, all measures taken to minimize use of synthetic pesticides on playing surfaces and their exposure to humans and waterways to date, and how the use of pesticide ingredients will be minimized in the next calendar year. These plans must be made public by posting on the golf course's website and a copy provided to the Pest Management Advisory Committee. Non-playing areas associated with golf courses such as lawns, driveways, paths, patios, trees, shrubs, ornamental plantings and gardens are not exempt from this ordinance.

Waivers

In cases that threaten the public health and safety by creating a hazardous situation, and for the control of invasive species that pose a threat to the environment, individuals and/or companies may apply for a waiver from the provisions of this ordinance.

A waiver application is a public record, stating the proposed location(s) and timing(s) of use, substance(s) and amounts to be applied, the date(s) of application, and the reason for requesting use of a synthetic pesticide. The Pest Management Advisory Committee shall decide whether to issue a waiver, and for what duration.

The Pest Management Advisory Committee must find all three (3) of the following conditions to exist in order to approve a waiver for the application of a prohibited pesticide:

- (1) That natural and organic methods have proven unsuccessful;
- (2) The application of pesticides will not occur within two hundred and fifty (250) feet of a tributary, creek, stream, river, lake, or drainage ditch;
- (3) That the granting of the waiver will not result in material damage to other properties in the vicinity, nor be detrimental to the public health, safety or welfare;

Public Notifications and Signs

If prohibited pesticides are applied through an exemption or waiver, the following posting requirements are to be followed. These requirements are in addition to licensed applicators complying with the Maine Board of Pesticide Control rules regarding public notification:

1. Whenever pesticides are to be applied to any land subject to this ordinance, the responsible individuals and/or companies shall post warning signs that meet the requirements of this ordinance. These signs must be posted before application activities commence and left in place for at least 48 hours after actual application or until expiration of the restricted entry interval or reentry time indicated by the pesticide label, whichever is longer.
2. All signs shall be at least five inches high and four inches wide in size. Signs shall be attached to the upper portion of a dowel or other supporting device so that the bottom of the sign is not less than 12" and the top of the sign is not more than 48" above the ground. The signs shall be of rigid, weather resistant material substantial enough to be easily read for at least 48 hours when placed outdoors.
3. All notification signs must be light colored (white, beige, yellow or pink) with dark, bold letters (black, blue or green). They shall have lettering that is conspicuous and clearly legible.
4. The sign must bear the following state requirements:
 - a. The word "CAUTION" in 72 point type;
 - b. The words "PESTICIDE APPLICATION" in 30 point type or larger;
 - c. The Maine Board of Pesticides Control designated symbol;
 - d. Any reentry precautions from the pesticide labeling;
 - e. The name and telephone number of the entity making the pesticide application;
 - f. The date and time of the application;

- g. A date and/or time to remove the sign.
5. All notification signs shall state the chemical and trade name of the pesticide, the date to be applied, the length of time to remain off the treated area as indicated by the pesticide label, and a phone number of the responsible party for more information.

Reporting

In addition to complying with the Maine Board of Pesticide Control rules regarding record keeping and reporting requirements outlined in Chapter 50, all licensed applicators are required to submit to the City of South Portland an annual summary report. The report shall contain the following information for EACH application in the City of South Portland: date of application, street address, site and size of area treated, quantity and type of synthetic pesticide and diluents applied, EPA#, application method, total undiluted pesticide, and an explanation of any differences in pesticide use or quantity used from the previous annual report submitted.

Reports shall be submitted to the City Clerk's office by December 31 of each year.

Phase In

Phase One: Effective (Date - 1yr) Prohibits the use or application of pesticides on City-owned property, other than pesticides classified by the US Environmental Protection Agency as exempt materials under 40 CFR 152.25, and those products permitted by the Organic Materials Review Institute.

Phase Two: Effective (Date - 2yrs) Prohibits the use or application of pesticides on private property. It shall be illegal to apply pesticides on private property in the City, whether by the property owner or a tenant, service provider, or other agent. other than pesticides classified by the US Environmental Protection Agency as exempt materials under 40 CFR 152.25, and those products permitted by the Organic Materials Review Institute.

Phase Three: Effective (Date - 3yrs) Conduct an evaluation of this ordinance including a review of pilot project results and reporting data, and provide recommendations for any revisions deemed appropriate.

Outreach and Education

The City Manager or his/her designee shall publish notice of this ordinance and shall provide periodic notice to identified retailers and lawn, garden, and tree-care providers serving South Portland and to churches, schools, and other institutions in the City, upon adoption of this ordinance.

The Pest Management Advisory Committee shall prepare and publish materials designed to educate the community about the role of pesticides in our local environment and the benefits of organic pest management. This outreach should include:

- A. A community-based social marketing (CBSM) campaign targeting City households
- B. Distribution of information and news about City practices through South Portland internet and web-based resources
- C. SPC-TV public service announcements
- D. News releases and news events
- E. Tax and water bill inserts
- F. Posters and brochures made available at City events and applicable locations that serve the public
- G. Workshops, trainings, and demonstration projects
- H. Targeted outreach to schools
- I. Any additional methods deemed appropriate

The Pest Management Advisory Committee shall also develop a program to work directly with retailers who sell synthetic pesticides in the City of South Portland to:

- A. Provide educational training for all retail store employees who recommend and sell pesticides for use in the home and garden highlighting
 - (a) federal, state, and local pesticide regulations
 - (b) principles of organic pest management
 - (c) pesticide toxicity & health and environmental concerns
 - (d) proper pesticide display and storage
 - (e) the role of personal protective equipment, pesticide poisoning symptoms, and emergency procedures in case of spills
- B. Implement a toolkit consisting of educational materials and signage (i.e. posters, signs, stickers) that can be customized, printed, and placed in stores to help consumers understand the pesticide ordinance and alternatives to prohibited products/synthetic pesticides.

There are a variety of options for different levels of professional and municipal employee education and training based on the Northeast Organic Farming Association's (NOFA) *Standards for Organic Land Care*, which extends the principles of organic agriculture to land care practices:

- A. Accreditation through a three- to five-day course
- B. Certificate course online
- C. Trainings & webinars targeting organic management of turf and lawn

Authority

The South Portland City Manager or his/her designee shall oversee the implementation of the synthetic pesticide ordinance. A Pest Management Advisory Committee shall be created to act in an advisory capacity to oversee the ordinance through

- (1) Advising the City Manager or his/her designee of any problems encountered or amendments required to achieve the full and successful implementation of this ordinance.
- (2) Reviewing and granting waivers when applicable.
- (3) Developing and implementing outreach and education as specified in the ordinance.
- (4) Reviewing annual data and issuing a summary report annually.
- (5) Additional responsibilities as deemed necessary by the City.

The Pest Management Advisory Committee will seek the participation, advice and counsel of experts in the fields of organic turf and landscape management, maintenance of trees and shrubs, and organic pest protocol. Broad community participation, from parents, schools, advocates, and local arboriculture and landscaping businesses, will be encouraged. The committee will work closely with the City's Sustainability Office to develop and implement outreach and education.

The Pest Management Advisory Committee shall include:

1. City Stormwater Coordinator
2. City Parks & Recreation Superintendent or his/her designee
3. Two Maine Board of Pesticide Control-licensed landscape professionals; at least one having experience in organic land care management; appointed by the City Manager or his/her designee.
4. Two resident or taxpayer representatives, at-large; appointed by the City Council.

The Pest Management Advisory Committee shall meet regularly and waivers shall be reviewed at scheduled committee meetings. Waiver applications must be submitted at least two (2) weeks before a scheduled meeting date in order to be reviewed. Minutes shall be kept of all meetings with a copy filed with the City Clerk. An annual report of the data submitted by all licensed applicators and a review of the committee's activities shall be submitted to the City Council in March of each year.

Fines and Enforcement

Any law enforcement or Code Enforcement Officer may issue a municipal complaint ticket or citation for offenses of this section.

- A. A first offense of any provision of this ordinance shall warrant a letter of warning.
- B. A second offense shall be punishable by a fine of two hundred dollars (\$200.00).
- C. The third offense shall be punishable by a fine of five hundred dollars (\$500.00).

D. Any subsequent offense shall be punishable by a fine of one thousand dollars (\$1,000).

City Council Workshop

Agenda Item #2

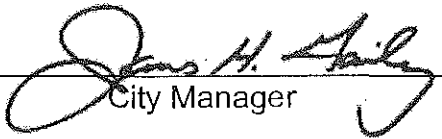
February 29, 2016

Pesticides Ordinance

At the June 8, 2015 workshop, the Council heard a presentation put together by Protect South Portland around the use of pesticides. Protect South Portland was joined by Jay Feldman, from Beyond Pesticides in Washington DC; Chip Osborne, of Osborne Organics LLC in Marblehead, MA; and Mary Cerullo, Associate Director, of the Friends of Casco Bay. Each talked about the harmful effects of pesticide use and the negative impacts to the environment. Alternative methods were presented as a means of providing another way for lawn care/vegetation maintenance.

The City Council voiced support for pursuing a pesticide ordinance and various types of ordinances were presented and discussed at the July 13, 2015 workshop. A pesticide ordinance committee consisting of Sustainability Coordinator Julie Rosenbach, Parks, Recreation & Waterfront Acting Director Sarah Neuts and Stormwater Program Coordinator Fred Dillon was created and proposed ordinance language was developed (attached), which will be discussed at next Monday's workshop.

Included is a memorandum from Julie Rosenbach which includes an outline of the process taken to develop the ordinance. The committee members will be at Monday's meeting to answer any questions.


City Manager



**SUSTAINABILITY
OFFICE**

JULIE A. ROSENBACH
Sustainability Coordinator

To: James H. Gailey, City Manager
From: Julie Rosenbach, South Portland Sustainability Coordinator
CC: Fred Dillon, South Portland Stormwater Program Coordinator
Sarah Neuts, Acting Director, Parks, Recreation & Waterfront
Date: February 22, 2016
Subject: **Draft Ordinance to Ban the use of Pesticides**

Following a City Council Workshop this past summer on organic landscaping and lawn care practices (June 8, 2015) and subsequent workshop to review different types of pesticide ordinances (July 13, 2015), the City Council directed staff to develop an ordinance that greatly reduces and potentially eliminates the use of synthetic pesticides throughout most of the City.

Over the next six months, the designated staff draft pesticide ordinance committee (consisting of myself, Sarah Neuts, Parks Department Superintendent and Fred Dillon, Stormwater Program Coordinator) reviewed numerous documents and conducted several interviews with groups and individuals including policy makers, practitioners, local advocates and industry representatives to develop a draft ordinance. **The attached memo summarizes our process and key considerations for the Council.**

The draft ordinance, completed in January 2016, represents an earnest attempt by staff to balance public health and environmental protection with aesthetic expectations for public and private landscape management.

To summarize, we focused on drafting an ordinance that is bold but realistic.

We relied on the precautionary principle to guide our efforts, acknowledging that while the science regarding risks associated with synthetic pesticides is not settled, there are enough studies linking these products to reproductive disorders, birth defects, learning disabilities, neurological disease, endocrine disorders, and cancer to warrant a ban with minimal exemptions.

At the same time, we recognize there may be situations we have not and cannot anticipate so we included a waiver process in the ordinance and designed it to be a living document that is revisited in year 3 and adjusted as needed.



*SUSTAINABILITY
OFFICE*

JULIE A. ROSENBACH
Sustainability Coordinator

We included a long implementation period to allow sufficient time for a successful transition in our thinking and practices. It is also important to note that during the transition phase lawn and turf conditions may appear to get worse before they get better because it takes time to (re)build a healthy and resilient ecosystem which is not dependent on synthetic chemicals.

Recognizing that any meaningful reduction of synthetic pesticides will depend on the cooperation of residents and local businesses, we included a robust education and outreach section. Because the ordinance will involve a culture change as much as a policy change, we believe the strong education and outreach section balances the challenges inherent to enforcement.

The overarching goal of the ordinance is to reduce toxics in our community by reducing the use of synthetic pesticides and promoting a transition to organic land care practices. The Council's review of the ordinance and subsequent public input may provide further refinement, which staff are ready to incorporate.

Lastly, as you may know a bill (LD 1543) was introduced at the state level which would require municipalities to create a "municipal reviewing authority that is similar to the Board of Pesticides Control" in order to pass any type of local ordinance. The Maine Municipal Association (MMA) voted to oppose this bill at their last meeting, and Maine's Environmental Priorities Coalition has made it one of their four priority bills. The bill was assigned to the State and Local Government Committee but then tabled pending review, where it has remained. The bill is expected to remain tabled this session.

Respectfully,

A handwritten signature in dark ink, appearing to read "Julie Rosenbach".

Julie Rosenbach
Sustainability Coordinator

South Portland Draft Pesticide Ordinance Process & Key Considerations

BACKGROUND

In early June of 2015, the nonprofit group Protect South Portland sponsored a presentation to the City Council by proponents for organic landscaping and lawn care practices. The goal of this initiative was to encourage the Council to consider establishing an ordinance that greatly restricts or eliminates the use of synthetic pesticides and fertilizers throughout most of the City in recognition of growing concerns about adverse impacts from the use of these materials on public health and the environment.

The Council held a subsequent meeting in July 2015 to allow for public comment. The majority of speakers favored the creation of an ordinance that would ban the use of synthetic pesticides in most cases. Individuals who expressed reservations with a pesticide ban generally represented commercial landscaping and lawn care interests and favored an Integrated Pest Management (IPM)¹ approach rather than an outright ban of synthetic pesticides. All of the Councilors supported the creation of an ordinance to regulate synthetic pesticide use with some strongly preferring an outright ban and others favoring a more moderate approach. Following extensive coverage in local newspapers, the City Manager subsequently received more balanced comments for and against a ban on synthetic pesticides.

Shortly after the July 2015 Council meeting, an intern for the City Manager developed an initial draft pesticide ordinance based on several similar documents developed by communities throughout the State and elsewhere in the country. The City Manager then appointed a committee consisting of the Sustainability Coordinator, the Parks & Recreation Department Superintendent and the Stormwater Program Coordinator to further develop and refine the draft ordinance based on more in-depth research.

Staff reviewed numerous documents and conducted several interviews with groups and individuals including policy makers, practitioners, local advocates and industry representatives to finalize the draft ordinance. The discussion below summarizes the rationale and most significant findings for the final draft document that the Council will consider in early 2016.

INTRODUCTION

Given the Council's consensus that synthetic pesticide use in South Portland should either be restricted or eliminated, staff relied on the ***precautionary principle*** to guide their efforts

¹ Integrated Pest Management consists of practices that emphasize quality production and health while minimizing reliance on pesticides.

in developing the draft ordinance. The precautionary principle acknowledges that while there may be conflicting scientific claims about the relative risks associated the use of potentially harmful products, erring on the side of caution by reducing the use of these products is justified to protect public health and the environment – particularly when the costs to do so are not excessive. Staff considered the four central tenets of the precautionary principle² when drafting the ordinance:

- Taking preventative action in the face of uncertainty
- Shifting the burden of proof to the proponents of an activity
- Exploring a wide range of alternatives to possibly harmful actions
- Increasing public participation in decision making

Even though monitoring for synthetic pesticides in South Portland has been limited, there is evidence that these chemicals are a potential cause for concern. There is also an increasing body of research both nationally and globally that synthetic pesticides are having detrimental effects on human health and the environment.

The draft ordinance addresses these concerns by greatly restricting synthetic pesticide use and promoting organic landscaping and lawn care practices to prevent pest problems. The ordinance also stresses the importance of education and outreach in recognition that any meaningful reduction of potentially harmful chemical use depends on the cooperation of residents and local businesses.

Thus, the overarching goal of the ordinance is to reduce toxics in our community by reducing the use of synthetic pesticides and promoting a transition to organic land care practices. In so doing, the ordinance will protect people, pets and the environment.

PROCESS FOR DEVELOPING DRAFT ORDINANCE

In the process of developing South Portland's draft ordinance, staff reviewed a wide variety of information sources including (but not limited to):

- ***Academic research studies and summaries:*** policy implementation evaluation of Toronto's municipal bylaw; study on state regulations, organic lawn management, and nutrient accumulation in soils; journal article on the precautionary principle and its applications; and Rutgers University paper on the management of turf grass using 'low-impact' pesticides.
- ***Local, state and federal regulations and guidance documents:*** Maine Board of Pesticide Control; Environmental Protection Agency; Canada Ministry of Environment; European Union; Washington State Dept. of Agriculture; and several municipal ordinances.

² *The Precautionary Principle in Environmental Science* (Sept. 2001 Environmental Health Perspectives)

- ***Non-governmental organization interviews and reference documents:*** Beyond Pesticides; Friends of Casco Bay; Casco Bay Estuary Partnership; Maine Organic Farmers and Gardeners Association; and the Northeast Organic Farming Association.
- ***Interviews with local and state governmental officials:*** Takoma Park MD; Ogunquit ME; and the Cumberland County Soil and Water Conservation District.
- ***Interviews with private landscaping contractors:*** Ornamental Horticulture Council; Maine Landscape and Nursery Association; Down East Turf; Lucas Tree; Sable Oaks Golf Course; Scotts Lawn Care; Broadway Gardens; Osborne Organics; and Go Green Landscaping.

This in-depth process included detailed discussions by staff about which provisions to include in the draft ordinance. From mid-July until late December, staff met on a weekly (and occasionally biweekly) basis to carefully consider all elements in the draft ordinance. The most substantive discussion topics and resulting decisions – all of which were reached by consensus – are summarized below.

Fertilizers: after extensive research and careful consideration, staff decided that developing a comprehensive management strategy to protect water resources from nutrient runoff (esp. nitrogen) should be addressed through a separate stand-alone ordinance. Virtually all municipalities with fertilizer ordinances have also adopted this approach. Given the increasing concerns about adverse impacts from excessive nitrogen inputs to Casco Bay, staff believe that developing a draft fertilizer ordinance would be a significant next step.

Provisions: Following the National Organic Program, the provisions of the ordinance are centered around natural and organic practices. In general, synthetic pesticides are prohibited unless specifically permitted and organic products are permitted unless specifically prohibited. It is also important to emphasize that "organic" is not synonymous with safe. There are risks associated the misuse and overuse of organic pesticides that can also result in adverse impacts to human health and the environment, although the risks are generally considered to be lower than those associated with synthetics.

Exemptions and Waivers: While the goal of the ordinance is to make organic pest management the primary management tool in our community, staff recognize that exemptions are necessary to ensure a successful transition. South Portland's draft ordinance allows for two exemption areas – which is less than most other municipal ordinances.

- Public Health and Safety Protection: there may be potential situations requiring the use of synthetic pesticides because there are currently no comparable organic alternatives available. The protection of public health and safety are paramount and

there are numerous circumstances that potentially qualify for an exemption as described in the ordinance.

- Golf Courses: there are currently few (if any) examples of golf courses that are being managed successfully without some synthetic pesticide use. Consequently, golf course playing surfaces have also been exempted until organic turf management practices become better established and proven. The City may want to consider creating a pilot program to test various organic practices at the municipal course prior to requiring these practices on a more widespread basis.

Waiver applications will be required for situations involving the protection of public health and safety. A Pesticide Management Advisory Committee (PMAC) will review these applications to ensure that the waiver requests are justified based on a lack of viable alternatives. The PMAC must find that three conditions exist prior to granting and/or approving a waiver; these conditions align with Shoreland Overlay Districts (article XIII) standards in our zoning ordinance.

Staff decided against exempting athletic playing fields primarily because of the higher likelihood that young athletes could come into direct contact with pesticides. Additionally, there are several examples in other communities where these areas are being managed successfully using organic pest management practices. There may also be grant funds available to assist the City in implementing these practices for our fields.

Public Notification: For instances when synthetic pesticides are allowed (through the waiver review process), the ordinance includes a detailed notification section that applies to both licensed applicators and private citizens. Staff believe this is an important provision because the public has a right to know when and where these chemicals are being applied.

Reporting: Even though the ordinance should greatly reduce synthetic pesticide use and potential exemptions will (hopefully) be few and infrequent, a reporting requirement is included to provide ongoing tracking data for the use of these chemicals. The City's Parks & Recreation Department already maintains detailed records for when, where, how much and what kind of synthetic pesticides are used on City properties. The ordinance will require landscaping contractors to annually report with the same level of detail for private properties.³ Staff also discussed requiring individual residents to provide synthetic pesticide usage data but recognized this would likely create an undue administrative burden.

Phasing: The phasing section allows for a transition period and begins with public properties to demonstrate the City's commitment to leading by example. There is a one

³ Landscaping contractors we met with stated that they already keep this data so it would not be overly burdensome to report it.

year lag period so municipal departments can test new practices and products. Phase 2 applies to all private property and begins after two years. Golf courses were initially considered for a third phase but there are currently not enough proven organic management practices to ensure that course playing surfaces could be maintained adequately. Consequently, emphasis was placed on data collection and management practices to inform future provisions. Since the ordinance is intended to be a living document, Phase 3 instead focuses on evaluating the effectiveness of the pesticide regulations and revising them as needed based on the condition of public land, community feedback, new information and emerging science.

Outreach and Education: Education alone has not proven successful in reducing the use of synthetic pesticides. According to the Maine Board of Pesticide Control, the use of pesticides for residential land care has increased nearly sevenfold over the past twenty years. However, other municipalities have demonstrated that ordinances combining education with enforcement can be successful tools for setting new community standards.

Because the ordinance will be a culture change as much as a policy change, staff believe a strong outreach and education section balances the challenges inherent to enforcement. The behavior change approach outlined in the ordinance targets different segments of the population through diverse means and includes education for and through retailers. This provision in particular targets private citizens who are the least likely to have any knowledge or training about the hazards associated with synthetic pesticide use.

Staff also considered including provisions to require training and certification on organic land care for landscaping contractors but decided against it given that state law already requires all applicators of synthetic pesticides to be certified. However, the City may want to consider lobbying the Maine Board of Pesticides Control to establish an Organic Pest Management (OPM) certification program.

Authority: The Pesticide Management Advisory Committee (PMAC) has a lofty charge. The committee's success will depend largely on the effectiveness of their outreach and education strategy, which will require funding to develop and implement.

CONCLUSION

Following the public meetings earlier this year, the City Council directed the Manager to establish an ordinance that greatly reduces and potentially eliminates the use of synthetic pesticides throughout most of the City. The draft ordinance completed in January 2016 represents an earnest attempt by staff to balance public health and environmental protection with aesthetic expectations for public and private landscape management. The Council's review of this document and subsequent public input will allow further refinement to create an ordinance that best reflects the overall intent and interests of the community.

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

*Order 177-15/16
Feb 16 3-7-16*

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

**ORDER APPROVING THE COLLECTIVE BARGAINING AGREEMENT WITH
LOCAL 740, INTERNATIONAL ASSOCIATION OF FIREFIGHTERS**

ORDERED, that the attached Collective Bargaining Agreement with the IAFF Local 740
(Firefighters) is hereby approved.

BE IT FURTHER ORDERED, that the City Council hereby authorizes the City Manager or his or
her designee to execute said Agreement and any other related documents
necessary or convenient to carry out the intent of said Agreement.

CITY OF PORTLAND, MAINE
Memorandum

TO: Mayor Strimling and Members of the City Council
FROM: Thomas A. Caiazzo, Labor Relations Manager
DATE: February 19, 2016
RE: Order -- First Reading of Local 740, International Association of Firefighters Contract

Staff has reached a tentative agreement with the Local 740, International Association of Firefighters on a successor four (4) year contract. The prior contract expired on December 31, 2013. Local 740 has ratified the tentative agreement and the Administration will seek your support for the agreement on March 7, 2016. The tentative agreement is within guidance received from the Council. This order will require a second reading.

This memorandum reflects the substantive changes to the expired collective bargaining agreement. The cost summary for the tentative agreement is also included as an attachment.

Article 9 – Transfers

The new language reaffirms the Fire Chiefs Authority to set position qualifications for any and all assignments in the department, limits position bids to once annually (prior to vacation picks), and establishes the expectation that regular rotations will occur between fire apparatus and EMS transport units so that skill sets are maintained.

Article 10.2 – Medical Insurance

The new language moves the City from the current plan design to a new Value Based Insurance Design (VBID) plan. Included with the plan is a comprehensive Wellness Program and a Reserve Account where the City and its employees share in cost savings or overruns if and when they occur.

Article 11 – Pensions

The language revisions clarify how and under what authority rates are established by the Maine PERS Board of Trustees for those employees and employers who contribute to such plans.

