

AGENDA

REGULAR CITY COUNCIL MEETING

DECEMBER 18, 2017

1. City Council Meeting Agenda Only

Documents:

[CITY COUNCIL MEETING AGENDA ONLY 2017-12-18.PDF](#)

2. City Council Meeting Agenda & Packet

Documents:

[CITY COUNCIL MEETING AGENDA AND PACKET 2017-12-18.PDF](#)

3. Unfinished Business: Moratorium Materials

Documents:

[MORATORIUM FOLLOW UP MATERIALS.PDF](#)

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

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

AGENDA
REGULAR CITY COUNCIL MEETING
DECEMBER 18, 2017

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

PLEDGE OF ALLEGIANCE:

ROLL CALL:

ANNOUNCEMENTS:

PRESENTATIONS:

Arts in the Chamber
African Dundada, Poet & Rapper

RECOGNITIONS:

Public Works Water Resources Division
Recipient of the New England Water Environment Association Asset
Management Award

ANNUAL MEETINGS:

**Annual Meeting of the Corporator of Creative Portland - Sponsored
by Mayor Ethan K. Strimling.**

Pursuant to the bylaws of Creative Portland (CP), the City Council, as
Corporator of Creative Portland, shall hold its annual meeting in the month
of September each year or at a special meeting.

This year's Annual Meeting Agenda includes:

1. Accepting CP FY 2017 Activity and Financial Reports

**Annual Meeting of the Corporator of Portland Development
Corporation – Sponsored by Mayor Ethan K. Strimling.**

Pursuant to the bylaws of the Portland Development Corporation (PDC), the Portland City Council, as Corporator of the Portland Development Corporation, shall hold its annual meeting in the month of September each year or at a special meeting.

This year's Annual Meeting Agenda includes:

1. Accepting PDC FY 2017 Activity and Financial Reports;
2. Order Terminating Portland Development Action Grant Program
3. Transaction of other business as may be deemed necessary.

**Order 125-17/18
(Tab 1)**

Order Terminating Portland Development Action Grant Program and Transferring Unused Funds to Portland Development Corporation Loan Fund - Sponsored by Tim Agnew, President, Portland Development Corporation Board of Directors.

The PDC Board reviewed the DAG program at its September 28, 2017 Board meeting, as well as its current balance of \$43,287 in available DAG Grant Funds for public infrastructure projects. Because of inactivity for the DAG program for the past two years, the PDC Board recommended to the City Council that the DAG program be terminated due to lack of use, with the balance of the funds going back into its loan fund.

Five affirmative votes are required for passage after public comment.

APPROVAL OF MINUTES OF PREVIOUS MEETING:

(Tab 2)

**December 4, 2017 City Council Organizational Meeting Minutes
December 4, 2017 Special City Council Meeting Minutes**

PROCLAMATIONS:

**Proc 13-17/18
(Tab 3)**

Proclamation Honoring the Oxford Street Shelter on the Occasion of Receiving the 2017 Innovation & Excellence Award from the National Alliance to End Homelessness – Sponsored by Councilor Justin Costa, Councilor Spencer Thibodeau, Councilor Pious Ali, Councilor Jill C. Duseon, Councilor Kimberly Cook, Councilor Nicholas M. Mavodones, Jr., Councilor Belinda Ray, Councilor Brian Batson, and Mayor Ethan K. Strimling.

APPOINTMENTS:

**Order 126-17/18
(Tab 4)**

Order Appointing Constables for 2018 – Sponsored by Jon P. Jennings, City Manager.

This order appoints constables from multiple City Departments and from the Portland Housing Authority for the 2018 calendar year.

The Fire Department constables will be issuing citations authorized by the City Code of Ordinances Chapter 10 and Fire Prevention Laws. The Permitting and Inspections Department enforces City Code provisions for business licensing, rental housing, building, electrical and plumbing codes. The Department of Parks, Recreation, and Facilities enforces dogs at large violations in the parks, playgrounds and cemeteries as well as failure to dispose of animal waste, all from Portland City Code Chapter 5. Constables working for the Police Department issue citations for violations of City Code, including, for example, harboring a dangerous dog and smoking in city parks.

Property Managers employed by the Portland Housing Authority (PHA) are responsible for lease enforcement, including serving legal documents in eviction cases. In accordance with Maine law, certain documents can only be served by a Constable or Sheriff.

These appointments are effective from 12:01 a.m. on January 1, 2018 until 12:00 midnight, December 31, 2018, and are made pursuant to Portland City Code, Sections 20-19 and 20-19.5. Constables are not allowed to carry a firearm, concealed or unconcealed, in the performance of their duties, or to make arrests or issue parking tickets, except for the constables listed who work for the Parking Division and issue parking tickets as part of their job.

Five affirmative votes are required for passage after public comment.

**Order 127-17/18
(Tab 5)**

Order Authorizing Special Council and Outside Boards and Commissions Appointments for 2018 - Sponsored by Mayor Ethan K. Strimling.

This order appoints City Councilors and City staff to various boards and commissions for 2018.

Five affirmative votes are required for passage after public comment.

CONSENT ITEMS:

LICENSES:

**Order 128-17/18
(Tab 6)**

Order Granting Municipal Officers' Approval Pig Exchange, LLC dba Thirsty Pig, Renewal Application for an Entertainment without Dance at 37 Exchange Street – Sponsored by Michael Russell, Permitting and Inspections Director.

Renewal application was filed on 11/15/2017. Applicant holds a current Class A Lounge License with Entertainment without Dance and Outdoor Dining on Private Property. Permitting and Inspections is recommending

approval of the license with a condition of no amplified entertainment outdoors.

Five affirmative votes are required for passage after public comment.

**Order 129-17/18
(Tab 7)**

Order Granting Municipal Officers' Approval Maimi Food Truck LLC dba Maimi. Application for a Class III & IV at 339 Fore Street – Sponsored by Michael Russell, Permitting and Inspections Director.

Application was filed on 11/27/2017. Applicant currently holds a Class IV license.

Five affirmative votes are required for passage after public comment.

**Order 130-17/18
(Tab 8)**

Order Granting Municipal Officers' Approval of Old Port Tap House dba Portland Beer Hnb. Application for a Class III & IV FSE at 320 Fore Street – Sponsored by Michael Russell, Permitting and Inspections Director.

Application was filed on 11/27/2017. Applicant currently holds a Class IV License.

Five affirmative votes are required for passage after public comment.

BUDGET ITEMS:

COMMUNICATIONS:

**Com 8-17/18
(Tab 9)**

Communication Re: Appointment of City Council Standing Committees – Sponsored by Mayor Ethan K. Strimling.

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

**Com 9-17/18
(Tab 10)**

Communication Re: Board of Harbor Commissioners Pilotage Fees - Sponsored by Jon P. Jennings, City Manager.

On November 21, 2017, the Harbor Commission notified the City Manager that they recently adopted a change to their rules. State law requires that proposed amendments be filed with the City Manager for submission to the City Council. Rules of the Harbor Commissioners become effective 45 days from the date they have been filed with the City Manager unless the City Council should disapprove them.

The Board of Harbor Commissioner held public hearings on October 12, 2017, November 2, 2017, and November 16, 2017 regarding the pilotage fees that may be charged by licensed pilots to vessels operating in Portland

Harbor. Public comment was taken at the hearings and all written comments received prior to the hearings were also accepted and reasonable.

Following the public hearing on November 16, 2017, the Board voted unanimously to establish a minimum pilotage fee of 150 Pilot Units and a pilotage fee of \$7.18 per Pilot Unit (collectively, the "Pilotage Fees").

As a Communication this item ordinarily requires no public comment.

RESOLUTIONS:

UNFINISHED BUSINESS:

Order 110-17/18 (Tab 11) Amendment to Portland City Code New Chapter 34 Pesticide Use - Sponsored by the Sustainability and Transportation Committee, Councilor Spencer Thibodeau, Chair.

On October 12, the Sustainability and Transportation Committee voted 3-0 to recommend the creation of the City of Portland Pesticide Ordinance that prohibits the use of synthetic pesticides for outdoor pest management on public and private property within the City of Portland. It provides limited exceptions that allow the use of otherwise prohibited pesticides in emergency situations and when an imminent threat to the health and welfare of the public exists. In other circumstances, it creates a process where persons who wish to apply a prohibited pesticide may apply for a waiver from a committee established to hear such requests. The committee may grant a waiver only if the request meets specific criteria.

The ordinance also creates an advisory committee tasked with assisting in the development of a robust education campaign to educate the public and retailers about land care practices that do not require pesticides and about organic alternatives to synthetic pesticides. Provisions of the ordinance would be enforced by the City Manager or designee and violations could be subject to fines as described in Chapter 1 of the Portland City Code. Staff has provided the Board of Pesticides Control with notice of this ordinance as well a copy of the text as required by statute.

This item must be read on two separate days. At the November 20, 2017 Council meeting this item was postponed to this meeting. Five affirmative votes are required for passage after public comment.

Order 124-17/18 (Tab 12) Moratorium Re: Development and Demolition of Structures in the R-6 Zone on Munjoy Hill – Sponsored by Councilor Belinda Ray.

The City is seeking a moratorium on new development applications and demolitions in order to allow the Planning Division to recommend changes to the Land Use Code for the R-6 on Munjoy Hill. A recent acceleration of

development on Munjoy Hill has hastened the need for prompt changes, and a pause to activity while zone changes are developed and implemented.

While the R-6 zone has allowed for much needed housing production, Munjoy Hill has been subject to a particular concentration of this activity, raising concerns about loss of neighborhood fabric, rate of demolitions, and the scale and character of new development not being contextually sensitive.

The proposed one-hundred-and-eighty (180) day moratorium is for: all demolition applications in the R-6 zone on Munjoy Hill (unless the application is part of a previously approved site plan approved prior to the effective date of the moratorium); and any and all Level I, II, or III Site Plan applications and amendments in addition to all demolition applications, for an interim period of the first forty-five (45) days of the moratorium.

During that 45 days, interim zoning language will be proposed to the City Council that would guide development proposals during the balance of the moratorium, based on the findings of a City audit of developments on Munjoy Hill in the past two (2) years.

This item must be read on two separate days. It was given a first reading on December 4, 2017. Five affirmative votes are required for passage after public comment.

ORDERS:

**Order 131-17/18
(Tab 13)**

Order Approving 22-Month Extension of Lease with General Services Administration Re: Transportation Security Administration Office Space at Jetport - Sponsored by the Economic Development Committee.

The Transportation Security Administration's current lease for office space at the Portland International Jetport will expire on December 31, 2017. The General Services Administration (GSA) on the TSA's behalf has agreed to extend the current lease for an additional 22 months.

All terms of the current lease outlined below will remain in effect; the only change will be the extension of the lease for an additional 22 months.

The lease premises include 8,215 square feet of office space on the second level of the Jetport's terminal building and 15 parking spaces in the short term section of the parking garage.

The rate is \$38.70 per square foot annually. This equates to a total annual payment of \$317,920.50. This rate is comparable to the airport terminal rate currently being paid by the airlines under the Jetport's airline signatory lease agreement previously approved by the City Council.

Five affirmative votes are required for passage after public comment.

AMENDMENTS:

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

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

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

AGENDA
REGULAR CITY COUNCIL MEETING
DECEMBER 18, 2017

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

PLEDGE OF ALLEGIANCE:

ROLL CALL:

ANNOUNCEMENTS:

PRESENTATIONS:

Arts in the Chamber
African Dundada, Poet & Rapper

RECOGNITIONS:

Public Works Water Resources Division
Recipient of the New England Water Environment Association Asset
Management Award

ANNUAL MEETINGS:

Annual Meeting of the Corporator of Creative Portland - Sponsored
by Mayor Ethan K. Strimling.

Pursuant to the bylaws of Creative Portland (CP), the City Council, as Corporator of Creative Portland, shall hold its annual meeting in the month of September each year or at a special meeting.

This year's Annual Meeting Agenda includes:

1. Accepting CP FY 2017 Activity and Financial Reports

Annual Meeting of the Corporator of Portland Development
Corporation – Sponsored by Mayor Ethan K. Strimling.

Pursuant to the bylaws of the Portland Development Corporation (PDC), the Portland City Council, as Corporator of the Portland Development Corporation, shall hold its annual meeting in the month of September each year or at a special meeting.

This year's Annual Meeting Agenda includes:

1. Accepting PDC FY 2017 Activity and Financial Reports;
2. Order Terminating Portland Development Action Grant Program
3. Transaction of other business as may be deemed necessary.

**Order 125-17/18
(Tab 1)**

Order Terminating Portland Development Action Grant Program and Transferring Unused Funds to Portland Development Corporation Loan Fund - Sponsored by Tim Agnew, President, Portland Development Corporation Board of Directors.

The PDC Board reviewed the DAG program at its September 28, 2017 Board meeting, as well as its current balance of \$43,287 in available DAG Grant Funds for public infrastructure projects. Because of inactivity for the DAG program for the past two years, the PDC Board recommended to the City Council that the DAG program be terminated due to lack of use, with the balance of the funds going back into its loan fund.

Five affirmative votes are required for passage after public comment.

APPROVAL OF MINUTES OF PREVIOUS MEETING:

(Tab 2)

**December 4, 2017 City Council Organizational Meeting Minutes
December 4, 2017 Special City Council Meeting Minutes**

PROCLAMATIONS:

**Proc 13-17/18
(Tab 3)**

Proclamation Honoring the Oxford Street Shelter on the Occasion of Receiving the 2017 Innovation & Excellence Award from the National Alliance to End Homelessness – Sponsored by Councilor Justin Costa, Councilor Spencer Thibodeau, Councilor Pious Ali, Councilor Jill C. Duseon, Councilor Kimberly Cook, Councilor Nicholas M. Mavodones, Jr., Councilor Belinda Ray, Councilor Brian Batson, and Mayor Ethan K. Strimling.

APPOINTMENTS:

**Order 126-17/18
(Tab 4)**

Order Appointing Constables for 2018 – Sponsored by Jon P. Jennings, City Manager.

This order appoints constables from multiple City Departments and from the Portland Housing Authority for the 2018 calendar year.

The Fire Department constables will be issuing citations authorized by the City Code of Ordinances Chapter 10 and Fire Prevention Laws. The Permitting and Inspections Department enforces City Code provisions for business licensing, rental housing, building, electrical and plumbing codes. The Department of Parks, Recreation, and Facilities enforces dogs at large violations in the parks, playgrounds and cemeteries as well as failure to dispose of animal waste, all from Portland City Code Chapter 5. Constables working for the Police Department issue citations for violations of City Code, including, for example, harboring a dangerous dog and smoking in city parks.

Property Managers employed by the Portland Housing Authority (PHA) are responsible for lease enforcement, including serving legal documents in eviction cases. In accordance with Maine law, certain documents can only be served by a Constable or Sheriff.

These appointments are effective from 12:01 a.m. on January 1, 2018 until 12:00 midnight, December 31, 2018, and are made pursuant to Portland City Code, Sections 20-19 and 20-19.5. Constables are not allowed to carry a firearm, concealed or unconcealed, in the performance of their duties, or to make arrests or issue parking tickets, except for the constables listed who work for the Parking Division and issue parking tickets as part of their job.

Five affirmative votes are required for passage after public comment.

**Order 127-17/18
(Tab 5)**

Order Authorizing Special Council and Outside Boards and Commissions Appointments for 2018 - Sponsored by Mayor Ethan K. Strimling.

This order appoints City Councilors and City staff to various boards and commissions for 2018.

Five affirmative votes are required for passage after public comment.

CONSENT ITEMS:

LICENSES:

**Order 128-17/18
(Tab 6)**

Order Granting Municipal Officers' Approval Pig Exchange, LLC dba Thirsty Pig, Renewal Application for an Entertainment without Dance at 37 Exchange Street – Sponsored by Michael Russell, Permitting and Inspections Director.

Renewal application was filed on 11/15/2017. Applicant holds a current Class A Lounge License with Entertainment without Dance and Outdoor Dining on Private Property. Permitting and Inspections is recommending

approval of the license with a condition of no amplified entertainment outdoors.

Five affirmative votes are required for passage after public comment.

**Order 129-17/18
(Tab 7)**

Order Granting Municipal Officers' Approval Maimi Food Truck LLC dba Maimi. Application for a Class III & IV at 339 Fore Street – Sponsored by Michael Russell, Permitting and Inspections Director.

Application was filed on 11/27/2017. Applicant currently holds a Class IV license.

Five affirmative votes are required for passage after public comment.

**Order 130-17/18
(Tab 8)**

Order Granting Municipal Officers' Approval of Old Port Tap House dba Portland Beer Hub. Application for a Class III & IV FSE at 320 Fore Street – Sponsored by Michael Russell, Permitting and Inspections Director.

Application was filed on 11/27/2017. Applicant currently holds a Class IV License.

Five affirmative votes are required for passage after public comment.

BUDGET ITEMS:

COMMUNICATIONS:

**Com 8-17/18
(Tab 9)**

Communication Re: Appointment of City Council Standing Committees – Sponsored by Mayor Ethan K. Strimling.

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

**Com 9-17/18
(Tab 10)**

Communication Re: Board of Harbor Commissioners Pilotage Fees - Sponsored by Jon P. Jennings, City Manager.

On November 21, 2017, the Harbor Commission notified the City Manager that they recently adopted a change to their rules. State law requires that proposed amendments be filed with the City Manager for submission to the City Council. Rules of the Harbor Commissioners become effective 45 days from the date they have been filed with the City Manager unless the City Council should disapprove them.

The Board of Harbor Commissioner held public hearings on October 12, 2017, November 2, 2017, and November 16, 2017 regarding the pilotage fees that may be charged by licensed pilots to vessels operating in Portland

Harbor. Public comment was taken at the hearings and all written comments received prior to the hearings were also accepted and reasonable.

Following the public hearing on November 16, 2017, the Board voted unanimously to establish a minimum pilotage fee of 150 Pilot Units and a pilotage fee of \$7.18 per Pilot Unit (collectively, the "Pilotage Fees").

As a Communication this item ordinarily requires no public comment.

RESOLUTIONS:

UNFINISHED BUSINESS:

**Order 110-17/18
(Tab 11) Amendment to Portland City Code New Chapter 34 Pesticide Use -
Sponsored by the Sustainability and Transportation Committee,
Councilor Spencer Thibodeau, Chair.**

On October 12, the Sustainability and Transportation Committee voted 3-0 to recommend the creation of the City of Portland Pesticide Ordinance that prohibits the use of synthetic pesticides for outdoor pest management on public and private property within the City of Portland. It provides limited exceptions that allow the use of otherwise prohibited pesticides in emergency situations and when an imminent threat to the health and welfare of the public exists. In other circumstances, it creates a process where persons who wish to apply a prohibited pesticide may apply for a waiver from a committee established to hear such requests. The committee may grant a waiver only if the request meets specific criteria.

The ordinance also creates an advisory committee tasked with assisting in the development of a robust education campaign to educate the public and retailers about land care practices that do not require pesticides and about organic alternatives to synthetic pesticides. Provisions of the ordinance would be enforced by the City Manager or designee and violations could be subject to fines as described in Chapter 1 of the Portland City Code. Staff has provided the Board of Pesticides Control with notice of this ordinance as well a copy of the text as required by statute.

This item must be read on two separate days. At the November 20, 2017 Council meeting this item was postponed to this meeting. Five affirmative votes are required for passage after public comment.

**Order 124-17/18 Moratorium Re: Development and Demolition of Structures in the
(Tab 12) R-6 Zone on Munjoy Hill – Sponsored by Councilor Belinda Ray.**

The City is seeking a moratorium on new development applications and demolitions in order to allow the Planning Division to recommend changes to the Land Use Code for the R-6 on Munjoy Hill. A recent acceleration of

development on Munjoy Hill has hastened the need for prompt changes, and a pause to activity while zone changes are developed and implemented.

While the R-6 zone has allowed for much needed housing production, Munjoy Hill has been subject to a particular concentration of this activity, raising concerns about loss of neighborhood fabric, rate of demolitions, and the scale and character of new development not being contextually sensitive.

The proposed one-hundred-and-eighty (180) day moratorium is for: all demolition applications in the R-6 zone on Munjoy Hill (unless the application is part of a previously approved site plan approved prior to the effective date of the moratorium); and any and all Level I, II, or III Site Plan applications and amendments in addition to all demolition applications, for an interim period of the first forty-five (45) days of the moratorium.

During that 45 days, interim zoning language will be proposed to the City Council that would guide development proposals during the balance of the moratorium, based on the findings of a City audit of developments on Munjoy Hill in the past two (2) years.

This item must be read on two separate days. It was given a first reading on December 4, 2017. Five affirmative votes are required for passage after public comment.

ORDERS:

**Order 131-17/18
(Tab 13)**

Order Approving 22-Month Extension of Lease with General Services Administration Re: Transportation Security Administration Office Space at Jetport - Sponsored by the Economic Development Committee.