Article 13 – Clothing and Equipment

The clothing allowance limits were increased to \$300.00 annually and a max of \$500.00 over any two (2) year period. The limit was also increased from \$70.00 to \$100.00 for repair or replacement of personal items worn or carried by the employee and destroyed or damaged in the performance of their duties.

Article 22 – Vacations

In lieu of taking one week of entitled time off for vacation, any employee earning three (3) weeks or more of vacation will have the option of cashing out one (1) week of vacation for pay.

Article 24 – Overtime

New language changes the way overtime is paid. First it establishes a new rate for shift employees that is 1/42 of the weekly salary as opposed to 1/40. Second, new language states that the first 12 hours of voluntary overtime, over and above the normal weekly shift will be paid as straight time.

Article 25 - Salaries

Base Wages

1% increase, effective January 5, 2014, retroactive
1.5% increase, effective July 6, 2014, retroactive
1.5% increase, effective January 4, 2015, retroactive
1.5% increase, effective July 5, 2015, retroactive
1.5% increase, effective January 3, 2016
1% increase, effective July 3, 2016
Effective January 1, 2017 COLA equivalent to the highest bargained COLA for FY 17

Restructure Captain and Lieutenant pay scales by eliminating the bottom step of the pay scale, maxing out pay after four (4) years instead of five (5).

Implement new educational stipends as follows:

Associates Degree	\$.24/hour
Bachelors Degree	\$.36/hour
Masters Degree	\$.48/hour

Article 34 – Training

Clarifies that training instructors who instruct during normal work hours will receive straight time pay unless required to instruct during off-duty hours.

Article 37 – Non Cross Trained Paramedic Index

This Article is eliminated as the Department only has cross trained paramedics.

Article 38 – Term

The new contract term is January 1, 2014, through December 31, 2017.

Attachment

CC: Jon Jennings, City Manager,
Anita LaChance, Deputy City Manager
David Jackson, Fire Chief
Danielle West-Chuhta, Corporation Counsel
Gina Tapp, Director of Human Resources
Brendan O'Connell, Finance Director
Jennifer Thompson, Assoc. Corp. Counsel
Carlene Kessler, PAO, Human Resources
Benjamin Bettez, PFO, Fire
Jennifer Lodge, Budget Analyst
Lori Schools, Financial Specialist
Scott Thomes, Assistant Fire Chief
Keith Gautreau, Assistant Fire Chief

Firefighter's Tentative Agreement

ITEM	BASE COST	YEAR 1 1/1/2014	% INCR	YEAR 2 1/1/2015	% INCR	YEAR 3 1/1/2016	% INCR	NOTES:
Base Wages	10,885,010	190,490	1.8%	330,840	3.0%	311,190	2.7%	
Education Stipend	-					63,690		
Specialty Pay	249,550							
Sub-Total Wages	11,134,560	190,490	1.7%	330,840	2.9%	374,880	3.2%	
Overtime	1,300,000	22,750	1.8%	38,640	2.9%	(270,770)	-19.9%	Eff Contract Execution OT Rate Calc based on 42 hr std week and first 12 hrs OT at Straight time *
Clothing Allowance	56,250	11,250	20.0%	-	0.0%	-	0.0%	
Total Direct Costs	12,490,810	224,490	1.8%	369,480	2.9%	104,110	0.8%	
Health Insurance	2,095,520	209,550	10.0%	230,510	10.0%	253,560	10.0%	Inflationary increase only, plan design changes eff. 1/1/17 **
Group Life	55,670	950	1.7%	1,650	2.9%	1,870	3.2%	Based on increase in total wages
Pension	932,590	66,590	7.1%	81,250	8.1%	34,750	3.2%	Based on increase in total wages & MePERS increase in employer contribution rate.
Workers' Compensation	487,440	8,340	1.7%	14,480	2.9%	16,410	3.2%	Based on increase in total wages
Total Indirect Costs	3,571,220	285,430	8.0%	327,890	8.5%	306,589	7.3%	
Total	16,062,030	509,920	3.2%	697,370	4.2%	410,699	2.4%	

* Annualized savings estimated at \$350,000

** Health plan changes are projected to yield \$112,000 net savings (7% less 3% cost for wellness initiative)

Order 178-15/16
Tab 17 3-7-16

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

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

**ORDER APPROVING THREE-PARTY AGREEMENT
BETWEEN THE CITY OF PORTLAND, THE MAINE DEPARTMENT OF
TRANSPORTATION AND PORTLAND AREA COMPREHENSIVE
TRANSPORTATION SYSTEM
RE: DANFORTH STREET**

ORDERED, that the City Manager is authorized to enter into the three-party partnership agreement between the City of Portland, the Maine Department of Transportation and the Portland Area Comprehensive Transportation System, in substantially the form attached, for work on Danforth Street:

- PSN 65828: Danforth Shim and 3/4-inch Overlay Portland; and

BE IT FURTHER ORDERED, that the City Manager is hereby authorized to sign the three-party agreement and any other documents necessary to effect the purpose of this order.

MEMORANDUM
City Council Agenda Item

DISTRIBUTE TO: Jon Jennings, City Manager, Ethan Strimling, Mayor, Anita LaChance, Sonia Bean, Danielle West-Chuhta, Nancy English, Julianne Sullivan, Brendan O'Connell

FROM: Katherine Earley, PE, Engineering Manager/City Engineer
Bob Leeman, Interim Director of Public Works

DATE: February 19, 2016

SUBJECT: Three-Party Agreement – Danforth St Paving

SPONSOR: Jon Jennings, City Manager
(If sponsored by a Council committee, include the date the committee met, the results of the vote, and the meeting minutes.

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st reading__ March 7, 2016____ **Final Action**__ March 21, 2016__

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

Timely action is required as this agreement will be followed by a two-party agreement requiring action in April. Each agreement is necessary for the Danforth St paving project to be accomplished in 2016.

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

I. ONE SENTENCE SUMMARY

City Council is asked to provide the City Manager with authorization to enter into a three-party agreement with PACTS and MaineDOT for the purpose of paving Danforth St (York to High) in 2016.

II. AGENDA DESCRIPTION

The Department of Public Works requests authorization for the City Manager to enter into a three-party agreement with PACTS and MaineDOT for the purpose of paving Danforth St (York to High) in 2016. The pending agreement outlines roles and financial responsibilities, including a 25% Local Share requirement of \$62,103.25. This agreement covers the design phase of the project; the construction phase will require a two-party agreement with MaineDOT which is expected in April 2016.

The total value of this paving project is estimated at \$248,413, and for cost efficiencies the work will be added to the existing Commercial and Franklin Streets paving contract being administered by MaineDOT.

In addition to the City's 25% Local Share, the City is obligated to 100% of any cost associated with sewer and stormwater system repairs and elevation adjustments; this cost is estimated at \$14,000. Also, the Department is proposing to improve the intersection of Danforth and York St by replacing the signal control with a stop sign control for Danforth St and altering the street alignment to shorten the pedestrian crossing distance. This action will have ancillary benefits to the intersection known as "Gorham's Corner" (York, Pleasant, Center, and Fore Streets) due to the removal of a this signal phase. We have estimated this cost at roughly \$24,000.

Each of these Local costs is included in the FY17 CIP request; \$14,000 in the Sewer Fund and \$86,000 in the General Fund.

III. BACKGROUND

This paving project was awarded to Portland in 2014 as part of the PACTS 16/18 TIP Collector Paving program. MaineDOT is administering the shim and overlay project and plans to add this work to their existing contract with Glidden Excavation, who is performing the Commercial and Franklin St MaineDOT Arterial paving program project. The City previously committed to this project by virtue of a "Project Identification Form" processed in late 2015 (attached).

IV. INTENDED RESULT AND OR COUNCIL GOAL ADDRESSED

This pavement preservation project advances the City's goals of maintaining a viable transportation network, and the intersection improvement will reduce energy consumption by eliminating a traffic signal in addition to improving the pedestrian network in this area.

V. FINANCIAL IMPACT

The Local costs associated with this project total \$100,000 and include:

- 25% Local Share estimated as \$62,103.25
- 100% sewer/stormwater system costs estimated as \$14,000
- 100% intersection improvement costs estimated at roughly \$24,000

VI. STAFF ANALYSIS AND BACKGROUND THAT WILL NOT APPEAR IN THE AGENDA DESCRIPTION

As this paving project has progressed from the 2014 award stage to now, there have been significant changes to the timeline. Initially the project was not due to be constructed until 2018, but then became scheduled for 2016. Staff monitored this scheduling activity and consulted with a specific development applicant (JB Brown) affected by the resulting three-year moratorium on street excavation. Consensus was reached on viability and we are now proceeding with procedural steps necessary for MaineDOT to achieve this project cost-effectively in 2016.

The City's sewer/stormwater utility work necessary as paving occurs and the intersection improvements features requested by the City requires documentation & design by City staff; we are operating under an established deadline for submittal by March 25, 2016.

The FY17 CIP request for this project has received the highest Dept. of Public Works priority due to the leveraged value and previous commitments to the project.

VII. RECOMMENDATION

The Department of Public Works strongly recommends proceeding with this agreement to ensure that Danforth St receives pavement preservation in 2016 at a 75% leveraged value.

VIII. LIST ATTACHMENTS

- Three-Party agreement for PSN #65828: Danforth Street Shim & ¾" Overlay
- Project Identification Form signed in 2015
- FY17 CIP database entry for Local costs
- Sketch of intersection improvement proposal

Prepared by: Katherine Earley, PE, Engineering Manager/City Engineer

Date: February 19, 2016

Bean/agendarequestmemo/rev 11/2015



**MAINE DEPARTMENT OF TRANSPORTATION
THREE-PARTY PARTNERSHIP AGREEMENT
PSN 65828: Danforth Street Shim & 3/4" Overlay
Portland**

Internal Use Only	
CT#:	_____
CSN:	_____
TEDOCS #:	_____
PROGRAM:	_____

This agreement ("**Agreement**") is entered into by the State of Maine Department of Transportation ("**MaineDOT**"), the Municipality of Portland (the "**Municipality**"), and the Portland Area Comprehensive Transportation System (PACTS), the designated Metropolitan Planning Organization for the Portland Area Urbanized Area ("**MPO**"), jointly hereinafter referred to as the "**Parties**".

Whereas, the project that is the subject of this Agreement consists of Danforth Street Shim and 3/4" Overlay from York Street to High Street (hereafter referred to as the "**Project**"); and

Whereas, the MPO has programmed the Project for inclusion in the MaineDOT Annual Capital Work Plan for 2016-2018, using Federal and State capital improvement funding allocated by MaineDOT; and

Whereas, the Municipality supports the decision by the MPO to program the Project; and

Whereas, the Parties have a mutual interest in ensuring that the Project is delivered on a reasonable schedule and within the budget programmed, using a process that maximizes communication and cooperation; and

Whereas, the MPO cannot commit federal transportation funding without a formal adoption of a Transportation Improvement Program ("**TIP**") or TIP amendment including all required public involvement processes, this Agreement does not constitute a commitment of federal funding under Title 23 Part 630.

Whereas, the purpose of this Agreement is to identify the Parties' individual responsibilities during the design, permitting and right-of-way phases of the Project through completion of final Plans, Specifications and Estimate ("**PS&E**"), and to identify the intended financial allocations between the Parties through all phases of the Project if and when the parties formally approve and commit financial resources for the Project.

Whereas, following the preparation of the project PS&E, a separate Municipal/State Agreement will be executed by MaineDOT and the Municipality.

NOW THEREFORE, in consideration of the forgoing, the Parties hereby establish and agree to the following terms and conditions:

1. The total estimated cost of the Project through all phases is \$248,413 (the "Project Estimate"), and the Parties agree to allocate the associated costs of each phase as outlined in this section:

Work Phase	MPO (Federal) Maximum Share	MPO (State) Share	Municipal Share		Total Estimated Cost
			Amount	%	
Preliminary Engineering	\$7,452.39	\$0.00	\$2,484.13	25%	\$9,936.52
Right of Way	\$1,500.00	\$0.00	\$500.00	25%	\$2,000.00
Construction	\$155,000.19	\$0.00	\$51,666.73	25%	\$206,666.92
Construction Engineering	\$22,357.17	\$0.00	\$7,452.39	25%	\$29,809.56
TOTAL SHARE	\$186,309.75	\$0.00	\$62,103.25	25%	\$248,413.00

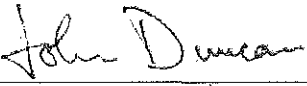
- a. Estimated allocations are further identified as follows:
 - i. **Federal share** – federally participating costs are 75.0% of actual Project cost up to a maximum of \$186,309.75.
 - ii. **State share** – state participating costs are 0.0% of actual Project cost up to a maximum of \$0.00.
 - iii. **Municipal share** – the Municipality's share is 25% of the actual Project costs. Local Share is estimated at \$62,103.25, plus 100% of any additional costs incurred in accordance with Section 1.b. below.
 - b. The Municipality shall be fully responsible for any and all Project costs exceeding \$248,413.00, unless otherwise agreed to in writing by the Parties through a modification to this Agreement.
 - c. If the actual Project cost is less than the Project Estimate the amounts owed will be adjusted according to the percentages.
 - d. If the Project Estimate or associated financial allocations are adjusted to reflect updated costs, MaineDOT will consult with the MPO and the Municipality before such adjustments are approved and implemented.
2. MaineDOT will share information about the status of the Project with staff from the MPO and the Municipality at the following milestones:
 - Project kickoff/initial team meeting/formal public contact.
 - Completion of the preliminary design report (PDR).
 - Formal public meeting.
 - Completion of the plans, specifications and estimate (PS&E.)
 - Changes in the Project Schedule or Engineer's Estimate.
 3. MaineDOT will develop construction plans and specifications for the Project within the scope described above, using MaineDOT's standard project development process to ensure adherence to federal and state regulations.

4. After the final PS&E package is prepared, MaineDOT and the Municipality will execute a Municipal/State Project Agreement covering Project advertisement, award, construction and construction engineering. Said Municipal/State Agreement will carry the financial terms outlined in Section 1 above, as well as a schedule for collection of the Municipality's share of Project costs. Generally, Municipality payments for 100% of its share of the Preliminary Engineering and Right of Way costs, 50% of its share of Construction and Construction Engineering costs and 100% of all additional work requested by the Municipality are due prior to award of the contract for Project construction. The remainder of the payments to be made by the Municipality will be defined in the Municipal/State Project Agreement.
5. MaineDOT will consult with the MPO and the Municipality before implementing any adjustments to the Project scope, and the MPO and the Municipality will, likewise, notify MaineDOT of any proposed changes they wish to implement.
6. The Parties will participate as partners in any public meetings held to discuss the Project.
7. If MaineDOT withdraws from the Project before it has been advertised for construction, and that action was not directed by the MPO and the Municipality, MaineDOT will be responsible for all Project costs incurred to date.
8. If the Municipality withdraws its financial support for the Project as described in Section 1 above, leading MaineDOT to cancel the Project before it has been advertised for construction, the Municipality shall reimburse MaineDOT fully for any and all Project costs incurred in reliance on the Municipality's commitment documented in this Agreement, including, but not limited to, reimbursement of all federal funds expended to date.
9. Anything herein to the contrary notwithstanding, the Municipality and the MPO acknowledge that, although the execution of this Agreement by MaineDOT manifests its intent to honor its terms and to seek funding to fulfill any obligations arising hereunder, by law any such obligations are subject to available budgetary appropriations by its federal partners and the Maine Legislature and, therefore, this Agreement does not create any obligation on behalf of the Department in excess of such appropriations.
10. The Municipality represents that its governing body has taken all steps necessary and lawful to approve the Project and the Municipality's entry into this Agreement, has appropriated or authorized the use of any necessary funds in connection with the Municipality's participation, and has further authorized the undersigned Municipal representative to execute this Agreement on the Municipality's behalf.
11. MaineDOT shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off monies due the Municipality under a specific Project Contract up to any amounts due and owed to MaineDOT with regard to this Agreement, and any other Agreement/Contract, any other Agreement/Contract with any State Department or Agency, including any Agreement/Contract for a term commencing prior to the term of this Agreement, plus any amounts due and owed to the State for any reason including without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. MaineDOT shall exercise its set-off rights in accordance with normal State practices including, in cases of set-

off pursuant to an audit, the finalization of such audit by MaineDOT, its representatives, or the State Controller.

12. All provisions of this Agreement shall expire at Project final voucher, or upon final payment by the Municipality of any Project costs as hereinbefore provided, whichever occurs later.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement effective on the day and date last signed.

 _____ Date 2/4/16

John Duncan, Director
MPO for PACTS

I certify that the signature above is true and accurate. I further certify that the signature, if electronic: (a) is intended to have the same force as a manual signature; (b) is unique to myself; (c) is capable of verification; and (d) is under the sole control of myself.

Date _____

TYPE NAME, TITLE HERE |

Municipality of Portland

I certify that the signature above is true and accurate. I further certify that the signature, if electronic: (a) is intended to have the same force as a manual signature; (b) is unique to myself; (c) is capable of verification; and (d) is under the sole control of myself.

Date _____

William A. Pulver, Director, Bureau of Project Development
Maine Department of Transportation

I certify that the signature above is true and accurate. I further certify that the signature, if electronic: (a) is intended to have the same force as a manual signature; (b) is unique to myself; (c) is capable of verification; and (d) is under the sole control of myself.



Project Identification Form MPO Project

Section 1 – Project Origination

Sponsoring metropolitan planning organization (MPO): PACTS

Section 2 – Project Description and Justification

Project Sequence Number (PSN): 66828

Project Identification Number (PIN):

Municipality: Portland

Route Number/Street Name: Danforth Street

Description of Project Location: York Street to High Street, 0.21 miles.

Federal Functional Classification:
Minor Collector

Is the project on the NHS?
No

Speed Limit (mph): 25

AADT (segment):

Total Entering AADT:

Potential locally administered project?
☐ Yes ☒ No

Please state the purpose and need, describing why the improvement is proposed: Current PACTS policy is to both preserve and improve the collector roads in the PACTS region implementing cost effective infrastructure management.

Please describe the proposed scope of work: Shim and ¾ inch overlay.

Section 3 – Municipal Involvement

Please provide the following information about the sponsoring municipality:

Municipality Represented: Portland

Contact Name:
Kathi Earley

Title: Engineering Manager

Mailing Address:
55 Portland Street

City: Portland

Zip Code: 04101

Daytime Phone Number:
874-8830

E-mail Address:
KAS@portlandmaine.gov

Section 4 – MPO Project Contact

MPO contact for this project:

Paul Niehoff

Phone number:

207-774-9891

Form completed by:

Paul Niehoff

Date:

Revised: 11-19-15

Section 5 – Other Project Considerations

Has this project been reviewed in conjunction with other projects in the area, either under design or construction?	☐ Yes	☒ No	☐ N/A
If yes, please identify the person who conducted the review and specify the projects:			
Has this project been reviewed for pedestrian/bicycle accommodations and ADA requirements, including sidewalks and sidewalk ramps?	☐ Yes	☒ No	☐ N/A
If yes, by whom?			
Comments:			
Has the project been reviewed for crash history or other safety concerns?	☐ Yes	☒ No	☐ N/A
If yes, by whom?			
Has this project been reviewed for potential environmental impacts?	☐ Yes	☒ No	☐ N/A
If yes, by whom?			
Has this project been reviewed for traffic data needs, including turning movement counts?	☐ Yes	☒ No	☐ N/A
If yes, please identify the person who did the review and provide this data to the MaineDOT MPO Coordinator.			
Are there existing maintenance problems – drainage, pavement flooding, scouring – that should be addressed as part of this project?	☐ Yes	☐ No	☒ N/A
If yes, please describe:			
Are there related intersections that should be evaluated?	☐ Yes	☒ No	☐ N/A
If yes, please list:			
For intersection improvements that call for new signals where none currently exist, has a warrant analysis been completed?	☐ Yes	☐ No	☒ N/A
Will the project change the road's horizontal or vertical alignment?	☐ Yes	☒ No	☐ N/A
If yes, please describe:			
Are there any obvious right-of-way impacts or displacements?	☐ Yes	☒ No	☐ N/A
If yes, please identify the source of the review and briefly explain the impacts:			
Are there utility impacts within the proposed project limits?	☒ Yes	☐ No	☐ N/A
If yes, please describe the utility impacts: Typical utility adjustments as included with most overlay projects.			

Can this project meet clear zone requirements? (Please consult the <i>MaineDOT Highway Design Guide</i> for guidance.) ☒ Yes ☐ No ☐ N/A																			
If no, please explain:																			
Do you expect that the project will require design exceptions (vertical and horizontal alignment, shoulder/lane widths, and clear zones)? ☐ Yes ☒ No ☐ N/A																			
If yes, please explain:																			
Have previous technical studies been conducted? ☐ Yes ☒ No ☐ N/A																			
If yes, please: 1.) check all that apply; 2.) identify the responsible firm(s); and 3.) provide a copy to MaineDOT. ☐ Planning and Feasibility ☐ Corridor Report ☐ Geotechnical ☐ Hydraulic ☐ Environmental Responsible firm(s)																			
Is professionally stamped technical documentation attached? ☐ Yes ☒ No If no, please explain: Not needed.																			
Section 6 – Estimated Costs by Phase and Scheduling																			
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;">Phase</th> <th style="width: 40%;">Original Estimate</th> <th style="width: 50%;">Requested Delivery Year</th> </tr> </thead> <tbody> <tr> <td>☒ Preliminary Engineering</td> <td>\$ 9,936</td> <td>2016</td> </tr> <tr> <td>☒ Right-of-Way</td> <td>\$ 2,000</td> <td>2016</td> </tr> <tr> <td>☒ Construction</td> <td>\$ 208,667</td> <td>2016</td> </tr> <tr> <td>☒ Construction Engineering</td> <td>\$ 29,810</td> <td>2016</td> </tr> <tr> <td>Total Cost</td> <td>\$ 248,413</td> <td></td> </tr> </tbody> </table>	Phase	Original Estimate	Requested Delivery Year	☒ Preliminary Engineering	\$ 9,936	2016	☒ Right-of-Way	\$ 2,000	2016	☒ Construction	\$ 208,667	2016	☒ Construction Engineering	\$ 29,810	2016	Total Cost	\$ 248,413		
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Total Cost	\$ 248,413																		
Source of the estimate and contact information, for follow-up: G-P& DOT																			
Is the project intended to be advertised for construction in 2016-2017? ☒ Yes ☐ No ☐ N/A																			
If no, please explain:																			
Section 7 – Funding Sources for the Project																			
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 30%;">Funding Source</th> <th style="width: 40%;">Amount</th> <th style="width: 30%;">%</th> </tr> </thead> <tbody> <tr> <td>☒ Federal</td> <td>\$ 186,310</td> <td>75</td> </tr> <tr> <td>☐ State</td> <td>\$ 0</td> <td></td> </tr> <tr> <td>☒ Local/Other</td> <td>\$ 62,103</td> <td>25</td> </tr> <tr> <td>Total Project Funding</td> <td>\$ 248,413</td> <td>100</td> </tr> </tbody> </table>	Funding Source	Amount	%	☒ Federal	\$ 186,310	75	☐ State	\$ 0		☒ Local/Other	\$ 62,103	25	Total Project Funding	\$ 248,413	100				
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Section 8 – Project Approvals																			

In signing this form below, I concur with the proposed scope of work, schedule and cost estimate. Additionally, I acknowledge that the MPO will provide Federal and State funding for the project, shown in Section 7. My signature further indicates that the MPO is willing to enter into a Three-Party Agreement with MaineDOT and the Municipality – formally defining the scope and assigning responsibility for costs – before design begins.

Comments:

Paul Niehoff

11/19/15

Name and Title: Paul Niehoff, Senior Transportation Planner

Date

MPO PACTS

In signing this form below, I concur with the proposed scope of work, schedule and cost estimate. Additionally, I acknowledge that the Municipality will make a commitment to secure its local share of project costs, shown in Section 7. My signature further indicates that the Municipality is willing to enter into a Three-Party Agreement with MaineDOT and the MPO – formally defining the scope and assigning responsibility for costs – before design begins.

Comments:

J.P. Joffe, City Manager

11/30/15

Name and Title:

Date

Municipality

In signing this form below, I acknowledge that I have reviewed the proposed scope, schedule and cost estimate.