The Transportation Security Administration's current lease for office space at the Portland International Jetport will expire on December 31, 2017. The General Services Administration (GSA) on the TSA's behalf has agreed to extend the current lease for an additional 22 months.

All terms of the current lease outlined below will remain in effect; the only change will be the extension of the lease for an additional 22 months.

The lease premises include 8,215 square feet of office space on the second level of the Jetport's terminal building and 15 parking spaces in the short term section of the parking garage.

The rate is \$38.70 per square foot annually. This equates to a total annual payment of \$317,920.50. This rate is comparable to the airport terminal rate currently being paid by the airlines under the Jetport's airline signatory lease agreement previously approved by the City Council.

Five affirmative votes are required for passage after public comment.

AMENDMENTS:

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



Economic Development Department
Gregory A. Mitchell, Director

MEMORANDUM
City Council Agenda Item

TO: Mayor and Members of the City Council

FROM: Dinah Minot, Executive Director/Creative Portland
Sondra Bogdonoff, Past President/Creative Portland Board

DATE: November 6, 2017

SUBJECT: **Annual Meeting of Corporator of Creative Portland (CP) to Accept Annual Report of Creative Portland for FY2017**

SPONSOR: Mayor Ethan K. Strimling

COUNCIL MEETING DATE ACTION IS REQUESTED: November 20, 2017

1. Council meeting at which action is requested: November 20, 2017
2. Can action be taken at a later date? Yes.

At the November 1, 2017 Annual Meeting of the Creative Portland Board of Directors, the Board set the date for the Annual Meeting of the Corporator as November 20, 2017.

PRESENTATION: Sondra Bogdonoff, Past President/Creative Portland Board, 5 Minutes

I. ONE SENTENCE SUMMARY

At the November 1, 2017 Annual Meeting of the Creative Portland Board of Directors, it set the date for the Annual Meeting of the Corporator as November 20, 2017.

II. SUMMARY OF ISSUE

Pursuant to the Bylaws of Creative Portland (CP), the Portland City Council, as Corporator of Creative Portland, shall hold its annual meeting in the month of November each year or at a special meeting. This year's Annual Meeting Agenda includes:

1. Accepting CP FYE 2017 Activity and Financial Reports -- see attached.

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

At the November 1, 2017 Annual Meeting of the Creative Portland Board of Directors, the Board set the date for the Annual Meeting of the Corporator as November 20, 2017.

III. INTENDED RESULT

The intended result of the Annual Meeting of the Corporator would be for it to receive and accept the annual Activity and Financial Report.

IV. COUNCIL GOAL ADDRESSED

Promote economic development in the City in a manner that provides for increased property values, diversification across industry sectors, and high paying jobs.

V. FINANCIAL IMPACT

There is no financial impact associated with this action.

VI. STAFF ANALYSIS AND RECOMMENDATION

Creative Portland Board and its staff recommend that the Corporator hold the Annual Meeting of Creative Portland on November 20, 2017, to review and accept the annual Activity and Financial Report.

VIII. LIST ATTACHMENTS

- CP FYE17 Activity and Financial Report

CREATIVE PORTLAND^{ME}

December 18, 2017

CREATIVE PORTLAND CORPORATION BOARD OF DIRECTORS

FISCAL YEAR 2017 ANNUAL REPORT

The Creative Portland Corporation (CP) submits this Annual Report to the Portland City Council, Corporator of Creative Portland, on December 18, 2017. This is the eighth Annual Report submitted as CP ended its seventh fiscal year of operations on June 30, 2017. A financial summary of Creative Portland's FY17 revenue and expenses is included with this document. The Creative Portland Board of Directors thanks the Portland City Council for their support in allotting TIF funds in the amount of \$100,000 during FY17 from the Downtown Transit Oriented Development and Tax Increment Financing District. With this investment, CP was able to leverage additional funding from public and private sources in cash grants and donations just over \$43,238, plus \$9,921 in specific in-kind donations and additional thousands of hours of in-kind support contributed by dozens of volunteers.

FY17 was a year of big changes for Creative Portland. Major highlights include:

1. NEW STREET PRESENCE

Creative Portland leased and refurbished city-owned space at 84 Free Street with support from the City Manager, the Economic Development Department, and the Portland Development Foundation. We are very grateful for the \$25,000 PDF loan for the renovation of our multi-use community office space, as well as the in-kind services of several CP board members. The street level open architectural space has provided an inviting street presence for CP and allowed many more opportunities for community engagement and outreach, as you will see below.

2. NEW EXECUTIVE DIRECTOR

In October we hired a new Executive Director, Dinah Minot, to replace founding Executive Director Jen Hutchins. Dinah has brought her energy, marketing and production expertise to a wealth of new initiatives and relationships, convening community groups on a regular basis to discuss and tackle priority issues in the arts and culture sector.

3. STATEWIDE, REGIONAL & INTERNATIONAL OUTREACH & REPRESENTATION

Creative Portland was represented at the Maine Arts Commission (MAC)'s The Maine International Conference on the Arts: Lewiston/Auburn. In addition, Ms. Minot was a panelist at MAC's first statewide Artwalk Summit in Brunswick and a presenter at New England Foundation for the Arts' (NEFA) Creative Communities Exchange 2017, where CP conducted a workshop in New London, CT on how to cultivate and create a community arts center on a dime.

4. CULTURAL PLAN

Creative Portland began an updating of Portland's 1998 Cultural Plan, funded with a \$10,000 grant from the Maine Arts Commission (MAC), a \$15,000 matching PEDPIP grant, plus several corporate sponsorships. We hired CivicMoxie, a Boston firm, to facilitate a citywide cultural planning process. During phase one this spring, they interviewed key stakeholders, assessed strategic plans of the major cultural organizations as well as the City's comprehensive plan, and conducted focus groups to identify current challenges and how best to invest and leverage limited resources.

CP is currently in phase 2 of the process, where we are now working together with community stakeholders to plan implementation tools and strategies for a few targeted priorities. Our grant from the Arts Commission is the first step toward the possibility of a much larger state contribution. Once a cultural plan is completed, the City of Portland will be eligible to apply to MAC in March 2018 for a \$75,000 grant to implement recommendations identified in the plan.

The city has made a substantial investment in Creative Portland, for which we are grateful, and we are committed to reinforcing the necessity to collaborate and work together, as we recognize that the arts and cultural sector is the core foundation of the creative economy.

5. CITY & COMMUNITY PARTNERSHIPS

Within Portland's Economic Development Plan section, *Enrich the Creative Economy*, Creative Portland is tasked with leading the efforts to create a brand identity for Portland to attract and retain artists and entrepreneurs to sustain creative growth. We partner on a regular basis with city partners Portland Downtown, Visit Portland, The Portland Regional Chamber of Commerce and the city's Office of Economic Development to create and update an Economic Development Steering Committee (EDSC) two-year work plan. In addition to serving on the EDSC, CP is also a member of the Chamber's Economic & City Affairs committee (ECAC), METRO's Transit Advisory Committee, Portland Public Art Committee (PPAC), USM's economic development summit, and a newly formed "Cultural Partners" group of major cultural organizations including Portland Museum of Art, Portland Ovarions, Portland Public Library, Portland Symphony Orchestra, Portland Stage Company, Maine Historical Society, the University of Southern Maine, and Maine College of Art. At all of these meetings, we represent the voice of Portland's cultural community and we advocate for the interests of artists and arts & cultural institutions.

OTHER NOTABLE ACCOMPLISHMENTS/ONGOING INITIATIVES & PROGRAMS

Opened Creative Portland Community Arts Center & Gallery at 84 Free Street

CP assembled a volunteer curatorial team to install our first juried art exhibition of over 20 artists from Greater Portland. In the future, we intend to hang two shows per year of local art for sale. The new community space in the arts district has also been used for pop-up exhibitions and performances as well as a conference site for small groups. In addition, CP has attracted volunteers from all arts genres as we work toward becoming a trusted cultural hub of shared information and civic engagement.

Challenge of Change 2.0

Last November, the lecture, "The New Allure of the City (and Some Unanticipated Consequences)" with keynote speaker Alex Krieger, was co-hosted by CP, Portland Society for Architecture (PSA), The Portland Regional Chamber of Commerce, and the Muskie School of Public Service at the University of Southern Maine and sponsored by the University of New England's Center for Global Humanities. Creative Portland continues to partner with this group on an ongoing basis to present educational forums where the public can learn about the impacts of growth and hear various viewpoints.

First Friday Art Walk

Now in its 18th year, First Friday Art Walk continues to attract thousands to downtown Portland every month for Maine's largest monthly free cultural event. Based on research conducted in 2011, we estimate that the Art Walk brings \$1 million to the local economy every year. Creative Portland promotes and manages the Art Walk with online listings and in print, generously sponsored by the Portland Phoenix and several organizational partnerships, including Portland Ovarions, Portland Museum of Art, WMPG, and the Maine College of Art.

In 2017, we attracted new partnerships that offer in-kind promotional services, via WCH6's (NBC affiliate) news magazine show 207, with a monthly on-air segment on an artist and/or cultural organization, airing prior to First Friday Art Walk. In addition, METRO partnered with CP to offer free rides every First Friday after 4pm, including the Breeze connection from as far away as Brunswick.

Looking ahead, we plan to work with USM undergraduates as well as the Maine Office of Tourism to create flyers and other materials to promote the art walk with intentional efforts to bring the "art" back into Art Walk.

2 Degrees Portland

Implemented in January 2011, the 2 Degrees Portland program, a referral and networking service for people who are interested in living and working in the city, continues to attract about 10 new people each month. The database of people who live and/or work in Portland volunteering to be "connectors" also grows every month. There are now over 300 connectors who are willing to connect, assist, and mentor participants who are interested in exploring Portland and/or moving here. In FY17, 118 people from as far away as California and the UK have contacted 2 Degrees for information and

connections while considering a move to the Portland area. "Business partnerships" with companies such as Northeast Bank and Vitalius Real Estate come with cash commitments that represent direct leveraging of public funds. We also organize six events each year at creative businesses and organizations throughout the city, including artist studios, co-working spaces, cultural institutions and historic buildings, as a means to introduce newcomers to Portland and encourage them to invest in these industries.

Arts in the Chamber

In 2016, the Mayor initiated a new monthly program to showcase artists at the beginning of city council meetings, usually on the first Monday of the month. Creative Portland has reached out to the arts community to scout and book 3-4 minute performances and/or presentations in front of the councilors in the chamber that are also broadcast on public access TV to encourage community engagement and to share highlights of Portland's cultural life. Participants this past year included local dancers, musicians, actors, singer/songwriters, poets, visual artists, designers, student groups and performance artists.

Americans for the Arts: Arts & Economic Prosperity 5 (AEP5)

For the third time, the City of Portland via Creative Portland participated in a national economic development survey conducted by Americans for the Arts (AFTA) that repeats every five years. The AEP5 report, published in 2017, revealed that spending by arts organizations and their audiences in Portland totaled \$75 million, up over \$20 million since the last report five years ago. Of the 46 arts organizations surveyed, it was found that they supported 2,372 full-time equivalent jobs, up from the 1,535 jobs reported in the last survey. Additionally, the report validated data on who attends arts events, what they pay and what financial contributions Portland's nonprofit arts groups are making to the local economy in terms of direct dollars as well as tax revenue in the form of sales taxes.

This data is extremely valuable as an advocacy tool in demonstrating how large and significant the economic activity of the nonprofit arts community is in Portland, and the feedback has been instrumental to the major cultural organizations and larger nonprofits for recruitment and strategic planning.

Fiscal Sponsorships

An important way we serve the creative community is as the fiscal sponsor for creative initiatives who require a 501(c)(3) organization to apply for grants and accept donations. In FY17 we were fiscal sponsors for organizations including:

- Fork Food Lab, a membership organization and community kitchen collective that merged this year with the New York-based company FoodWorks. Creative Portland partnered with Fork Food Lab on the first Portland Food Festival Launch at Thompson's Point Brick South Building, an exciting new events, trade show, concert venue and conference space facility.
- Maine Startup and Create Week (MSCW), a week long event that generated national publicity (including a New York Times Op-Ed) highlighting the entrepreneurial spirit and growth in Portland.
- Maine Youth Rock Orchestra (MYRO), an ensemble of classically trained young musicians performing modern arrangements on tour and as accompaniment for national acts that has since become an official 501(c)(3).
- Your Art Partner's Temp to Perm Public Arts Conference, a one day conference and public art workshop forum.

Grant Support

In tandem with fiscal sponsorships, we also serve the community by writing letters of support for grant applications. In FY17 we supported Terra Moto Inc. on their National Creative Placemaking Fund application for ArtPlace America as a community partner. The project, entitled Maine USA (MUSA), will use artistic performances to create discourse around the effect of local & national immigration policies on Portland through a city-wide project with story circles, poetry slams, and a performance of the history of Maine. The proposed project would create new jobs, deepen relationships with immigrants and refugees, and spread awareness of Maine's diverse history.

CREATIVE PORTLAND FORMATION HISTORY

The City Council, by Order #92 passed November 17, 2008, authorized the establishment of Creative Portland (CP) as an economic development initiative to support Portland's creative economy. Formation of the Board of Directors was complete in the summer of 2009, with City Council appointments to the Board of Directors. One city councilor serves as the City Council representative and Greg Mitchell, Portland's Economic Development Director, serves as the City Manager's representative on the CP Board.

CREATIVE PORTLAND BOARD OF DIRECTORS:
JULY 1, 2016 - JUNE 30, 2017

Peter Bass: Random Orbit, *Treasurer*
Sondra Bogdonoff: artist, *President*
David Brenerman: City Councilor, City of Portland (ex-officio)
Zeke Callanan: Opticliff Law
**Mufalo Chitam: Empower the Immigrant Woman, Granite Bay Care
Kimberly Cook: Lawyer & lobbyist
Patrick Costin: Canal 5 Studio
Randy Ferrell: Ocean Gate Realty
*Arthur Fink: Photographer
Dee Dee Germain: Barrett Made
*Andrew Graham: *Secretary*, Portland Color;DesignTex
*Penny Harris: Consultant
Tim Honey: consultant, *Vice President*
**Emily Isaacson: Oratorio Chorale, Portland Bach Festival
*Alex Jaegerman: City of Yarmouth
*Alice Kornhauser: *Immediate Past President*, Portland Chamber Music Festival
Pat May: Crossover Touring, *Secretary*
Greg Mitchell: City of Portland (ex-officio)
*Eugenia O'Brien: arts educator, past Director- Portland Ballet
Gerard Salvo: TideSmart
Brianna Volk: Hunt and Alpine
* termed out and/or resigned
** appointed at the end of FY '17

The City Council, by Order #94 passed November 17, 2008, established the Creative Portland Development and Arts Tax Increment Financing (TIF) District, as a ten-year program, to provide annual "seed" financing to support CP operations. In 2012, the Council voted to extend that funding to 15 years.

**Creative Portland
Balance Sheet**
As of June 30, 2017

	Jun 30, 17	Jun 30, 16	\$ Change
ASSETS			
Current Assets			
Checking/Savings			
1010 - Creative Portland Checking	15,828	123,464	-107,635
1015 - Petty Cash	310	183	127
1030 - Investment Account	0	13	-13
Total Checking/Savings	16,138	123,659	-107,521
Accounts Receivable			
1100 - Accounts Receivable	5,388	73,285	-67,897
Total Accounts Receivable	5,388	73,285	-67,897
Other Current Assets			
1300 - Security Deposit	0	600	-600
1600 - Prepaid expenses			
1610 - Prepaid Insurance	1,154	0	1,154
1600 - Prepaid expenses - Other	195	335	-140
Total 1600 - Prepaid expenses	1,349	335	1,014
Total Other Current Assets	1,349	935	414
Total Current Assets	22,876	197,879	-175,003
Fixed Assets			
1400 - Fixed Assets			
1410 - Equipment	1,591	1,591	0
1420 - Accumulated Depreciation	-1,591	-1,591	0
1450 - Leasehold Improvements			
1455 - Accumulated Depreciation	-901	0	-901
1450 - Leasehold Improvements - Other	36,058	0	36,058
Total 1450 - Leasehold Improvements	35,157	0	35,157
Total 1400 - Fixed Assets	35,157	0	35,157
Total Fixed Assets	35,157	0	35,157
TOTAL ASSETS	58,033	197,879	-139,847
LIABILITIES & EQUITY			
Liabilities			
Current Liabilities			
Accounts Payable			
2000 - Accounts Payable	3,496	128,662	-125,166
Total Accounts Payable	3,496	128,662	-125,166
Other Current Liabilities			
2105-01 - Accrued Payroll Liability	0	5,949	-5,949
Total Other Current Liabilities	0	5,949	-5,949
Total Current Liabilities	3,496	134,611	-131,115
Long Term Liabilities			
3000 - City of Portland Loan	22,659	0	22,659
Total Long Term Liabilities	22,659	0	22,659
Total Liabilities	26,155	134,611	-108,456
Equity			
31000 - Unrest'd Net Assets			
31100 - Unrest'd Undesignated NA	56,904	-8,266	65,169
Total 31000 - Unrest'd Net Assets	56,904	-8,266	65,169
32000 - Temporarily Rest'd Net Assets	6,365	30,117	-23,752
Net Income	-31,391	41,418	-72,809
Total Equity	31,878	63,269	-31,391
TOTAL LIABILITIES & EQUITY	58,033	197,879	-139,847

Creative Portland
Profit & Loss Budget vs. Actual FY17
July 2016 through June 2017

	<u>Jul '16 - Jun 17</u>	<u>Budget</u>	<u>\$ Over Budget</u>
Ordinary Income/Expense			
Income			
4100 • Operations (unrestricted)			
4110 • Annual Fund			
4111 • Individual	579		
4112 • Board Challenge	2,450		
4110 • Annual Fund - Other	0	9,000	-9,000
Total 4110 • Annual Fund	<u>3,029</u>	<u>9,000</u>	<u>-5,971</u>
4115 • Arts District TIF Funding	100,000	100,000	0
4120 • Business Partnerships	0	10,000	-10,000
4140 • Corporate Sponsorships	5,475	15,000	-9,525
4150 • Fiscal Sponsor Agent Fee	6,770	0	6,770
Total 4100 • Operations (unrestricted)	<u>115,274</u>	<u>134,000</u>	<u>-18,726</u>
4200 • Programs (restricted)			
4215 • Cultural Plan Income	5,457		
4216 • Cultural Plan Grants	10,000		
Total • Cultural Plan Income & Grants	<u>15,457</u>		
4240 • PEDPIP Funds raised by CP	1,500		
4265 • Event & Project Sponsorships	1,975		
4270 • Grants & Foundations			
4275 • CP Grants	2,600	0	2,600
Total 4270 • Grants & Foundations	<u>2,600</u>	<u>0</u>	<u>2,600</u>
4200 • Programs (restricted) - Other	0	50,000	-50,000
Total 4200 • Programs (restricted)	<u>21,532</u>	<u>50,000</u>	<u>-28,468</u>
4300 • Other	2,037		
49900 • Uncategorized Income	4,395		
5100 • Fiscal Sponsor Inc (restricted)			
5130 • The New Guard	4,250		
5135 • Your Art Partner	2,483		
5140 • Maine Startup	105,824		
5175 • Fork Food Lab	8,577		
5190 • Maine Youth Rock Orchestra	9,500		
Total 5100 • Fiscal Sponsor Inc (restricted)	<u>130,634</u>	<u>0</u>	<u>130,634</u>
Total Income	<u>273,872</u>	<u>184,000</u>	<u>89,872</u>
Expense			
6100 • Cost of Programs			
6110 • Cost of Program Cultural Plan	12,838		
Total 6100 • Cost of Programs	<u>12,838</u>		
66900 • Reconciliation Discrepancies	1		
69800 • Uncategorized Expenses	23		
7100 • Personnel			
7101 • Executive Director	49,731		
7102 • Program Assistant	28,632		
7103 • Employee Benefits	61		

Creative Portland
Profit & Loss Budget vs. Actual FY17
July 2016 through June 2017

	<u>Jul '16 - Jun 17</u>	<u>Budget</u>	<u>\$ Over Budget</u>
7104 • Payroll Fee	157		
7105 • Payroll Taxes	32		
7100 • Personnel - Other	0	85,000	-85,000
Total 7100 • Personnel	78,613	85,000	-6,387
7500 • Professional Services			
7510 • Consulting	498		
7520 • Graphic Design	4,925		
7560 • Accounting	7,772		
7575 • Website Editing and Bloggin	725		
7500 • Professional Services - Other	0	72,000	-72,000
Total 7500 • Professional Services	13,920	72,000	-58,080
8110 • Rent			
8111 • Office Rent	5,576	5,000	576
8112 • Electricity	2,606		
8113 • Office Improvements	8,059		
8114 • Water & Sewer	1,230		
Total 8110 • Rent	17,470	5,000	12,470
8120 • Telecommunications			
8123 • Landline	604		
8124 • Software	607		
8125 • Email	90		
8126 • Internet	583		
8127 • Website	1,210		
8120 • Telecommunications - Other	363	2,000	-1,638
Total 8120 • Telecommunications	3,456	2,000	1,456
8130 • Printing and Reproduction	1,176	0	1,176
8135 • Meetings	465	0	465
8140 • Food and Venue			
8141 • Venue	906		
8142 • Food	528		
8140 • Food and Venue - Other	24	1,500	-1,476
Total 8140 • Food and Venue	1,458	1,500	-42
8170 • Supplies & Equipment			
8171 • Major Equipment & Furniture	3,459		
8172 • Office Supplies	1,168		
8170 • Supplies & Equipment - Other	34	2,000	-1,966
Total 8170 • Supplies & Equipment	4,661	2,000	2,661
8180 • Postage and Delivery	261	200	61
8200 • Professional Development			
8205 • Conferences Attended	41		
8210 • Staff Development	3,344		
8215 • Travel	135		
Total 8200 • Professional Development	3,520	0	3,520
8230 • Dues & Memberships	355	1,000	-645

Creative Portland
Profit & Loss Budget vs. Actual FY17
July 2016 through June 2017

	<u>Jul '16 - Jun 17</u>	<u>Budget</u>	<u>\$ Over Budget</u>
8235 • Board Expense	121		
8240 • Insurance			
8241 • Workmen's Compensation	582		
8242 • D & O	1,040		
8243 • General Liability Insurance	1,120		
8240 • Insurance - Other	577	3,100	-2,523
Total 8240 • Insurance	3,319	3,100	219
8250 • Bank Service Charges	83	0	83
8251 • Filing Fees	70		
8260 • Marketing			
8261 • Communications	1,145		
8262 • Promotion	22		
8260 • Marketing - Other	45	0	45
Total 8260 • Marketing	1,212	0	1,212
8400 • Miscellaneous	670		
8550 • Interest Exp - City Loan	212		
9000 • Fiscal Sponsorship Disbursement			
9221 • Fork Food Lab	8,148		
9300 • The New Guard	4,250		
9600 • Maine Startup and Create Week	134,793		
9920 • Your Art Partner	2,868		
9930 • MYRO Disbursement	9,500		
Total 9000 • Fiscal Sponsorship Disbursement	159,559	0	159,559
Total Expense	303,463	171,800	131,663
Net Ordinary Income	-29,591	12,200	-41,791
Other Income/Expense			
Other Income			
4700 • In-Kind Donations	9,921		
Total Other Income	9,921		
Other Expense			
4190 • Reimbursed Expenses	1,800		
9950 • In-Kind Expenses	9,921		
Total Other Expense	11,721		
Net Other Income	-1,800		
Net Income	-31,391	12,200	-43,591

Creative Portland
Profit & Loss
July 2016 through June 2017

	General Operating	Fundraising	Total Programs	Total Fiscal Sponsorship	Unclassified	TOTAL
Ordinary Income/Expense						
Income						
4100 • Operations (unrestricted)						
4110 • Annual Fund						
4111 • Individual	579	0	0	0	0	579
4112 • Board Challenge	2,450	0	0	0	0	2,450
Total 4110 • Annual Fund	3,029	0	0	0	0	3,029
4115 • Arts District TIF Funding	100,000	0	0	0	0	100,000
4140 • Corporate Sponsorships	1,000	0	4,475	0	0	5,475
4150 • Fiscal Sponsor Agent Fee	4,128	0	0	13	2,630	6,770
Total 4100 • Operations (unrestricted)	108,156	0	4,475	13	2,630	115,274
4200 • Programs (restricted)						
4215 • Cultural Plan Income	0	0	5,457	0	0	5,457
4240 • PEDPIP Funds raised by CP	0	0	1,500	0	0	1,500
4265 • Event & Project Sponsorships	125	0	1,850	0	0	1,975
4270 • Grants & Foundations						
4275 • CP Grants	100	0	12,500	0	0	12,600
Total 4270 • Grants & Foundations	100	0	12,500	0	0	12,600
Total 4200 • Programs (restricted)	225	0	21,307	0	0	21,532
4300 • Other	2,037	0	0	0	0	2,037
49900 • Uncategorized Income	0	0	0	0	4,395	4,395
5100 • Fiscal Sponsor Inc (restricted)						
5130 • The New Guard	0	0	0	4,250	0	4,250
5135 • Your Art Partner	0	0	0	2,488	-5	2,483
5140 • Maine Startup	0	0	0	107,949	-2,125	105,824
5175 • Fork Food Lab	0	0	0	8,577	0	8,577
5190 • Maine Youth Rock Orchestra	0	0	0	0	9,500	9,500
Total 5100 • Fiscal Sponsor Inc (restricted)	0	0	0	123,264	7,370	130,634
Total Income	110,419	0	25,782	123,277	14,395	273,872
Expense						
6100 • Cost of Programs						
6110 • Cost of Program Cultural Plan	0	0	25	0	0	25
Total 6100 • Cost of Programs	0	0	25	0	0	25
66900 • Reconciliation Discrepancies	1	0	0	0	0	1
69800 • Uncategorized Expenses	0	0	0	0	23	23
7100 • Personnel						
7101 • Executive Director	49,731	0	0	0	0	49,731
7102 • Program Assistant	28,632	0	0	0	0	28,632
7103 • Employee Benefits	81	0	0	0	0	81
7104 • Payroll Fee	157	0	0	0	0	157
7105 • Payroll Taxes	32	0	0	0	0	32
Total 7100 • Personnel	78,613	0	0	0	0	78,613
7500 • Professional Services						
7510 • Consulting	500	0	12,811	0	0	13,311
7520 • Graphic Design	0	0	4,925	0	0	4,925
7560 • Accounting	7,249	0	0	0	523	7,772
7575 • Website Editing and Blogging	725	0	0	0	0	725
Total 7500 • Professional Services	8,474	0	17,736	0	523	26,733
8110 • Rent						
8111 • Office Rent	5,576	0	0	0	0	5,576
8112 • Electricity	1,474	0	0	0	1,132	2,606
8113 • Office Improvements	42,377	0	0	0	-34,318	8,059
8114 • Water & Sewer	1,130	0	0	0	99	1,230
Total 8110 • Rent	50,557	0	0	0	-33,087	17,470
8120 • Telecommunications						
8123 • Landline	518	0	0	0	86	604
8124 • Software	140	316	0	0	150	607
8125 • Email	0	0	0	0	90	90
8126 • Internet	497	0	0	0	86	583
8127 • Website	216	0	451	198	345	1,210
8120 • Telecommunications - Other	0	0	383	0	0	383
Total 8120 • Telecommunications	1,371	316	813	198	757	3,456
8130 • Printing and Reproduction	45	0	820	0	310	1,175

Creative Portland
Profit & Loss
July 2016 through June 2017

	General Operating	Fundraising	Total Programs	Total Fiscal Sponsorship	Unclassified	TOTAL
8135 • Meetings	325	0	140	0	0	465
8140 • Food and Venue						
8141 • Venue	6	0	900	0	0	906
8142 • Food	293	0	167	0	69	528
8140 • Food and Venue - Other	0	0	0	0	24	24
Total 8140 • Food and Venue	298	0	1,067	0	93	1,458
8170 • Supplies & Equipment						
8171 • Major Equipment & Furniture	3,459	0	0	0	0	3,459
8172 • Office Supplies	966	0	0	0	202	1,168
8170 • Supplies & Equipment - Other	0	0	0	0	34	34
Total 8170 • Supplies & Equipment	4,425	0	0	0	236	4,661
8180 • Postage and Delivery	187	0	0	0	74	261
8200 • Professional Development						
8205 • Conferences Attended	20	0	0	0	21	41
8210 • Staff Development	3,236	0	0	0	108	3,344
8215 • Travel	80	0	0	0	54	135
8275 • Reimbursable Expenses	-300	0	0	0	300	0
Total 8200 • Professional Development	3,037	0	0	0	484	3,520
8230 • Dues & Memberships	240	0	0	0	115	355
8235 • Board Expense	121	0	0	0	0	121
8240 • Insurance						
8241 • Workmen's Compensation	582	0	0	0	0	582
8242 • D & O	1,040	0	0	0	0	1,040
8243 • General Liability Insurance	1,120	0	0	0	0	1,120
8240 • Insurance - Other	577	0	0	0	0	577
Total 8240 • Insurance	3,319	0	0	0	0	3,319
8250 • Bank Service Charges	37	0	0	13	32	83
8251 • Filing Fees	70	0	0	0	0	70
8260 • Marketing						
8261 • Communications	825	0	0	315	5	1,145
8262 • Promotion	0	0	0	0	22	22
8260 • Marketing - Other	0	0	0	0	45	45
Total 8260 • Marketing	825	0	0	315	72	1,212
8400 • Miscellaneous	670	0	0	0	0	670
8550 • Interest Exp - City Loan	212	0	0	0	0	212
9000 • Fiscal Sponsorship Disbursement						
9221 • Fork Food Lab	0	0	0	8,148	0	8,148
9300 • The New Guard	0	0	0	4,250	0	4,250
9600 • Maine Startup and Create Week	0	0	0	134,793	0	134,793
9920 • Your Art Partner	0	0	0	2,868	0	2,868
9930 • MYRO Disbursement	0	0	0	0	9,500	9,500
Total 9000 • Fiscal Sponsorship Disbursement	0	0	0	150,059	9,500	159,559
Total Expense	152,828	316	20,601	150,585	-20,868	303,463
Net Ordinary Income	-42,410	-316	5,180	-27,309	35,263	-29,591
Other Income/Expense						
Other Income						
4700 • In-Kind Donations	9,320	0	0	601	0	9,921
Total Other Income	9,320	0	0	601	0	9,921
Other Expense						
4190 • Reimbursed Expenses	1,800	0	0	0	0	1,800
9950 • In-Kind Expenses	9,320	0	0	601	0	9,921
Total Other Expense	11,120	0	0	601	0	11,721
Net Other Income	-1,800	0	0	0	0	-1,800
Net Income	-44,210	-316	5,180	-27,309	35,263	-31,391

**Creative Portland
Profit & Loss
July 2016 through June 2017**

	Jul - Sep 16	Oct - Dec 16	Jan - Mar 17	Apr - Jun 17	TOTAL
Ordinary Income/Expense					
Income					
4100 • Operations (unrestricted)					
4110 • Annual Fund					
4111 • Individual	0.00	578.82	0.00	0.00	578.82
4112 • Board Challenge	1,000.00	1,000.00	300.00	150.00	2,450.00
Total 4110 • Annual Fund	1,000	1,579	300	150	3,029
4115 • Arts District TIF Funding	25,000	25,000	25,000	25,000	100,000
4140 • Corporate Sponsorships	1,875	0	0	3,600	5,475
4150 • Fiscal Sponsor Agent Fee	625	0	523	5,622	6,770
Total 4100 • Operations (unrestricted)	28,500	26,579	25,823	34,372	115,274
4200 • Programs (restricted)					
4215 • Cultural Plan Income	0	0	0	5,457	5,457
4240 • PEDPIP Funds raised by CP	0	0	0	1,500	1,500
4265 • Event & Project Sponsorships	1,475	500	0	0	1,975
4270 • Grants & Foundations					
4275 • CP Grants	2,500	0	10,100	0	12,600
Total 4270 • Grants & Foundations	2,500	0	10,100	0	12,600
Total 4200 • Programs (restricted)	3,975	500	10,100	6,957	21,532
4300 • Other	147	90	1,800	0	2,037
49900 • Uncategorized Income	0	0	4,395	0	4,395
Total Income	32,622	27,169	42,118	41,329	143,238
Expense					
6100 • Cost of Programs					
6110 • Cost of Program Cultural Plan	0	0	0	25	25
Total 6100 • Cost of Programs	0	0	0	25	25
66900 • Reconciliation Discrepancies	0	0	1	0	1
69800 • Uncategorized Expenses	0	0	0	23	23
7100 • Personnel					
7101 • Executive Director	231	16,500	16,500	16,500	49,731
7102 • Program Assistant	6,830	6,720	6,593	8,490	28,632
7103 • Employee Benefits	61	0	0	0	61
7104 • Payroll Fee	133	0	24	0	157
7105 • Payroll Taxes	32	0	0	0	32
Total 7100 • Personnel	7,287	23,220	23,117	24,990	78,613
7500 • Professional Services					
7510 • Consulting	0	0	500	12,811	13,311
7520 • Graphic Design	1,200	1,800	1,325	800	4,925
7560 • Accounting	2,170	1,604	1,416	2,582	7,772
7575 • Website Editing and Bloggin	200	525	0	0	725
Total 7500 • Professional Services	3,570	3,729	3,241	16,193	26,733
8110 • Rent					
8111 • Office Rent	2,104	2,854	618	0	5,576
8112 • Electricity	92	150	1,272	1,092	2,606
8113 • Office Improvements	0	10,774	-5,306	2,591	8,059
8114 • Water & Sewer	0	29	1,101	99	1,230
Total 8110 • Rent	2,196	13,807	-2,315	3,782	17,470
8120 • Telecommunications					
8123 • Landline	132	133	212	126	604
8124 • Software	456	0	0	150	607
8125 • Email	0	0	0	90	90
8126 • Internet	131	111	210	130	583
8127 • Website	336	0	166	708	1,210
8120 • Telecommunications - Other	0	0	0	363	363
Total 8120 • Telecommunications	1,056	244	587	1,568	3,456
8130 • Printing and Reproduction	248	260	357	310	1,176
8135 • Meetings	145	122	126	73	465
8140 • Food and Venue					
8141 • Venue	900	0	6	0	906
8142 • Food	124	0	293	112	528
8140 • Food and Venue - Other	0	0	0	24	24

**Creative Portland
Profit & Loss
July 2016 through June 2017**

	Jul - Sep 16	Oct - Dec 16	Jan - Mar 17	Apr - Jun 17	TOTAL
Total 8140 • Food and Venue	1,024	0	298	137	1,458
8170 • Supplies & Equipment					
8171 • Major Equipment & Furniture	0	0	3,374	85	3,459
8172 • Office Supplies	7	130	710	321	1,168
8170 • Supplies & Equipment - Other	0	0	0	34	34
Total 8170 • Supplies & Equipment	7	130	4,084	440	4,661
8180 • Postage and Delivery	8	64	12	178	261
8200 • Professional Development					
8205 • Conferences Attended	0	0	20	21	41
8210 • Staff Development	355	2,500	381	108	3,344
8215 • Travel	0	0	80	54	135
8275 • Reimbursable Expenses	0	0	0	0	0
Total 8200 • Professional Development	355	2,500	481	184	3,520
8230 • Dues & Memberships	0	200	40	115	355
8235 • Board Expense	0	0	121	0	121
8240 • Insurance					
8241 • Workmen's Compensation	0	124	130	328	582
8242 • D & O	0	0	1,040	0	1,040
8243 • General Liability Insurance	515	139	139	327	1,120
8240 • Insurance - Other	0	0	144	433	577
Total 8240 • Insurance	515	263	1,453	1,088	3,319
8250 • Bank Service Charges	0	22	26	35	83
8251 • Filing Fees	0	0	70	0	70
8260 • Marketing					
8261 • Communications	360	390	390	5	1,145
8262 • Promotion	0	0	0	22	22
8260 • Marketing - Other	0	0	0	45	45
Total 8260 • Marketing	360	390	390	72	1,212
8400 • Miscellaneous	0	0	670	0	670
8550 • Interest Exp - City Loan	0	45	68	100	212
Total Expense	16,771	44,995	32,826	49,312	143,904
Net Ordinary Income	15,851	-17,826	9,291	-7,983	-666
Other Income/Expense					
Other Income					
4700 • In-Kind Donations	0	0	9,921	0	9,921
Total Other Income	0	0	9,921	0	9,921
Other Expense					
4190 • Reimbursed Expenses	0	1,800	0	0	1,800
9950 • In-Kind Expenses	0	0	9,921	0	9,921
Total Other Expense	0	1,800	9,921	0	11,721
Net Other Income	0	-1,800	0	0	-1,800
Net Income	15,851	-19,626	9,291	-7,983	-2,466
5100 • Fiscal Sponsor Inc (restricted)					
5130 • The New Guard	4,250	0	0	0	4,250
5135 • Your Art Partner	0	1,000	1,160	333	2,483
5140 • Maine Startup	8,829	0	0	96,995	105,824
5175 • Fork Food Lab	0	0	8,577	0	8,577
5190 • Maine Youth Rock Orchestra	0	0	0	9,500	9,500
Total 5100 • Fiscal Sponsor Inc (restricted)	13,079	1,000	9,727	106,828	130,634
9000 • Fiscal Sponsorship Disbursement					
9221 • Fork Food Lab	0	0	8,148	0	8,148
9300 • The New Guard	4,250	0	0	0	4,250
9600 • Maine Startup and Create Week	6,400	7,176	23,799	97,417	134,793
9920 • Your Art Partner	0	929	1,809	330	2,868
9930 • MYRO Disbursement	0	0	0	9,500	9,500
Total 9000 • Fiscal Sponsorship Disbursement	10,650	8,105	33,557	107,246	159,558



Economic Development Department
Gregory A. Mitchell, Director

MEMORANDUM

To: Mayor and Members of the City Council

From: Gregory A. Mitchell, Economic Development Director

cc: Tim Agnew, President/Portland Development Corporation Board of Directors

Date: November 6, 2017

Sponsor: Mayor Ethan Strimling

Subject: Annual Meeting of Corporator of Portland Development Corporation (PDC) to:

- Accept Annual Report and Financials for FY2017;
- Vote to Terminate the Portland Development Action Grant Program

1. Council meeting at which action is requested: November 20, 2017

2. Can action be taken at a later date? Yes.

At the October 19, 2017 Annual Meeting of the Portland Development Corporation Board of Directors, the Board set the date for the Annual Meeting of the Corporator as November 20, 2017.

PRESENTATION: Greg Mitchell/5 Minutes

I. ONE SENTENCE SUMMARY

At the October 19, 2017 Annual Meeting of the Portland Development Corporation, the Board voted to set the date of the Annual Meeting of the Corporator as November 20, 2017.

II. SUMMARY OF ISSUE/AGENDA DESCRIPTION

Pursuant to the bylaws of the Portland Development Corporation (PDC), the Portland City Council, as Corporator of the Portland Development Corporation, shall hold its annual meeting in the month of September each year or at a special meeting.

This year's Annual Meeting Agenda includes:

1. Accepting attached PDC FYE 2017 Activity and Financial Reports;
2. Order Terminating Portland Development Action Grant Program – see attached Memo;
3. Transaction of other business as may be deemed necessary.

PDC FYE2017 Activity and Financial Reports

For FY2017, the PDC invested over \$900,000 in 18 businesses and economic development projects, which leveraged over \$11.4 Million in private sector funds associated with creating 40 jobs and retaining 17 jobs. FY17 loan activity included a public to private investment ratio of 1:13.

Termination of Portland Development Action Grant Program (DAG)

The PDC Board reviewed the DAG program at its September 28, 2017 Board meeting, as well as its current balance of \$43,287 in available DAG Grant Funds for public infrastructure projects. Because of inactivity for the DAG program for the past two years, the PDC Board recommended to the City Council that the DAG program be terminated due to lack of use, with the balance of the funds going back into its loan fund.

II. REASON FOR SUBMISSION

At the PDC Board of Directors Annual Meeting held on October 19, 2017, the PDC Board set the date of the Annual Meeting of the Corporator as November 20, 2017.

III. INTENDED RESULT

The intended result of the Annual Meeting of the Corporator would be for it to receive the Annual Activity and Financial Report of the PDC for FYE2017, and to terminate the DAG program.

VI. COUNCIL GOAL ADDRESSED

Promote economic development in the City in a manner that provides for increased property values, diversification across industry sectors, and high paying jobs.

V. FINANCIAL IMPACT

There is no financial impact associated with these actions.

VI. STAFF ANALYSIS AND RECOMMENDATION

Staff recommends the Corporator hold its Annual Meeting on November 20, 2017 and accept the PDC's FYE 2017 Annual Activity and Financial Report, and vote to terminate the DAG program and place the remaining funds into its loan fund.

Attachments:

- PDC Board FYE 2017 Activity Report and Financial Report (Preliminary and Subject to Audit)
- Memo to City Council Regarding Terminating the DAG Program



Portland Development Corporation

Board of Directors **Fiscal Year End 2017 Annual Report**

The Economic Development Department provides the primary staff support to the Portland Development Corporation (PDC) with legal assistance from Corporation Counsel. The Economic Development Department is responsible for marketing and administration of the PDC's Commercial Loan and Grant Programs and marketing City-owned real estate to attract private sector investment.

The PDC Board of Directors met eight times over the course of the fiscal year, not including its Annual Awards Reception held on November 17, 2016 – detailed further below. It is noted that the PDC invested over \$920,000 in FY17 in 18 businesses and economic development projects, which leveraged over \$11.4 Million in private sector funds associated with creating 40 jobs and retaining 17 jobs. FY17 loan activity included a public to private investment ratio of 1:13.