I further state that I agree with the following: ☐ Scope ☐ Schedule ☐ Cost estimate

I further state that I disagree with the following: ☐ Scope ☐ Schedule ☐ Cost estimate

Comments:

Gerry Audibert

11/30/15

Name and Title: Gerry Audibert, MPO Engineer

Date

Maine Department of Transportation

NOTES

1. The municipality attests that it will abide by all federal and state requirements.
2. Any project costs found to be ineligible for federal and/or State participation shall be borne by the municipality and/or MPO.
3. Cancellation of a project may result in any expenditures to be determined to be ineligible and therefore borne entirely by the municipality and/or MPO, unless otherwise mutually agreed to by MaineDOT.

Project Title ID 163151

PACTS Danforth St Paving

Public Works

Division Engineering

Classification Streets/Sidewalks

Project Description

PACTS 16-18 TIP award of \$248,413, inclusive of \$62,103; the required 25% Local Match.

PACTS Collector Paving Program awarded Danforth St paving between York and High St. CIP request is for the required 25% Local Match (\$62,103) plus ineligible City costs, including Sewer (\$14,000) & multi-modal system improvements (\$24,000). Work Plan indicates 2016 construction.

Project Justification

Highly leveraged value of Federally funded Pavement Rehabilitation projects; Local Match = 25% and City must cover 100% of sewer utility and ineligible items.

5 Year Cost Summary

<u>Planning</u>	<u>Land</u>	<u>Construction</u>	<u>Equipment</u>	<u>Est Total Cost</u>
\$10,000		\$276,310		\$286,310

Funding Source

<u>Year</u>	<u>Other Funding</u>	<u>Requested Funding</u>	<u>City Mgr. Recommended</u>	<u>Funding Type</u>	<u>Approved</u>
2017	\$186,310	\$100,000			☐
2018					☐
2019					☐
2020					☐
2021					☐
Total	\$186,310	\$100,000			

Other Funding Source Description

PACTS 16-18 TIP award; Work Plan indicates 2016 construction.

Operating Budget Impact

Reduces cost to City for pothole repair and leverages critical infrastructure maintainance.

Danforth at York – Realignment and Curb Modifications – Alternative Concept



Draft: DPW/JJB

Date: 2/29/16

PACTS Collector Paving Project

Scale: 1" = 20'

Note: Shows ~ 200 sf. rain garden

Order 179-15/16
Tab 18 3-7-16

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

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

ORDER RATIFYING, CONFIRMING AND READOPTING ORDER 10-15/16

WHEREAS, following a public hearing , the City Council previously adopted Order 10-15/16 on July 20, 2015 for the purposes specified therein (the "Canco Road Project"), a copy of which is attached hereto as Schedule 1 (the "Prior Order"); and

WHEREAS, the City is currently scheduled to issue the bonds authorized by the Prior Order (the "Canco Road Bonds") for the Canco Road Project as part of the City's 2016 CIP bond issue on or about March 17, 2015;

WHEREAS, Article VII, Section 11 of the City Charter provides that no bond order may be passed without public notice given by posting notice of the same in two (2) public places in the City of Portland and publishing such notice at least twice in a newspaper of general circulation in Portland at least two (2) weeks before final action of the City Council

WHEREAS, the City Council now desires to ratify, confirm and readopt the Prior Order, following a public hearing conducted held on the posting and publication of public notice as required by the City Charter;

WHEREAS, Article II, Section 11 of the City Charter provides that no order shall take effect until ten (10) days after its passage unless therein otherwise provided in an emergency order; and

WHEREAS, desires that this Order shall take effect immediately following its adoption; and

WHEREAS, the City Council may, by vote of at least seven (7) of its members, pass an emergency order to take effect at the time indicated therein, provided that such emergency order contains a section in which the emergency is set forth and defined, which declaration of emergency by the City Council shall be conclusive;

NOW, THEREFORE:

1. The Portland City Council hereby ratifies, confirms and readopts the Prior Order, the terms of which are hereby incorporated by reference as if more fully set forth herein.
2. The Portland City Council hereby further finds, determines and declares, with respect to the issuance of the Canco Road Bonds, that an emergency within the meaning of Article II,

Section 11 of the City Charter exists with respect to the need to issue said Canco Road Bonds without delay and to finance the Canco Road Project as follows:

- The City is proceeding with the relocation of the City's Department of Public Services Bayside activities;
- Following a prior public hearing, the City Council previously authorized issuance of the Canco Road Bonds for the Canco Road Project, albeit with defective public notice;
- The City is in the process of issuing its 2016 CIP bonds, which are scheduled to be issued on March 17, 2016;
- Including issuance of the Canco Road Bonds with the issuance of its 2016 CIP bonds would promote efficiency, be cost effective and would allow the Canco Road Project to proceed on its current schedule;
- Conversely, failing to issue the Canco Road Bonds with the issuance of its 2016 CIP bonds would be inefficient, could result in additional issuance costs and potentially delays the Canco Road Project;
- These circumstances would impose unacceptable additional costs on the residents of the City;
- The City Council therefore finds, determines and declares that emergency circumstances exist under Article II, Section 11 of the City Charter, and that in light of such emergency circumstances, this Order ratifying, confirming and readopting the Prior Order shall take effect immediately on the date of its passage.

*Order 10-15/16
Tab 18 7-6-15*

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

**CITY OF PORTLAND
IN THE CITY COUNCIL**

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

**ORDER AUTHORIZING GENERAL OBLIGATION BONDS
IN AN AMOUNT NOT TO EXCEED \$3,400,000**

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 Three Million Four Hundred Thousand Dollars (\$3,400,000) to finance a portion of the costs to purchase, redevelop, renovate and equip a parcel of land located at 250 Canco Road and to redevelop, renovate and equip an approximately 4 acre parcel of land known as the Quarry Road property and all other costs (as defined herein) related and ancillary thereto (the "Project") in furtherance of the relocation of the City's Department of Public Services Bayside activities.

BE IT FURTHER ORDERED

1. That the Director of Finance 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 \$3,400,000 (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 Director of Finance 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 Director of Finance 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 any Bond or BAN issued hereunder shall be signed by the Director of Finance 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 Director of Finance is authorized to negotiate, execute, and deliver, in the name of and on behalf of the City such contracts, agreements, and other documents, including leases, instruments and certificates as may be necessary or appropriate as determined and approved by the Director of Finance in connection with the financing of the Project, which documents shall be in such form and contain such terms and conditions, not inconsistent herewith, as may be approved by the Director of Finance such approval to be conclusively evidenced by his execution thereof;

6. That the Director of Finance be and hereby is authorized to select the underwriter for the Bonds or BANs heretofore authorized and the Director of Finance 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 Director of Finance 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 Director of Finance, 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 Director of Finance 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 Director of Finance 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 Director of Finance 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 Director of Finance 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 Director of Finance 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 Director of Finance 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 "arbitrage bonds" or "private activity bonds" within the meaning of Sections 148 and 141 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 Project, or any portion thereof, includes, but is not limited to (1) the purchase price or acquisition cost of all or any portion of the Projects; (2) the cost of construction, building, alteration, enlargement, reconstruction, renovation, improvement, and equipping of the Projects; (3) the cost of all appurtenances and other facilities either on, above, or under the ground which are used or usable

in connection with the Projects; (4) the cost of landscaping, site preparation and remodeling of any improvements or facilities; (5) the cost of all labor, materials, building systems, machinery and equipment; (6) the cost of land, structures, real property interests, rights, easements, and franchises acquired in connection with the Projects; (7) the cost of all utility extensions and site improvements and development; (8) the cost of planning, developing, preparation of specifications, surveys, engineering, feasibility studies, legal and other professional services associated with the Projects; (9) the cost of environmental studies and assessments; (10) the cost of financing charges and issuance costs, including premiums for insurance, interest for a period not to exceed three years from the issue date of the Bonds, and for any additional period permitted under Section 148 of the Internal Revenue Code of 1986, as amended, underwriters' fees and costs, legal and accounting fees and costs, application fees, and other fees and expenses relating to the financing transaction; and (11) the cost of all other financing authorized hereunder, whether related or unrelated to the foregoing;

17. That the Director of Finance, 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;

18. 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;

19. That if the Director of Finance, 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.

20. 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;

21. 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.

22. That during the term any of the Bonds (or bonds issued to refund such Bonds) are outstanding, the Director of Finance 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 Director of Finance 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 Director of Finance 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.

MEMORANDUM
City Council Agenda Item

DISTRIBUTE TO: City Manager, Mayor, Anita LaChance, Sonia Bean, Danielle West-Chuhta, Nancy English, Julianne Sullivan

FROM: Finance

DATE: 2/22/2016

SUBJECT:

SPONSOR: Jon Jennings

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

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading _____ 3/7 _____ Final Action _____ 3/14 (as an emergency) _____

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

Action is required by 3/14 so the bonding can stay on schedule

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

I. ONE SENTENCE SUMMARY

The public hearing notice for Order 10-15/16 was not published "at least twice in a newspaper of general circulation in Portland" and a public hearing needs to be re-noticed for the 3/14 meeting in order to meet City Charter bond issue requirements.

II. AGENDA DESCRIPTION

The City previously adopted Order 10-15/16 (ORDER AUTHORIZING GENERAL OBLIGATION BONDS IN AN AMOUNT NOT TO EXCEED \$3,400,000) on July 20, 2015. This order 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 \$3,400,000 to finance a portion of the costs to purchase, redevelop, renovate and equip a parcel of land located at 250 Canco Road and to redevelop, renovate and equip an approximately 4 acre parcel of land known as the Quarry Road property and all other costs (as defined herein) related and ancillary thereto (the "Project") in furtherance of the relocation of the City's Department of Public Works Bayside activities.

All bond issuances must meet strict City Charter requirements, including requirements on how a public hearing must be noticed. Specifically, Section 11 of Article VII of Part I: Charter notes:

No order providing for the issue of bonds shall be passed without public notice given by posting notice of the same in two (2) public places in the City of Portland and publishing such notice at least twice in a newspaper of general circulation in Portland at least two (2) weeks before final action of the city council.

The public hearing notice was not published by the Press Herald and therefore needed to be re-published in order to provide adequate notice for the revised 3/14 Public Hearing date when Final Action will be taken by City Council for this item. This notice was published by the Press Herald on 2/28/16 and 2/29/16 (confirmed by City staff).

III. BACKGROUND

Same as I above.

IV. INTENDED RESULT AND OR COUNCIL GOAL ADDRESSED

Order will be passed properly as Council originally intended, with adequate public hearing notice. This order must be passed as emergency so it can go into effect in time for the bonding date.

V. FINANCIAL IMPACT

\$3.4M of bonding for 20 years.

VI. STAFF ANALYSIS AND BACKGROUND THAT WILL NOT APPEAR IN THE AGENDA DESCRIPTION

VII. RECOMMENDATION

Pass as an emergency

VIII. LIST ATTACHMENTS

Attached order

Prepared by: Finance Department
Date: 2/22/16

Order 180-15/16
Tab 19 3-7-16

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

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

**AMENDMENT TO PORTLAND CITY CODE
RE: LICENSES FOR BREWERIES, WINERIES AND DISTILLERIES**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND,
MAINE IN CITY COUNCIL ASSEMBLED AS FOLLOWS:**

1. That the Code of Ordinances, City of Portland, is hereby amended by adding sections, to be numbered 3-31 and 3-32, which said sections read as follows:

ARTICLE III. BREWERIES, WINERIES and DISTILLERIES

DIVISION 1. GENERALLY

Sec. 3-31 Definitions

For the purposes of this Article, the terms Brewery, Distillery, Malt liquor, Spirits, Wine, and Winery shall have the same meanings as provided in 28-A M.R.S. §2, as amended hereafter.

Sec. 3-32 Brewery, Winery and Distillery Alcohol Service License.

(a) No brewery, winery, or distillery shall serve or sell spirits, wine, or malt liquor for consumption unless it is licensed pursuant to this section and Chapter 15. This division shall apply to those who serve or sell based on a license issued pursuant to 28-A M.R.S. §1355-A(I) , as amended hereafter.

(b) A brewery, winery, or distillery that is properly licensed to serve or sell spirits, wine, or malt liquor for consumption as part of its City of Portland Chapter 11 Food Service Establishment license is not required to obtain a license under this section. A brewery, winery, or distillery that is required to be licensed as a Food Service Establishment pursuant to Chapter 11, however, does not satisfy that requirement by obtaining a license under this section.

2. That Section 15-12 is hereby amended to read as follows:

Sec. 15-12 Fees and Expiration dates.

(a) Unless specified elsewhere in this Code, fees for licenses issued pursuant to this Code and the expiration date of each license shall be as follows:

Location in Code	Description	Fee	Expiration Date
Ch. 3, Art. II	Bottle clubs (must obtain FSE and special entertainment if applicable)	\$895.00	June 30
Ch. 3, Art. III	<u>Brewery, Winery and Distillery License (must obtain FSE and/or special entertainment if applicable)</u>	<u>\$500.00</u>	<u>Concurrent with state liquor license</u>

...

MEMORANDUM
City Council Agenda Item

TO: Mayor and City Council

FROM: City Clerk's Office

DATE: February 12, 2016

DISTRIBUTION: City Manager, Mayor, Sonia Bean, Danielle West-Chuhta,
Nancy English

SUBJECT: Brewery, Winery and Distillery Alcohol Service License

SPONSOR: COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading: March 7 Final Action: March 21st

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

We wish to have the fee change in place before the next fiscal year.

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

Janice Gardner, Business License Administrator: Summarization of issue and measures taken to gather feedback of staff and parties affected by proposed change; 5 minutes

I. SUMMARY OF ISSUE (Agenda Description)

Proposed amendment to City Code Chapter 3, sec. 3-31 Definitions and sec. 3-32 Brewery, Winery and Distillery Alcohol Service License; Chapter 15, Sec. 15-12 Fees and Expiration dates

II. REASON FOR SUBMISSION (Summary of Issue/Background)

See attached memo.

III. INTENDED RESULT

Creation of a license for the service of alcohol at Portland breweries, wineries, and distilleries.

IV. COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. RECOMMENDATION

VII. LIST ATTACHMENTS

Order



Office of the City Clerk
Katherine L. Jones, CCM, City Clerk

Reason for Submission

Proposed Brewery, Winery and Distillery Alcohol Service License

The City Clerk's Office is proposing the creation of a new license for the service of alcohol at breweries, wineries, and distilleries. At this time, the City licenses the service of alcohol and food at restaurants and bars, but no license exists for the same activity at breweries, wineries, and distilleries.

With the change in State law allowing breweries, wineries, and distilleries to charge for samples of their products, the nature of these businesses has changed. Breweries, wineries, and distilleries are now destinations for patrons to drink at their leisure, consume food from food vendors, and listen to bands. This business model closely resembles traditional restaurants and bars, which are required to obtain City licenses for alcohol and food service as well as entertainment and dancing. Over the past couple of years, some local restaurant and bar owners have expressed concerns about the lack of City licensing of breweries, wineries, and distilleries. After looking into these concerns, discussing the issue with City and State staff, and meeting with the owners of breweries, wineries and distilleries, the City Clerk's Office believes licensing these establishments is fair and appropriate.

The intent of the license is to provide a vehicle of City oversight for breweries, wineries and distilleries serving alcohol for consumption on premise. New restaurants and bars are subject to review and approval by City Council and multi-departmental review. Renewal of these establishments' licenses on a yearly basis is contingent upon approval of several departments, including Fire Inspections and Police. This proposed license will create a similar process for breweries, wineries, and distilleries with a primary focus on life safety. This license and the application review process is not intended to change or limit what these establishments are allowed to do. It is a way for the City to ensure that patrons and public can enjoy these activities safely.

**Fee**

We think the \$500 fee is appropriate for a few reasons. This license is for the service of alcohol, not food, and these establishments are not selling alcohol from other sources, so the license is priced less than a full liquor/food license. The fee covers departmental review and oversight of the business facility and operations on a yearly basis (i.e., Police Department and Fire Inspections review). We opted not to do a price scale because the oversight and information required each year would be beyond the scope of what we require of other classes of licenses. A single price simplifies the process for all.

Outreach and Feedback

We have met with Portland Fire, Police, Code Enforcement, and State Division of Liquor Licensing and Enforcement inspectors about this proposal. The feedback we received from all parties is in favor of the creation of this license. We have reached out to existing and future breweries, wineries, and distilleries to discuss these changes. We have met with this group twice to gather their input, hear their concerns, and make changes to the proposed ordinance where appropriate. We have put this proposal before the Health and Human Services Committee, which voted unanimously to put this before the full City Council.

It is our hope that the City Council finds this proposed license to be a fair and reasonable way to balance our support of the growth and evolution of businesses that serve alcohol with public safety.

Order 181-15/16
Tab 20 3-7-16

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

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

**AMENDMENT TO PORTLAND CITY CODE
CHAPTER 15 LICENSING AND PERMITS AND
CHAPTER 30 VEHICLES FOR HIRE
Re: Tour Operator Licensing**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND, MAINE IN
CITY COUNCIL ASSEMBLED AS FOLLOWS:

1. That Section 15-12 of the Portland City Code is hereby
amended to read as follows:

Sec. 1512. Fees and expiration dates.

(a) Unless specified elsewhere in this Code, fees for
licenses issued pursuant to this Code and the expiration date of
each license shall be as follows:

...

Ch. 30, Art. III	Horse-drawn cabs	200.00, plus 20.00 per driver	April 30
Ch. 30, Art. III IV	Bicycle cabs	100.00, plus 20.00 per driver	
<u>Ch. 30, Art.</u> <u>V</u>	<u>Tour</u> <u>companies</u>	<u>300.00,</u> <u>plus 30.00 per</u>	<u>April 30</u>

...

2. That Chapter 30 of the Portland City Code is hereby amended
by adding Sections 30-93 to 30-109, which said sections read as
follows:

ARTICLE V. TOUR COMPANIES

DIVISION 1. GENERAL PROVISIONS

Sec. 30-93. Definitions.

As used in this article, unless the context otherwise indicates, the following words shall have the following meanings:

Tour company means any individual, group, or entity that solicits, provides or offers tours to individuals or groups for profit of any portion of the City of Portland. For purposes of this Article, an individual, group, or entity that exclusively provides tours that are pre-paid and pre-arranged with a charter group or cruise line is not a tour company and is not required to be licensed as a tour company by the City.

Tour vehicle means any motorized vehicle or apparatus that is used to transport individuals or passengers during a tour of and in any portion of the City. Tour vehicles shall include, but shall not be limited to, cars, trucks, vans, buses, motorcycles, mopeds, and segways.

Street, way, or public place means any street, way, trail, path, promenade, park, plaza, square, or other public property, or portion thereof.

To operate means to drive, pedal, pull, push or otherwise cause the tour vehicle to move.

Sec. 30-94. General licensing provisions to apply.

Except to the extent that this article contains a contrary provision, all general licensing provisions of chapter 15 shall apply to this article.

DIVISION 2. LICENSES

Sec. 30-95. License Required.

No tour company shall operate a tour vehicle on any street or way or in any public place without a tour company license. In obtaining or renewing a tour company license, accurate information for each operator and vehicle shall be provided pursuant to Section 30-96. An operator for whom such information has not been provided to the Licensing Authority is not licensed to operate. A vehicle for which such information has not been provided to the Licensing Authority is not licensed to be operated. Any operator who is less than eighteen (18)

years old shall be restricted to operation between the hours of 8 a.m. to 6 p.m.

Sec. 30-96. Applications.

In addition to the general provisions of chapter 15 relating to the contents of applications, applications for tour company licenses shall contain the following:

- (a) A complete listing of all operators to be employed by or associated with the applicant, giving each person's full name, age and present address.
- (b) A complete record (Maine Criminal History Record search) of disqualifying criminal convictions or civil offenses as defined in Section 30-33(b) (3-6), if any, for all operators to be employed by or associated with the applicant, and for the applicant, or if the applicant is other than an individual, for each principal officer of the applicant.
- (c) A detailed description of each tour vehicle and any other equipment to be used by the applicant, including a photograph of each tour vehicle and the make, model, color, year, power, and seating capacity specifications of each such vehicle.

Sec. 30-97. Licensing authority and regulations.

Notwithstanding any provision of chapter 15 to the contrary, the City Manager or his or her designee shall be the licensing authority for the owner/operator, vehicle, and operator licenses. The City Manager or his or her designee shall also have the authority to promulgate rules and regulations for tour licenses as he or she may deem necessary. —

Sec. 30-98. Conditions precedent to issuance.

Prior to the issuance of any tour company license, and in addition to any other requirements of this article or chapter 15, the applicant shall file with the City Manager or his or her designee the following:

- (a) A certificate issued by the applicant that the tour company to be licensed and all operators operating thereunder shall comply with the rules made under

authority of this article by the licensing authority;
and

- (b) An insurance policy covering the term of the license and executed by an insurance company authorized to issue such policies in this state in the usual form of vehicle or other liability insurance policies in this state for injuries to persons and property resulting from the use and operation of the tour company to be licensed. Such policy of insurance shall be issued for a principal sum sufficient to provide indemnity in the amount of not less than four hundred thousand dollars (\$400,000.00) per occurrence, for bodily injury, death and property damage. A certificate of insurance bearing an endorsement thereon by the issuing agent shall be deposited with the licensing authority. Such certificate shall state that the issuing agent shall notify the licensing authority in writing no less than thirty (30) days prior to the cancellation thereof. The City of Portland shall be included in the policy as an additional named insured.

Sec. 30-99. Denial, suspension, or revocation.

In addition to the general provisions of chapter 15 relating to the grounds for denial, suspension or revocation of license, a tour company, tour operator, or tour vehicle license may be denied, suspended or revoked on any of the following grounds:

- (a) The applicant or licensee or any operator is less than seventeen (17) years of age or has had a disqualifying criminal conviction or civil offense as provided in Section 30-33(b) (3-6);
- (b) Disobeying any order or direction of the City Manager or his or her designee, including, but not limited to, the city traffic engineer, license inspector, or any police officer; or
- (c) Causing or permitting any violation of this article or chapter 25.

DIVISION 3. OPERATING REQUIREMENTS

Sec. 30-100. Operation limited to roadways; carrying of passengers; prohibited locations.

Licensed tour vehicles shall be operated within roadways only. Tour vehicles shall not be operated upon sidewalks or bicycle paths, except those paths specifically designated for that purpose by the Director of Parks and Recreation. Tour vehicles may carry passengers to locations chosen by the passengers or may follow an agreed-upon route for sightseeing purposes. The City Manager or his or her designee shall have the right to prohibit tour vehicles from streets or roadways where the operation of such vehicles will present a threat to the safety of the tour vehicle operator and passengers or to other users of the street or roadway. The City Manager or his or her designee also shall have the authority to erect appropriate signs or markers, and to impose such conditions on the use of routes and locations as he or she deems proper, including limiting the number of such tour vehicles in operation on the same route or at the same location at any one (1) time, and restricting the days, times, or other circumstances of operation on any such route or at any such location. No such vehicle shall stop, stand, or park in any place while on route, to load or unload passengers or otherwise, except in accordance with traffic regulations, traffic-control devices, or the directions of a police officer or other authorized person. In no event shall a tour vehicle utilize a designated taxicab stand for any purpose whatsoever, unless required for an immediate response to an emergency situation. Tour vehicles shall not be permitted at the Jetport.

Sec. 30-101. Not to obstruct traffic; police orders.

No tour company or tour vehicle shall be operated in any manner which unreasonably or unnecessarily obstructs or impedes the free flow of vehicular or pedestrian traffic or otherwise endangers public safety. Any designee of the City Manager, including, but not limited to, police officers and the city traffic engineer, may at any time order the operator of any such company or vehicle to move along, pull over, make way, or temporarily discontinue the use of any such route or location, or any portion thereof, for the public safety or reduction of high-traffic areas.

Sec. 30-102. Traffic regulations to apply.

Except to the extent that this article contains a contrary provision, all traffic regulations of chapter 28, article III,

shall apply to the operation of licensed tour companies and tour vehicles.

Sec. 30-103. Display of plate and badge.

A plate, to be issued by the licensing authority and bearing an identification number shall be displayed in a conspicuous place on each licensed tour vehicle at all times while in service. A badge, to be issued by the licensing authority and identifying the wearer by number as a licensed operator of such tour company or tour vehicle, shall be worn prominently on his or her person by each such operator at all times while on duty.

Sec. 30-104. Solicitation of business.

No person shall solicit business in any manner for any licensed tour company or tour vehicle while on route. Prohibited solicitation while standing shall include shouting, hollering, whistling, clapping, or making other loud noises, grabbing or otherwise annoying or harassing passersby, or any other conduct detrimental to the image or reputation of the trade or the public safety or convenience.

The City Manager or his or her designee may restrict the solicitation of business to certain designated areas within a specified zone in certain high-traffic areas.

Sec. 30-105. Passengers to be seated and well-behaved.

No operator of any tour company or tour vehicle shall load or admit more passengers at any one (1) time than may be fully seated in such tour vehicle. Every passenger in any such tour vehicle shall be and remain fully seated at all times while on route and shall refrain from any other conduct or behavior detrimental to the safety or comfort of passengers or others.

Sec. 30-106. Care and maintenance of tour vehicle.

Each licensed tour vehicle shall be at all times clean and in good repair.

Sec. 30-107. Conduct and appearance of operators; rule-making authority.

Every operator of a licensed tour company or tour vehicle shall be courteous at all times when on duty and shall refrain

from any loud argument, fight or disturbance, or any other conduct or behavior detrimental to the image or reputation of the trade or the safety or comfort of passengers or others. The City Manager or his or her designee shall have authority to make reasonable rules and regulations, consistent with the public safety and the image and reputation of the trade, governing the training and qualifications of such operators.

Sec. 30-108. Unsafe vehicles; inspections; order from service.

No licensed tour vehicle shall be operated at any time while unsafe, defective or in disrepair. The City Manager or his or her designee, including, but not limited to, any police officer or the license inspector may inspect a tour vehicle at any and all reasonable times, prior to being placed into service, while in service, or otherwise, and may at any time order such vehicle to be removed from service for any defect, unsafe condition, or want of repair. No such vehicle shall be returned to service except upon re-inspection by such officer, the license inspector or the licensing authority, and upon a finding that such repair has been made or that such defect or unsafe condition has been corrected.

Sec. 30-109. Storage of vehicles and equipment.

No tour vehicle or related equipment shall be kept or stored on any street or way or in any public place while not in service.

MEMORANDUM

To: Public Safety, Health and Human Services Committee

From: Adam Lee, Esq., Associate Corporation Counsel
Richard M. Bianculli Jr., Esq., Neighborhood Prosecutor

Re Proposed Ordinance Amendment to License Tour Companies

Date: October 5, 2015

The attached ordinance amendment proposes to require a license for tour companies that currently operate in the City of Portland. Adoption of the amendment will allow Portland to ensure public safety by confirming insurance requirements, reviewing background checks for tour company owners and operators, and conducting general safety inspections on tour vehicles. Requiring a license for tour companies is a logical step towards fostering a safe and productive tourist industry.

As an unlicensed business enterprise, mobile tour companies are currently prohibited from actively soliciting customers or selling tours on streets, sidewalks and public areas pursuant to Section 25-17(a) of the Portland City Code. The provision of licenses for tour companies will ensure that tour companies are permitted to conduct their business in a reasonable manner. A majority, if not all, of the current tour operators have indicated their support for a licensing program.

Portland has required licenses for horse-drawn carriages since 1984 and bicycle cabs since 1998. The proposed ordinance amendment will include similar requirements to those found in Chapter 30 for the horse-drawn carriages and bicycle cabs. Operators are required to keep the vehicles clean and presentable. Following the initial inspection required for a license, the license inspector or any police officer is permitted to inspect the tour vehicle at any time in order to ensure compliance with safety measures and the absence of safety hazards. Unsafe vehicles would be removed from service until the compliance issue is attended to.

The Jetport staff has confirmed that they are prepared to process the license applications as they are received. Once the ordinance is adopted, city officials would develop regulations including requirements for application deadlines, inspection checklists, and the like. The inspection of the tour vehicles will be considered a pre-requisite to the application process and inspections will be conducted by the Director of Port Operations, Kathy Alves.

MEMORANDUM

To: Public Safety, Health and Human Services Committee

cc: Mayor Brennan and Members of the Portland City Council and
Jon Jennings, City Manager

From: Adam R. Lee, Esq., Associate Corporation Counsel

Date: November 10, 2015

Re: **Limitation on Solicitation of Tour Companies within a Distance of a Fixed-Base Tour Company**

At the October 13, 2015 meeting, this Committee approved Ordinance amendments creating a process by which Tour Companies are required to obtain licenses. The Committee suggested modifications to the amendments permitting the City Manager or his/her designee to issue and enforce the provisions of the Ordinance. The Committee also suggested an amendment that precludes solicitation by non-fixed-base tour companies within a certain distance of fixed-base tour companies. The Committee suggested that such amendment should be provided to the full Council at the time the Ordinance was placed on the Council's agenda. As a result of scheduling and additional research, Corporation Counsel determined it would be useful to present the issue again for discussion to the Committee before presentation to the full Council.

The amendment requested by the Committee to prevent solicitation within a distance of a fixed-base company is a regulation on commercial speech. While the First Amendment affords less protection to commercial speech, it "does not fall outside the purview of the First Amendment." *Lorillard Tobacco v. Reilly*, 533 U.S. 525, 554 (2001). The U.S. Supreme Court established a four-part test in *Central Hudson Gas & Elect. Corp. v. Public Serv. Comm'n of N.Y.*, 447 U.S. 557 to determine whether regulations of commercial speech violate the First Amendment: 1) Is the commercial speech protected (does it concern lawful activity and is not misleading)?; 2) Is the asserted governmental interest substantial?; If the answer to both of the first two questions is yes, 3) does the regulation directly advance the governmental interest asserted?; and 4) Is the regulation more extensive than necessary to serve the interest?

From Corporation Counsel's perspective, the most likely issue on which this Ordinance would be challenged is what government interest it serves and whether it is narrowly tailored to serve that interest. Those challenging the Ordinance may argue that it was enacted for purposes of protecting certain companies from economic competition. Courts have held that such purposes are not legitimate government interests. *St. Joseph Abbey v. Castille*, 700 F.3d 154, 161 (5th Cir. 2012) ("As we see it, neither precedent nor broader principles suggest that mere economic protection of a pet industry is a legitimate governmental purpose[.]"); *Craigsmiles v. Giles*, 312 F.3d 220, 224 (6th Cir. 2002) ("Courts have repeatedly recognized that

protecting a discrete interest group from economic competition is not a legitimate governmental purpose.”).

Economic protectionism is distinct from another governmental purpose that has been discussed by the Committee and may be served by the proposed amendment, that of public safety. There is no doubt that protection of public safety – specifically in the context of pedestrian and traffic safety – is a legitimate and significant governmental interest. See *McCullen v. Coakley*, 134 S.Ct. at 2535 and *Cutting v. City of Portland*, 2015 U.S. App. Lexis 16206. If the proposed amendment is enacted, it should be enacted on the basis of protecting public safety and any such amendment must be the most narrow way to address the issue in question. It is Corporation Counsel’s advice that prior to enactment of an amendment that would prohibit solicitation within a distance from fixed-base tour companies, the Committee/City Council should take additional testimony regarding public safety including, but not limited to, the congregating of solicitors in front of fixed-base establishments, and ensure that any proposed amendment is the most narrowly tailored option available and not more extensive than necessary to serve the public safety interest.

MEMORANDUM
City Council Agenda Item

DISTRIBUTE TO: City Manager, Mayor, Anita LaChance, Sonia Bean, Danielle West-Chuhta, Nancy English, Julianne Sullivan

FROM: Adam R. Lee, Associate Corporation Counsel

DATE: 2/24/16

SUBJECT: Tour Company Licensing Ordinance

SPONSOR: Economic Development Committee, Ordinance Amendments approved by Committee 2-0 on February 23, 2016

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

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading __ March 7, 2016 Final Action __ March 21, 2016

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

Passage is recommended now so that Staff can make preparation for implementation of the licensing process and advise Tour Companies of the process in advance of "tour season."

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

I. ONE SENTENCE SUMMARY

This Ordinance Amendment would require that those providing guided tours with vehicles within the City of Portland acquire a license to do so.

II. AGENDA DESCRIPTION

See Attached Memos

III. BACKGROUND

This Ordinance came to the Council in very similar form for second reading on January 20, 2016. At that point, based on input regarding two issues: 1) the potential establishment of a "no transient operator solicitation zone" outside of fixed-base tour operations; and 2) ambiguity regarding the inclusion of bus companies who exclusively operate pre-paid and

pre-arranged tours for charter groups and cruise lines but do not individually solicit such tours, the matter was referred to the Economic Development Committee. After two meetings at the Committee, the present Ordinance has been suggested to the full Council in a form that does not include a “no transient operator solicitation zone” and explicitly exempts bus companies who exclusively operate pre-paid and pre-arranged tours for charter groups and cruise lines.

See Attached Memos

IV. INTENDED RESULT AND OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

The licensing fees will be utilized primarily for administration of the licensing process.

VI. STAFF ANALYSIS AND BACKGROUND THAT WILL NOT APPEAR IN THE AGENDA DESCRIPTION

See Attached Memo

VII. RECOMMENDATION

The Economic Development Committee recommended passage.

VIII. LIST ATTACHMENTS

October 5, 2015 Background Memorandum

November 10, 2015 Memorandum regarding solicitation limitation

Approved Ordinance Amendments

Prepared by: Adam R. Lee

Date: 2/24/16

Bean/agendarequestmemo/rev 11/2015

Order 165-15/16
Tab 21 3-4-6

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
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JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

AMENDMENT TO PORTLAND CITY CODE

**Re: REORGANIZING PLANNING AND OTHER DEPARTMENT DIVISIONS INTO A
NEW DEPARTMENT OF PERMITTING AND INSPECTIONS**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND,
MAINE IN CITY COUNCIL ASSEMBLED AS FOLLOWS:**

1. That Section 2-17 is hereby amended to read as follows:

Sec. 2-17. Additional duties assigned.

In addition to the duties imposed on them by the Charter, state law and ordinance of the city, the City Council or the City Manager, the following officers shall perform the additional duties list below:

(a) City Clerk:

...

(h) Director of Planning and Urban Development/Director of
Permitting and Inspections:

1. Unless otherwise designated, The Director of
Planning and Urban Development and the Director of
Permitting and Inspections the Department of
Planning and Urban Development shall be
considered as the Building Authority. and

2. The Director of Planning and Urban Development
shall be the Planning Authority of the City.

2- The Director of Planning and Urban Development
shall supervise, manage and control the
Department of Planning and Urban Development.
Such department shall consist of the following
divisions: Planning, Building Inspection, Housing
Inspection, Relocation and Housing
Rehabilitation.

3. The Director of Planning and Urban Development

shall be secretary to the Planning Board and shall perform and be responsible for all other duties previously performed or required to be performed by the Planning Director or the Planning Department.

4. Through the Division of Housing Inspection, the Director of Permitting and Inspections or his or her designees shall exercise such authority and enforce such laws, ordinances and regulations pertaining to residential dwellings as the agent of the Director of Health and Social Services.
5. Through the Division of Neighborhood Rehabilitation, ~~the~~ The Director of Planning and Urban Development or his/her designee shall approve and negotiate housing rehabilitation loans and grants and manage all loan and grant activities concerning residential units, including the repayment thereof to the City through the Finance Department, and he or she shall be responsible for contract administration and disbursement of all funds to housing rehabilitation agencies from whatever source such funds are derived.
6. Through the Division of Neighborhood Rehabilitation, ~~the~~ The Director of Planning and Urban Development or his/her designee shall be responsible for administrative oversight of public improvement programs implemented by other City departments in neighborhood conservation areas and shall advise and assist such departments in the development of such programs, and he or she shall also advise and assist the Planning Director in the delineation of new neighborhood conservation areas.
7. ~~Through the Division of Building Inspection, the Director shall exercise such authority and perform such duties as were formerly exercised or performed by the Building Inspector or the former Department of Building Inspection Services. Wherever in this Code there appear the terms "Building Inspector," "Department of Building Inspection Services," etc., they shall be construed to mean the Director of Planning and~~

Urban Development.

8. ~~Through the Division of Relocation, the Director shall furnish relocation assistance to occupants of real property acquired by the City to the extent such assistance is required by law.~~

79. In addition to the aforesaid, the Director of Planning and Urban Development shall undertake such duties or responsibilities with respect to the Community Development Program as the City Manager may from time to time direct, and with the approval of the City Manager, he or she may employ additional assistants to administer grants obtained as part of the community development program whose salaries shall be paid for out of the grant budget.

810. ~~The Director of Permitting and Inspections of Planning and Urban Development~~ is hereby designated an agent of the health officer to exercise such authority and enforce such laws, ordinances and regulations pertaining to potential health hazards in residential, industrial, and commercial buildings and including but not limited to the following: investigation and oversight of local food service establishments, control of rabies, control of insects and rodents, control of refuse and its disposal, and investigation of lead paint.

2. That Section 3-27 is hereby amended to read as follows:

Sec. 3-27. Application.

Application for a bottle club license shall be filed in accordance with chapter 15. In addition to the requirements of that chapter, an applicant for a bottle club shall furnish the Department of Permitting and Inspection ~~elerk~~ with the following:

- (a) An affidavit which identifies all principal officers, their places of residence at the present time, and for the immediately preceding three (3) years;

- (b) A description of the premises for which a license is desired which shall set forth such other material information, description, or plan of that part of the premises where it is proposed to consume or keep liquor as the clerk or the city council may require.

3. That Sections 4-27, 4-51, and 4-81 are hereby amended to read as follows:

Sec. 4-27. Notice and hearing.

The Department of Permitting and Inspection~~city clerk~~ shall conduct a public hearing with respect to the grant of any original license issued under this division.

...

Sec. 4-51. Required.

(a) No person licensed by the state to sell liquor to be consumed on the premises, and no bottle club licensed by the city, shall permit on the premises any music except that produced by radio or mechanical device, any dancing, or entertainment of any sort without an entertainment license from the city. The license required by this subsection and state law authorizes entertainment only during the hours when state law permits the sale of alcohol for consumption on the premises.

(b) After-hours entertainment shall require a separate license as provided in this division subject to the following restrictions and requirements:

- (1) Operations under such separate license shall end at 3:00 a.m.

...

- (5) In addition to the after-hours license, at least seven (7) days in advance of each event, the license holder shall deliver a written notice to the Department of Permitting and Inspection~~clerk's office~~ during normal business hours specifying the date upon which the event will be held. The Department of Permitting and Inspection~~city clerk~~ will forward the notice immediately to the police department, track the number and frequency of events per licensee per calendar month and inform a licensee if an event is not allowed.

...

Sec. 4-81. Applications and fees.

Applications for a state license to conduct beano or a game of chance shall be deemed sufficient applications for the purpose of chapter 15 if accompanied by the fees prescribed therein. Upon compliance with this article and chapter 15, Department of Permitting and Inspection~~the clerk~~ shall signify the consent of the city council to such application.

4. That Sections 6-1, 6-17, 6-51, 6-68, 6-115 and 6-132 are hereby amended to read as follows:

Sec. 6-1. Penalties.

Any person, including, but not limited to, a landowner, the landowner's agent or a contractor, who violates any of the provisions set forth in Chapter 6 is liable for the penalties set forth in this section. For purposes of this Chapter, the Director of Permitting and Inspections is the building authority.

- (a) *Penalties.* Except for paragraph g., monetary penalties shall be assessed on a per-day basis for each day on which a violation exists:

...

Sec. 6-17. Fee Schedule.

The applicant shall submit the cost of work in order to determine the permit fee. If the construction cost submitted is less than that as indicated by national standards such as BOCA International or the R.S. Means Company, Inc., the City of Portland reserves the right to reevaluate the proposed project cost based on the referenced national standard and assess the ~~larger~~ larger of the fees. All building permit applications shall be accompanied by the appropriate fee as established below:

- (a) Construction work:

- (1) Cost of work fees:

Up to \$1,000.00 \$25.00
\$1,000.00 or more \$25.00 + \$-16±.00 per
\$1,000.00 above \$1,000.00

- (2) Belated fees:

Below \$25.00 permit fee . . \$50.00 additional
Above \$25.00 permit fee . . \$100.00 additional

(3) Amendments to application:

Up to \$1,000.00 \$25.00
\$1,000.00 or more \$25.00 + \$16~~4~~1.00 per
\$1,000.00 above \$1,000.00

...

Sec. 6-51. Required.

(a) A permit must be procured from the ~~electrical division of the~~ building authority before commencing work upon the installation of wires for the purpose of conducting electric current for power, heating, illuminating or signaling purposes, or for electrical appliances and apparatus in or upon public or private buildings, structures or premises, either new or existing.

(b) A permit must ~~be procured also be procured from the division before~~ commencing work upon the alteration or the addition to, or both, of wires already installed and approved by the electrical inspector.

...

Sec. 6-68. Right of access and inspection.

The electrical inspector shall have access at all reasonable times to all wiring devices, appliances and apparatus in or upon any public or private premises, which carry or are intended to carry an electrical light or power current, and no person shall arrange, fix or change any such wiring, devices, appliances, or apparatus without giving the building authority ~~electrical division~~ reasonable notice and opportunity to inspect and approve such alterations or changes.

...

Sec. 6-115. Lead-based paint hazard.

(a) This provision is intended to supplement the Lead Poisoning Control Act (22 M.R.S.A. Sections 1314 et seq.) and the regulations adopted pursuant thereto including, but not limited to, the Rules for Environmental Lead Inspections and the Rules for Abatement of Environmental Lead Hazards.

(b) When either the city's health authority, as defined in section 2-17(h), or the city's director of permitting and inspections ~~planning and urban development~~, as defined in section

2-17(hi)(10) of this Code as amended, determines that 'an environmental lead hazard exists in any dwelling or premises (as those terms are defined in Section 216.03-7 and Section 216.03-31 of the Rules for Abatement of Environmental Lead Hazards), he or she shall issue an order in writing to the owner (as defined in Section 216.03-28 of the Rules for Abatement of Environmental Lead Hazards), describing the environmental lead hazards and establishing a time within which such hazards shall be abated.

...

Sec. 6-132. Licensed lodging.

(a) *Statement of policy.* The intent of this section is to provide tenant-at-will status to residents of licensed lodging, as defined in section 6-106, after they have resided in a unit for thirty (30) days or more. Such licensed lodging offers sleeping accommodations but few other amenities, and residents of such housing in the past have been subjected to summary eviction procedures by landlords who purposefully characterize their rentals as "lodging houses" and thereby purport to act under state law in ejecting occupants without any recourse, regardless of the length of residency.

...

(g) *Termination of owner's interest.*

(1) Upon termination of an owner's interest in any building or structure providing licensed lodging, whether by sale, assignment, death, appointment of a receiver or otherwise, the owner shall advise the successor in title, the City of Portland and all occupants of licensed lodging who have qualified under subsection (f) above of the status of such occupants, which shall be binding upon the successor in title as though it were the owner when the status was achieved.

(2) Notice to the City of Portland shall be addressed to:

Housing Safety Office ~~Chief of Inspection Services~~
Portland City Hall
389 Congress Street
Portland, ME 04101

...

5. That Section 10-3 is hereby amended to read as follows:

Sec. 10-3. Amendments.

The NFPA 101: Life Safety Code adopted by section 10-1 is amended, modified and deleted in the following respects:

- (a) Section 3.3.32.8 shall be amended to read as follows:

Historic Building: A building designated a Landmark or Contributing Building within a local or National Register historic district, pursuant to Article IX of the Portland City Code.

- (b) Section 3.3.97 shall be amended to include the following:

"In the case of structures posing significant life safety risks that may result in the displacement of person(s), a fire watch not to exceed seven days, with specifications and criteria to be set by the authority having jurisdiction, may be instituted if said watch is approved by the authority having jurisdiction, the City Manager, Corporation Counsel, and the Director of Permitting and Inspections~~Planning & Urban Development~~."

...

- (d) Section 3.3.114 shall be amended to include the following:

"In the case of structures posing significant life safety risks that may result in the displacement of person(s) a fire watch, not to exceed seven (7) days, with specifications and criteria to be set forth by the authority having jurisdiction, may be instituted if said watch is approved by the authority having jurisdiction, the City Manager, Corporation Counsel, and the Director of Permitting and Inspections~~Planning & Urban Development~~."

...

6. That Sections 11-2, 11-10, 11-11, 11-12, 11-13 and 11-25 are hereby amended to read as follows:

Sec. 11-2. Copies on file with the Department of Permitting and Inspections~~Clerk~~.

Pursuant to Title 30-A M.R.S.A. §3003, at least three (3) copies of the Maine State Food Code as adopted by reference by Section 11-1 above, have been and shall be on file in the office of the Department of Permitting and Inspections~~City Clerk~~ for public inspection and use.

...

Sec. 11-10. Certified Food Protection Managers.

- (a) A food service establishment must have at least one employee granted supervisory and management responsibility designated a Certified Food Protection Manager (CFPM) as defined in Section 1.201.10.B of Maine State Food Code 2013: Food Code adopted in Section 11-1, above. Proof of CFPM certification is required as follows:

...

- (b) Proof of compliance with the requirements of this section shall be provided to the City Food Inspector. Prior to the issuance of any license required by Chapter 15, the City Food Inspector must certify to the Department of Permitting and Inspections~~City Clerk's Office~~ that the requirements of this Section have been met. Failure to provide proof of compliance with the requirements of this Section will be subject to a denial, suspension or revocation of a license in accordance with the provisions of Chapter 15. In addition to license suspension or revocation, violations of subsection 11-10(a)(3)& (4), above, shall result in a penalty to the violator of \$150.00.

...

Sec. 11-11. Ice cream trucks.

All ice cream trucks shall comply with the following:

- (a) *General regulations.* All ice cream trucks shall comply with all requirements of section 11-35, including the requirements for a base station, and all other requirements of this article except those relating to toilet facilities, in addition to the requirements set forth in this section.

...

- (g) *License, insurance required.* Each ice cream truck shall be required to be separately licensed under this

article and to provide to the Department of Permitting and Inspections~~City Clerk~~ evidence of public liability insurance in an amount of not less than four hundred thousand dollars (\$400,000.00) as amended, with the city named as an additional insured on the policy.

...

Sec. 11-12. Stationary food vending unit.

A stationary food vending unit shall be subject to the following regulations:

- (a) Only nonalcoholic beverages and prepackaged foods shall be sold from a stationary food vending unit, and there shall be no cooking in or near the unit.
- (b) An applicant for a stationary food vending unit license shall provide the— Department of Permitting and Inspections~~City Clerk~~, in addition to any other information required by chapter 15, with acceptable proof of ownership or control of the property upon which the unit will be located. Such proof shall consist of a deed, lease or other written agreement.

...

Sec. 11-13. Community kitchens.

- (a) A community kitchen shall mean a kitchen, licensed pursuant to this chapter, that is utilized by two or more entities at differing times for preparation of food to serve to the public off-site.

...

- (d) License required: Each entity utilizing a community kitchen shall procure a community kitchen license from the— Department of Permitting and Inspections~~City Clerk's office~~.

...

Sec. 11-25. Suspensions and revocations.

Licenses shall be suspended or revoked pursuant to chapter 15, except that a license which has been suspended may be reinstated by the Department of Permitting and Inspections~~clerk~~ upon application, in writing, from the holder if the health inspector certifies to the Department of Permitting and Inspections~~clerk~~ that he or she has reinspected the premises and the condition for which the suspension was imposed has been

corrected.

7. That Sections 12-109 and 12-202 are hereby amended to read as follows:

Sec. 12-109. Licensing of commercial refuse collectors and refuse transporters.

No person shall collect or transport Portland waste within the corporate limits of the City of Portland without obtaining a license from the public works authority upon payment of such fees as the council may prescribe by order or without being a party to a waste hauling agreement with RWS, or the City, or paying the tonnage fee imposed by section 12-109.1, for disposal of Portland waste collected or transported by the person. Such license shall be issued for the fiscal year and shall be subject to the provisions of chapter 15 of this Code, except that the public works authority shall be substituted for the Department of Permitting and Inspection~~selek~~ in all instances.

...

Sec. 12-202. Conditions precedent to issuance.

Prior to the issuance of any license to construct or operate a rendering facility, and in addition to any other requirements of this article or chapter 15, the applicant shall file with the Department of Permitting and Inspection~~city clerk~~ a performance bond, a clear letter of credit, or deposit the cash equivalent thereof, in an amount not less than twenty-five thousand dollars (\$25,000.00) or such amount as the council at the time of licensing may determine, payable to the City of Portland, to cover the reasonable costs and expenses incurred by the city in cleaning any rendering facility upon the facility's temporary or permanent closure, said bond or cash equivalent to remain in effect throughout the period for which the license is issued.

8. That Sections 14-145.5, 14-145.11, 14-145-17, 14-226, 14-299, 14-449, 14-450.5, 14-486 and 14-522 are hereby amended to read as follows:

Sec. 14-145.5. Dimensional requirements.