FY14, FY15, FY16, and FY17 Loan and Grant Activity Totals:

	FY14	FY15	FY16	FY17
No. of Loans Made	7	8	5	10
Total Amt. of Funds Lent	\$814,289	\$607,033	\$370,000	\$873,500
Total Private Investment Leveraged	\$48,505,172	\$3,467,095	\$1,139,361	\$11,439,338
Jobs Created	65	40	8	40
Jobs Retained	13	55	11	17
No. of Dev. Action Grants	3	1	0	0
Total Amt. of Grants	\$75,000	\$10,650	\$0	0
No. of Business Assistance Grants for Job Creation	5	8	7	0*
Total Amt. of Grants	62,200	\$100,000	\$100,000	0
Jobs Created	21	17	20	0
No. of Portland Econ. Dev. Plan Implementation Grants	3	8	3	8
Total Amt. of Grants	\$43,309	\$98,820	\$37,300	\$48,331
PDC Total Investment	\$984,798	\$856,503	\$502,300	\$926,831

*No funds were available during FY17.

PDC Fiscal Year 2017 Loan and Grant Detailed Activity

FY17 Loans Closed

FY17 was a year in which the PDC loan portfolio grew with ten loans closed for a total of \$873,500 which is more than double that of the previous year. The PDC's loans invested in nine Portland businesses – one business received two different loans - thereby retaining 17 jobs and creating 40 new jobs. In addition, these loans leveraged over \$11.4 Million in private commercial investment. Types of businesses provided loan assistance included five food retailers, Creative Portland, Thompson's Point, hospitality, tailoring, and a preschool education center.

During the past seven years, FY10 through FY17, the PDC has extended 56 loans for a total of over \$4.2 Million, while leveraging over \$71 Million in private investment and creating and retaining over 480 jobs.

PDC Loan Portfolio

For the first time in PDC history, its outstanding loan portfolio exceeds \$2.8 Million. At the end of FY17, the PDC has 37 loans outstanding. This loan portfolio of \$2.8 Million leverages \$34.1 Million in private investment in Portland, for a leverage of \$12 of private funds to each dollar of public funds. These loans also retained 93 jobs and created 177 jobs, and include a diverse mix of PDC investments in businesses noted above, as well as a paddle boat business on Portland's waterfront, energy, fitness, retail, and service.

As a result of a successful grant application, beginning in 2012, funds from the U.S. Treasury's State Small Business Credit Initiative (SSBCI) became available to the City as a lending source. Through FY2017, the PDC has utilized \$922,500 in SSBCI funds for loans to six Portland businesses. Since the SSBCI Program expired in early 2017, all of the loan funds, once paid off by the borrowers, become the City's, expanding the PDC loan pool by what will likely be over \$1 million.

PDC Lending History

Since its inception in 1991, the PDC has made 159 loans to diverse businesses including manufacturing (e.g., breweries and biosciences), restaurants, retail, and service, among others. The following table provides an overall view of the activities:

Total Amounts of Funds Lent:	\$10,086,535
Leveraged Amount of Private Financing:	\$117,538,400
Jobs Retained:	1,282
Jobs Created:	779
16 Loans Defaulted*	\$689,094

*Default amount of \$689,094 is 6.8% of total amount of funds lent.

Brownfields Grant Award from the United States Department of Environmental Protection (EPA)

The City of Portland applied for a Brownfields Grant from the EPA during FY2016. At the beginning of FY17, the City was awarded a grant of \$800,000 to support loan and grant investments in environmental site cleanup. The City Council accepted and appropriated these funds to recapitalize the Brownfields Revolving Loan and Grant Program. The funds will be used as loans to for-profit developers, and, if desired, as grants to non-profits for the clean-up of Brownfields sites throughout the City.

Brownfield Grants:

During FY2017, the PDC approved two Brownfield Grants as follows:

1. \$12,000 was granted to the City of Portland to cover the cost of Phase I Environmental Site Assessments (ESA) on six City-owned properties in Bayside that the City was getting ready to market for sale. Phase I ESAs provide the potential to enhance the marketability of the properties as they will provide information to interested buyers about site contamination.
2. A \$180,000 grant was approved for Children's Odyssey (CO), a non-profit preschool primarily for children with developmental challenges, to assist with the environmental cleanup of the Reed School where CO is moving to in order to accommodate growth.

Portland Economic Development Plan Implementation Program (PEDPIP) Grant Fund

The PEDPIP Grant Fund was created during FY12 to provide grant funds to invest in economic development projects and programs that carry out Portland's Economic Development Vision and Plan ("Plan"), and its companion Work Plan which is updated every two years. Grants must be matched by an equal or greater dollar amount from funding sources other than the PDC.

The PEDPIP grants fund planning studies and other "soft" costs associated with economic development projects and programs that advance the initiatives spelled out in the Plan and current work plan. PEDPIP does not invest in "hard" costs for public

infrastructure or private development projects. Its focus is on expenditures for economic development projects and programs.

The PEDPIP program was capitalized by PDC funds in the amount of \$250,000 in FY12. The maximum grant amount was originally \$75,000. During FY2015, the PDC Board recommended to the City Council, and the City Council approved, amending the maximum grant amount to \$15,000, and establishing a yearly cap at the beginning of each fiscal year at 10% of available/uncommitted, unrestricted PDC loan funds beginning with FY16.

Since its inception through FY17, the PDC Board approved grants in the total amount of \$407,345 as follows:

Portland Community Chamber for Growing Portland Initiative
Creative Portland for the following projects:

- Branding Portland
- LiveWork Website Update
- Creative Economy Metrics
- Artspace Survey
- Creative Map and Guide
- Creative Space (inventory, web-based clearing house, resource guides)
- UNESCO Creative Cities Application
- Work in Place Summit
- Green Light Series Finale
- Update to Portland Cultural Plan

Portland Performing Arts Festival

Portland Community Chamber for Scorecard Updates (2014; 2015)

City of Portland staff to participate in the Maine International Trade Center
Mission to Iceland and UK

Portland Community Chamber for Startup and Create Week (2014; 2015)

World Affairs Council for its Celebrate Immigration Initiative

City of Portland/Portland Community Chamber – Industry Sector Research

Conducted by the Maine Center for Business and Economic Research

City of Portland – Greater Portland Economic Development Corporation

(GPEDC) - Maine International Trade Center/Invest in Maine Program

Cultivating Communities/Local Food Cluster Acceleration Project (Withdrawn by
applicant)

Cooperative Development Institute – Institutional Food Service and Procurement

Maine Center for Enterprise Development – Top Gun Overhaul and Preflight

Maine Convention Center Collaborative – Feasibility Study for Convention
Center

Portland Buy Local – Host Community Forum to Strengthen Portland's Economy

Maine Center for Enterprise Development – E*Next Pilot Project

Portland Downtown – Parking Study

Portland Downtown – Walking Tour
Maine College of Art – Campus Master Plan
GPCOG – Portland Food Launch and Festival
Women United Around the World – Vocational Training Program for Immigrant Women

Business Assistance Grant Program for Job Creation

The Business Assistance Program for Job Creation offers grants to new and expanding Portland businesses for projects that result in the creation of permanent net new jobs for low/moderate income Portland residents. A private match is required in an amount that is at least equal to the grant requested. The maximum grant amount request per recipient is \$20,000. For every \$10,000 of grant funds, one full-time permanent job must be created.

This program was originally capitalized with \$100,000 from Community Development Block Grant (CDBG) funds and launched in May 2012. It was re-capitalized by the CDBG program in FY14 and FY16 with an additional \$100,000 each of those years.

Grants approved since the Program's inception (FY12 through FY17) total \$286,900 to 21 recipients, resulting in the creation of 69 full-time jobs. The program has provided assistance to a diverse group of start-up and existing businesses, ranging from restaurants, bakeries, and a food production incubator, to clothing manufacturer/retailer, pharmacy, IT services, music venue, bicycle sales and services, and auto repair.

PDC Annual Awards Program

At the 21st Annual Awards Reception on November 17, 2016, the PDC provided awards for Small Business of the Year, Business of the Year, and an Economic Achievement Award – as follows:

- The *Small Business of the Year* award was given to ***Maine Standard Biofuels***

Maine Standard Biofuels (MSB), incorporated in 2006, is Maine's only full-service used cooking oil collector and biodiesel manufacturer. The company collects used vegetable oil from over 900 restaurants throughout Northern New England and refines it into clean burning biodiesel, high performance cleaners, and other bio-based products in its Portland bio-refinery. These products are drop in replacements for their conventional petroleum counterparts.

The company also delivers high performance biodiesel fuel and bioheat heating oil blends throughout the greater Portland region to hundreds of people and businesses. Notable customers include Oakhurst Dairy and Casco Bay Lines, and

anyone can buy his or her biodiesel direct from the source at MSB's Riverside Street bio-refinery.

MSB is proud to be a community-centric company that focuses on social and environmental sustainability, as much as profit. MSB has contributed to various community causes, including being a sponsor of Ripple Effect's Over the Edge fundraiser in 2015 and adopting a portion of Portland Trails' Presumpscot River Trail in 2017. MSB employs fifteen Mainers and was a PDC Loan client.

■ The ***Business of the Year*** award was given to ***Diversified Communications***

Diversified Communications is a growing global media company with headquarters in Portland, ME and divisions in Australia, Canada, Hong Kong, Singapore, and the United Kingdom. Its mission is to connect, educate, and strengthen business communities through broadcasting, digital products, publications, conferences and trade shows – with Seafood Expo Global, Seafood Expo North America, and the International WorkBoat Show among its largest events.

Diversified's global team is 800 strong, with 200 employed by the Portland office - most work on site in the remodeled, sun-filled, six-story office environment with a two-story fitness center. Diversified is among the largest employers in downtown and continues to grow and provide opportunities for current staff, while also attracting and hiring new talent. Since 2006, it is among the *Best Places to Work in ME* and has placed in the top three, two years running.

Diversified Communications also gives back to the community by offering annual paid volunteer-time to employees, by contributions to various non-profit organizations nominated by employees, as well as its long-standing fund-raising program that includes a company match to support both MaineShare and United Way.

■ The ***Economic Development Achievement*** award was given to the ***Maine College of Art***

A longstanding institution in Portland, founded in 1882 as part of the Portland Society of Art, its first diplomas were awarded in the 1920s. In 1972, the School's name was changed to the Portland School of Art, and its first Bachelor of Fine Arts degrees (BFA) were awarded in 1975.

In 1992, the College was renamed Maine College of Art (MECA) to better identify its status as a degree-granting, New England institution. In 1993, MECA purchased the five-story landmark Porteous Building at 522 Congress Street, an early catalyst in the Downtown Arts District. Since the 1990s, the College has invested more than \$22M in the Porteous Building and its holdings in Portland also include 51 Oak Street – an 80-bed residence hall, and The Shepley Apartments, a 60-bed facility – both within a block of the Porteous Building, as

well as other leases for student housing and classrooms, the newest of which is 380 Cumberland Avenue.

It is one of 42 private, nonprofit, independent art colleges in the country. It awards the BFA degree in eleven studio majors, including Digital Media, Woodworking and Furniture Design, Photography, and the newest program, Textile and Fashion Design. The Master of Fine Arts (MFA) degree launched in 1998 and the K-12 art education certificate program received State approval in 2014 to become the Master of Arts in Teaching (MAT). In 2016, MECA acquired the Salt Institute for Documentary Studies and has been granted approval from the New England Association of Schools and Colleges and the National Association of Schools of Art and Design to add the Salt Graduate Certificate in Documentary Studies as its fourth degree program. More than 50% of its 2,200 graduates live in Maine, the vast majority in Portland as business owners, artists, designers and entrepreneurs. Currently, there are 490 BFA, MAT, and MFA degree students and more than 1,700 youth and adults in Continuing Studies. MECA employs 90 full- and part-time faculty and has 165 employees in total.

Summary

The PDC looks forward to continuing to assist in providing and leveraging investment in Portland area businesses. With grant programs, its loan portfolio growing, and loan funds available to invest, the PDC would like to thank the City Council for its continued support.

PDC Board of Directors:

Mayor Ethan Strimling
Drew Swenson, President
Tim Agnew, Treasurer
Shelley Carvel, Secretary
Jed Harris
Jon Jennings, City Manager
Dennis Martin
Heather Sanborn
Ovid Santoro
Jere Shaw
Barry Sheff

PDC Staff:

Greg Mitchell, Economic Development Director
Nelle Hanig, Business Programs Manager
Lori Paulette, Senior Executive Assistant
Michael Goldman, Associate Corporation Counsel

PORTLAND DEVELOPMENT CORPORATION
Balance Sheet
June 30, 2017

(Preliminary and Subject to Audit)

ASSETS

Cash		\$ 2,195,016
Due from other governments		1,110
Accounts receivable		620
Loans receivable	\$ 2,418,750	
Allowance for uncollectible loans	(362,911)	<u>2,055,840</u>
TOTAL ASSETS		<u>\$ 4,252,585</u>

LIABILITIES AND FUND EQUITY

Liabilities:		
Accounts payable	\$ 12,466	
Accrued salaries	<u>177</u>	
Total Liabilities		\$ 12,642
Fund Equity:		
Reserves		
Loans Receivable	\$ 2,118,614	
Economic Development Fund	74,638	
Unrestricted UDAG	428,942	
Restricted CIP	267,802	
Unrestricted CIP	128,911	
FAME	334,910	
EPA Revolving Loan Fund (Brownfield)	340,941	
FAME SSBCI	547,889	
Brownfield Grants	<u>(2,705)</u>	
Total Fund Equity		<u>4,239,942</u>
TOTAL LIABILITIES AND FUND EQUITY		<u>\$ 4,252,585</u>

PORTLAND DEVELOPMENT CORPORATION
Statement of Revenues, Expenditures,
and Changes in Fund Balance
For the Year Ended
June 30, 2017

(Preliminary and Subject to Audit)

Revenues and Financing Sources

Federal Grants	\$ 102,844
State Grants	523,500
Application Fees	8,735
Interest Received on Loans	115,563
Investment Interest Income	6,149
Operating Transfers In	<u>25,469</u>

Total Revenues and Financing Sources		\$ 782,260
--------------------------------------	--	------------

Expenditures

Administrative Services	\$ 37,653
Bad Debt Expense	71,080
Contractual Services	17,806
Land Improvements	25,000
Operating Transfers Out	<u>48,121</u>

Total Expenditures		<u>199,661</u>
--------------------	--	----------------

Excess (deficiency) of revenues over expenditures		\$ 582,599
--	--	------------

Fund Balance, June 30, 2016, restated		<u>3,657,343</u>
---------------------------------------	--	------------------

Fund Balance, June 30, 2017		<u><u>\$ 4,239,942</u></u>
-----------------------------	--	----------------------------



Economic Development Department
Gregory A. Mitchell, Director

TO: Mayor and Members of the Portland City Council
FROM: Greg Mitchell, Economic Development Director
CC: Nelle Hanig, Business Programs Manager
DATE: November 7, 2017
SUBJECT: **Portland Development Action Grant (DAG) Funds**

I. SUMMARY

This memo provides information on the status of the Development Action Grant (DAG) funds and the Portland Development Corporation (PDC) Board of Directors recommendation and vote to the City Council to terminate the DAG program.

II. BACKGROUND

The DAG mainly provides grant assistance for public infrastructure in connection with construction of development projects; see attached Program Guidelines. Also, a list of all DAG recipients is attached to this memo.

The other component of the Program is for loan assistance through project-specific bond issues to stimulate major development projects on the Peninsula. It has been used only once to assist the Maine College of Art with its acquisition of the Porteous Building on Congress Street. That loan has since been paid back in full.

III. HISTORY OF FUNDING SOURCES

When the program was created, the Council provided Capital Improvement Funds (CIP) for the infrastructure grants. Over time a total of \$875,000 in CIP funds was used. When those funds ran out, the PDC provided \$128,000 from its UDAG loan funds with the Council's approval. Then in 2014, an additional \$56,000 in UDAG funds were moved (from the Unrestricted Fund) into the Program by the PDC. To date \$184,000 of UDAG loan funds have been invested in the Program, with \$43,387 remaining.

IV. PDC Board Vote and Recommendation to City Council

The PDC Board reviewed the DAG program at its September 28, 2017 Board meeting, as well as its current balance of \$43,287 in available DAG Grant Funds for public infrastructure projects. Because of the inactivity for the DAG program for the past two years, the PDC Board recommended to the City Council that the DAG program be terminated due to lack of use, with the balance of the funds going back into its loan fund.

Portland Development Action Program

As amended by Portland City Council on 7/15/02.
As amended by Portland City Council on 10/17/11.

Program Goal

- Provide public infrastructure grants in support of private commercial developments on the Peninsula; and,
- Provide loan assistance through bond issues for project specific development activity to stimulate major development on the Peninsula and improve the area's regional competitiveness.

Program Objectives

- Encourage major rehabilitation of prominent buildings;
- Promote new construction in support of job retention and creation;
- Expand worker and shopper populations in commercial and mixed use districts ;
- Create incentives for private investment in commercial districts.

Program Description

This program is designed to encourage economic development in commercial districts on the Peninsula by providing grants for needed public infrastructure and/or loans to projects meeting program criteria. Projects may be eligible for both components of this program. This program will improve the economic feasibility of significant commercial projects on the Peninsula, but not where a project's unfeasibility is the result of self-created economic hardship.

Development Action Grant: Public infrastructure improvements required as part of a project, such as sewer and storm water lines and new sidewalk construction.

Project-Specific Bond Issue: Authorization of bonds to provide loans to enhance the competitiveness of an eligible project or projects. The City Council will receive recommendations from the Portland Development Corporation (PDC) for projects and funding levels. The City Council will then review the project, modify or approve the recommended funding level, and authorize the bonds, which may include a referendum vote. Loan terms are to be negotiated on a project-by-project basis.

Project Threshold Requirements

1. The project is located on the Peninsula;
2. The requested loan amount generally is no more than 25% of the total project cost; or the requested grant amount does not exceed 50% of the cost of the public

improvements as required by the Planning Authority, or \$25,000, whichever is less. [City Council approved this amendment on 7/15/02.]

3. The project applicant and project property owner (if not the applicant) must owe no outstanding property taxes, fees, judgments, or liens to the City.

Eligible Entities

Sole proprietorships, partnerships, limited liability companies, and corporations which own, lease, or rent commercial property within the program boundaries and are seeking to:

1. Develop or redevelop private commercial property on the Peninsula;
2. Prepare space for lease to new or existing businesses.

Eligible Activities

1. Land and building acquisition, new construction, renovation, improvement, reconstruction, or restoration;
2. Soft costs related to a larger project including architectural, engineering, legal, accounting, and other professional services;
3. Equipment purchase;
4. Public infrastructure construction or reconstruction specific to a project.

Ineligible Activities

Ineligible activities include, but are not limited to,

1. Refinancing existing debt;
2. Working capital;
3. Speculative acquisition; and
4. Financing for work already underway or contracted for prior to PDC approval of public funding.

Application Review Criteria

The PDC, with assistance from the Economic Development Division, will review project proposals to determine eligibility and negotiate with applicant(s) to determine the least amount of public resources necessary to make the project(s) feasible. In the case of a project-specific bond issue, the PDC will recommend projects and funding levels to the City Council for

approval. The Council may, from time to time, instruct the PDC to solicit proposals in anticipation of available funding.

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

- Has a positive impact on creating or retaining jobs and businesses on the Peninsula;
- Private investment, relative to public dollars, is maximized;
- Necessity of public funds to make the project economically feasible;
- Project has a high potential for economic success;
- Return on public investment in the form of property taxes or, in the case of a tax exempt entity, fees in lieu of property taxes; and, when applicable, appropriate profit-sharing commensurate with the City's risk and investment level;
- Highest level of lease or occupancy commitments;
- Prior to closing on any City loan funds or appropriation of grant funds, the City must see in place all private investment, leases, ownership of land with marketable title, any other grant funds necessary to the project, and other requirements determined by the City to be necessary.

The following information will be required for consideration of a funding request:

1. Development Action Program application;
2. Statement of project scope, including relevant plans and specifications ;
3. Option on land, title opinion letter, or lease agreement;
4. Letters of commitment for all financing spelling out terms and conditions;
5. Pro forma construction and operating budgets;
6. If applicable, letters of intent from prime tenants to lease with rates and terms;
7. Any available market data demonstrating project economic feasibility including, if necessary, appraisals; and,
8. Appraisals to determine the value of real estate when those assets are securing the loan.