In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, lots in the IR-1 zone shall meet the following minimum requirements:

(a) *Minimum lot size*

1. Residential: Forty thousand (40,000) square feet for lots with public water; sixty thousand (60,000) square feet for lots without public water; except as provided in section 14-433 (lots of record and accessory structure setbacks for existing buildings) and section 14-145.3(a)1 of this article.

...

7. Excluding Peaks Island from this subsection h., any property owner whose lot does not meet the minimum lot size requirements outlined in subsection g. of this section may, for purposes of this section only, merge two (2) or more separate lots on the same island in order to meet these requirements. Where the lots so merged are not contiguous, the property owner shall grant to the city as holder a conservation easement upon the lot or lots which will not contain the principal structure. The conservation easement shall contain both an existing legal description and a city assessor's chart, block and lot description. The ~~building~~ authorityPlanning Authority shall be authorized to accept such conservation easements on behalf of the city. Said easement shall be recorded by the applicant in the registry of deeds. A copy of the recorded easement and copies of the deeds for both lots shall be submitted to the ~~building~~ authorityPlanning Authority prior to issuance of a building permit. The property over which the conservation easement has been granted shall be used for passive recreational and conservation purposes only, and shall be subject to the following restrictions:

...

Sec. 14-145.11. Dimensional requirements.

In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, lots in an IR-2 zone shall meet the following minimum requirements:

(a) *Minimum lot size:*

1. Residential: Twenty thousand (20,000) square feet, except as provided in section 14-433 (lots of record and accessory structure setbacks for existing buildings) and section 14-145.9(a)1 of this article.

...

6. [Excluding Peaks Island from this subsection 7.,] any property owner whose lot does not meet the minimum lot size requirements outlined in subsection f. of this section may, for purposes of this section only, merge two (2) or more separate lots on the same island in order to meet these requirements. Where the lots so merged are not contiguous, the property owner shall grant to the city as holder a conservation easement upon the lot or lots which will not contain the principal structure. The conservation easement shall contain both an existing legal description and a city assessor's chart, block and lot description. The ~~building authority~~ Planning Authority shall be authorized to accept such conservation easements on behalf of the city. Said easement shall be recorded by the applicant in the registry of deeds. A copy of the recorded easement and copies of the deeds for both lots shall be submitted to the ~~building authority~~ Planning Authority prior to issuance of a building permit. The property over which the conservation easement has been granted shall be used for passive recreational and conservation purposes only, and shall be subject to the following restrictions:

...

Sec. 14-145.17. Dimensional requirements.

In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, lots in the IR-3 zone shall meet the following minimum requirements:

(a) *Minimum lot size:*

1. Residential: Forty-two thousand five hundred (42,500) square feet per dwelling unit, except that the minimum lot size per dwelling unit shall

be reduced by the amounts specified below, to a minimum lot size of thirty-five thousand (35,000) square feet per dwelling unit, provided that the Planning Board finds that the development meets the following criteria:

- ...
9. [Excluding Peaks Island from this subsection i.,] any property owner whose lot does not meet the minimum lot size requirements outlined in subsection h. of this section may, for purposes of this section only, merge two (2) or more separate lots on the same island in order to meet these requirements. Where the lots so merged are not contiguous, the property owner shall grant to the city as holder a conservation easement upon the lot or lots which will not contain the principal structure. The conservation easement shall contain both an existing legal description and a city assessor's chart, block and lot description. The ~~building authority~~ Planning Authority shall be authorized to accept such conservation easements on behalf of the city. Said easement shall be recorded by the applicant in the registry of deeds. A copy of the recorded easement and copies of the deeds for both lots shall be submitted to the ~~building authority~~ Planning Authority prior to issuance of a building permit. The property over which the conservation easement has been granted shall be used for passive recreational and conservation purposes only, and shall be subject to the following restrictions:

...

Sec. 14-226. Dimensional requirements.

In addition to the provisions of division 25 (space and bulk regulation and exceptions) of this article, lots in the I-B zone shall meet the following minimum requirements:

(a) *Minimum lot size:*

1. Residential: Lot size shall be determined by the most restrictive abutting residential zone, except for those lots which are served by public

water and sewer, where lot size shall be determined by the least restrictive abutting residential zone. If no residential zone is abutting, density shall be determined by the nearest residential zone. Residential uses shall meet the requirements of such abutting or nearest residential zone.

...

12. [Excluding Peaks Island from this subsection 12,] any property owner whose lot does not meet the minimum lot size requirements outlined in subsection 11 of this section may, for purposes of this section only, merge two (2) or more separate lots on the same island in order to meet these requirements. Where the lots so merged are not contiguous, the property owner shall grant to the city as holder a conservation easement upon the lot or lots which will not contain the principal structure. The conservation easement shall contain both an existing legal description and a city assessor's chart, block and lot description. The ~~building authority~~Planning Authority shall be authorized to accept such conservation easements on behalf of the city. Said easement shall be recorded by the applicant in the registry of deeds. A copy of the recorded easement and copies of the deeds for both lots shall be submitted to the ~~building authority~~Planning Authority prior to issuance of a building permit. The property over which the conservation easement has been granted shall be used for passive recreational and conservation purposes only, and shall be subject to the following restrictions:

...

Sec. 14-299. Performance standards.

All uses in the B-7 mixed development district zone shall comply with the following standards. Standards 14-299(a), (f), (j), (m), (n) and (o) below shall be reviewed by the Planning Authority.

- (a) *Storage:* Any storage of new materials, finished

products, or related equipment must be suitably screened from the public way and from abutting properties by a solid fence at least six feet in height. All waste shall be stored in covered containers that do not leak or otherwise permit liquids or solids to escape from the container. All food processing waste shall be stored within a completely enclosed structure and if not refrigerated shall be removed from the site in an enclosed container within forty-eight (48) hours of its generation. All enclosed and exterior areas shall be cleaned and sanitized on a regular basis. Outdoor storage of refuse or debris shall be in an appropriate container or located within a designated, screened area. All dumpsters shall be screened on all four (4) sides by a minimum six (6) foot high solid fence or shall otherwise be fully enclosed as approved by the planning board or the planning and urban development department.

...

Sec. 14-449. Land use standards.

All land uses and land use activities subject to this division shall conform to the following standards and regulations, as applicable:

(a) *Principal and accessory structures:*

...

(g) *Archaeological sites:* Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on, the National Register of Historic Places, as determined by the department of planning and urban development, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment at least twenty (20) days prior to action being taken by the ~~building authority~~ Planning Authority. The ~~building authority~~ Planning Authority shall consider comments received from the commission prior to rendering a decision on the application. Such sites shall also comply with all applicable provisions of article IX of this chapter.

...

(n) *Agriculture:*

1. All spreading or disposal of manure shall be accomplished in conformance with the *Manure Utilization Guidelines* published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. §§ 4201-4209).

...

3. Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area within the shoreland zone shall require a conservation plan to be filed with the ~~building authority~~ Planning Authority.

...

5. Newly established livestock grazing areas shall not be permitted within seventy-five (75) feet, horizontal distance, of water bodies and coastal wetlands or within twenty-five (25) feet, horizontal distance, of tributary streams and wetlands. Livestock grazing associated with ongoing farm activities and which are not in conformance with the above setback provisions may continue, provided such grazing is conducted in accordance with a soil and water conservation plan filed with the ~~building authority~~ Planning Authority.

...

Sec. 14-450.5. Definitions.

For the purpose of this division, the following terms and words shall have the meanings given herein:

Area of special flood hazard: The land in the flood plain having a one (1) percent or greater chance of flooding in any given year as specifically identified in the Flood Insurance Study cited in section 14-450.3.

Base flood: The flood having a one (1) percent chance of being ~~17~~hereof or exceeded in any given year (i.e., a one-hundred-year storm).

~~*Building authority*~~ *Building Authority:* The Department of Permitting and Inspections. ~~division of inspection services within the department of planning and urban development.~~

...

Sec. 14-486. Reduction of fees.

Notwithstanding any other provision of this chapter or chapter 6 to the contrary, development fees shall be reduced by the city for an eligible project in the manner described in the following table:

...

The ~~planning division and urban development department~~ shall perform its review of an eligible project in as expedited a manner as is practical, without impairing the scope or thoroughness of the review. The ~~planning and urban development department~~ ~~division~~ may adopt administrative procedures to prioritize review of eligible projects and facilitate this expedited review.

...

Sec. 14-522. Definitions.

For the purposes of this article all terms and words shall have their ordinary meanings, except as defined herein.

Approval by any board or department under this article shall include any approval with conditions.

Building addition: Any attached structure which increases the total floor area of the structure.

~~Building Authority~~ Building Authority: The Director of the Department of Permitting and Inspections or his or her designee. ~~Planning and Urban Development or his/her designee.~~

...

9. That Sections 15-1 to 15-11, 15-12.1, 15-13 and 15-14 are hereby amended to read as follows:

Sec. 15-1. Definitions.

Words used in this chapter shall have their common meanings except that, as used in this chapter or in chapters related to this chapter, the following terms shall have the meanings set forth in this section, unless the particular licensing provision, or the context in which the term appears, clearly establishes that a different meaning was intended:

...

Person aggrieved shall mean and include any person whose license is suspended or revoked or whose license application is denied by ~~the clerk or any other~~ administrative official charged with responsibility for the granting or supervision of any license.

...

Sec. 15-2. Applicability.

(a) It is the sense of the city council that, to the extent practical, licensing procedures within the city should be uniform, and should be conducted at all times so as to give the maximum degree of protection to the licensee consistent with protection of the public health, safety and welfare. To that end, this chapter shall apply to all licenses and permits issuable by the city through the Department of Permitting and Inspection ~~city clerk~~, and all licenses and permits issued by the state to which the city council have a right or duty to offer recommendations, comments, or to consent, set forth in this Code. Notwithstanding the aforesaid, any more stringent licensing or other requirement of this Code which is not inconsistent with this chapter, shall be deemed to be an additional requirement of this chapter.

(b) Notwithstanding the foregoing, the director of waterfront and transportation facilities, or his or her authorized designee, shall be responsible for licensing of taxicabs and liveries under article II of chapter 30, and all references herein to the Department of Permitting and Inspection ~~city clerk~~ shall be to the said director in regard to such licensing under article II of chapter 30.

...

Sec. 15-3. License required.

(a) No person shall engage in, operate any business, or

use or permit the use of any device for which one (1) or more licenses are required by this Code or permit others operating under such licenses to act, without having obtained each and every such license required therein and shall not operate or use such license or device during any time that the applicable license has been suspended or after revocation as provided herein.

(b) A license may be issued pending receipt of the criminal history report from the State Bureau of Identification for pawnbrokers, junk dealers, secondhand dealers and flea markets as defined in Section 23-16, provided that the Department of Permitting and Inspections~~City Clerk~~ has received all other documentation required for the issuance of such license and a copy of the applicant's criminal history record from the Portland Police Department, which criminal history record does not contain a disqualifying criminal conviction. If, after issuance of the license, the Department of Permitting and Inspections~~City Clerk~~ receives a criminal history report from the State Bureau of Identification that contains disqualifying information, the Department of Permitting and Inspections~~City Clerk~~ shall immediately move to suspend or revoke the license pursuant to Chapter 15 Section 15-8(a)(6) of the City Code.

...

Sec. 15-4. Licensing authority.

(a) All licenses shall be issued, denied, suspended or revoked and all hearings shall be held by the Department of Permitting and Inspection~~city clerk~~ except as expressly provided in this Code. The Department of Permitting and Inspection~~clerk~~ is authorized to notify the state licensing division of bureau of alcoholic beverages that the city council consent to the extension of existing state liquor licenses to city licensees pending the next meeting of the city council.

Sec. 15-5. Applications.

(a) All applications shall be made in writing on a form provided by the Department of Permitting and Inspection~~clerk~~. Each application submitted to the Department of Permitting and Inspection~~clerk~~ shall state the name and business address of each applicant, the license desired, location to be used, if any, the date of the application, and such additional information as may be deemed necessary or useful by the Department of Permitting and Inspection~~clerk~~ in determining

whether such permit or license applied for should be issued.

(b) Other papers:

- (1) Any application for a license for which a criminal conviction is a disqualification under this Code shall be accompanied by a written waiver of the applicant's right to privacy or confidentiality under the State Criminal History Records Act [16 M.R.S.A. § 611 et seq.] and otherwise to the extent necessary for the Department of Permitting and Inspection~~city clerk~~, acting through the chief of police, to determine whether or not such disqualification exists.
- (2) If the applicant is other than a natural person, the names of all principal officers shall accompany the original application.
- (3) A statement to the fact that no employee or officer of the city is beneficially interested in the license or licenses, or in lieu thereof, a statement of the names of such employees or officers as are beneficially interested.
- (4) In the case of a renewal, the licensee shall submit to the Department of Permitting and Inspection~~city clerk~~ on a form provided by the Department of Permitting and Inspection~~city clerk~~, a certified ownership report for the previous twelve (12) month period. Such report, among other things, shall list the names of all persons, or groups of persons acting in concert who at any time during the period had an actual ownership interest.

...

Sec. 15-6. Fees.

(a) *Application fees.* Except as expressly provided, all applications for original licenses or for the consent of the city council, other than a flea market seller, temporary FSE or auction license, shall be accompanied by an administrative fee of thirty-five dollars (\$35.00) to defray the cost of processing the application. All applications for renewal of licenses shall be accompanied by the fees for issuance and an administrative fee of twenty-five dollars (\$25.00), except for a flea market seller to defray the cost of processing the application. The latter shall be refundable if the application is denied. In any case where notice by publication or mail is required, the

applicant shall pay the cost of publication and postage in advance.

(b) *Appeals fee.* Appeals from determinations of the Department of Permitting and Inspection~~sele~~~~r~~~~k~~ shall be accompanied by a filing fee of twenty-five dollars (\$25.00) and the appellant shall also pay the full cost of publication and postage in advance, if such notice is required. For the purposes of this subsection, notice by publication shall be deemed to apply to the hearing on appeal whenever the requirement of publication would exist in the first instance.

(c) *Filing fees.* Whenever any document, other than an application for any license, is required or permitted to be filed with the Department of Permitting and Inspection~~sele~~~~r~~~~k~~ in connection with any license, and no fee for such filing is otherwise prescribed, the fee for filing such document shall be two dollars (\$2.00) for the first page, and one dollar (\$1.00) for each page thereafter.

...

(g) *Fees to be cumulative.* Fees provided for in this section shall be deemed cumulative and shall be in addition to any other fee or fees required for the issuance of any permit under section 15-12. Except as specifically provided, such fees shall not be waived, refunded or prorated, except that upon a successful appeal, the Department of Permitting and Inspection~~sele~~~~r~~~~k~~ shall credit the appeal fee toward the fee for issuance and shall refund any excess; and further, except that if, during the unexpired term of the license, a licensed activity is subsequently prohibited by amendment to this Code, the Department of Permitting and Inspection~~sele~~~~r~~~~k~~ shall refund to the licensee a portion of the license fee in accordance with the formula for proration of fees set forth in section 15-6(f). Where a maximum license fee is established by the state, the fees set by this chapter shall be deemed cumulative to the extent of such maximum fee.

Sec. 15-7. Investigation of applicant.

(a) Upon receipt of an application for any license or permit, other than a renewal application substantially identical to the original application, the Department of Permitting and Inspection~~sele~~~~r~~~~k~~ shall inquire of other city departments, as appropriate, for comments as to whether a license may be granted consistently with the provisions of the laws and ordinances

enforced by such departments. In all appropriate cases, the building authority shall verify that the premises to be used for the proposed activity comply with the building code, electrical code, plumbing code and zoning ordinance, and if applicable, state junkyard screening law; the health authority shall cause inspections to be made of the proposed location of any premises dispensing food or liquor; the fire chief shall cause inspection to be made for the purpose of determining if city ordinances, a state law, or state regulations concerning fire and safety have been complied with; and if the license is not issuable to any class of persons, the police chief shall cause an investigation to be made of the principal officers or persons to be licensed. All such persons shall report to the Department of Permitting and Inspection~~se~~lerk in writing, and copies of any such report shall be deemed a public record.

...

Sec. 15-8. Standards for denial, suspension or revocation.

(a) *Grounds.* In addition to any other specific provision of this Code authorizing such action, a license or permit may be denied, suspended or revoked upon a determination of the existence of one (1) or more of the following grounds:

...

(b) *Hearings.*

- (1) Except as expressly provided in this Code, no license to which this chapter applies may be revoked or suspended without prior notice to the licensee, and after a hearing.

...

- (3) Upon a determination that immediate and irreparable harm will be suffered by the public prior to the time that a hearing on suspension or revocation of a license can be scheduled and a finding of probable cause for such suspension or revocation, the Department of Permitting and Inspection~~se~~ity~~elerk may suspend a license, pending hearing, effective upon the giving of actual notice to the licensee; provided that the Department of Permitting and Inspection~~se~~lerk shall give an opportunity to be heard as soon as practicable thereafter. At any hearing, the licensee shall be given the opportunity to answer the complaint and to present evidence. The complainant shall also be~~

notified of the hearing and given the opportunity to be heard.

...

(c) *Abandoned licenses.* The applicant shall pay the issuance fee and obtain any license from the Department of Permitting and Inspection~~se~~lerk within thirty (30) days after it has been approved by the Department of Permitting and Inspection~~se~~city~~elerk~~. Upon failure to pay the issuance fee and obtain the license within said thirty-day period, the approval shall be void and the application deemed abandoned. For good cause shown, the Department of Permitting and Inspection~~se~~lerk may extend the thirty-day period provided such extension does not result in the issuance of the license being delayed more than one hundred eighty (180) days from its approval by the Department of Permitting and Inspection~~se~~city~~elerk~~.

...

Sec. 15-9. Appeals.

(a) *Procedure.* An appeal to the city manager may be taken by any person aggrieved by the denial, suspension or revocation of a license by the Department of Permitting and Inspection~~se~~lerk by filing a notice of appeal and the prescribed fee with the city manager within thirty (30) days of the decision appealed from, and not thereafter. Every appeal should be in writing and shall state the basis for the appeal. Within two (2) business days of the filing of an appeal, the city manager shall designate himself or any agent or employee to act as hearing designee in the appeal. The hearing designee shall hear the appeal within ten (10) business days after the filing of the appeal and may affirm, reverse or modify the decision appealed from. The taking of an appeal shall not stay a decision appealed from, except that at the request of the licensee, the Department of Permitting and Inspection~~se~~lerk may stay the effective date of a suspension, revocation or denial of a renewal license upon a finding that the public is not likely to suffer any harm during the pendency of the appeal. In such case, the Department of Permitting and Inspection~~se~~lerk shall make a written finding of his or her decision in this regard and shall notify the appellant.

(b) *Scope of review.* On appeal, the hearing officer shall review the decision of the Department of Permitting and Inspection~~se~~lerk and any disciplinary action taken pursuant thereto to determine whether the decision was based upon

substantial evidence and the disciplinary action taken was proportionate to the violation. The hearing officer may take additional evidence with respect to such decision or action and if additional testimony or evidence is taken shall determine the appeal upon all of the evidence, except as provided in this section.

...

Sec. 15-10. Notices of hearing.

(a) *Content.* Whenever a public hearing is required, the Department of Permitting and Inspection~~selek~~ shall give notice of the time and place of the hearing, the type of license involved, and the nature of the hearing, and the address or location of the property involved.

(b) *Service.* Except as expressly provided, whenever notice by mail is required, such notice shall be mailed by regular United States mail at least ten (10) days in advance of the hearing date. When notice by publication is required, such notice shall be published in a newspaper of general circulation in the city at least once, not more than thirty (30), nor less than seven (7) days before the date of the hearing. Where notice to abutters is required, all owners or occupants of property within five hundred (500) feet of such parcel or tract shall be deemed to be abutters, and service shall be made by ordinary mail at least seven (7) days before the date of the hearing. In the case of abutters, the owners and occupants of property listed in the assessor's records on the last tax date prior thereto, shall be deemed to be the persons to whom notice is to be given. The Department of Permitting and Inspection~~selek~~ shall take reasonable measures to notify renters in close proximity.

...

Sec. 15-11. License not to be transferable.

(a) No license shall be transferred to any person, to any location, or to any other vehicle or device, and no license fee shall be refunded if the licensed activity is ceased prior to the expiration of the license. All purported transfers not in accordance with this section are void. A license shall be deemed the subject of an attempted transfer whenever there is a sale of the business, vehicle or device, or where there is a change in actual ownership interest. Upon any such event, the licensee

shall immediately surrender the license to the Department of Permitting and Inspection~~sele~~~~rk~~; except that, in the case of death, bankruptcy or receivership of any licensee, the duly appointed executor or administrator of the deceased licensee or the duly appointed trustee or receiver of the bankrupted licensee or licensee receivership may retain the license and operate under the same for the benefit of the estate with the written permission and approval of the Department of Permitting and Inspection~~sele~~~~rk~~ until such time as such operation is no longer needed to benefit the estate. Thereafter, such personal representatives, receivers, or trustees shall either return the license to the Department of Permitting and Inspection~~sele~~~~rk~~ or transfer same to any other person, under order of the court having jurisdiction and upon written notice to the Department of Permitting and Inspection~~sele~~~~rk~~. In the interim, between the death of the licensee and the appointment of an executor or administrator, or in cases where no administration of the estate of a deceased licensee is contemplated, the widow or widower or person designated by all of the heirs of the deceased licensee may take over the license upon written notice to the Department of Permitting and Inspection~~sele~~~~rk~~. Duly appointed and qualified guardians and conservators of the estate of a licensee may retain the license of their ward during the term of office upon written notice to the Department of Permitting and Inspection~~sele~~~~rk~~.

(b) In all cases arising out of this section in which the Department of Permitting and Inspection~~sele~~~~rk~~ is required to determine the identity or composition of or ownership interests in an applicant or licensee, or to determine whether a transfer of an ownership interest in an applicant or licensee has taken place, he shall look to the substance rather than the form of transactions and any person aggrieved may appeal the Department of Permitting and Inspection~~sele~~~~rk~~'s determination to the city manager.

...

Sec. 15-12.1. Waiver of fees.

The city council may, in its discretion, waive or reduce any fee required of any nonprofit organization where the council determines that the purpose of the licensed activity or the funds to be raised by the activity are of direct benefit to the citizens of the city. Additionally, the Department of Permitting and Inspection~~sele~~~~rk~~ may waive or reduce the fee required of the nonprofit organization for a temporary food

service establishment license when the organization demonstrates that it will retain 100 percent of the proceeds of the temporary sale of food.

Sec. 15-13. Supplementation of applications.

Whenever a license is in effect, the licensee shall be responsible for notifying the Department of Permitting and Inspectionselek in writing of any material change in facts set forth in the application for any license held from the city within seven (7) days thereafter. Failure to comply with this requirement shall be a violation of this chapter.

Sec. 15-14. Violations.

In addition to any action which may be taken by the Department of Permitting and Inspectionselek or the city council with respect to the suspension or revocation of a license, violation of this chapter, or of any licensing provisions of the city governed by this chapter, or of any rule made pursuant thereto shall be a civil violation subject to the penalties of section 1-15.

10. That Sections 16-10 and 16-13 to 16-15 are hereby amended to read as follows:

Sec. 16-10. List of employees.

The therapeutic massage establishment shall keep a written list of the names and current addresses of all employees, both on duty and off duty. Such list shall be shown to the chief of police, his or her authorized deputy, the Department of Permitting and Inspectionselek ~~city clerk or her representative~~ upon request.

...

Sec. 16-13. Standards for denial.

In addition to the provisions of chapter 15, a license under this article shall be denied to the following persons:

...

The Department of Permitting and Inspectionselek shall make and keep a written record of every decision to deny an application for any license hereunder.

...

Sec. 16-14. Grounds for suspension or revocation.

(a) *All licenses.* In addition to the grounds for revocation or suspension set forth in chapter 15 and section 16-13, any license may be suspended or revoked upon a determination that the licensee:

- (1) Failed to notify the Department of Permitting and Inspections~~City Clerk~~ of any change in material fact set forth in the application for such license; or

...

Sec. 16-15. Application for therapeutic massage establishment, combined massage establishment/massage therapist and massage therapist licenses.

Any person desiring a license pursuant to this chapter shall file a written, signed application with the Department of Permitting and Inspections~~City Clerk~~ on a form to be furnished by the Department of Permitting and Inspections~~City Clerk~~. An application for a combined massage establishment/massage therapist license, a massage therapist license or a conditional massage therapist license shall be accompanied by two (2) front face photographs of the applicant taken within thirty (30) days of application, of such size as the Department of Permitting and Inspections~~City Clerk~~ may specify.

...

11. That Sections 19-17 to 19-19 are hereby amended to read as follows:

Sec. 19-17. License required.

(a) All street vendors conducting business on any street, way or public place must have a license issued by the Department of Permitting and Inspections~~City Clerk~~ as provided in this Article.

...

(c) A street goods vendor or a street artist shall only be permitted on a street, way or public place during festivals or special events declared by the City Council pursuant to Section 19-22, with the approval of the sponsoring business or organization or the Parks and Recreation Department. All street goods vendors shall be required to obtain a license issued by

the Department of Permitting and Inspections~~City Clerk~~ and pay the fee prescribed by Section 25-27(e) of this Code.

...

Sec. 19-18. Application.

(a) In addition to the information required by section 15-5, each application for a street vendor's or street goods vendor's license shall include a specific description of the business, the goods or services to be sold, and the equipment, if any, to be used, including a reasonable estimate of the value thereof.

(b) No street vendor's license shall be issued without the applicant first filing with the Department of Permitting and Inspection~~sele~~rk a certificate, in a form satisfactory to the corporation counsel, evidencing public liability insurance coverage in an amount not less than the maximum liability under applicable law and naming the city as an additional insured. The certificate shall also provide for notice to the Department of Permitting and Inspection~~sele~~rk not less than thirty (30) days prior to any cancellation of insurance, which insurance the licensee shall maintain at all times while engaged in street vending.

Sec. 19-19. Special conditions of operation.

(a) Area of operation: A licensed street vendor may operate:

(1) In any zone of the city where such use is* a permitted or conditional use as defined in chapter 14 of the City Code;

(2) At Hadlock Field subject to the following conditions:

On the north side of Park Avenue between High Street and I-295, except when there is a game or event at Hadlock Field in which case food trucks are limited to Park Avenue along Deering Oaks Park until two (2) hours before a game or event and starting again two (2) hours after the game or event.

Within the vicinity of Hadlock Field, as defined by separate council order, four (4) pushcart licensed street vendors may operate upon the following terms:

a. One (1) at each of the four (4) sites to be designated by the Department of Permitting and Inspectionseity~~clerk~~, said sites to be located approximately as follows:

i. Deering Avenue sidewalk at the entrance to Fitzpatrick Stadium parking lot, or at the vendor's choice, at a site in said parking lot which is approved by the Department of Permitting and Inspectionseity~~clerk~~;

...

d. Any approved street vendor shall comply with all of the applicable provisions of this Code, including without limitation the provision of this subsection, and of city rules promulgated for such street vendors by the Department of Permitting and Inspectionseity~~clerk~~; and

e. The Department of Permitting and Inspectionseity~~clerk~~ is hereby authorized to promulgate rules consistent with this Code for the form of the Hadlock Field street vendor license and application; advertisement and conduct of the lottery and approved street vending operations, including without limitation, selection of replacement vendors if needed; vendor sales practices; vendor litter control; and cleanup both during and after close of sales. Said rules shall be subject to the approval of the city manager and shall be posted in the Department of Permitting and Inspectionseity~~clerk's office~~.

(b) *Conduct of operations:*

(1) Every licensed street vendor shall wear a numbered badge issued by the Department of Permitting and Inspectionseity~~clerk~~.

...

12. That Sections 23-27 and 23-29 are hereby amended to read as follows:

Sec. 23-27. Application.

Application for a license required by this chapter shall be made to the Department of Permitting and Inspectionseity-clerk, with payment of the fees and in accordance with the procedures set forth in chapter 15.

...

Sec. 23-29. Flea markets.

Any person who provides tables, space, or otherwise operates a flea market shall obtain a license from the Department of Permitting and Inspectionseity-clerk.

...

An operator or seller who is determined by the Department of Permitting and Inspectionseity-clerk to have violated any provision of this section may have their license revoked and not renewed for a period not to exceed one (1) year. Any person so charged shall be afforded notice and an opportunity to be heard prior to the revocation of the license.

13. That Sections 28-112, 28-136, 28-137, 28-138, 28-141, 28-270 to 28-273, 28-275, 28-276, 28-280 to 28-283 are hereby amended to read as follows:

Sec. 28-112. Permit to use.

Any person seeking the privilege of using any taxicab stand shall make application in writing to the Chapter 30 Licensing Authorityeity-clerk, and the Chapter 30 Licensing Authorityeity-clerk shall grant such permits as it approves.

...

Sec. 28-136. Required.

(a) No towing or wrecking service shall tow any vehicle within the city without the express knowledge or consent of the vehicle owner or his or her authorized representative, unless such towing or wrecking service is currently licensed.

(b) All licenses issued pursuant to this division shall be granted, denied, suspended or revoked by the Department of Permitting and Inspectionseity-clerk.

(c) Licensees may request that they be placed on the

towing list, which shall subject them to additional regulations promulgated by the chief of police pursuant to section 28-124.

...

Sec. 28-137. Investigation; issuance or denial.

(a) Within thirty (30) days after receipt of an application under this division, the Department of Permitting and Inspection~~city clerk~~, in conjunction with the chief of police, shall conduct an investigation to determine: The truth, accuracy and adequacy of the information contained in the application; the ability of the applicant to furnish the required service and to abide by the regulations and provisions set forth herein or established pursuant to section 28-124; the applicant's past record of performance in wrecker or towing business and the adequacy of the applicant's equipment and storage facilities. Upon completion of the investigation, the Department of Permitting and Inspection~~city clerk~~ shall either grant or deny the license and notify the applicant in writing of such decision and the findings and reasons, if any, for denial of the license. Upon issuance of the license, the Department of Permitting and Inspection~~city clerk~~ shall forward to the licensee a copy of this article and any regulations adopted pursuant thereto.

(b) The following must be submitted prior to commencement of the investigation:

...

(6) Such other information as the Department of Permitting and Inspection~~city clerk~~ may require on the license application.

...

Sec. 28-138. Insurance required.

(a) No wrecker shall be issued a license until the applicant has deposited with the Department of Permitting and Inspection~~city clerk~~ a certified copy of the following policies:

...

Sec. 28-141. Grounds for revocation, suspension or denial.

In addition to the grounds for revocation, suspension or denial found in chapter 15, a license issued under this division

may be suspended or revoked or denied by the Department of Permitting and Inspection~~city clerk~~ upon a determination that the licensee, or applicant, or wrecker operator:

...

Sec. 28-270. Purpose; permit and license required.

(a) The purpose of this article is to:

...

(b) No person, establishment or entity shall conduct valet parking service within the City of Portland without first obtaining a permit from the Department of Permitting and Inspections ~~city clerk's~~ office and paying the fee therefor.

...

Sec. 28-271. Definitions.

Terms used in this article shall have their common meanings except that, the definitions used in this Article or in chapters or articles related to this Article shall have the following meanings:

...

Valet parking permit means the permit issued by the Department of Permitting and Inspection~~city clerk's~~ office to the valet permit operator allowing it to conduct a valet parking operation in an approved valet parking zone.

...

Sec. 28-272. Applications.

Applications under this division except for a one-day special event permit, shall be filed thirty (30) days in advance of issuance of a permit in the Department of Permitting and Inspection~~city clerk's~~ office. Such application shall include the following information:

- (1) Name and address of the proposed permittee/operator. If incorporated, permittee/operator must provide copies of their articles of incorporation and bylaws.

...

- (5) An appropriate form of statement over the signature of each person signing the application, giving all persons and governmental agencies having information

relevant to the above items permission to release the same to the Department of Permitting and Inspection~~sele~~rk's office.

...

- (9) Applications shall be forwarded by the Department of Permitting and Inspection~~sele~~rk's office to all city departments which may be affected by the granting of the permit, including but not limited to, public works, planning, police and parking.

...

Sec. 28-273. Fees; exceptions.

(a) *Issuance fees.* Applications for yearly valet permits shall be accompanied by an annual nonrefundable fee of two hundred and sixty dollars (\$260.00) per location. Each location shall only include two (2) parking spaces approved by the Transportation Systems Engineer, whose decision shall be final.

(b) *Special event fee.* Application for a special event permit shall be accompanied by a nonrefundable fee of sixty dollars (\$60.00) provided that the Department of Permitting and Inspection~~sele~~rk's office has received ten (10) days' notice prior to such event.

...

Sec. 28-275. Required.

(a) *Driver's license.* No person shall valet park a vehicle within the city unless such valet driver is currently licensed to operate a vehicle.

...

(c) *Insurance.* The applicant must file with the Department of Permitting and Inspection~~sele~~rk's office a copy of the applicant's insurance certificate evidencing public liability insurance coverage and automobile insurance coverage in amounts not less than Four Hundred Thousand Dollars (\$400,000) combined single limit, or the amount stated in the Maine Tort Claims Act as the same may be amended from time to time, covering claims for bodily injury, death and property damage, and naming the City as an additional insured, and also provide worker's **compensation insurance coverage as required by law.**

Sec. 28-276. Standards and criteria for application review.

The standards and criteria used in reviewing the

application required in section 28-273 shall be in accordance with the Valet Parking Rules and Regulations on file with the Department of Permitting and Inspections~~clerk's office~~.

...

Sec. 28-280. Denial, revocation, or suspension of permit; removal of equipment or personal property of the permittee/operator and storage fees.

(a) The Department of Permitting and Inspections~~Clerk's Office~~ may deny, revoke, or suspend a permit for any valet parking service authorized in the City if it is found that:

...

Sec. 28-281. Appeals of permit denial or revocation.

(a) *Procedure.* An appeal to the City Manager may be taken by any person aggrieved by the denial, suspension or revocation of a license by the Department of Permitting and Inspections~~clerk's office~~ by filing a notice of appeal within thirty (30) days of the decision appealed from, and not thereafter. Every appeal should be in writing and shall state the basis for the appeal. The City Manager or his or her designee shall hear the appeal and may affirm, reverse or modify the decision appealed from.

...

Sec. 28-283 Special Events.

Valet services operating for a special event may apply for a permit at the Department of Permitting and Inspections~~clerk's office~~ as long as it does not reduce the number of parking spaces needed to serve the general public in the area of the request.

Special events shall be restricted to any event occurring no more than twice per year. The hours for parking of vehicles shall be approved by the City. A special event application shall be filed with the Department of Permitting and Inspections~~Clerk's Office~~ at least ten (10) days prior to the scheduled event.

BE IT FURTHER ORDAINED that these amendments are enacted as an Emergency, pursuant to Article II, Section 11 of the Portland City Charter.

Amendment #1 to Order 165-15/16
RE: Changing Cost of Work Fees from \$16 per \$1,000 to \$15 per \$1,000
Prepared by Corporation Counsel for Councilor Brenerman

Sec. 217. Additional duties assigned.

...

Sec. 327. Application.

...

Sec. 427. Notice and hearing.

...

Sec. 617. Fee Schedule.

The applicant shall submit the cost of work in order to determine the permit fee. If the construction cost submitted is less than that as indicated by national standards such as BOCA International or the R.S. Means Company, Inc., the City of Portland reserves the right to reevaluate the proposed project cost based on the referenced national standard and assess the larger of the fees. All building permit applications shall be accompanied by the appropriate fee as established below:

(a) Construction work:

(1) Cost of work fees:

Up to \$1,000.00	\$.25.00
\$1,000.00 or more	\$.25.00 + \$15 <u>6</u> .00 per
\$1,000.00 above \$1,000.00	

(2) Belated fees:

Below \$25.00 permit fee . .	\$.50.00 additional
Above \$25.00 permit fee . .	\$.100.00 additional

(3) Amendments to application:

Up to \$1,000.00	\$.25.00
\$1,000.00 or more	\$.25.00 + \$15 <u>6</u> .00 per

\$1,000.00 above \$1,000.00

...

Sec. 10-3. Amendments.

Sec. 11-2. Copies on file with the Department of Permitting and Inspections.

...

Sec. 12109. Licensing of commercial refuse collectors and refuse transporters.

...

Sec. 14145.5. Dimensional requirements.

...

Sec. 151. Definitions.

...

Sec. 1610. List of employees.

...

Sec. 1917. License required.

...

Sec. 2327. Application.

...

Sec. 28112. Permit to use.

BE IT FURTHER ORDAINED that these amendments are enacted as an Emergency, pursuant to Article II, Section 11 of the Portland City Charter.

Amendment # 2 to Order 165-15/16

RE: Grandfathering Cost of Work fees approved on or before March 8, 2016 at \$11.00 per
\$1,000 above \$1,000

Prepared by Corporation Counsel for **Councilor Brenerman**

Sec. 217. Additional duties assigned.

...

Sec. 327. Application.

...

Sec. 427. Notice and hearing.

...

Sec. 617. Fee Schedule.

The applicant shall submit the cost of work in order to determine the permit fee. If the construction cost submitted is less than that as indicated by national standards such as BOCA International or the R.S. Means Company, Inc., the City of Portland reserves the right to reevaluate the proposed project cost based on the referenced national standard and assess the larger of the fees. All building permit applications shall be accompanied by the appropriate fee as established below:

(a) Construction work:

(1) Cost of work fees:

Up to \$1,000.00 \$25.00
\$1,000.00 or more \$25.00 + \$16.00 per
\$1,000.00 above \$1,000.00, except that the cost
of work fees for a project that has completed
Level I, II, or III Site Plan review, or received
Administrative Authorization approval, pursuant
to the applicable Chapter 14, Division V, on or
before March 8, 2016 shall be:

Up to \$1,000.00.....\$25.00
\$1,000 or more.....\$25.00 + \$11.00 per

\$1,000 above \$1,000.

(2) Belated fees:

Below \$25.00 permit fee . . \$50.00 additional
Above \$25.00 permit fee . . \$100.00 additional

(3) Amendments to application:

Up to \$1,000.00 \$25.00
\$1,000.00 or more \$25.00 + \$16.00 per
\$1,000.00 above \$1,000.00, except that Amendments
to application fees for a project that has
completed Level I, II, or III Site Plan review,
or received Administrative Authorization approval
pursuant to the applicable Chapter 14, Division
V, on or before March 8, 2016 shall be:

Up to \$1,000.00.....\$25.00
\$1,000.00 or more.....\$25.00 + \$11.00 per
\$1,000.00 above \$1,000.00.

...

Sec. 10-3. Amendments.

Sec. 11-2. Copies on file with the Department of Permitting and Inspections.

...

Sec. 12109. Licensing of commercial refuse collectors and refuse transporters.

...

Sec. 14145.5. Dimensional requirements.

...

Sec. 151. Definitions.

...

Sec. 1610. List of employees.

...

Sec. 1917. License required.

...

Sec. 2327. Application.

...

Sec. 28112. Permit to use.

BE IT FURTHER ORDAINED that these amendments are enacted as an
Emergency, pursuant to Article II, Section 11 of the
Portland City Charter.

Amendment #3 to Order 165-15/16

RE: Altering affordable housing cost of work discount and what projects are eligible for the discount.

Prepared by Corporation Counsel for **Councilor Brenerman**

Sec. 217. Additional duties assigned.

...

Sec. 327. Application.

...

Sec. 427. Notice and hearing.

...

Sec. 617. Fee Schedule.

Sec. 10-3. Amendments.

Sec. 11-2. Copies on file with the Department of Permitting and Inspections.

...

Sec. 12109. Licensing of commercial refuse collectors and refuse transporters.

...

Sec. 14145.5. Dimensional requirements.

...

Sec. 14-485. Definitions.

...

Eligible project means a development project:

(a) That is permissible under the provisions of this

chapter in the zone in which it is proposed;

- (b) That will be a multi-family dwelling ,as defined in section 14-47, and will not be located in an R-1 or R-2 zone;
- (c) Reserved That creates new dwelling units, among which is at least one low-income housing unit for rent or workforce housing for sale, through new construction, substantial rehabilitation of existing structures, adaptive reuse or conversion of a non-residential use to residential use, or any combination of these elements. Affordable housing units for sale or rent may not differ in exterior design from other units within an eligible project.
- (d) Projects shall not be considered "eligible projects" solely because they are subject to Section 14-487 ("Ensuring Workforce Housing").~~That creates new dwelling units, among which is at least one affordable housing unit for rent or sale, through new construction, substantial rehabilitation of existing structures, adaptive reuse or conversion of a non-residential use to residential use, or any combination of these elements. Affordable housing units for sale or rent may not differ in exterior design from other units within an eligible project.~~

Sec. 14-486. Reduction of fees and Priority Review.

Notwithstanding any other provision of this chapter or chapter 6 to the contrary, development fees shall be reduced by the city for an eligible project in the manner described in the following table:

Percentage of new units that are low-income or workforce units	Percentage discount of development fees
5% up to but not including 10%	5% reduction
10% up to but not including 15%	10% reduction
15% up to but not including 20%	15% reduction

20% up to but not including 25%	20% reduction
25% or more up to but not including 100%	25% reduction
100%	45% reduction on chapter 6 fees and 25% on other development fees.

Sec. 151. Definitions.

...

Sec. 1610. List of employees.

...

Sec. 1917. License required.

...

Sec. 2327. Application.

...

Sec. 28112. Permit to use.

BE IT FURTHER ORDAINED that these amendments are enacted as an
Emergency, pursuant to Article II, Section 11 of the
Portland City Charter.

**M E M O R A N D U M**

TO: Jon Jennings, City Manager
FROM: Julie Sullivan, Chief of Staff
DATE: October 26, 2015
RE: Proposed Permitting and Inspections Department

With the goal of radically improving the City's many permitting and inspections functions, I reviewed current positions, processes and structures, and am proposing a new one-stop department. To that end, I conducted approximately 40 interviews including several external partners; reviewed the two 2013 studies, one from the University of Southern Maine and the other from the Government Consulting Group; and looked at best practices from Boston, Burlington, VT and Lowell, MA.

The Planning and Urban Development Department has made concerted efforts over the past few years to strengthen these functions and many improvements can be attributed to their hard work. We are now poised to build on these initial improvements and restructure to fully realize the goal of an effective, efficient permitting and inspections department that provides excellent customer service.

Key areas of emphasis from internal and external interviewees are:

- Need to greatly improve customer service focus
- Information and application materials are far too complex
- Need more detailed web-based interface regarding application status
- Need online application capability which feeds directly into the City software system(s) to avoid staff data entry and simplify the process for applicants
- Applications must be triaged so are not all in one queue, but separated by complexity
- Clear, consistent evaluative measures and processes need to be put in place
- Ordinances need to be rewritten for clarity, consistency and brevity

Summary

The interviews and research indicate that there are clear efficiencies and improvements to be gained by co-locating Inspections, Housing Safety, Zoning, and Business Licensing. Adding Food Service Inspections in the future also makes sense, given the overlapping involvement with overall inspections and business licensing processes.

Currently, all building permit applications go into the same queue. There is some fast-tracking based on application completeness. Staff stated that at least 60% of application volume is small,

residential rehab projects. I suggest re-tooling the front-end processes to triage applications so that simple projects can move quickly and perhaps have permits issued on the spot, with front-end staff able to work with customers needing assistance instead of entering data and uploading documents. It will also be critical to change the threshold for which projects require a zoning review and which do not. Currently, all projects are subject to a zoning review.

For Events, there are efficiencies and improvements to be made by co-locating all event-related staff within one office in Recreation and Facilities Management, adding contract staff to allow the City to more effectively manage the increasing volume and scope of events, and including all event-related permits and fees into one overarching contract.

Although Planning Department staff are extremely wary of any software changes, it is evident that the current programs and processes maintain a patchwork, band-aid approach and do not allow for cost-savings, efficiencies and good customer service. The IT Department is considering a City-wide software solution that could better link the many departments while providing a seamless experience for our customers.

Recommendations are organized into five areas:

1. Structure and Staffing
2. Processes
3. Ordinances
4. IT
5. Budgetary Impact

Recommendations

1. Structure and Staffing

The departments involved in permitting and inspections are: City Clerk, Fire, Health & Human Services/Public Health, IT, Planning and Urban Development, Parking, Police, Public Services, and Recreation and Facilities. In general, permitting and inspections functions are as follows:

Department	Function	Name	Title
Planning	Plan Review	Tammy Munson	Inspections Division Director
		Jon Rioux	Inspections Division Deputy Director
		Jeannie Bourke	Plan Reviewer
		Laurie Leader	Plan Reviewer
	Front desk – Inspections	Doreen Christ	Office Assistant
		Brad Saucier	Admin Assistant
		Vacant	Office Assistant (half time with Inspections, half time with Planning)
	New construction/rehab inspections	Tammy Munson	Inspections Division Director
		Jon Rioux	Inspections Division Deputy Director
		Doug Morin	Code Enforcement Officer

Department	Function	Name	Title
		Brian Laflamme Duane Hanson	Code Enf Off (electrical) Code Enforcement Officer
	Housing complaint inspections/sidewalk issues including outdoor dining, street artists, accessibility issues, etc.	Chuck Fagone	Code Enforcement Officer
	Zoning Review	Ann Machado Christine Stacy	Zoning Administrator Zoning Specialist
	Historic preservation	Deb Andrews Rob Wiener	Historic Preservation Manager Preservation Compliance Officer
	Planning/development	Tuck O'Brien Barbara Barhydt Rick Knowland Christine Grimando Caitlin Cameron Shukria Wiar Jean Fraser Nell Donaldson Phil DiPierro Jennifer Munson Vacant	Planning Division Director Development Review Manager Senior Planner Senior Planner Urban Designer Planner Planner Planner (PT) Development Review Coordinator Office Manager Office Assistant (half time with Inspections, half time with Planning)
City Clerk	Business licensing	Janice Gardner	Business License Administrator
	Event permits	Janice Gardner	Business License Administrator
HHS	Food service inspections	Mike Russell Eric Cobb Tom Williams	Program Manager Inspector Inspector
Fire	Plan review	Keith Gautreau Craig Messinger David Petrucelli	Asst Fire Chief, Fire Prevention Lieutenant Captain
Public Services	Events	Ted Musgrave Rusty Groh	Event Coordinator Event Assistant
	Street opening permits	Carol Merritt	Account Clerk
	On-street parking permits	Gretchen Gagnon	Office Assistant
	FOG/Water Resources	Ben Pearson	Assistant Engineer
	Plan review	Kathy Earley	Director of Engineer Services
		David Margolis-Pineo	Deputy Engineer
		Jeff Tarling	City Arborist
		Jeremiah Bartlett	Transportation Engineer
		Rhonda Zazzara	Inspection Coordinator
IT	Urban Insight, Civic Plus, ePlan	Dan Boutilier Vicki Bourret	IT Dept Director Deputy IT Director
Rec & Facilities	Events	Sally DeLuca Andy Downs	Rec & Facilities Dept Director Director of Public Assembly Facilities
Parking	Events	John Peverada	Parking Manager

Department	Function	Name	Title
Police	Events	Sgt. Mike Rand	Traffic
Housing Safety Office	Rental housing inspections	Art Howe	Administrator
		Ian Houseal	Program Coordinator
		TBH – 3 positions	Code Enforcement and Life Safety Inspector(s)

Initially, the following components were considered for inclusion in the new one-stop department:

- Inspections
- Business Licensing
- Events
- Parking Permits
- Zoning
- Food Service Inspections
- Housing Safety

These components were presumed to stay under Planning:

- Housing and Community Development
- Transportation
- Planning and Historic Preservation

Because the Housing Safety Office (HSO) is just starting up, I believe it is best to allow the HSO to achieve its own short-term deliverables without having to be caught up in the trials and tribulations of a new, combined department. I suggest bringing the HSO into the new one-stop 3 to 6 months after implementation. The Food Service Inspections program in the Public Health Division is functioning well and also can be brought into the new one-stop at a later date.

On the other hand, I do not recommend bringing Events into this one-stop. There is enough complexity in combining all building-related permitting and inspections as well as business licensing functions; the best practices review did not yield any other municipalities who combine these functions with events; and interviews with Events staff indicate several improvements that can be made to streamline event-related permitting within an improved events one-stop:

- Bring Event Coordinator and Event Assistant from Public Services into the Events office under the Director of Public Assembly Facilities.
- Fill the Deputy Director of PAF position, as the Director has too many direct reports.
- Contract with event coordinators to allow the City to respond more efficiently and effectively to the increased volume and scope of events.
- Combine all relevant permits under one event contract, so that customers are paying one fee at one time.