Development Action Grants Approved from Inception to June 2017

Recipient	Date	DAG Amount	Infrastructure	Location
Jelin Industrial	Jan-94	\$10,780	Sidewalks	27 Pearl Street
Joe Malone	May-95	\$15,000	Sidewalks	Middle Street/Hampshire to India
Tracy-Causer	Apr-96	\$14,000	Sidewalks, curbing, trees	Fore and Center Streets
City of Portland	Apr-96	\$160,000	Sidewalks	Cumberland and Elm
City of Portland	Jun-96	\$100,000	Sidewalks; lighting; landscaping	Cumberland and Elm
A&M Partners (WL Blake)	Nov-97	\$13,450	Sidewalks and curbing	13 Franklin Street
Landfall, LLC (Shipwreck & Cargo)	May-98	\$15,267	Sidewalks and curbing	205-207 Commercial Street
Giclee	Nov-98	\$13,350	Sidewalks	51-53 York Street
ARI	Nov-98	\$14,600	Sidewalks	23-25 Middle Street
City/Coastal Bank	Jun-99	\$150,000	Street Widening/Traffic Improvements	Doubletree Hotel/Congress Street
SALT Institute	Jul-99	\$8,000	Sidewalks	Exchange Street
Amato's	Apr-00	\$20,800	Sidewalks, curbing, drain	India Street
Peggy & Eric Cianchette	Jun-00	\$50,000	Sidewalks, curbing	Commercial Street
Olympia Equity Investors	Oct-00	\$49,276	Sidewalks, curbing	Commercial Street
Marginal Holdings	Apr-01	\$9,000	Traffic Upgrades	87 Marginal Way
Portland Harbor Hotel	Sep-01	\$34,000	Sidewalks	468 Fore Street
Atlantic Bayside	Jul-02	\$25,000	Sidewalks	Marginal Way/Salt Shed
Olympia Equity Inc	Jul-02	\$25,000	Sidewalks	Commercial and Franklin St.
75 York St, LLC	Oct-03	\$6,326	Sidewalks	75 York Street
Cumberland YMCA	Feb-06	\$16,100	Sidewalks	231 High Street
A & M Partners	May-05	\$25,000	Sidewalks	59-75 Washington Avenue
Bayside Ventures	Feb-06	\$21,400	Sidewalks, street lights	63 Marginal Way
Chestnut Street Lofts	Feb-06	\$20,700	Sidewalks	Chestnut Street
Olympia Investors	Jul-06	\$7,031	Sidewalks	300 Fore Street
Becky's Diner	Jun-07	\$10,192	Sidewalks	Commercial Street
Atlantic Bayside Trust	Apr-08	\$25,000	Sidewalks, street lights	Marginal Way
Maine Historical Society	Feb-09	\$25,000	Sidewalks	Congress Street
Bayside Ventures (Ptd Hall)	Jul-09	\$25,000	Sidewalks	Congress Street
Baxter Library LP	Oct-09	\$25,000	Electrical lines/storm drainage pipes	Congress Street
Portland Bowl LLC	May-10	\$25,000	Sidewalks, street lights	Alder Street
Salebaan Motors, Inc.	Aug-10	\$4,550	Sidewalks	St. John Street
Random Orbit	Nov-10	\$4,734	Sidewalks	Congress Street
Press Hotel	Oct-13	\$25,000	Sidewalks, curbing	Exchange Street
Cow Plaza	Apr-14	\$25,000	Sidewalks, curbing, street lights	Fore and Union Streets
HOME	Dec-14	\$6,827	Water Line (serving all retail in garage)	Temple Street Garage
Total:		\$1,018,556		

O:\PDC\Dev Action Grant\Grants from Inception to Date

*Order 125-17/18
Tab 1 12-18-17*

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

**CITY OF PORTLAND
IN THE CITY COUNCIL**

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

**ORDER TERMINATING THE PORTLAND DEVELOPMENT ACTION
GRANT PROGRAM AND TRANSFERRING UNUSED FUNDS TO
PORTLAND DEVELOPMENT CORPORATION LOAN FUND**

ORDERED, that the Portland City Council, acting in its capacity as sole Corporator of the PDC, hereby terminates the Portland Development Action Grant Program, and any and all remaining funds from the program shall be transferred into the Portland Development Corporation loan fund.

Tab 2 12/17/18

IN COUNCIL REGULAR MEETING DECEMBER 4, 2017 VOL. 133 PAGE 167

ROLL CALL: Mayor Strimling called the meeting to order at 12:02. (All Councilors Present).

City Clerk Jones administered the oath of office to Councilor Cook, Councilor Costa and Councilor Duson.

ROLL CALL: Mayor Strimling asked the Clerk to read the Call. (All Councilors Present).

BUSINESS MEETING

Resolve #6 -17/18 - Adopting Council Rules.

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

Order #1 -17/18 - Appointing Mayor Pro Tempore.

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

Motion by Councilor Batson and seconded by Councilor Thibodeau to adjourn.
Passage 9-0, 12:39 P.M.

A TRUE COPY.

ATTEST

Katherine L. Jones, City Clerk

ROLL CALL: Mayor Strimling called the meeting to order at 12:39. P.M. (All Councilors Present).

RECOGNITIONS:

APPROVAL OF MINUTES OF PREVIOUS MEETING:

Motion was made by Councilor Costa and seconded by Councilor Ray to approve the minutes of November 20, 2017 Regular City Council Meeting. Passage 9-0.

PROCLAMATIONS:

- Proc 15-17/18** **Proclamation Honoring James Neales, Parks, Recreation and Facilities Department as Employee of the Month for September 2017 - Sponsored by Mayor Ethan K. Strimling.**
- Proc 16-17/18** **Proclamation Honoring Joanne Lester, Information Technology Department, as Employee of the Month for October 2017 – Sponsored by Mayor Ethan K. Strimling.**
- Proc 17-17/18** **Proclamation Honoring Jeannie Bourke, Permitting and Inspections Department, as Employee of the Month for November 2017 – Sponsored by Mayor Ethan K. Strimling.**
- Proc 18-17/18** **Proclamation Honoring Officer Ryan Gagnon as Police Officer of the Month for October 2017 – Sponsored by Mayor Ethan K. Strimling.**

APPOINTMENTS:

CONSENT ITEMS:

- Order 122-17/18** **Order Approving Transfer of Funds Under 15 M.R.S. §§5824(3) and 5826(6) Re: Hassan Sheikh – Sponsored by Jon P. Jennings, City Manager.**
- Order 123-17/18** **Order Approving Transfer of Funds Under 15 M.R.S. §§5824(3) and 5826(6) Re: Fakhareldin Adam – Sponsored by Jon P. Jennings, City Manager.**

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

LICENSES:

BUDGET ITEMS:

COMMUNICATIONS:

RESOLUTIONS:

UNFINISHED BUSINESS:

Orders 120-17/18 Order Approving Three-Party Partnership Agreement between Portland, Portland Area Comprehensive Transportation System and Maine Department of Transportation Re: Allen Avenue Pavement Preservation Project – Sponsored by Jon P. Jennings, City Manager.

It was given a first reading on November 20, 2017.

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

ORDERS:

Order 124-17/18 Moratorium Re: Development and Demolition of Structures in the R6 Zone on the East End of the Portland Peninsula – Sponsored by Councilor Belinda Ray.

This is its first reading.

Motion was made by Councilor Ray and seconded by Councilor Thibodeau to adjourn. Passage 9-0 at 1:04 P.M.

Motion was made by Councilor Ray and seconded by Councilor Thibodeau to adjourn. Passage 9-0 at 1:04 P.M.

A TRUE COPY.

Katherine L. Jones, City Clerk

*Proc. 13-17/18
Tab 3 12-18-17*

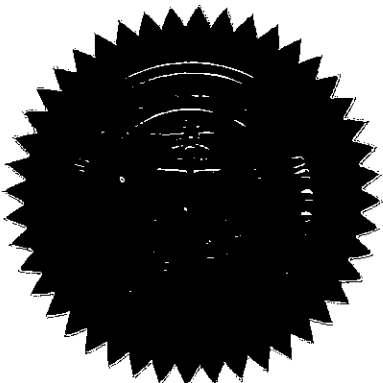
**PROCLAMATION
HONORING**

The Oxford Street Shelter

**On The Occasion of Receiving the 2017 Innovation & Excellence Award from the
National Alliance to End Homelessness**

- WHEREAS:** The **Oxford Street Shelter** received the 2017 Innovation & Excellence Award from the National Alliance to End Homelessness; and
- WHEREAS:** The Shelter was recognized for its Long Term Stayers Initiative and its extraordinary efforts to end homelessness in Maine as well as its impact in advancing the mission to end homelessness nationwide; and
- WHEREAS:** In the face of state budget cuts and overwhelming shelter capacity issues, the Long Term Stayer Initiative was conceived as a means of better identifying, prioritizing, and housing those individuals who had spent the most cumulative nights in emergency shelter. In the program's first two years, 125 people – representing a combined 150 years of shelter stays – have been successfully housed; and
- WHEREAS:** As a result, the Long Term Stayers initiative has decreased the total number of people seeking shelter on a given night, reduced the total number of bed nights used, eliminated the need for multiple overflow shelters, reduced the rate of returns to homelessness, and built broad community will towards ending long-term homelessness in Portland; and
- WHEREAS:** The Long Term Stayers Initiative is a collaboration between the Oxford Street Shelter and its partners, including the Shalom House, Avesta Housing, Preble Street, Community Housing of Maine, the Opportunity Alliance, Catholic Charities of Maine, Milestone Recovery, Frannie Peabody Center, and the Maine Department of Health & Human Services.

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, take this opportunity to express our sincere and grateful appreciation for the work that the staff at the Oxford Street Shelter do each and every day, along with its partners, to provide emergency shelter services and long-term housing solutions for our most vulnerable populations while encouraging dignity, self-respect, and self-reliance in the transition from public assistance to self-sufficiency.



Signed and Sealed this 18th day of December, 2017

A stylized, handwritten signature of Ethan K. Strimling in black ink, written over a horizontal line.

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

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

**CITY OF PORTLAND
IN THE CITY COUNCIL**

*Order 126-17/18
Tab 4 12-18-17*
KIMBERLY M. COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

ORDER APPOINTING CONSTABLES FOR 2018

ORDERED, that the individuals listed below are hereby appointed as constables for calendar year 2018;

BE IT FURTHER ORDERED, that these appointments shall be effective from 12:01 a.m. January 1, 2018, until 12:00 midnight, December 31, 2018;

BE IT FURTHER ORDERED, that these appointments are pursuant to Sections 20-19 and 20-19.5, Portland City Code, and none are allowed to carry a firearm, concealed or unconcealed, in the performance of their duties, or to make arrest.

**PERMITTING AND INSPECTIONS
DEPARTMENT**

Michael Russell
Jonathan Rioux
Jeanie Bourke
Greg Gilbert
Brian Stephens
Glenn Harmon
Jason Grant
Douglas Morin
Michael Ward
Paul Fagone
Duane Hanson
Jessica Hanscombe
Franklin L. Noiles

**PARKS, RECREATION, AND
FACILITIES**

Jill Mulkern, Lead Ranger
Rick Meserve
Stu Cushman
Bob McMann
Nate Slocum
Chris Kull
Robert Weyer
Eddie Walsh
Keith Forest
Ethan Owens
Joe Dumais

PARKING CONTROL

Kevin Ready
Paul Willey
John Peverada

POLICE DEPARTMENT

Kelly Watters
Ruthann Weist
Charles Green
Cody Forbes

FIRE DEPARTMENT

Keith Gautreau
David Petrucci
John Brennan
Robert Thompson
Chris Pirone

DEPARTMENT OF PUBLIC WORKS

Rhonda Zazzara
Kevin Thomas
Michael Foley
Dawn Davidson

PORTLAND HOUSING AUTHORITY

Karin Lavigne
Trevor Nugent
Clayton Williams
Shannon Rafferty-Roy
Marcia Yeaton

PORTLAND PUBLIC LIBRARY

Joaquim Almeida
Miroslav M. Petrovic
Paul Tetzlaff

MEMORANDUM
City Council Agenda Item

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

FROM: Nancy English

DATE: December 5, 2017

SUBJECT: Appointment of Constables for 2018

SPONSOR: Jon P. Jennings, City Manager

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

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading _____ Final Action December 18, 2017

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

Constables need to be appointed for 2018

PRESENTATION: (List the presenter(s), type and length of presentation) None.

I. ONE SENTENCE SUMMARY

This order appoints constables from multiple City Departments and from the Portland Housing Authority for 2018.

II. AGENDA DESCRIPTION

This order appoints constables from multiple City Departments and from the Portland Housing Authority for the 2018 calendar year.

The Fire Department constables will be issuing citations authorized by the City Code of Ordinances Chapter 10 and Fire Prevention Laws. The Permitting and Inspections Department enforces City Code provisions for business licensing, rental housing, building, electrical and plumbing codes. The Department of Parks, Recreation, and Facilities enforces dogs at large violations in the parks, playgrounds and cemeteries as well as failure to dispose of animal waste, all from Portland City Code Chapter 5. Constables working for the Police Department issue citations for violations of City Code, including, for example, harboring a dangerous dog and smoking in city parks.

Property Managers employed by the Portland Housing Authority (PHA) are responsible for lease enforcement, including serving legal documents in eviction cases. In accordance with Maine law, certain documents can only be served by a Constable or Sheriff.

These appointments are effective from 12:01 a.m. on January 1, 2018 until 12:00 midnight, December 31, 2018, and are made pursuant to Portland City Code, Sections 20-19 and 20-19.5. Constables are not allowed to carry a firearm, concealed or unconcealed, in the performance of their duties, or to make arrests or issue parking tickets, except for the constables listed who work for the Parking Division and issue parking tickets as part of their job.

III. BACKGROUND

This is an annual order.

IV. INTENDED RESULT AND OR COUNCIL GOAL ADDRESSED

Enforcement of City Code.

V. FINANCIAL IMPACT

Some revenue is brought in to the City from fines.

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

N/A

VII. RECOMMENDATION

The appointment order has been reviewed by Corporation Counsel and is approved as to form.

VIII. LIST ATTACHMENTS

Order Appointing Constables for 2018

Prepared by: Nancy English

Date: December 6, 2017

*Order 127-17/18
Tab 5 12-18-17*

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

CITY OF PORTLAND
IN THE CITY COUNCIL

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

**ORDER AUTHORIZING SPECIAL COUNCIL AND
OUTSIDE BOARDS AND COMMISSIONS APPOINTMENTS FOR 2018**

ORDERED, that the individuals identified in Attachment A to this order are hereby appointed as members of the boards and commissions listed in Attachment A for the calendar year 2018.

**ANNUAL APPOINTMENTS AND NOMINATIONS TO
BOARDS AND COMMISSIONS
ATTACHMENT A**

**Casco Bay Island Transit
District**

Staff: Mike Murray

Creative Portland

Councilor: Kimberly Cook
Staff: Dinah Minot

GPCOG General Assembly

Mayor Ethan Strimling
Councilor: Belinda Ray
Councilor: Jill Duson
Councilor: Kimberly Cook
Staff: Jon Jennings
Staff: Jeff Levine
Staff: Michael Sauschuck

Cumberland County Fin. Com

Mayor: Ethan Strimling
Councilor: Justin Costa

ECOMaine

Councilor: Spencer Thibodeau
Staff: Anne Bilodeau
Staff: Chris Branch
Staff: Troy Moon

Fish Exchange

Councilor: Nicholas Mavodones

Fish Pier Authority

Councilor: Nicholas Mavodones
Staff: Anita LaChance

Greater Portland Transit

Mayor Ethan Strimling
Councilor: Belinda Ray
Councilor: Pious Ali
Staff: Paul Bradbury
Staff: Brendan O'Connell

Island Advisory

Staff: Mike Murray

Jetport Noise Advisory

Councilor: Brian Batson

Land Bank Commission

Councilor: Justin Costa

Library Trustee

Councilor Belinda Ray

MMA Leg Policy

Mayor: Ethan Strimling
Councilor: Pious Ali
Councilor: Jill Duson
Staff: Jon Jennings

Metro Regional Coalition

Mayor: Ethan Strimling
Staff: Jon Jennings

PACTS Policy Com

Mayor: Ethan Strimling
Councilor: Spencer Thibodeau
Staff: Jon Jennings
Staff: Chris Branch
Staff: Nell Donaldson
Staff: Jeremiah Bartlett

PACTS Technical Com

Staff: Jeremiah Bartlett

PACTS Planning Com

Staff: Bruce Hyman

Parks Commission

Councilor: Brian Batson

**Portland Regional Chamber,
Portland Community and
City Affairs Committee**

Staff: Jon Jennings,
(delegated to Greg Mitchell)

Portland Development Corp

Mayor: Ethan Strimling
Staff: Jon Jennings

Portland Downtown

Staff: Greg Mitchell

Portland Public Art

Councilor: Pious Ali

Waterfront Alliance

Councilor: Nicholas Mavodones

Order 138 - 17/18
Tab 6 12-18-17

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

CITY OF PORTLAND
IN THE CITY COUNCIL

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

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

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

MEMORANDUM

TO: Mayor Strimling; City of Portland City Councilors
CC: Danielle West-Chuhta, Corporation Counsel; Jon P. Jennings, City Manager
FROM: Anne Torregrossa, Associate Corporation Counsel
DATE: December 12, 2017
RE: Thirsty Pig Entertainment License Renewal

In 2011, the Thirsty Pig applied for an entertainment permit with entertainment to be provided both indoors and outdoors, but with amplification only to be used indoors. The City Council approved that application, and the license was issued on December 13, 2011 without conditions. At some point, the Thirsty Pig began using amplification outdoors as well, without formal consideration by the Council. Due to changes in the renewal form and staff changes, this change was not brought to staff's attention and the entertainment license continued to be renewed without conditions. The current license expired on December 13, 2017.

The Thirsty Pig's entertainment license renewal application is being brought back before the Council for consideration due to citizen complaints and at the Council's request. The application is for amplified entertainment both indoors and outdoors. Staff is recommending that the entertainment license be renewed with acoustic entertainment permitted both indoors and outdoors, but with amplified entertainment being limited to indoors only. This is due to the fact that the complaints generally arise only when amplified entertainment is being played outdoors.

Based on conversations with the applicant's attorney, my understanding is that the applicant wishes to pursue her application for amplified entertainment both indoors and outdoors, and will ask that the Council grant the license application with the conditions that the matter be referred to the Sound Oversight Committee for recommendations, and that the application be brought back before the Council after the Committee has an opportunity to issue those recommendations.

This memo outlines the Council's powers with respect to the pending application.

Under Chapter 4 of the City Code, a entertainment licensee may not allow sound generated by its business to exceed 92 decibels, when measured eight feet from the door of the premises, or from eight feet from the noise source for an outdoor activity. § 4-57. Chapter 4 also establishes the Sound Oversight Committee, which is tasked in part with meeting with license holders when noise complaints generated by their business meet a certain threshold. That threshold is based on "verified" complaints, which has historically been interpreted as complaints where the sound is verified to exceed the 92 decibel limit. If a licensee meets the ordinance thresholds, the Police Department requires the licensee to meet with the Committee to discuss mitigation measures.

Complaints have arisen about the Thirsty Pig since at least 2014. However, the complaints have not met the threshold requirements in Chapter 4 to be referred to the Sound Oversight Committee by the Police Department.

In considering its action on the pending application, the Council may impose conditions on the license, including those limited by staff, or other conditions that the Council thinks are necessary for “protecting the public health, safety and welfare on any entertainment license it issues.” § 4-57. Alternatively, or in addition to other conditions that it might impose, the Council can also grant a temporary entertainment license for a period of less than one year, when it “determines that one (1) or more trial periods is necessary to evaluate the impact of the entertainment on the peace and quiet of the neighborhood and on the public health, safety and welfare.” § 4-55. Based on these two provisions the Council may take any of the following actions on the application:

- Deny the license based on criteria set forth in the City Code;
- Grant the license as presented;
- Grant the license with conditions, including indoor/outdoor amplification; time and day restrictions; or other limitations; or
- Grant the license (with or without conditions) for a period of time less than one year to allow the Council, the Sound Oversight Committee, or another person or entity to investigate the matter and provide recommendations.

**PORTLAND POLICE DEPARTMENT
MEMORANDUM**

December 13, 2017

TO: City Manager, Jon Jennings
FROM: Chief Michael Sauschuck
SUBJECT: Thirsty Pig Calls for Service Analysis

In February of 2017, we provided a basic "loud music" calls for service analysis for the Thirsty Pig located at 37 Exchange Street. The analysis was in response to a catering enhancement request to an existing entertainment license that was made by the business. That analysis was requested on 1-23-17 so we simply went back a year and ran the calls from 1-23-16 to 1-23-17.

We have recently found out that a more in-depth conversation on the Thirsty Pig's entertainment license is scheduled for the council on Monday 12-18-17. We are providing this document to provide context for "loud music" complaints made against the business from 1-23-16 to 12-12-17.

The police department received 28 "loud music" complaints during this time period. Three of the complaints were ultimately merged because of the close proximity of calls from complainants. This resulted in 25 separate incidents that we investigated. On six occasions officers arrived to find no music playing at all. This could have been due to a delay in our response caused by emergency situations elsewhere or a wrong address on the problem location in question.

The earliest complaint we received was at 2:20 in the afternoon and the latest (being the only complaint after 8) at 8:47 PM. Twenty three of the complaints came in before 7 PM. Sixteen of these complaints occurred on a Saturday or Sunday and 7 occurred on a Thursday.