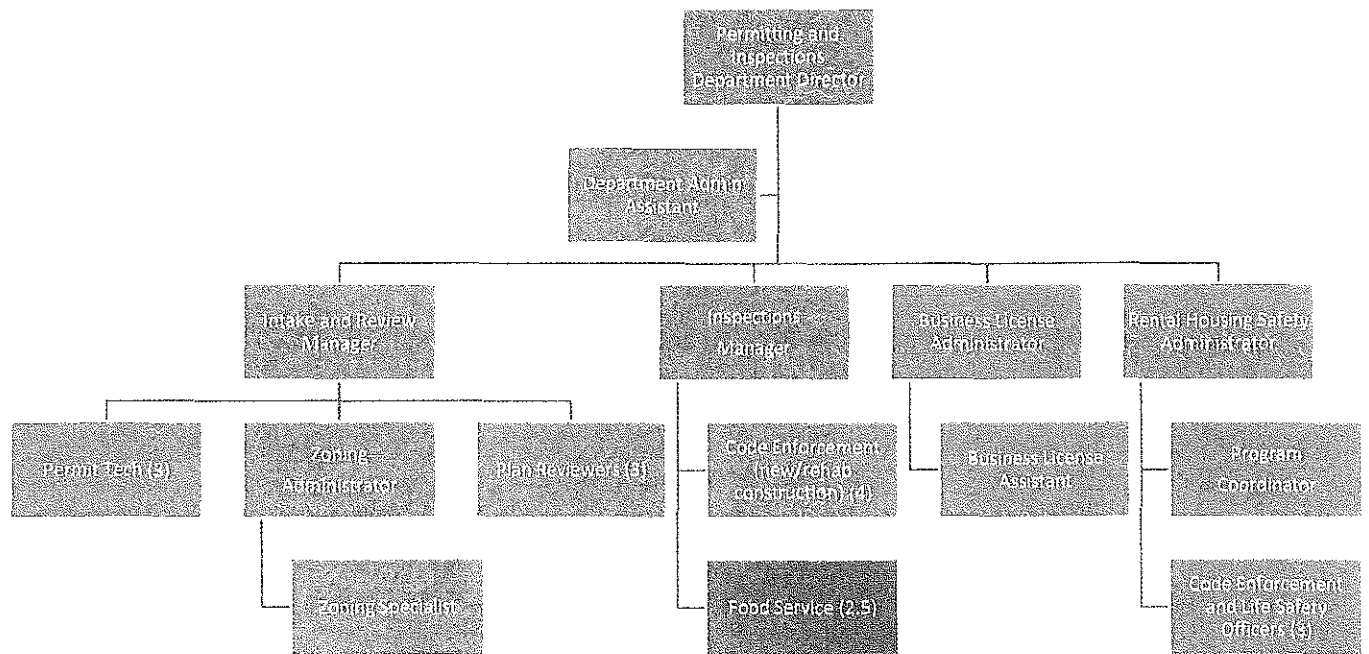
- Set a threshold above which an event needs to have its own organizer or we will charge them for the cost of an organizer.
- Consider enforcing deadlines such that fees increase for late requests.
- Tent permits should go through admin review and not zoning.
- Set a threshold above which an event needs Fire Department involvement.
- Consider a threshold for types of events that should have City Manager approval at the outset.
- Fully utilize City software systems, either Urban Insight or a new software solution.

I also do not recommend bringing Parking into this one-stop. While Parking is involved with events permitting as well as some construction-related permitting, it is a relatively isolated process that works well as it is.

However, there are advantages to moving the street opening and on-street parking permits related to construction from Public Services to the one-stop, and either the Department Admin Assistant or the Permit Techs could issue those permits. In addition, it make sense to incorporate the Fats, Oils and Grease permits into the one-stop, as they are a significant challenge for the food service industry and part of the building review process.

The new Permitting and Inspections Department would incorporate the following changes:

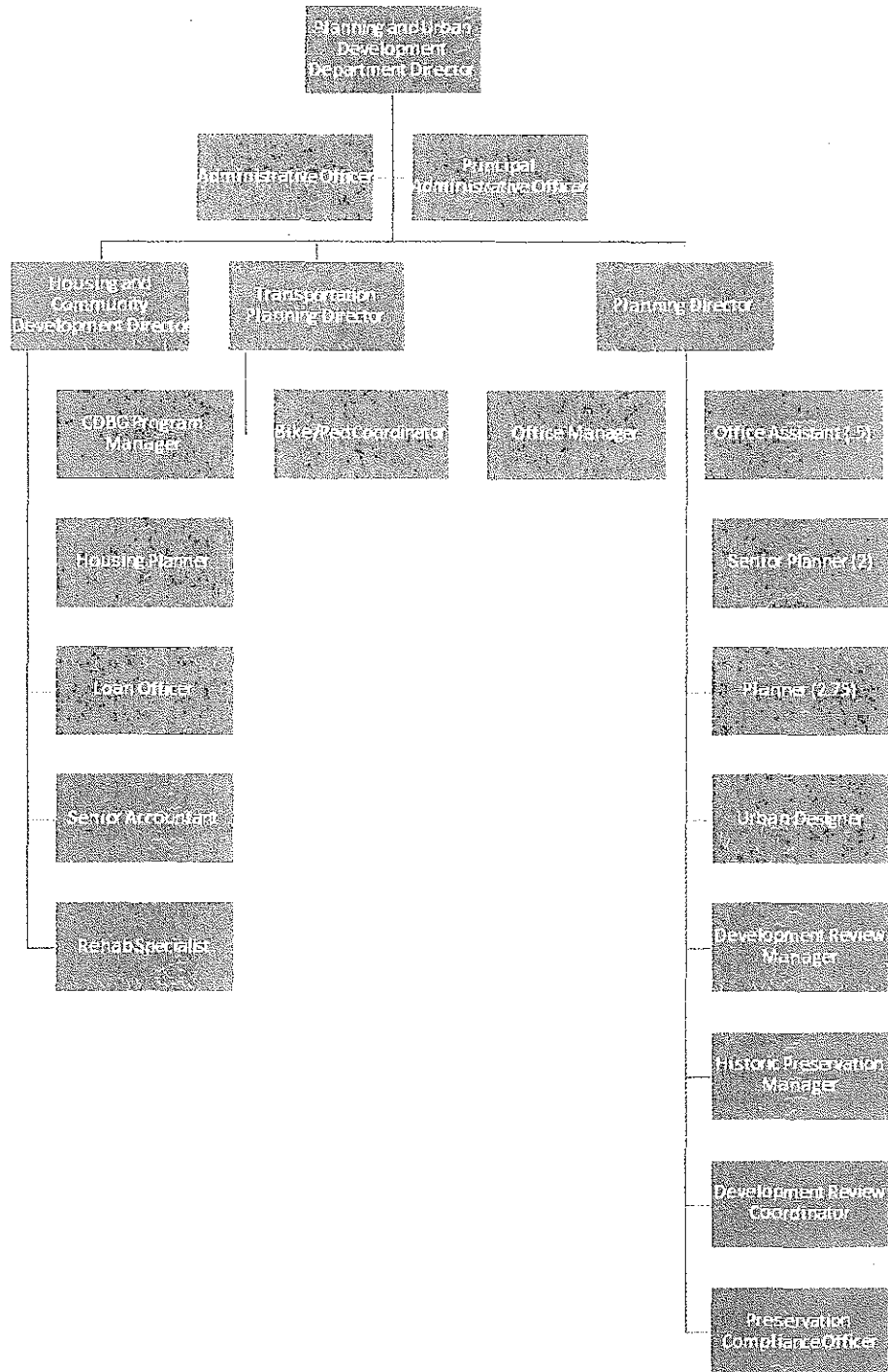
- New department head
- New front-end position: Permit Tech - Quickly reviews all incoming applications, works directly with applicants on completeness and accuracy, issues same-day permits, queues more complicated projects, serves as point person for applicant questions throughout the process, and ensures an excellent customer service experience.
 - Currently, there are 2.5 front-end positions: 1.5 Office Assistants and one Administrative Assistant
 - I suggest eliminating these positions.
 - Given the volume, I recommend three Permit Tech positions to comprise the front end.
 - I also recommend a senior-level administrative position to report to the Department Director, support the entire department, and answer phones.
- Additional life safety plan reviewer funded by HSO revenues and reporting to the Intake and Review Manager. This position should also conduct ADA reviews; currently, the State Fire Marshal does so, which has not been an effective process.
- New Intake and Review Manager and Inspections Manager positions
- Elimination of Inspections Division Director and Deputy Director positions



This approach allows for management by function for intake, review and inspections. The green shading shows that Food Service Inspections would join the department in the future.

To underscore, the success of this structure relies in large part on the Permit Techs, an effective triage process based on project complexity, and a robust customer service orientation.

The Planning and Urban Development Department would then look like this, assuming no additional changes to current staffing:



To summarize, proposed staffing changes entail:

- Planning and Urban Development
 - Inspections Division moves to proposed Permitting and Inspections Department (PID)
 - Zoning moves to PID
 - Housing and Community Development, Transportation Planning, and Planning
- City Clerk
 - Business License Administrator (and possibly part-time assistant) move to PID
- Housing Safety Office
 - Moves to PID
- Health & Human Services, Public Health Division
 - Food Service Inspections moves to PID in the future
- Public Services
 - Event Coordinator and Event Assistant move to Rec and Facilities
 - Determine how best to handle FOG permits in the new department
- Recreation and Facilities Management
 - Consider adding Deputy Director of Public Assembly Facilities to ensure Director is positioned to handle the ever-increasing scope and volume of events
 - Add Event Coordinator and Event Assistant from Public Services
 - Consider adding contract Event Coordinators to help meet demand

2. Processes

Perhaps the clearest priority heard from nearly all interviewees was the need to revamp the front-end processes for all application types. Currently, the process is supposed to entail:

1. Applicant completes PDF form and sends it via email as an attachment, along with drawings
2. Staff review materials for completion, legibility and accuracy
3. Staff enter all the data into Urban Insight and upload plans to Archive and ePlan plan review software
4. Invoice is created and sent to applicant to pay online
5. When payment is posted, plan review begins
6. Permit issued and final approved plans are stamped

I recommend the following front-end process changes:

- Ideally, an effective software solution eliminates the need for staff to enter data, upload documents, scan documents, save them to multiple places, etc. I address this issue more fully in the IT section.

- Without having to enter data and upload documents to different places, and direct phone calls, we can eliminate the 1.5 Office Assistant positions (.5 is currently vacant) and replace with three Permit Techs.
 - Move the Admin Assistant to report to the new Department Director, support the entire department, and answer phones. This allows the Permit Techs to focus on customers and applications.
 - The Permit Techs would work with walk-in applicants and review electronic submissions.
 - They would follow up with applicants to ensure that all needed materials are submitted, serve as a single point of contact for applicants, and eliminate the need for Zoning or Plan Review to have to chase down applicants for missing information.
 - They would triage applications based on complexity and strive to issue same-day permits for simple projects with all information submitted.
 - The Permit Techs would have enough knowledge to work effectively with applicants and would be required to use solid customer service skills to ensure positive, productive interactions with all applicants at all times.
- The invoicing process should be reconsidered so that all fees are clear and simple, known to applicants up front, combined from the many different possible departments that could be involved, and due at an appropriate point in the process.
 - I suggest a full review of our fee structure, especially given prior recommendations to use Burlington, VT and Lowell, MA as key comparables. Fee amounts have already been reviewed; I believe the number of separate fees currently assessed should be considered now, with the goal of simplifying.
 - Some interviewees suggested we consider providing credits for any required third-party reviews against building/permit fees. It is my understanding that such reviews were primarily if not entirely life safety reviews. Thus, with the addition of a dedicated life safety plan reviewer, there should no longer be a need for such reviews on a regular basis.
- A new software package should allow us to more easily create simple, clear, streamlined information and application materials. Currently there are far too many kinds of forms and they are extremely difficult to understand. Prior studies have recommended looking at Burlington as an example here as well. Regardless of software implementation, this information and materials needs to be revamped entirely.

Other process changes should include:

- Develop training and evaluative measures to ensure consistency across reviewers and inspectors. Numerous interviewees cited issues with inconsistent approaches.
- Continue the pre-application and pre-development meetings, and consider how to streamline them so they are less of a time commitment for staff.
 - Implement a brief evaluative process for applicants to garner ideas for improvements

- Perhaps with the role of the Permit Techs these meetings may be less critical than they are now
- Consider increasing the threshold for projects required to have a Planning Board review. There are too many items going before them, such that simpler projects are delayed and the Board has perhaps an untenable workload.
- Consider increasing the threshold and clarifying the requirements for projects to have a Zoning review. It appears that all projects get a zoning review now, and it is likely that is unnecessary for a large portion.
- Building (and housing safety) inspections staff need to follow same summons practice as Fire has begun using, as a result of the Fire/Code Task Force recommendations.

3. Ordinances

The many sections of the City Code of Ordinances pertaining to permitting, licensing and inspections fall under numerous chapters, are in PDF form, and often are confusing or contradictory. The Planning and Urban Development Department Director is well aware of these challenges and the need for a full rewrite. He has already set priorities for the Zoning code in case a full rewrite is not able to happen in the short term.

I would also suggest that the code be presented in a user-friendly, online format which would allow users to search quickly and easily for relevant topics, and find cross-references and definitions. Many municipalities use Municode for this.

4. IT

The Planning and Urban Development (PUD) Department has worked hard to implement recommendations from prior studies, especially in this area. PUD leadership have collaborated closely with IT leadership to improve Urban Insight and ePlan, as well as to move toward a more paperless system. PUD staff and leadership were, understandably, very frustrated by the time wasted and data lost during the City's efforts to implement One Solution a few years ago.

While software packages are not a magic bullet, all interviewees and best practices research indicate that there are significant improvements and efficiencies to be gained by moving away from the current system. It is critical that internal stakeholders are involved in a collaborative decision-making process around a possible new software solution.

- We lack IT capacity to continue to improve the homegrown software in a timely fashion. Even contracting for programming support continues a piecemeal, band-aid approach.
- While submitting electronic versions of application materials reduces paper, it has not led to a significant process improvement or elimination of backlog, and interviewees commented that they were still required to provide multiple sets of paper plans.

- We need a robust web-based interface for applicants, including information, forms, and detailed information on status tracking and reviewer conditions/requests for additional information.
- We must strive for simplicity and clarity in all information and materials. There are too many forms which are too difficult to understand. A new software solution may take care of this for us; if not, and perhaps regardless, it would be productive to have a cross-section of applicant types review new forms and materials and provide feedback before implementation.
- Inspectors' time must be used as effectively as possible. While tablets were purchased for all of them, they are not using tablets in the field because they find the process far too slow and has too many steps. They choose to return to office for all data entry. There are significant concerns regarding this process; their notes must be timely, detailed, and accurate and contain only professional language.
- I suggest moving away from using a general email inbox, or at least requiring staff responding from that inbox to insert their name and contact information. Customers need to know who they're hearing from.
- Finally, I am optimistic regarding the possibility of a new City-wide software package which would integrate efficiently across departments, require far less IT staff programming time, and allow for a simple, effective, transparent process for applicants. It is critical that decisions regarding new software be reached by a collaborative process involving internal stakeholders.

5. Budgetary Impact

- Estimated personnel costs are:

Current Position	Union	FTE	Salary	Proposed	Union	FTE	Salary	Difference
Inspections Office Asst	CEBA 9	1.5	\$ 51,509	Permit Technician	TBD	3	\$ 150,000	\$ 98,492
Admin Assistant	CEBA 8	1	\$ 34,105	Executive Assistant	NU 4	1	\$ 40,833	\$ 6,728
				Department Director	NU	1	\$ 104,000	\$ 104,000
								\$ 209,220

Conclusion

The Planning and Urban Development Department staff and those performing permitting, licensing and inspections functions throughout the City are to be praised for their commitment to process improvement, and for working under stressful conditions for a long time. Creating a new department encompassing these many functions will allow for an invigorated approach focusing on streamlining processes, managing by functional area, and ensuring excellent customer service.

Interviewees

Internal

Who	Dept	Role
Andrews, Deb	Plng	Historic Preservation
Barhydt, Barbara	Plng	Development Review Services Manager
Bourque, Jeanie	Plng/Inspex	Plan Reviewer
Bourret, Vicki	IT	Deputy Director
Boutilier, Dan	IT	Department Director
Cameron, Caitlin	Plng	Urban Designer
Christ, Doreen	Plng/Inspex	Office Assistant
DeLuca, Sally	Rec & Facil	Department Director
Dobson, Lannie	Plng/Inspex	Office Assistant (former)
Downs, Andy	Rec & Facil	Director of Public Assembly Facilities
Fagone, Chuck	Plng/Inspex	Code Enforcement Officer
Gardner, Janice	City Clerk	Business License Administrator
Gautreau, Keith	Fire	Asst Chief, Fire Prevention
Grimando, Christine	Plng	Senior Planner
Hanig, Nelle	Eco Dev	Business Programs Manager
Jelly, Desiree	Plng	Principal Admin Officer
Knowland, Rick	Plng	Senior Planner
LaFlamme, Brian	Plng/Inspex	Electrical Inspector
Leader, Laurie	Plng/Inspex	Plan Reviewer
Levine, Jeff	Plng	Department Director
Machado, Ann	Plng/Inspex	Zoning Administrator
Merritt, Carol	Pub Serv	Account clerk (Street openings)
Meserve, Tori	Fire	Fire Prevention admin
Messinger, Craig	Fire	Lieutenant, Fire Prevention
Mitchell, Greg	Eco Dev	Department Director
Moon, Troy	Pub Serv	Environmental Programs and Open Space Manager
Munson, Tammy	Plng/Inspex	Inspections Division Director
Munson, Jennifer	Planning	Office Manager
Musgrave, Ted	Pub Serv	Event Coordinator
Needelman, Bill	Eco Dev	Waterfront Coordinator
Pearson, Ben	Pub Serv	Wastewater Engineer (FOG)
Petrucelli, David	Fire	Captain, Fire Prevention
Peeverada, John	Parking	Parking Manager
Rand, Sgt Mike	PD	Traffic
Roux, Jon	Plng/Inspex	Inspections Deputy Director

External

South Portland Planning staff	
Veroneau, Vin	JB Brown
Munroe, Tom	CAP Services
Sanborn, Heather	Rising Tide
Ghanekar, Gillian	JB Brown

Russell, Mike	HHS/PH	Program Manager, Food Service Inspections
Saucier, Brad	Plng/Inspex	Admin Assistant
Soma, Toho	HHS/PH	Public Health Division Director
Stacy, Christine	Plng/Inspex	Zoning Specialist

Proposed Building Permit Fee Change

Current Fee

\$25 per first \$1,000 of construction costs then 1.1% above that

Proposed Fee

\$25 per first \$1,000 of construction costs then 1.6% above that

Expected Revenue Increase		Current Fee	Current Exp Revenue	Proposed Fee	Est CY 16 Revenue	Est Increase
Est CY 15 Total Construction Costs	\$116,163,549	1.1%	\$1,277,813	1.6%	\$1,858,626	\$580,813

Additional Costs for New Department

Staffing Changes (salary difference plus fringe)	\$ 276,756
Technology Improvements	\$ 295,557
Training Budget (3 Permit Techs, continuing ed for others)	\$ 8,500

Building Permit Fees - Comparisons

Portland - current	\$25 for first \$1,000; 1.1% above
Portland - proposed	\$25 for first \$1,000; 1.6% above
Bangor, ME	\$38-55 minimum plus \$7 per \$1,000 of construction costs (.7%)
Burlington, VT	\$30 min plus \$8.50 per \$1,000 of cost of work (.85%)
Lewiston, ME	\$25 min plus \$6 per \$1,000 of cost of work (.6%)
Manchester, NH	\$30 min plus 1% of cost of work plus \$.02 per square foot plan review fee
Portsmouth, NH	\$50 min plus \$.25 per gross square foot of floor area for new construction; \$7 per 1,000 of residential renovation cost (.7%); \$10 per \$1,000 of commercial renovation cost (1%)
South Portland, ME	1.5% per \$1,000 of construction costs



CITY COUNCIL REPORT FROM PLANNING BOARD PORTLAND, MAINE

Text Amendments to the Land Use Code related to the establishment of the Department of
Permitting and Inspections
City Manager, City of Portland, Applicant

Submitted to: Portland City Council From: Portland Planning Board	Prepared by: Barbara Barhydt, Development Review Services Manager Date: February 24, 2016
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I. PLANNING BOARD RECOMMENDATION

On February 23, 2016, the Planning Board held a public hearing on the text amendments to the Land Use Code proposed by Jon Jennings, City Manager, which will separate the Inspection Division from the department and combine it with other divisions to create a new department called the Department of Permitting and Inspections. The Planning Board was asked for their recommendation to City Council regarding the proposed amendments to the Chapter 14, Land Use Code. The other proposed amendments are not within the jurisdiction of the Planning Board. No public comment was received for this item.

The Planning Board voted unanimously (6-0) to recommend adoption of the amendments to the Land Use Code as proposed.

II. PROPOSED TEXT AMENDMENTS TO CHAPTER 14.

A summary of the proposed text amendments in Chapter 14, Land Use Code are as follows:

- a. **Section 14-145.5. Dimensional requirements (within the IR-1 Island Residential Zone):**
The title building authority is deleted and substitutes the Planning Authority to allow the Planning Authority to accept conservation easements on behalf of the city in order for lots to meet the IR-1 dimensional standards.
- b. **Section 14-145.11. Dimensional requirements (within the IR-2 Residential Zone):**
The title Planning Authority is substituted for the building authority in order to accept conservation easements on behalf of the city.
- c. **Section 14-145.17. Dimensional requirements (within the IR-4 Residential Zone):**
The title Planning Authority is substituted for the building authority in order to accept conservation easements on behalf of the city.
- d. **Section 14-226. Dimensional requirements (within the I-B Island Business Zone):**
The title Planning Authority is substituted for the building authority in order to accept conservation easements on behalf of the city.
- e. **Section 14-299 Performance Standards (within the B-7 Mixed Development District zone):**
Approval of the screening for exterior storage of materials is updated to state planning and urban development department.
- f. **Section 14-449 Land use standards. (within the Shoreland Regulations)**

Under the standards for Archaeological sites and agriculture, the Planning Authority is substituted for the building authority when the city's review must incorporate the review of the Historic Preservation Commission or a conservation easement is needed.

g. Section 14-450.5 Definitions. (within the Flood Plain Management Regulations)

The Building Authority is defined as the Department of Inspections and Permitting.

h. Section 14-486. Reduction of Fees. (with Division 30. Affordable Housing):

The term planning division is changed to planning and urban development department within this section regarding expedited reviews and the reduction of fees.

i. Section 14-522. Definitions. (within the Site Plan Ordinance):

The definition of building authority is proposed as the Director of the Department of Permitting and Inspections or his or her designee, rather than the current definition as the Director of the Planning and Urban Development Department.

III. COMPREHENSIVE PLAN ANALYSIS

The City Manager's office is proposing a new one-stop department is proposed with the goal of "radically improving the City's many permitting and inspections functions..." Portland's Comprehensive Plan includes the following provisions from the Industry and Commerce Plan and Housing: Sustaining Portland's Future, which support streamlining the permitting and review process for business, industry and residential initiatives.

Portland Industry and Commerce Plan 1994

Revise Zoning

- Create a process that provides a quick response on development permitting

Create Financial Incentives

- Simplify programs and minimize red tape

Adopt Overall Goals for Economic Development

- Reduce costs of doing business in Portland
 - Regulation (others include worker's compensation, transportation, taxes, energy)

Housing: Sustaining Portland's Future - 2002

Goal: ensure the construction of a diverse mix of housing types that offers a continuum of options across all income levels for both renter and owner-occupied

- Evaluate and update, as needed, the building code with reasonable and flexible provisions to encourage a variety of housing types that are well built and safe.

Goal: Maintain, rehabilitate, and restore the existing housing stock as a safe and important physical, economic and architectural resource for the community.

- Foster safe and high quality housing through appropriate building codes and financial assistance.

IV. PLANNING BOARD RECOMMENDATION

At the February 23, 2016 public hearing, the Planning Board voted unanimously (6-0) on the following motion:

On the basis of the application, plans, reports and other information submitted by the applicant, findings and recommendations contained in the Planning Board Report for the public hearing on February 23, 2016 and on the basis of the testimony presented at the public hearing, the Planning Board finds that the proposed zoning text amendments are consistent with Portland's Comprehensive Plan and recommends adoption of the amendments to the City Council.