It should be noted that none of the complaints were found to be in violation of our current sound ordinance. Decibel readings ranged from a low of 63 to a high of 91 on 6-16-16.

APPROVED:



MICHAEL J. SAUSCHUCK
Chief of Police

Attachment for Supplemental Application for Dancing and Entertainment License
For the Permitting and Inspections Department of Portland, Maine

About Our Establishment - The Thirsty Pig

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

We are a family style restaurant and a tourist destination known for our local beer, food sourced from local farmers, and local live music. Our music coordinator is a local professor that draws from talent pools of students to local professional musicians in town. We don't charge a cover for our music nights and we pay all musicians a fair wage so they can make a living doing their art. We feature more daytime programming so we have a healthy, controllable work environment for our employees, and to provide daytime shoppers with entertainment that adds to the cultural experience of Portland.

Portland, Maine



Yes. Life's good here.

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

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

www.portlandmaine.gov

Supplemental Application for Dancing and Entertainment License

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

☒ Entertainment without Dancing: \$281 ☐ Entertainment with Dancing: \$504 ☐ After-Hours (1 a.m. to 3 a.m.): \$567

Business Information	
Business Name (d/b/a):	The Thirsty Pig
Location Address:	37 Exchange Street, Portland
Phone:	207 773-2469
Zip:	04101

About Your Establishment

Describe in detail the type and nature of the business and proposed entertainment: #see attachment	
Will music be electric, acoustical, or both? (Circle)	
Will amplification be used?	Y ^N
If yes, where and at what level? During cold weather music is performed inside the restaurant. Warm weather music is performed on back deck/patio.	
Will music be played (Circle all that apply): Inside Outside	
Will you permit dancing on the premises?	Y ^N
Will you permit dancing after 1:00 a.m.?	Y ^N
What is the distance to the nearest residential dwelling unit both inside and outside the building from where the entertainment will take place? 100 feet	
What is your targeted opening date?	
Does the issuance of this license directly or indirectly benefit any City employee(s)?	Y ^N
If Yes, list name(s) of employee(s) and department(s):	

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

It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect thereto.

I/ We hereby authorize the release of any criminal history record information to the City Clerk's Office or licensing authority. I/ We hereby waive any rights to privacy with respect thereto.

Signature [Signature] Title owner Date 11-15-17

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

DATE: _____
INSP: _____
FIRE: _____
PPD: _____
TAXES: _____

CITY OF PORTLAND
Permitting and Inspections Department
389 Congress Street ~ Portland Maine 04101
207-874-8557 FAX 874-8612
CORPORATION/NON-PROFIT ORGANIZATION

EXP DATE: 12/13/2017
LICENSE FEES: \$2,923.00
APP FEE: \$25.00
TOTAL DUE: \$2,948.00
License ID: 6981

CLASS A LOUNGE FSE

OUTSIDE SEATING
ENTERTAINMENT W/O DANCE

Business Name: THIRSTY PIG
Business Address: 37 EXCHANGE ST Bus Tel: (207)773-2469
Mailing Address: 37 EXCHANGE ST
PORTLAND ME 04101
Owner: PIG EXCHANGE, LLC Bus. Tel: (207)773-2469 DOB: 10/11/80
Address: 37 EXCHANGE ST.
PORTLAND ME 04101

Business Manager: Allison B. Stevens Home Tel: 207-245-4056

Days and Hours of Operation: MON-THUR 11-10, FRI-SAT 11-1AM, SUN 12-8

DOES THE AWARD OF THIS LICENSE BENEFIT ANY CITY EMPLOYEE? YES _____ NO X

Capacity or Number of Seats: DINING ON PRIVATE PROPERTY. Outdoor Seating? YES X NO _____

Landlord of Premises: Albert Palacci

Landlord's Address: New York, NY 10034

Are you requesting an Entertainment License (including DJ) Yes X No _____

If yes, check all that apply: with Dance _____ without Dance X Amplified X Acoustic X
Inside only _____ Inside and Outside X After hours (1am - 3am) _____

If no, will recorded music be played: Inside only X Inside and Outside _____

Explain: through Direct TV

Date opened: December 2011

NUMBER OF: PINBALL MACHINES _____ POOL TABLES _____
AMUSEMENT DEVICES _____ ADULT AMUSEMENT DEVICES _____

DISTRIBUTOR: _____

Is any principal officer under the age of 18? Yes _____ No X

Give a description of where the beverages are consumed and kept. Consumed at bar, kept in walk-in cooler.

Does the owner or business manager have any convictions? Yes _____ No X

If corporation please include a list of all principle officers, their date of birth and town of residence.

DATE: _____
INSP: _____
FIRE: _____
PPD: _____
TAXES: _____

CITY OF PORTLAND
Permitting and Inspections Department
389 Congress Street ~ Portland Maine 04101
207-874-8557 FAX 874-8612

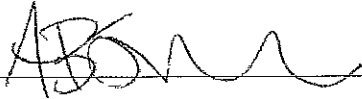
EXP DATE: 12/13/2017
LICENSE FEES: \$2,923.00
APP FEE: \$25.00
TOTAL DUE: \$2,948.00
License ID: 6981

CORPORATION/NON-PROFIT ORGANIZATION

I Allison B. Stevens 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).

I/WE HEREBY CERTIFY THAT ALL STATEMENTS MADE IN THIS APPLICATION ARE TRUE. I/WE AGREE AND UNDERSTAND THAT ANY MISTATEMENTS OR OMISSIONS OF MATERIAL FACT HEREIN WILL RESULT IN REFUSAL OF LICENSE OR REVOCATION OF LICENSE IF ONE HAS ALREADY BEEN ISSUED. IN ADDITION, I/WE HEREBY AUTHORIZE THE RELEASE OF ANY CRIMINAL HISTORY RECORD INFORMATION TO THE CITY CLERK'S OFFICE OR LICENSING AUTHORITY. IT'S UNDERSTOOD THAT THIS INFORMATION SHALL BECOME PUBLIC RECORD, AND I/WE HEREBY WAIVE ANY RIGHTS OF PRIVACY WITH RESPECT THERETO.

SIGNATURE



DATE

11-15-17

DATE: _____
INSP: _____
FIRE: _____
PPD: _____
TAXES: _____

CITY OF PORTLAND
Permitting and Inspections Department
389 Congress Street ~ Portland Maine 04101
207-874-8557 FAX 874-8612
CORPORATION/NON-PROFIT ORGANIZATION

EXP DATE: 12/13/2017
LICENSE FEES: \$2,923.00
APP FEE: \$25.00
TOTAL DUE: \$2,948.00
License ID: **6981**

Exact Corporation Name: PIG EXCHANGE, LLC

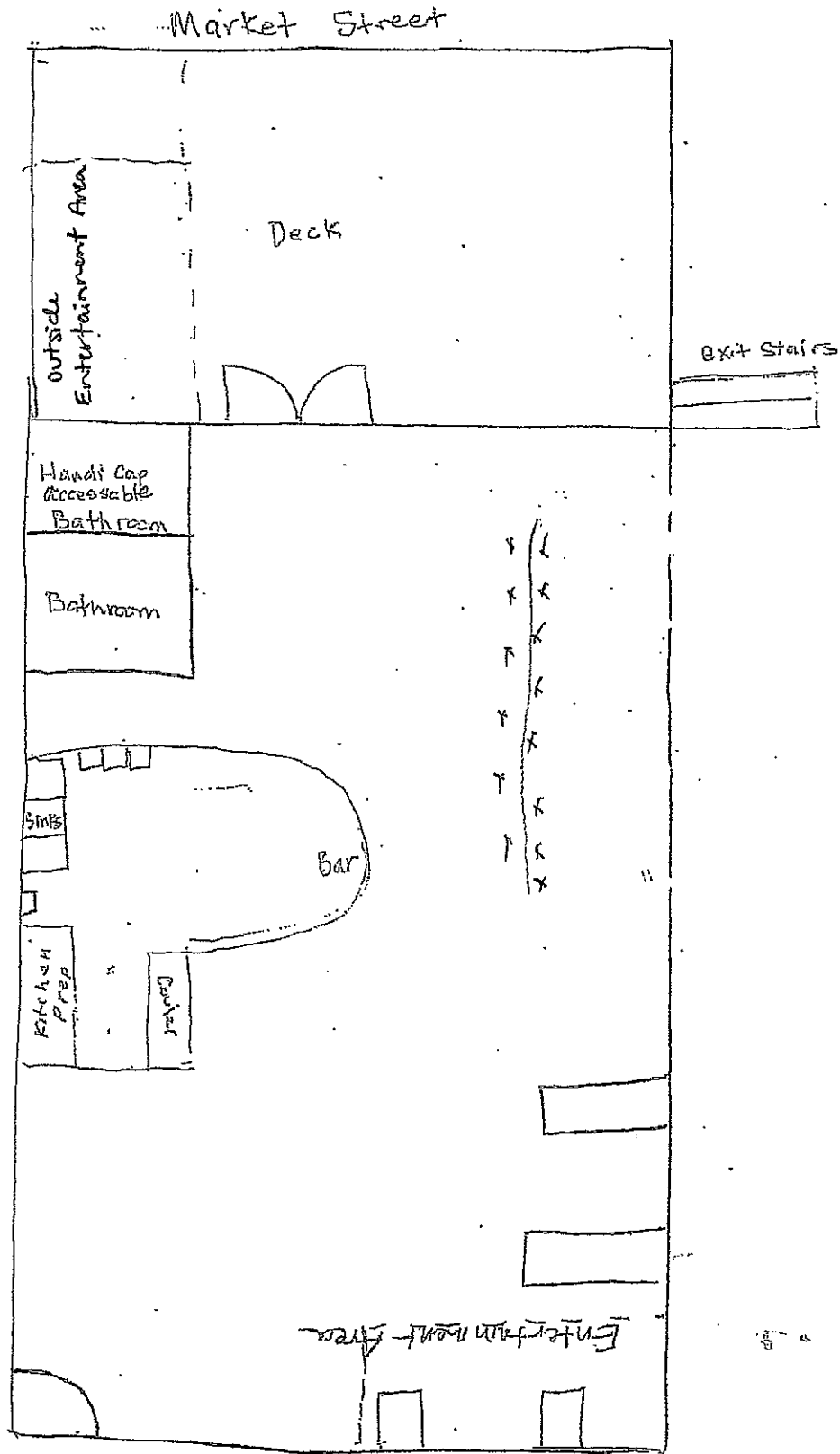
Date of Incorporation: _____

State in Which you are Incorporated: _____

LIST ALL PRINCIPAL OFFICERS:

NAME	TITLE	DOB	RESIDENCE
<u>ALLISON STEVENS</u>	<u>PRINCIPAL OFFICER</u>	<u>80-10/11</u>	<u>PORTLAND ME 04101</u>
<u>ALBERT PALACCI</u>	<u>LANDLORD</u>		<u>NEW YORK NY 10034</u>

PREMISE DIAGRAM



Portland, Maine



Yes. Life's good here.

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

November 28, 2017

Thirsty Pig
37 Exchange Street
Portland ME 04101

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

Dear Ms. Stevens,

This letter shall serve as a reminder of the public hearing before the Portland City Council on **Monday December 18, 2017 at 5:30 p.m.**, for the review of an application for an Entertainment without Dance at 37 Exchange Street with the condition of no amplified entertainment outdoors. The meeting will take place in Council Chambers on the 2nd floor of City Hall, 389 Congress Street, Portland, ME 04101.

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

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

Sincerely,

Jessica Hanscombe
Licensing and Registration Coordinator

Legal Advertisement

Notice of Public Hearing City of Portland

A Public Hearing will be held on December 18th at 5:30 P.M., in City Council Chambers, 389 Congress St., Pig Exchange, LLC dba Thirsty Pig. Renewal application for an Entertainment without Dance at 37 Exchange Street with the condition of no amplified entertainment outdoors. Sponsored by Michael Russell, Director of Permitting and Inspections.

Name/Signature

Address

Phone

Email

Art Johns 150 Middle St. Portland, ME 04101 415 205-0192 johns-art@msn.com

PATRICK FRANK 150 MIDDLE ST., PORTLAND, ME 04101 207.761.0131 pfrank@maine.igmail.com

Rachel Henderson 150 M. DOLIST Portland ME 04101 207-420-3457 rhenderson@maine.rr.com

ELIZABETH BOEBLE 150 MIDDLE ST, 2F, PORTLAND ME 04101 202-779-8628

LAM AIKIN 150 MIDDLE ST 2K, PORTLAND ME 04104 207 699 4051

CARL TOKIN 150 MIDDLE ST 2K PORTLAND ME 04101 207 245 4772

DOUGLAS BIRBY 150 MIDDLE ST 4A, PORTLAND, ME 04101 207 871 5064

KATHLEEN WHITE 150 Middle " " " 207-460-2139

Jenn. For MacBride 150 Middle St, 3K, Portland 04101 / 207-838-7755 / jenny.macs@yaho.com

Richard Pierce 150 middle st 3K portland 04101 / 207-570-8126 / DickPoynton.RP@gmail.com

Carmelia Ernst Chamele's Crest 150 Middle St 2E Portland 617-549-7746 carmelia@verizon.net

PAUL ERNST / Paul Ernst 150 Middle St 2E Portland

PAUL.ERNST@verizon.net

Name/Signature

Address

Phone

Email

WILLIAM HARRISON

W. H. Harrison

150 Middle St

Apt 31

781 325-8087

Hal Henderson

H. Henderson

150 Middle St

Apt 31

207 420 3457

rhenderson@comcast.net

With regard to the Thirsty Pig, an entertainment license has been granted in a very intimate environment where there are a very significant number of residents and businesses that are seeking a peaceful environment. The natural amphitheater created by the surrounding buildings further aggravates the situation. It is concerning that a license granting outdoor music and activity would even be initially issued in this situation. I am curious what evaluation, if any, was made prior to the granting of this entertainment license.

It is interesting that this type of disturbance we are experiencing as residents in the Old Port would possibly be a criminal issue if it occurred in a different zone. The city can be seen as complicit in these disturbances by the issuing of entertainment licenses without a broader consideration of the effects and the specific environment. Ironically, the granting of an entertainment license by the city has actually caused a burden for the city and the Portland Police who repeatedly respond to noise complaints taking them away from much higher priority calls.

There has been significant public discussion about the management of noise in the city in recent years. Management of noise is important for many reasons including quality of life, conduct of business, particularly tourism, among many other reasons. To quote Section 4-57, of the City of Portland Code of Ordinances, "The city council may impose conditions for the protecting the public health, safety and welfare on any entertainment license it issues." The power exists right now to quickly and effectively solve this problem.

We are also, by the way, restricted with regard to the thickness of the windows we are able to install by the Historical Society making it an impossible situation for the residents.

The revocation of an entertainment license does not necessarily significantly affect the income of a business (i.e. hardship). We are not saying that we want to stop the service of food or liquor. The fact that the entertainment license is a transferable asset should make it a coveted and highly regulated and not something to obtain at the expense of your neighbors.

The management of the Thirsty Pig has been contacted numerous times by residents and they have been downright rude in their responses to residents. They have been completely insensitive to resident's concerns and have even been so bold as to suggest that we move. This is in stark contrast to what the management of the Thirsty Pig has articulated to the Sound Oversight Committee when asked to appear, where they emphasized that they are a "good neighbor." The loud music is used intentionally to attract customers from blocks away.

I also think it is very important to broaden the definition of what constitutes a valid complaint. While I understand the issues around making it clear and measurable so it can be enforceable, I think it would be appropriate to track the simple number of complaints. If, for example there are 5 complaints in a week, regardless of DB levels, there is probably a problem. The current high DB limit may be too high in the specific amphitheater environment the Thirsty Pig is located in (again consideration of environment prior to license granting). I would point you toward the petition I am circulating where 16 people (representing residents and businesses) so far are asking the revocation of the Thirsty Pig's entertainment license. This is an ongoing effort.

To summarize:

- 1) The entertainment license should never have been granted in this intimate environment.
- 2) The city right now has the power to either revoke or attach conditions to this entertainment license with no further ordinance modification required.
- 3) The revocation of the license has no significant hardship for the Thirsty Pig (the only beneficiary of this conduct and disturbance) and on balance is necessary to maintain a peaceful environment in which to live and conduct business.

- 4) When you also consider the resources used to respond to the complaints from the Portland Police Department, the argument is even more compelling.
- 5) The bottom line is the effect of the revocation of this license is absolutely minimal when compared to the overall negative effect of allowing this disturbance to continue.
- 6) See attached petition for the revocation of the entertainment license.

Please consider these issues and my petition at your next meeting on the as I will not be able to attend.

As always, I welcome dialog on this issue with all concerned.

Thank you very much!

Art Johns

150 Middle Street

Portland, ME 04101

[415 205-0192](tel:4152050192)

Petition

As residents, property and business owners in the Old Port we are requesting that all permits and licenses to perform any outdoor music, entertainment or any other activities causing any significant noise be denied to the Thirsty Pig permanently. We further request that The Thirsty Pig be restricted from any other activities that cause a disturbance to nearby residents and businesses, including but not limited to outdoor cooking. The Thirsty Pig has been contacted directly by many neighbors about the excessive noise. They were met with rude responses.

We ask that the City's Ordinance prohibiting the use of noise-creating devices in such a manner that the public's attention is drawn to the source of the noise, (Sec. 17-20) be enforced against the North Point's use of exterior speakers constantly broadcasting music into the sidewalk, street, and surrounding neighborhood.

We seek to preserve an environment that allows us to live and conduct business in a peaceful manner. We believe that our right to live free of disturbance noise or otherwise, far outweighs any one party's right to violate that peace. We also believe it is essential to preserve the quality of the experience of those visiting the City of Portland to ensure continued overall economic success.

This list may be used and shared with any party concerned with this issue.

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

CITY OF PORTLAND
IN THE CITY COUNCIL

Order 129-17/18
Tab 7 12-18-17

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

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

Mami Food Truck LLC dba Mami. Application for a Class III & IV at 339 Fore Street.

16 November 2017

Dear Mr. Mayor, and City council members,

This letter serves to inform you that Mami Food Truck LLC DBA Mami is applying for a class 3 Vinous license, which would be added on to the already held class 4 Malt license. We aim to create a small wine and sake program to help bridge a new demographic of people into our restaurant.

Thank you,

Austin Miller

Hana Tamaki

Portland, Maine



Yes. Life's good here.

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

Application for Food Service Establishment with Alcoholic Beverages License

Business Information	
Business Name (d/b/a):	Mami Phone: 207-536-4702
Location Address:	339 Fore St. Portland, ME Zip: 04101
If new, what was formerly at this location:	
Mailing Address:	146 Plymouth St. Portland, ME Zip: 04103
Contact Person:	Austin Miller Phone: 207-899-8689
Contact Person Email:	mamifoodtruck@gmail.com
Manager of Establishment:	Hana Tamaki Date of Birth: 08/02/91 Phone: 207-632-1348
Owner of Premises (Landlord):	Boothby Square Properties LLC
Address of Premises Owner:	5 Moulton St. Suite 3 Portland, ME Zip: 04101

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

Name of Owner(s)	Date of Birth	Residence Address
Austin Miller	08/06/87	146 Plymouth St. Portland, ME 04103
Hana Tamaki	08/02/91	146 Plymouth St. Portland, ME 04103

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

Corporate Name		Corporate Mailing Address	
Mami Food Truck LLC		146 Plymouth St. Portland, ME Zip: 04103	
Contact Person:	Austin Miller	Phone:	207-899-8689
Principal Officers	Title	Date of Birth	Residence Address
Austin Miller	owner, chef	08/06/87	146 Plymouth St. Portland, ME 04103
Hana Tamaki	owner	08/02/91	146 Plymouth St. Portland, ME 04103

About Your Establishment

Class of Liquor License:	III + IV	
Type of food served:	IZAKAYA	
Please circle all that will be served:	☒ Beer ☒ Wine ☐ Liquor	
Projected percentage of sales:	Generated from Food:	Generated from Alcohol:
Hours & days of operation:	11-10 11-10 Sat	

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

I, Austin Miller 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 Co-owner Date 10/25/17

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

DIVISION USE ONLY	
License No:	
Class:	By:
Deposit Date:	
Amt. Deposited:	
Cash Ck Mo:	

NEW application: ☐ Yes ☒ No

PRESENT LICENSE EXPIRES 4/17/18

INDICATE TYPE OF PRIVILEGE: ☒ MALT ☒ VINOUS ☐ SPIRITUOUS

INDICATE TYPE OF LICENSE:

- ☒ RESTAURANT (Class I,II,III,IV)
☐ HOTEL-OPTINONAL FOOD (Class I-A)
☐ CLASS A LOUNGE (Class X)
☐ CLUB (Class V)
☐ TAVERN (Class IV)

- ☐ RESTAURANT/LOUNGE (Class XI)
☐ HOTEL (Class I,II,III,IV)
☐ CLUB-ON PREMISE CATERING (Class I)
☐ GOLF CLUB (Class I,II,III,IV)
☐ OTHER: _____

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

Corporation Name: <u>Mami Food Truck LLC</u>			Business Name (D/B/A) <u>Mami</u>		
APPLICANT(S) --(Sole Proprietor) <u>Austin Miller</u>		DOB: <u>08/06/87</u>	Physical Location: <u>339 Fore Street</u>		
Address: <u>Hana Tamaki</u>		DOB: <u>08/02/91</u>	City/Town <u>Portland</u>	State <u>ME</u>	Zip Code <u>04101</u>
Address <u>146 Plimouth st.</u>			Mailing Address <u>339 Fore Street</u>		
City/Town <u>Portland</u>	State <u>ME</u>	Zip Code <u>04103</u>	City/Town <u>Portland</u>	State <u>ME</u>	Zip Code <u>04101</u>
Telephone Number <u>207-899-8689</u>		Fax Number	Business Telephone Number <u>536-4702</u>		Fax Number
Federal I.D. # <u>474042612</u>			Seller Certificate #; or Sales Tax #:		
Email Address: Please Print <u>mamifoodtruck@gmail.com</u>			Website:		

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

Requested inspection date: _____ Business hours: _____

3. If a premise is a hotel, indicate number of rooms available for transient guests: _____

4. State amount of gross income from period of last license: ROOMS \$ _____ FOOD \$ _____ LIQUOR \$ _____

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: _____

9. Business records are located at: 339 Fore Street

10. Is/are applicants(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
Austin Miller	08/06/87	Missoula, MT
Hannah Tamahi	08/02/91	Portland, ME

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

Both Portland, ME

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 or indirectly in your license, if issued?
Yes ☐ No ☒ If Yes, give name: _____

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

16. Does/do applicant(s) own the premises? Yes ☐ No ☒ If No give name and address of owner:
Gerry Kuecht Bali, Indonesia Boothby Square properties

17. Describe in detail the premises to be licensed: (On Premise Diagram Required) _____

18. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services?
YES ☒ NO ☐ Applied for: _____

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? _____ Which of the above is nearest? _____

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

NOTE: "I understand that false statements made on this form are punishable by law. Knowingly supplying false information on this form is a Class D offense under the Criminal Code, punishable by confinement of up to one year or by monetary fine of up to \$2,000 or both."

Dated at: Portland ME on 11/27, 2017
Town/City, State Date

Please sign in blue ink

Signature of Applicant or Corporate Officer(s)

Signature of Applicant or Corporate Officer(s)

Print Name

Print Name

NOTICE – SPECIAL ATTENTION

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

THIS APPROVAL EXPIRES IN 60 DAYS.

FEE SCHEDULE

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

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

All fees must accompany application, made payable to the Treasurer of Maine. This application must be completed and mailed to Bureau of Alcoholic Beverages and Lottery Operations, Division of Liquor Licensing and Enforcement, 8 State House Station, Augusta ME 04333-0008. Payments by check subject to penalty provided by Title 28A, MRS, Section 3-B.



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

Corporate Information Required for
Business Entities Who Are Licensees

For Office Use Only:

License #: _____

SOS Checked: _____

100% Yes ☐ No ☐

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

1. Exact legal name: Mami Food Truck LLC
2. Doing Business As, if any: Mami
3. Date of filing with Secretary of State: _____ State in which you are formed: _____
4. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine: _____
5. List the name and addresses for previous 5 years, birth dates, titles of officers, directors and list the percentage ownership: (attached additional sheets as needed)

NAME	ADDRESS (5 YEARS)	Date of Birth	TITLE	Ownership %
Austin Miller	146 Plymouth St Portland, ME	8/6/87	CO-owner	50
Hannah Tamah	146 Plymouth St. Portland, ME	8/2/91	CO-owner	50

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

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

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

Yes ☒ No ☐ If Yes, Name: _____ Agency: _____

8. Has any principal person involved in the entity ever been convicted of any violation of the law, other than minor traffic violations, in the United States?

Yes ☐ No ☒

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

Name: _____

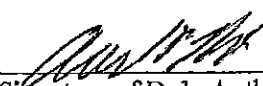
Date of Conviction: _____

Offense: _____

Location of Conviction: _____

Disposition: _____

Signature:



Signature of Duly Authorized Person

10/30/17

Date

Austin Miller

Print Name of Duly Authorized Person

Submit Completed Forms To:

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

MAMI

339 FORE STREET PORTLAND, ME
207.536.4702

ZENSAI (SNACKS)

YAKI ONIGIRI 4/5

grilled stuffed rice ball, soy
miso glaze & furikake

TAKOYAKI 7

grilled octopus balls, benishoga,
scallions, katsuobushi, okonomi
sauce & kewpie

NIKUMAN 7

steamed bun w/ rotating filling

KARAAGE 7

Japanese style fried chicken

KOBAYASHI DOG 5

grilled hot dog, nori, scallions,
benishoga, katsuobushi &
okonomi sauce

YASAI (VEGGIES)

SHISHITO PEPPERS 6

blistered shishitos in citrus
soy

GOMAE 6

chilled spinach w/ tahini,
sweet soy & toasted
sesame

EDAMAME 5

w/ soy caramel glaze
& togarashi

CUCUMBER SALAD 6

chilled cukes, wakame,
marinated daikon &
miso vinaigrette

BIG TIME

OKONOMIYAKI 12

savory pancake w/ pork belly,
cabbage, seasonal veggies,
katsuobushi, aonori, benishoga,
okonomi sauce & kewpie

BIG MAMI 10

house burger, lettuce, tomato,
pickles, American cheese,
katsuobushi, ketchup & kewpie
on squid ink brioche

YAKISOBA 10

grilled soba noodles, seasonal
veggies & benishoga

DONBURI (RICE BOWLS)

POKE DON 14

fresh salmon, avocado, cukes,
pickled red onion, tobiko,
benishoga & citrus sesame
soy w/ spicy mayo & nori over
white rice

GYUDON 13

marinated shaved ribeye,
benishoga, pickled red onions &
fried egg over white rice

OYAKODON 10

chicken, sweet dashi & egg
over white rice

KUSHIYAKI (SKEWERS)

YAKITORI 3

chicken thigh

ROTATING VEG 3

ASK ABOUT OUR SPECIALS!

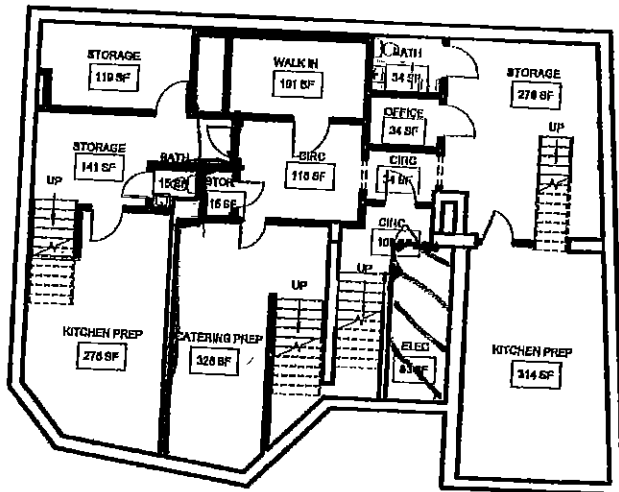
Bureau of Alcoholic Beverages and Lottery Operations
 Division of Liquor Licensing & Enforcement
 8 State House Station, Augusta, ME 04333-0008
 10 Water Street, Hallowell, ME 04347
 Tel: (207) 624-7220 Fax: (207) 287-3434
 Email Inquiries: MaineLiquor@maine.gov

DIVISION USE ONLY	
☐	Approved
☐	Not Approved
BY:	

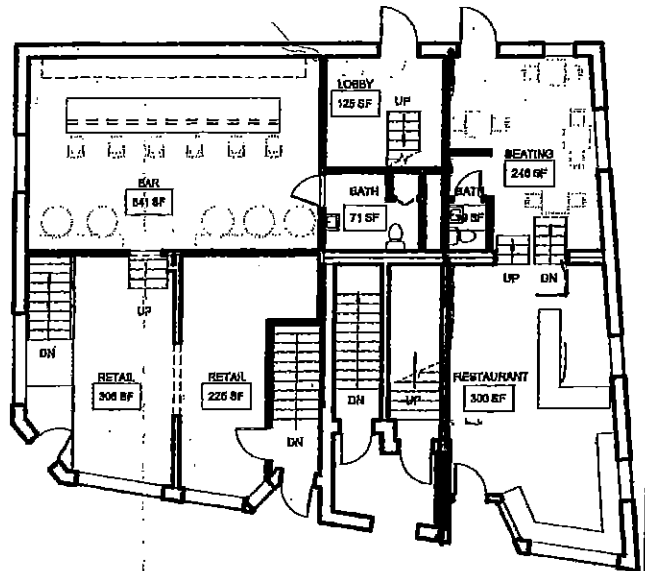
ON PREMISE DIAGRAM

In an effort to clearly define your license premise and the area that consumption and storage of liquor is allowed. The Division requires all applicants to submit a diagram of the premise to be licensed in addition to a completed license application.

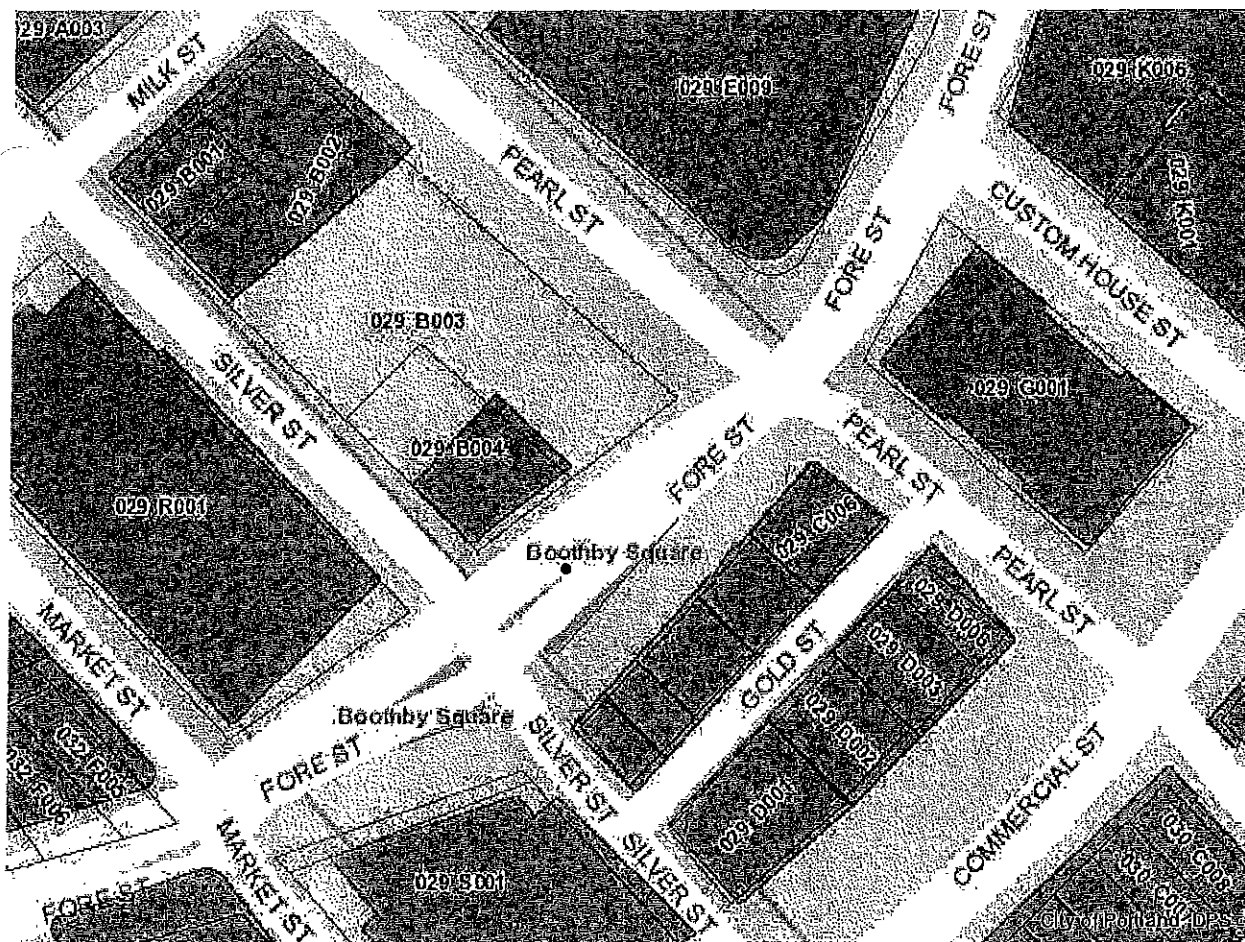
Diagrams should be submitted on this form and should be as accurate as possible. Be sure to label the areas of your diagram including entrances, office area, kitchen, storage areas, dining rooms, lounges, function rooms, restrooms, function rooms, decks and all areas that you are requesting approval from the Division for liquor consumption.

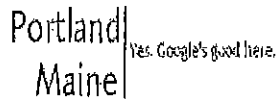


1 BASEMENT
 1/8" = 1'-0"



2 1ST FLOOR
 1/8" = 1'-0"





Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Re: Mami

Kevin Cashman <kevindc@portlandmaine.gov>

Mon, Nov 27, 2017 at 4:42 PM

To: Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Cc: Chris Pirone <cpr@portlandmaine.gov>, Eric Cobb <ecobb@portlandmaine.gov>, John Brennan <brennanj@portlandmaine.gov>, Tom Williams <tw@portlandmaine.gov>, Treasury Division <treasury@portlandmaine.gov>, Vernon Malloch <vwm@portlandmaine.gov>

PD has no objections.

Kevin C.

On Mon, Nov 27, 2017 at 2:46 PM, Jessica Hanscombe <jhanscombe@portlandmaine.gov> wrote:

Good Afternoon

Please see the attached application for Mami, 339 Fore Street. They currently hold a Class IV (Beer) license with us and are requesting an upgrade to include Class III (Wine). This will go before City Council on 12/18/2017.

Owner is
Mami Food Truck LLC

Contact is
Austin Miller
207-899-8689
mamifoodtruck@gmail.com

Please email me approvals. Thanks Jessica

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

Lt. Kevin Cashman
Portland Police Department
Patrol Division
109 Middle St
Portland, Maine 04101
(O) 207-756-8294
kevindc@portlandmaine.gov
Hours - Saturday thru Tuesday (4pm-2am)

Portland, Maine



Yes. Life's good here.

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

November 28, 2017

Mami Food Truck LLC
146 Plymouth Street
Portland ME 04101

Re: Mami Food Truck LLC dba Mami. Application for a Class III & IV FSE at 339 Fore Street.

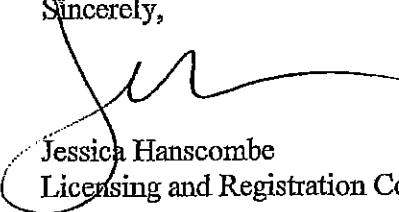
Dear Mr. Miller,

This letter shall serve as a reminder of the public hearing before the Portland City Council on **Monday December 18, 2017 at 5:30 p.m.**, for the review of an application for a Class III & IV FSE at 339 Fore Street. The meeting will take place in Council Chambers on the 2nd floor of City Hall, 389 Congress Street, Portland, ME 04101.

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

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

Sincerely,



Jessica Hanscombe
Licensing and Registration Coordinator

Legal Advertisement

**Notice of Public Hearing
City of Portland**

A Public Hearing will be held on December 18th at 5:30 P.M., in City Council Chambers, 389 Congress St., Mami Food Truck LLC dba Mami. Application for a Class III & IV at 339 Fore Street. Sponsored by Michael Russell, Director of Permitting and Inspections.

Order 130-17/18
Tab 8 12-18-17

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

CITY OF PORTLAND
IN THE CITY COUNCIL

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

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

**Old Port Tap House dba Portland Beer Hub. Application for a Class III & IV FSE at 320
Fore Street.**

Dear Mayor Strimling & members of the City Council,

I am the owner of the Craft Beer Cellar off-premise bottle shop, as well as the newly established on-premise Old Port Tap House, dba Portland Beer Hub on 320 Fore Street. Based on customer feedback and our hopes in supporting our local cider makers in particular, **we are submitting an application to also serve cider and wine on premise at our current location.**

Our long-term goal is to build out the shop that includes showcasing the history of Maine brewing, rolling video streams of interviews of the brewers and their stories, and more; all in an attempt to amplify the overall experience and build up Portland as the number one beer destination in the country.

We hope this letter helps to explain our vision in how we can become a part of the fabric of Portland, help drive revenues, and become a catalyst for adding more job opportunities.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jorgen Persson'. The signature is stylized with a large, sweeping 'J' and a long, horizontal stroke extending to the right.

Jorgen Persson

Owner
Old Port Tap House
Dbas, Portland Beer Hub

Portland, Maine



Yes. Life's good here.

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

Application for Food Service Establishment with Alcoholic Beverages License

Business Information	
Business Name (d/b/a):	Portland Beer Hub Phone: 207-956-7322
Location Address:	320 Fore St. Portland, ME Zip: 04101
If new, what was formerly at this location:	
Mailing Address:	320 Fore St. Portland, ME Zip: 04101
Contact Person:	Jorgen Persson Phone: 774-286-1046
Contact Person Email:	jorgens71@gmail.com
Manager of Establishment:	Michael Corzende Jorgen Persson Date of Birth: 03/18/71 Phone: 774-286-1046
Owner of Premises (Landlord):	Michael Corzende
Address of Premises Owner:	322 Fore St. Portland, ME Zip: 04101

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

Name of Owner(s)	Date of Birth	Residence Address
Jorgen Persson	3/18/71	21 Parker Rd, Watich MA 01760

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

Corporate Name		Corporate Mailing Address	
Old Port Tap House		320 Fore St. Portland Zip: 04101	
Contact Person:	Jorgen Persson	Phone:	774-286-1046
Principal Officers	Title	Date of Birth	Residence Address
Jorgen Persson	owner	3/18/71	21 Parker Rd, Watich MA 01760

About Your Establishment

Class of Liquor License:	III & IV III	
Type of food served:	Honey Pies, Pretzels	
Please circle all that will be served:	☒ Beer ☒ Wine ☐ Liquor	
Projected percentage of sales:	Generated from Food: 50%	Generated from Alcohol: 95%
Hours & days of operation:	10-10 Mon-Sat, 10-6 Sundays	

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?	<u>Y/N</u>
If No, please explain: <u>Ready made food is heated on premises</u>	
Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment?	<u>Y/N</u>
If yes, give the distance:	
Will you have entertainment on the premises? (If yes, a Supplemental Application for Dancing & Entertainment is required.)	<u>Y/N</u>
Will you permit dancing on the premises?	<u>Y/N</u>
Will you permit dancing after 1:00 a.m.?	<u>Y/N</u>
Will you have outside dining? (If yes, an Outdoor Dining Application is required)	<u>Y/N</u>
If yes, will the outside dining be on PUBLIC or PRIVATE property (circle one).	
Will you have any amusement devices (pinball, video games, juke box)?	<u>Y/N</u>
If yes, please list: # of pinball machines: _____ # of amusements: _____ # of pool tables: _____	
What is your targeted opening date? <u>12/3/17</u>	
Does the Issuance of this license directly or indirectly benefit any City employee(s)?	<u>Y/N</u>
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?	<u>Y/N</u>
If Yes, please list business name(s) and location(s): <u>Craft Beer Cellar</u> <u>Restlenz Beer Hub, 320 Perch St. Portland 04101</u>	
Is any principal officer under the age of 21?	<u>Y/N</u>
Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of law?	<u>Y/N</u>
If Yes, please explain:	

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

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

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

Signature [Signature] Title owner Date 11/27/17

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

DIVISION USE ONLY	
License No:	
Class:	By:
Deposit Date:	
Amt. Deposited:	
Cash Ck Mo:	

NEW application: ☐ Yes ☒ No

PRESENT LICENSE EXPIRES _____

INDICATE TYPE OF PRIVILEGE: ☒ MALT ☒ VINOUS ☐ SPIRITUOUS

INDICATE TYPE OF LICENSE:

- ☐ RESTAURANT (Class I,II,III,IV)
☐ HOTEL-OPTIONAL FOOD (Class I-A)
☐ CLASS A LOUNGE (Class X)
☐ CLUB (Class V)
☐ TAVERN (Class IV)

- ☐ RESTAURANT/LOUNGE (Class XI)
☐ HOTEL (Class I,II,III,IV)
☐ CLUB-ON PREMISE CATERING (Class I)
☐ GOLF CLUB (Class I,II,III,IV)
☐ OTHER: _____

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

Corporation Name: Old Port Tap House	Business Name (D/B/A) Portland Beer Hub
APPLICANT(S) (Sole Proprietor) DOB: Jorgen Persson 03/18/71	Physical Location: 320 Fore St.
DOB: _____	City/Town State Zip Code Portland ME 04101
Address 320 Fore St.	Mailing Address 320 Fore St.
City/Town State Zip Code Portland ME 04101	City/Town State Zip Code Portland ME 04101
Telephone Number Fax Number 207-956-7322	Business Telephone Number Fax Number 207-956-7322
Federal ID.# 82-1320733	Seller Certificate #/ or Sales Tax #: 1185684
Email Address: Please Print jorgenp791@gmail.com	Website: Portlandbeerhub.com

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

Requested inspection date: **11/30/17** Business hours: **10-10pm**

3. If a premise is a hotel, indicate number of rooms available for transient guests: _____

4. State amount of gross income from period of last license: ROOMS \$ _____ FOOD \$ **560** LIQUOR \$ **2,640**

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: **Willis Croninger**

9. Business records are located at: **320 Fore St. Portland ME 04101**

10. Is/are applicants(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
Willis Croninger	2/6/86	Bowling Green, OH
Jorgen Persson	3/18/71	Lund, Sweden

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

1 Chicomine Ave, Auburn, ME 04210
21 Parker Rd, Natick, MA 01760

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 or indirectly 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: _____

McH Cardente, 322 Forest St, Portland, ME 04101

17. Describe in detail the premises to be licensed: (On Premise Diagram Required) _____

See Attached

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

YES ☒ NO ☐ Applied for: _____

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

NOTE: "I understand that false statements made on this form are punishable by law. Knowingly supplying false information on this form is a Class D offense under the Criminal Code, punishable by confinement of up to one year or by monetary fine of up to \$2,000 or both."