Executive Department
Julie Sullivan, Chief of Staff

M E M O R A N D U M

TO: Jon Jennings
FROM: Julie Sullivan
DATE: February 29, 2016
RE: **Building permit fees**

In order to provide additional information to the Council as they vote on the proposed building permit fee increase to support the improvements in permitting and inspections, this memo details the thinking behind the amount of the permit fee increase and provides further information regarding two of Councilor Brenerman's proposed amendments.

1. Budgetary Needs
2. Comparable Cities
3. Impact of Affordable Housing Permit Fee Freeze
4. Impact of Grandfathering

1. Budgetary Needs

As discussed in the October 26 memo, there are three key components integral to the level of change desired in permitting and inspections functions:

- **Staffing**
 - Three new Permit Tech positions to serve as primary points of contact for applicants; ensure application completeness; triage applications and issue simple ones quickly or on the spot.
 - New department head who will oversee the consolidated operations of zoning, inspections, business licensing, and rental housing safety.
- **Training**
 - In order to realize the goals of expedited efficiency, it is critical that the Permit Techs are well trained so that they know what they are looking for in different kinds of applications and know how to issue a simple permit.
- **Technology**
 - Online applications feed directly into City review software and tracking system to increase applicant ease-of-use and eliminate staff data entry.
 - Multiple other process improvements addressed through technology upgrades.
 - Citywide RFP issued March 1 with responses due April 21.

These are three components which inform the need for increased revenue. We are making our best guess as to what we will need for staffing, training, and technology – and therefore the funding

increase required. We know that the salary and benefits differential is about \$280,000, and training costs are estimated at \$8,500. We have projected the possible cost of the relevant IT system modules at approximately \$300,000, though we will not know the exact numbers for another several months. Thus, the budget may need to be adjusted as we move through implementation.

Another point to consider is that building permit revenues are highly variable and based on macro- and microeconomic forces, while staffing needs are not so variable.

2. Comparable Cities

Throughout the research conducted for this project, we have looked at numerous other cities and towns to identify relevant best practices, including permit fees. What may seem like a straightforward exercise proved to be anything but. Every municipality we researched structures their fees very differently, so an apples-to-apples comparison is challenging. While it appears that places like Burlington have far lower building permit fees, they do in fact have myriad other fees that Portland does not. There are also significant differences in the volume and complexity of permits processed in Portland versus all of the other comps.

Here is a snapshot comparing Burlington, Portland and South Portland on selected indicators:

	Burlington	Portland	South Portland
Population '13	42,284	66,318	25,255
Change in Downtown Households '00-'12	2.5%	7%	7%
Building Permits 2015	828	1,582	473
Zoning Permit Fee - Basic	\$ 80	\$ -	\$ -
	Numerous other fees - please see attached*	-	-
Impact Fee	Depends - see attached*	\$ -	\$ -
Minimum Permit Fee	\$ 30	\$ 25	\$ 25
Total Housing Units	17,024	31,864	10,852
Rental Units	9,800	17,000	4,861
Zoning Staff	4	2	2.5
Inspectors	5	5	4
Code Enforcement Administrators	5	2.5	2

*Please see Attachment 1 for details on these fees.

3. Impact of Affordable Housing Permit Fee Freeze

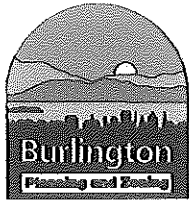
This amendment proposes holding the building permit fees at the current rate of 1.1% per \$1,000 of Estimated Cost of Construction (above the first \$1,000) and continuing the current affordable housing discounts per Section 14-486 of the City Code.

Impact of Affordable Housing Permit Fee Freeze								
Per Sec. 14-486 of the City Code			Assume 20-unit building, ECC \$2M					
			Brenerman Proposal-Hold at Current			Staff proposal - Increase to 1.5%		
Percent of new units that are low income	Percent discount		Fee frozen at 1.1% ECC	Discount	Total Fees	Fee increase to 1.5% ECC	Discount	Total Fees
5-9%	5%		\$ 22,000	\$ (1,100)	\$ 20,900	\$ 30,000	\$ (1,500)	\$ 28,500
10-14%	10%			\$ (2,200)	\$ 19,800		\$ (3,000)	\$ 27,000
15-19%	15%			\$ (3,300)	\$ 18,700		\$ (4,500)	\$ 25,500
20-24%	20%			\$ (4,400)	\$ 17,600		\$ (6,000)	\$ 24,000
25% or more	25%			\$ (5,500)	\$ 16,500		\$ (7,500)	\$ 22,500

4. Impact of Grandfathering Projects with Planning Board Approval

This amendment proposes grandfathering projects which have received Planning Board approval prior to March 8. Unfortunately, because Estimated Cost of Construction is not requested during this early phase of projects, there is not a reliable means of estimating the impact of this proposal. We can say that Midtown, by far the largest project which would be grandfathered, likely has an ECC approaching \$100 million.

Holding fees at 1.1% of ECC, Midtown would have building permit fees around \$1.1 million. If they are not grandfathered, they would be subject to the proposed fee of 1.5%, which would mean about \$1.5 million in fees. Thus, the City would lose nearly \$500,000 in fees; however, those fees have not been budgeted against. There are no other projects approaching this scale which would be subject to grandfathering.



City of Burlington, VT
Department of Planning and Zoning
FY2016 Fee Schedule

Development Applications and Permits	Fee
<u>Awning Permit:</u>	
A. Awning <u>with</u> a Sign: (per awning with signage)	1. \$10 filing fee; and, 2. \$80 per awning (less 50% if part of an approved Master Sign Plan)
B. Awning <u>without</u> Sign: (Treated as a Basic or COA Level I)	\$80
<u>Fence Permit:</u>	\$50
<u>Sign Permit:</u> (per sign) (Awnings with signage subject to fee listed above)	1. \$10 filing fee; and, 2. \$80 per sign. (less 50% if part of an approved Master Sign Plan)
<u>Sketch Plan Review:</u>	
A. Initial Review (per Board)	\$300 per request
B. Subsequent Review (per Board)	\$250 per request
<u>Basic Zoning Permit:</u>	\$80
<u>Certificate of Appropriateness (COA) Level I:</u> (Estimated Construction Cost (ECC) of \$23,000 or less ^{F, H})	\$80
<u>Certificate of Appropriateness (COA) Level II:</u> (Estimated Construction Cost (ECC) greater than \$23,000 ^{F, H})	
A. <u>Application Fee</u>	1. \$110; and, 2. \$2 per \$1,000 of ECC;
B. <u>Development Review Fee</u> (due prior to release of the permit)	\$4.50 per \$1,000 of ECC;
<u>Certificate of Appropriateness (COA) Amendment:</u> (based upon original ECC of total project)	1. \$110; and, 2. \$0.50 per \$1,000 of ECC

Development Applications and Permits	Fee
F. Appeals to VSC-ED: Appeals of DRB decisions to the VT Superior Court – Environmental Division.	\$250 ¹

Other Fees	Fee
<u>Impact Fees</u> Visit: www.burlingtonvt.gov/PZ/Impact-Fees .	
<u>Zoning Certificate of Occupancy:</u>² (by Code Enforcement Office)	
A. Final Certificate of Occupancy	1. \$30 ^B and, 2. 10% of all zoning and conditional use permit application fees.
B. Temporary Certificate of Occupancy	\$150 each
C. “After-The-Fact” Zoning Certificate of Occupancy	see attached schedule
<u>Zoning Determination</u>	\$160 for Functional Family \$80 for all others
<u>Zoning Compliance Report Request:</u>² (by Code Enforcement Office)	\$35
<u>Documents, Copies, etc.</u>	
A. Audio Tapes	\$3.50 per tape
B. File Research	\$20.00 per hour
C. <u>Planning Documents:</u> Municipal Development Plan, Comprehensive Development Ordinance, etc.	actual cost of publication (hardcopy or CD)
D. Postage and Handling	\$4.00 (in state) \$5.00 (out of state)
E. Photocopies	\$0.10 per page (B&W) \$1.00 per page (Color)
F. Paper Zoning Map (24x36, color)	\$15.00 per map
G. Digital Maps (PDF format and emailed only)	no charge

Fee Schedule Notes:

- A. All revenue generated by this Fee Schedule, with the exception of Impact Fees, are deposited into the City’s General Fund. Therefore this Fee Schedule shall not apply when any fees would also be paid out of the City’s General Fund, with the exception of the payment of Impact Fees, in order to

¹ For information only: Fee assessed by, and paid to, the VT Superior Court – Environmental Division.

² For information only: Fee assessed by, and paid to, the Burlington Code Enforcement Office.

eliminate duplicative and unnecessary accounting for payments and deposits within the same City fund. The payment of Impact Fees out of the City's General Fund shall continue to apply.

- B. All development review and permit fees are non-refundable.
- C. All development review and permit fees include a \$10 filing fee assessed by the Burlington Clerk and Treasurer's Office as required by state statute unless otherwise noted.
- D. All development review and permit fees are **due at the time of application** unless otherwise noted and are non-refundable. Check should be made payable to the "City of Burlington." Credit cards are not currently accepted.
- E. Permit applications resulting from a zoning Notice of Violation are subject to double or triple the application fee as specified under Sec. 2.7.8 of the *Burlington Comprehensive Development Ordinance*.
- F. "ECC" is the Estimated Construction Cost as specified under Sec. 3.2.4 (a) of the *Burlington Comprehensive Development Ordinance*. Fees are calculated for every \$1,000 of ECC.
- G. For permit applications submitted from July 1, 1998 to July 1, 2009, the Final Certification Occupancy fee is \$20 plus 10% of the zoning permit application fee. (From 7/1/1998 - 7/1/2009, the filing fee assessed by the Burlington Clerk Treasurer's Office was paid at the time of the original zoning permit application.)
- H. The ECC threshold between COA Level I and COA Level II applications is annually adjusted based on the Consumer Price Index pursuant to Sec. 3.2.4(a) of the *Burlington Comprehensive Development Ordinance*. For Fiscal Year 2016 this amount is \$ (TBD on 1 July 2015).

Burlington

ZONING CERTIFICATE OF OCCUPANCY AFTER THE FACT (ATF) FEE SCHEDULE*

	<i>Exempt from ATF</i>	<i>Nominal ATF</i>	<i>Tier 1 ATF</i>	<i>Tier 2 ATF</i>	<i>Tier 3 ATF</i>	<i>Tier 4 ATF</i>
<i>permit type</i>	- Fence - Sign - Awning - Lot line adjustments - Satellite dishes - Handicap ramps - Demolition only - Permits approved before July 13, 1989 - Stormwater only	Permits that fall within the following timeframe: approved on or after July 13, 1989 and expire before or on January 31, 2009.	All permits that are administratively reviewed with expiration dates after January 31, 2009 but before July 1, 2012.	All DRB reviewed permits including appeals with expiration dates after January 31, 2009 but before July 1, 2012.	All permits that are administratively reviewed with expiration dates on or after July 1, 2012.	All DRB reviewed permits including appeals with expiration dates on or after July 1, 2012.
<i>TF fee*</i>	ATF = \$0 No ATF fee applies.	ATF = \$75.00	ATF fee equals \$150.00 per TZCO required previously [#] but not obtained up to a maximum fee of \$450.00 or an amount equal to the permit application fee, WHICHEVER IS LESS.	ATF fee equals \$150.00 per TZCO required previously [#] but not obtained up to a maximum fee of \$1,500.00 or an amount equal to the permit application fee, WHICHEVER IS LESS.	ATF ≤ \$450.00 ATF fee equals \$150.00 per TZCO required previously [#] but not obtained up to a maximum fee of \$450.00.	ATF ≤ \$1,500.00 ATF fee equals \$150.00 per TZCO required previously [#] but not obtained up to a maximum fee of \$1,500.00.

231170-00002 Fees(CO After the Fact Table 4-20-12

* - All other applicable fees, including but not limited to the Final Zoning Certificate of Occupancy fee still apply.

- Number of TZCO's required calculated from the expiration date of the permit or the date of occupancy if that occurred first, based upon TZCO intervals of 180 days.



Department of Planning and
Zoning

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Zoning Ordinance

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Project Completion

Public Participation and Appeals

Zoning Help Guides

Boards and Commissions

Historic Preservation

Impact Fees

- Impact fees are charged against new development to help offset the costs of new infrastructure required by the City's growth.
- Fees Effective: July 1, 2015.
- [Impact Fee Administrative Regulations](#) - Rates, Calculation, Applicability, Exemptions, Waivers
- Fees adjusted annually to reflect changes in the Consumer Price Index (CPI).
- Impact fees are due a minimum of seven (7) days prior to issuance of a Zoning Certificate of Occupancy. Submit payment to the Department of Planning and Zoning. Thank you.

On-Line Impact Fee Calculator

This tool provides a **non-binding** calculation of impact fee payment due, based upon project use and square footage. Zoning administrative staff will provide the final calculation.

Fee Rates Effective July 1, 2015 - June 30, 2016

Enter:	
Project Type:	Residential ▼
Net New Square Footage:	1800
Reset	Calculate
Calculated Fees:	
Traffic:	\$ 338.40
Fire:	\$ 385.20
Police:	\$ 77.40
Parks:	\$ 1288.80
Library:	\$ 799.20
Schools:	\$ 1666.80
Total Impact Fee:	\$ 4555.80

- Rates adjusted as of 7/1/15 to reflect -0.3% increase in the Consumer Price Index.
- Fees in 2015 dollars.

Working with the City of Burlington

Assessor's Office
Attorney's Office
Board of Health
Burlington Electric Department

Community & Economic Development Office (CEDO)
Church Street Marketplace
City Arts
City Council

Human Resources
Mayor's Office
Parks, Recreation & Waterfront
Planning & Zoning



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Impact Fees

- Impact fees are charged against new development to help offset the costs of new infrastructure required by the City growth.
- Fees Effective: July 1, 2015.
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- Fees adjusted annually to reflect changes in the Consumer Price Index (CPI).
- Impact fees are due a minimum of seven (7) days prior to issuance of a Zoning Certificate of Occupancy. Submit payment to the Department of Planning and Zoning. Thank you.

On-Line Impact Fee Calculator

This tool provides a non-binding calculation of Impact fee payment due, based upon project use and square footage. Zoning administrative staff will provide the final calculation.

Fee Rates Effective July 1, 2015 - June 30, 2016

Enter:	
Project Type:	Retail
Net New Square Footage:	1000
Reset	Calculate
Calculated Fees:	
Traffic:	\$ 709.00
Fire:	\$ 191.00
Police:	\$ 338.00
Parks:	\$ 404.00
Library:	\$ 0.00
Schools:	\$ 0.00
Total Impact Fee:	\$ 1642.00

- Rates adjusted as of 7/1/15 to reflect -0.3% increase in the Consumer Price Index.
- Fees in 2015 dollars.

Assessor's Office

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Mayor's Office
Parks, Recreation & Waterfront
Planning & Zoning

City of Portland
Building Permits and Inspections Fee Schedule

The applicant submits cost of work. If the construction cost submitted is less than that as indicated by national standards such as International Code Council or the R.S. Means Company, Inc., the City of Portland reserves the right to reevaluate the proposed project cost based on the referenced national standard and assess the larger of the fees.

All fees due at time of submission. We accept Visa, MasterCard, American Express & Checks payable to the City of Portland.

Construction Work Fees

- Cost of work fees:

Up to \$1,000 worth of work	\$25.00
Each additional \$1,000 worth of work	\$11.00 per \$1,000 + \$25 for the first \$1,000
Historic Review Fee	\$50
Administrative Authorization	

- Amendments to application:

Up to \$1,000 worth of additional cost	\$25.00
Each additional \$1,000 worth of additional cost	\$11.00 per \$1,000 + 25 for the first \$1,000

Stop Work Order Removal

\$300.00

Re -Inspection Fee

\$150.00

Certificate of Occupancy

\$100.00 (Each Certificate)

Fees for specific items

- HVAC – air conditioning units, ventilation systems, heating systems, oil & gas burner replacement, kitchen hoods, fire alarm/ sprinkler system, metal asbestos chimney etc.

Up to \$1,000 worth of work	\$25.00
Each additional \$1,000 worth of work	\$11.00 per \$1,000 + \$25 for the first \$1,000

- Change of use permit

Up to \$1,000 worth of work	\$25.00
Each additional \$1,000 worth of work	\$11.00 per \$1,000 + \$25 for the first \$1,000
*Certificate of Occupancy (required)	\$100.00

- Demolition of a structure

Up to \$1,000 worth of work	\$25.00
Each additional \$1,000 worth of work	\$11.00 per \$1,000 + \$25 for the first \$1,000

- Home Occupation
- \$150.00 plus cost of work + \$100 C of O

- Re-Inspections
- \$150.00 each additional inspection

Plumbing Permit Fee

Minimum fee, includes up to four fixtures	\$40.00
Individual fixtures, each, above four total	\$10.00
Hook up to public sewer	\$10.00
Hook up to existing subsurface system	\$10.00
Piping relocation with no new fixtures	\$10.00
Permit transfer	\$10.00
Add to total for City Fee	\$10.00

Permits for complete disposal system and variances

Engineered system	\$200.00
Non-engineered system	\$250.00
Primitive system (includes one alternative toilet)	\$100.00
Separate grey waste disposal field	\$35.00
Seasonal conversion permit	\$50.00
First-Time System Variance	\$20.00

Permits for separate parts of disposal system

Alternative toilet (only)	\$50.00
Disposal field only (engineered system)	\$150.00
Disposal field only (non-engineered)	\$150.00
Treatment tank only (non-engineered)	\$150.00
Treatment tank (engineered system)	\$80.00
Holding tank	\$100.00
Other components (complete pump station, piping, other)	\$30.00

Late Permit Fee:

A person who starts construction without first obtaining a disposal system permit must pay double the permit fee

Amendment #1 to Order 165-15/16

RE: Changing Cost of Work Fees from \$16 per \$1,000 to \$15 per \$1,000
Prepared by Corporation Counsel for **Councilor Brenerman**

Sec. 2-17. Additional duties assigned.

...

Sec. 3-27. Application.

...

Sec. 4-27. Notice and hearing.

...

Sec. 6-17. Fee Schedule.

The applicant shall submit the cost of work in order to determine the permit fee. If the construction cost submitted is less than that as indicated by national standards such as BOCA International or the R.S. Means Company, Inc., the City of Portland reserves the right to reevaluate the proposed project cost based on the referenced national standard and assess the larger of the fees. All building permit applications shall be accompanied by the appropriate fee as established below:

(a) Construction work:

(1) Cost of work fees:

Up to \$1,000.00 \$25.00
\$1,000.00 or more \$25.00 + \$156.00 per
\$1,000.00 above \$1,000.00

(2) Belated fees:

Below \$25.00 permit fee . . \$50.00 additional
Above \$25.00 permit fee . . \$100.00 additional

(3) Amendments to application:

Up to \$1,000.00 \$25.00
\$1,000.00 or more \$25.00 + \$156.00 per

\$1,000.00 above \$1,000.00

...

Sec. 10-3. Amendments.

Sec. 11-2. Copies on file with the Department of Permitting and Inspections.

...

Sec. 12-109. Licensing of commercial refuse collectors and refuse transporters.

...

Sec. 14-145.5. Dimensional requirements.

...

Sec. 15-1. Definitions.

...

Sec. 16-10. List of employees.

...

Sec. 19-17. License required.

...

Sec. 23-27. Application.

...

Sec. 28-112. Permit to use.

BE IT FURTHER ORDAINED that these amendments are enacted as an Emergency, pursuant to Article II, Section 11 of the Portland City Charter.

Amendment # 2 to Order 165-15/16

RE: Grandfathering Cost of Work fees approved on or before March 8, 2016 at \$11.00 per
\$1,000 above \$1,000

Prepared by Corporation Counsel for **Councilor Brenerman**

Sec. 2-17. Additional duties assigned.

...

Sec. 3-27. Application.

...

Sec. 4-27. Notice and hearing.

...

Sec. 6-17. Fee Schedule.

The applicant shall submit the cost of work in order to determine the permit fee. If the construction cost submitted is less than that as indicated by national standards such as BOCA International or the R.S. Means Company, Inc., the City of Portland reserves the right to reevaluate the proposed project cost based on the referenced national standard and assess the larger of the fees. All building permit applications shall be accompanied by the appropriate fee as established below:

(a) Construction work:

(1) Cost of work fees:

Up to \$1,000.00 \$25.00
\$1,000.00 or more \$25.00 + \$16.00 per
\$1,000.00 above \$1,000.00, except that the cost
of work fees for a project that has completed
Level I, II, or III Site Plan review, or received
Administrative Authorization approval, pursuant
to the applicable Chapter 14, Division V, on or
before March 8, 2016 or for a Chapter 14,
Division 30 Affordable Housing eligible project
shall be:

Up to \$1,000.00.....\$25.00
\$1,000 or more.....\$25.00 + \$11.00 per
\$1,000 above \$1,000.

(2) Belated fees:

Below \$25.00 permit fee . . \$50.00 additional
Above \$25.00 permit fee . . \$100.00 additional

(3) Amendments to application:

Up to \$1,000.00 \$25.00
\$1,000.00 or more \$25.00 + \$16.00 per
\$1,000.00 above \$1,000.00, except that Amendments
to application fees for a project that has
completed Level I, II, or III Site Plan review,
or received Administrative Authorization approval
pursuant to the applicable Chapter 14, Division
V, on or before March 8, 2016 or for a Chapter
14, Division 30 Affordable Housing eligible
project shall be:

Up to \$1,000.00.....\$25.00
\$1,000.00 or more.....\$25.00 + \$11.00 per
\$1,000.00 above \$1,000.00.

...

Sec. 10-3. Amendments.

Sec. 11-2. Copies on file with the Department of Permitting and Inspections.

...

Sec. 12-109. Licensing of commercial refuse collectors and refuse transporters.

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Sec. 14-145.5. Dimensional requirements.

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Sec. 15-1. Definitions.

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Sec. 16-10. List of employees.

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Sec. 19-17. License required.

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Sec. 23-27. Application.

...

Sec. 28-112. Permit to use.

BE IT FURTHER ORDAINED that these amendments are enacted as an
Emergency, pursuant to Article II, Section 11 of the
Portland City Charter.

Amendment #3 to Order 165-15/16

RE: Altering affordable housing cost of work discount and what projects are eligible for the discount.

Prepared by Corporation Counsel for **Councilor Brenerman**

Sec. 2-17. Additional duties assigned.

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Sec. 3-27. Application.

...

Sec. 4-27. Notice and hearing.

...

Sec. 6-17. Fee Schedule.

Sec. 10-3. Amendments.

Sec. 11-2. Copies on file with the Department of Permitting and Inspections.

...

Sec. 12-109. Licensing of commercial refuse collectors and refuse transporters.

...

Sec. 14-145.5. Dimensional requirements.

...

Sec. 14-485. Definitions.

...

Eligible project means a development project:

- (a) That is permissible under the provisions of this chapter in the zone in which it is proposed;

(b) That will be a multi-family dwelling ,as defined in section 14-47, and will not be located in an R-1 or R-2 zone;

(c) ~~Reserved~~ That creates new dwelling units, among which is at least one low-income housing unit for rent or workforce housing for sale, through new construction, substantial rehabilitation of existing structures, adaptive reuse or conversion of a non-residential use to residential use, or any combination of these elements. Affordable housing units for sale or rent may not differ in exterior design from other units within an eligible project.

(d) Projects shall not be considered "eligible projects" solely because they are subject to Section 14-487 ("Ensuring Workforce Housing").~~That creates new dwelling units, among which is at least one affordable housing unit for rent or sale, through new construction, substantial rehabilitation of existing structures, adaptive reuse or conversion of a non-residential use to residential use, or any combination of these elements. Affordable housing units for sale or rent may not differ in exterior design from other units within an eligible project.~~

Sec. 14-486. Reduction of fees and Priority Review.

Notwithstanding any other provision of this chapter or chapter 6 to the contrary, development fees shall be reduced by the city for an eligible project in the manner described in the following table:

Percentage of new units that are low-income or workforce units	Percentage discount of development fees
5% up to but not including 10%	5% reduction
10% up to but not including 15%	10% reduction
15% up to but not including 20%	15% reduction
20% up to but not including 25%	20% reduction

25% or more	25% reduction

Sec. 15-1. Definitions.

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Sec. 16-10. List of employees.

...

Sec. 19-17. License required.

...

Sec. 23-27. Application.

...

Sec. 28-112. Permit to use.

BE IT FURTHER ORDAINED that these amendments are enacted as an
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