Dated at: Portland, ME on 11/27, 2017
Town/City, State Date

Please sign in blue ink

Signature of Applicant or Corporate Officer(s)

Jorgen Persson

Print Name

Signature of Applicant or Corporate Officer(s)

Print Name



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

Corporate Information Required for
Business Entities Who Are Licensees

For Office Use Only:

License #: _____

SOS Checked: _____

100% Yes ☐ No ☐

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

1. Exact legal name: Old Port Tap House, LLC
2. Doing Business As, if any: Portland Beer Hub
3. Date of filing with Secretary of State: 3/29/17 State in which you are formed: ME
4. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine: _____
5. 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 (5 YEARS)	Date of Birth	TITLE	Ownership %
Jorgen Persson Jorgen Persson	21 Porter Rd Watich, MA 01760	03/18 1971	OWNER	100

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

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

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

Yes ☐ No ☒ If Yes, Name: _____ Agency: _____

8. Has any principal person involved in the entity ever been convicted of any violation of the law, other than minor traffic violations, in the United States?

Yes ☐ No ☒

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

Name: _____

Date of Conviction: _____

Offense: _____

Location of Conviction: _____

Disposition: _____

Signature:



Signature of Duly Authorized Person

11/27/2017

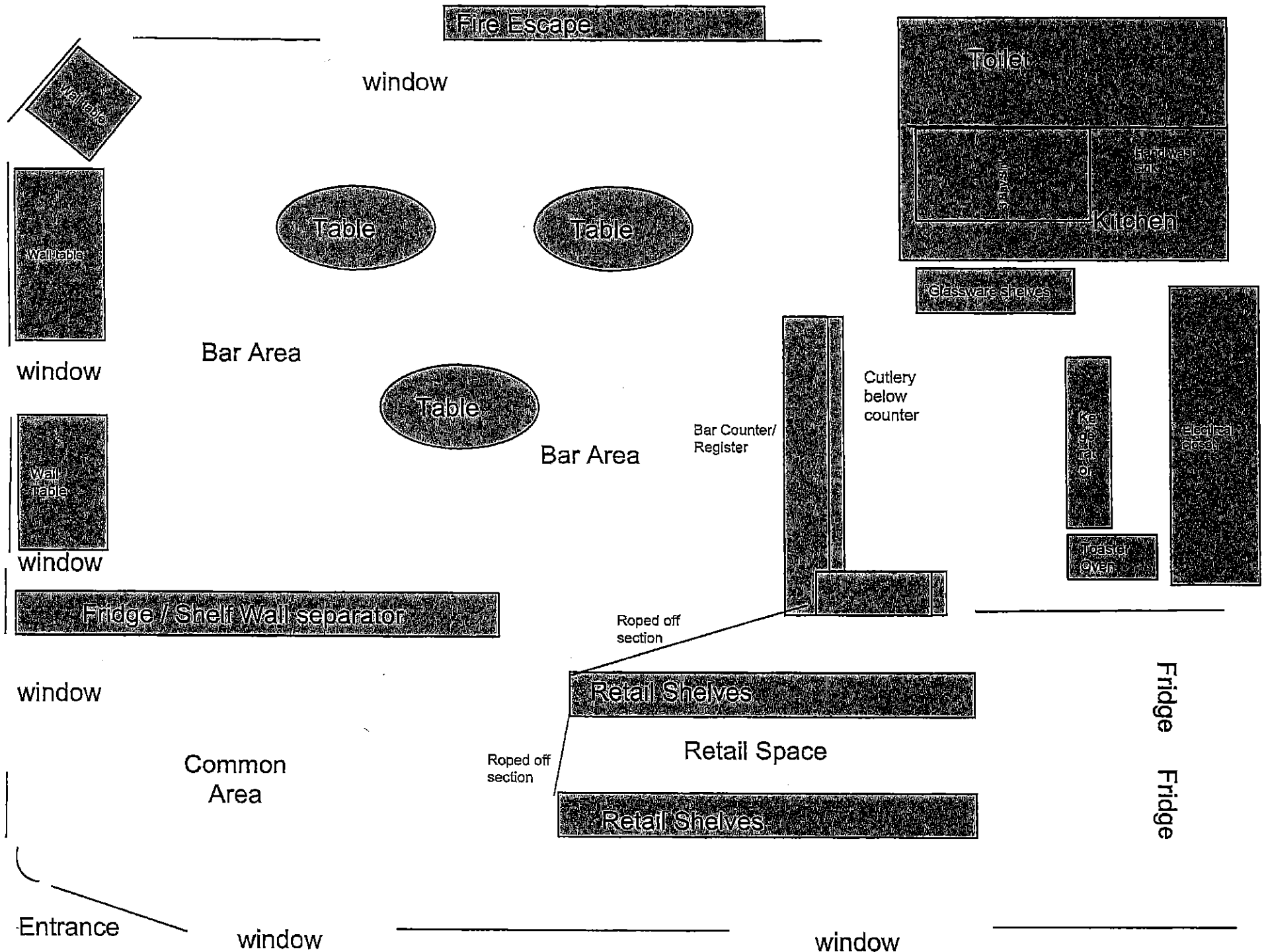
Date

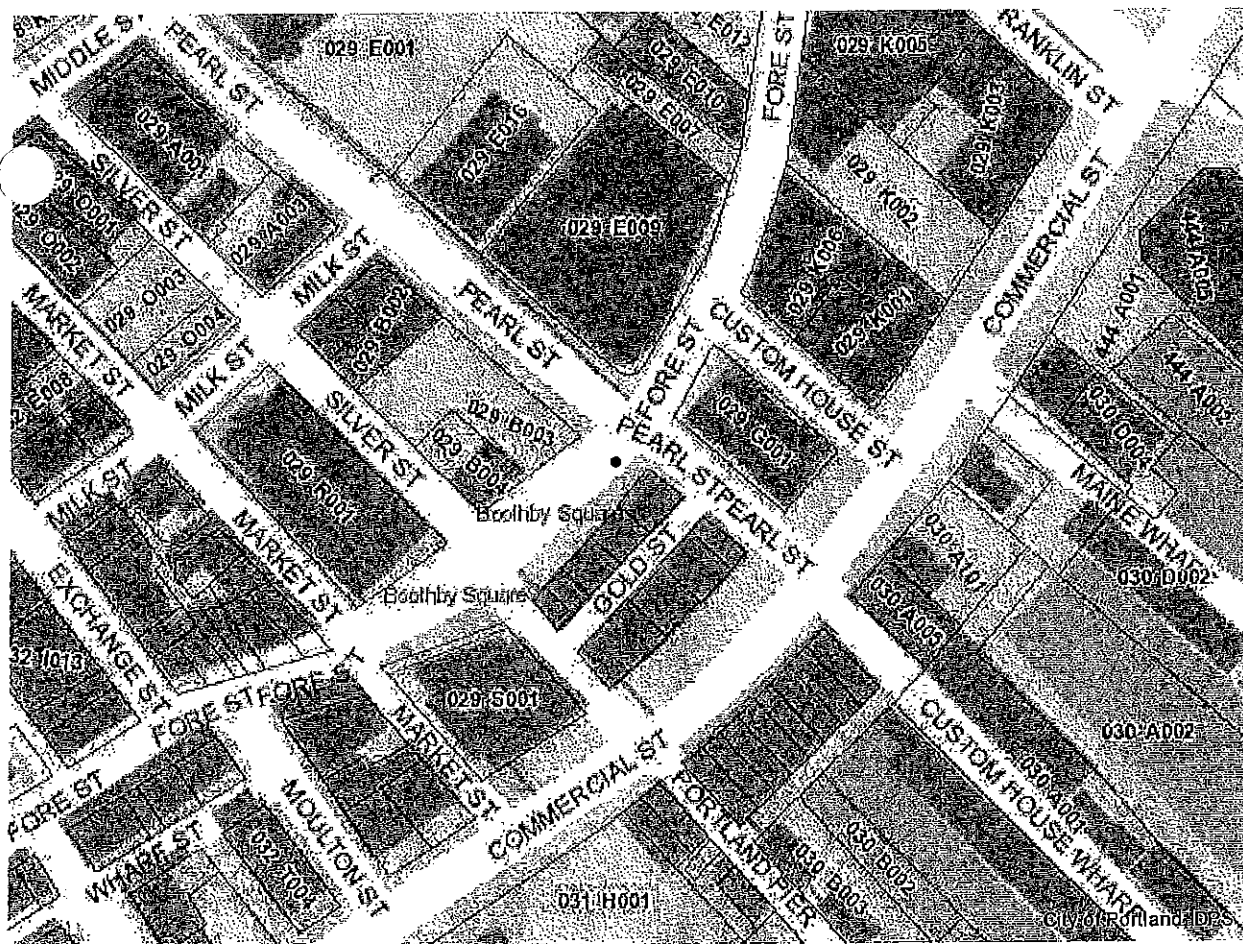
Jorgen Persson

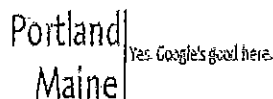
Print Name of Duly Authorized Person

Submit Completed Forms To:

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







Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Re: Portland Beer Hub

Kevin Cashman <kevindc@portlandmaine.gov>

Mon, Nov 27, 2017 at 4:42 PM

To: Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Cc: Chris Pirone <cpp@portlandmaine.gov>, Eric Cobb <ecobb@portlandmaine.gov>, John Brennan <brennanj@portlandmaine.gov>, Tom Williams <tw@portlandmaine.gov>, Treasury Division <treasury@portlandmaine.gov>, Vernon Malloch <vwm@portlandmaine.gov>

PD has no objections.

Kevin C.

On Mon, Nov 27, 2017 at 3:24 PM, Jessica Hanscombe <jhanscombe@portlandmaine.gov> wrote:

Good Afternoon

Please see the attached application for Portland Beer Hub, 320 Fore Street. They currently hold a Class IV (Beer) license with us and are requesting an upgrade to include Class III (Wine). This will go before City Council on 12/18/2017.

Name was Old port Tap House, now its Portland Beer Hub

Owner is
Old Port Tap HouseContact is
Jorgen Persson
774-286-1046
jorgenp791@gmail.com

Please email me approvals. Thanks Jessica

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

Lt. Kevin Cashman
Portland Police Department
Patrol Division
109 Middle St
Portland, Maine 04101
(O) 207-756-8294
kevindc@portlandmaine.gov.
Hours - Saturday thru Tuesday (4pm-2am)

Portland, Maine



Yes. Life's good here.

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

November 28, 2017

Old Port Tap House
320 Fore Street
Portland ME 04101

Re: Old Port Tap House dba Portland Beer Hub. Application for a Class III & IV FSE at 320 Fore Street.

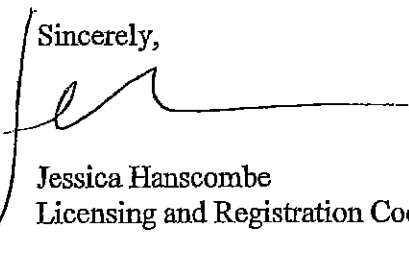
Dear Mr. Persson,

This letter shall serve as a reminder of the public hearing before the Portland City Council on **Monday December 18, 2017 at 5:30 p.m.**, for the review of an application for a Class III & IV FSE at 320 Fore Street. The meeting will take place in Council Chambers on the 2nd floor of City Hall, 389 Congress Street, Portland, ME 04101.

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

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

Sincerely,



Jessica Hanscombe
Licensing and Registration Coordinator

Legal Advertisement

**Notice of Public Hearing
City of Portland**

A Public Hearing will be held on December 18th at 5:30 P.M., in City Council Chambers, 389 Congress St., Old Port Tap House dba Portland Beer Hub. Application for a Class III & IV FSE at 320 Fore Street. Sponsored by Michael Russell, Director of Permitting and Inspections.

*Com 8-17/18
Tab 9 12-18-17*

Communication 8
Re: Standing Committees 2017-2018

The following members are hereby appointed to the City of Portland standing committees (as outlined below) for the 2017-2018 legislative year beginning on Dec 4, 2017 and continuing through until Dec 3, 2018:

ECONOMIC DEVELOPMENT:

Nicholas Mavodones, Chair

Ethan Strimling

Justin Costa

FINANCE:

Ethan Strimling, Chair

Nicholas Mavodones

Justin Costa

HHS & PUBLIC SAFETY:

Belinda Ray, Chair

Brian Batson

Pious Ali

HOUSING:

Jill Duson, Chair

Spencer Thibodeau

Kimberly Cook

LEGISLATIVE/NOMINATING:

Pious Ali, Chair

Jill Duson

Kimberly Cook

RULES AND REPORTS COMMITTEE:

Ethan Strimling, Chair

Nicholas Mavodones

Belinda Ray

SUSTAINABILITY & TRANSPORTATION:

Spencer Thibodeau, Chair

Belinda Ray

Brian Batson

Attachment 1

Communication 8-B

Re: Standing Committees 2017-2018

(If Communication 8 is nullified through an override vote by the City Council,
this alternate slate will be offered).

The following members are hereby appointed to the City of Portland standing committees (as outlined below) for the 2017-2018 legislative year beginning on Dec 4, 2017 and continuing through until Dec 3, 2018:

ECONOMIC DEVELOPMENT:

Justin Costa, Chair

Ethan Strimling

Spencer Thibodeau

FINANCE:

Nicholas Mavodones, Chair

Ethan Strimling

Pious Ali

HHS & PUBLIC SAFETY:

Ethan Strimling, Chair

Brian Batson

Pious Ali

HOUSING:

Brian Batson, Chair

Justin Costa

Spencer Thibodeau

LEGISLATIVE/NOMINATING:

Pious Ali, Chair

Jill Duson

Kimberly Cook

RULES AND REPORTS:

Belinda Ray, Chair

Nicholas Mavodones

Ethan Strimling

SUSTAINABILITY & TRANSPORTATION:

Jill Duson, Chair

Belinda Ray

Kimberly Cook

Com 8-17/18
Tab 9

MEMORANDUM
City Council Agenda Item

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

FROM: Jennifer L. Thompson

DATE: December 5, 2017

SUBJECT: Communication from Board of Harbor Commissioners

SPONSOR:

(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 _____ Final Action X

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

No action is expressly needed. This is a communication. However, the rule will go into effect 45 days from November 21, 2017 unless this Council or the City Council for South Portland takes official action disapproving the rate.

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

I. ONE SENTENCE SUMMARY The Board of Harbor Commissioners voted on November 16, 2017 to change the rates for pilotage services in Portland Harbor and is communicating that action to the City Council.

II. AGENDA DESCRIPTION

III. BACKGROUND

With some exceptions, Maine State statute requires that every foreign vessel and every American vessel under registry with a draft of 9 feet or more take a pilot to assist it in entering and leaving Portland Harbor. State statute also requires the Board of Harbor Commissioners for Portland Harbor to set the compensation that pilots providing that service may charge to vessels. Under the statute, the Board may do so by rule. When the Board adopts a new rule or fee, it typically sends notice of that action to the City Councils for Portland and South Portland.

Attached is the notice from the Chair of the Board, outlining the new pilotage fee. By way of further background, also attached is the state statute creating and governing the Board as well as the Board's written decision adopting the rate.

As noted in Chair Dobbins' letter and in the decision, the new rate will go into effect on or about January 5, 2018, 45 days after notice was sent to the Portland and South Portland, unless either City Council takes official action disapproving the rate.

IV. INTENDED RESULT AND OR COUNCIL GOAL ADDRESSED

None, expressly. This is a communication from a Board that represents both the City of Portland and the City of South Portland and oversees Portland Harbor.

V. FINANCIAL IMPACT

None. This relates to a fee charged by the pilots providing the service, not a fee charged by the Board or by the City.

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

N/A

VII. RECOMMENDATION

N/A

VIII. LIST ATTACHMENTS

1. Communication from Board of Harbor Commissioners regarding new pilotage rate in Portland Harbor
2. Board of Harbor Commissioners' written decision adopting pilotage rate
3. State statute creating the Board and requiring pilotage services in Portland Harbor

Prepared by: Jennifer L. Thompson, Associate Corporation Counsel
Date: December 5, 2017

Bean/agendarequestmemo/rev 11/2015



**Board of Harbor Commissioners
Harbor of Portland, Maine**

2 Portland Fish Pier
Marine Trade Center Suite 105
Portland, ME 04101

November 21, 2017

Jon P. Jennings, City Manager
City of Portland, Maine
389 Congress Street
Portland, Me 04101

City Council
City of Portland, Maine
389 Congress Street
Portland, Me 04101

Dear Mr. Jennings and City Council Members:

I am writing to inform you of recent action by the Board of Harbor Commissioners relating to pilotage fees in Portland Harbor.

The Board of Harbor Commissioners for Portland Harbor was established by the Maine State Legislature pursuant to Private and Special Law, 1981 c. 98. Under that statute, as first enacted and as since amended, the Board is a "public body corporate and politic" that is "charged with responsibility for the regulation of navigation and commerce within Portland Harbor." P. & S.L. c.98. Under the authority delegated to it by the Legislature, the Board has the authority to undertake a number of actions, including the authority to issue permits, engage in rule making, "appoint such number of pilots for the harbor of Portland as it deems necessary for the safety and convenience of commerce," and to "fix and establish such compensation for the services of the pilots as may, from time to time, be deemed just and reasonable."

Consistent with this charge, the Board held public hearings on October 12, 2017, November 2, 2017 and November 16, 2017 regarding the pilotage fees that may be charged by licensed pilots to vessels operating in Portland Harbor. Public comments were taken at the hearings and all written comments received prior to the hearings were also accepted and considered.

Following the public hearing on November 16, 2017, the Board voted unanimously to establish a minimum pilotage fee of 150 Pilot Units and a pilotage fee of \$7.18 per Pilot Unit (collectively, the "Pilotage Fees").

The fees shall be effective 45 days from the date on which notice of such rulemaking is sent to the City Manager of Portland and South Portland, addressed to the City Councils, unless either City Council takes official action disapproving the rule prior to the expiration of the 45-day period.

If you have any questions pertaining to the Pilotage Fees or any other matter please do not hesitate to contact me.

Sincerely,


Thomas Dobbin, Chair

Board of Harbor Commissioners
Port of Portland, Maine

**DECISION OF THE BOARD OF HARBOR COMMISSIONERS
FOR
PORTLAND HARBOR**

Re: Authorized Rate Pilots Operating in Portland Harbor May Charge Vessels Requiring Pilot Services.

I. PROCEDURAL BACKGROUND

In a letter dated September 25, 2017, the Board of Harbor Commissioners for Portland Harbor (hereinafter, the "Board") issued public notices of an upcoming public hearing at which it would consider a change in the rates that pilots operating in Portland Harbor are authorized to charge to vessels requiring their services pursuant to P. & S.L. c.98. Record (hereinafter "R. at ____") at 1. The public hearing on whether to propose a change in the rates was scheduled for October 12, 2017. *Id.* Notice of the October 12, 2017 hearing was mailed to pilots currently operating in Portland Harbor, to all known vessels operating in Portland Harbor that typically require pilotage, and to all ship agents operating in Portland Harbor. R. at 2-3. The notice was also emailed to the Board's usual distribution list. R. at 5-6. The notice was published in the Portland Press Herald on September 27, 2017. R. at 7.

The Board held the October 12, 2017 hearing at the South Portland City Hall at 5:00 p.m. Prior to the October 12, 2017 hearing, the Board received written comments, which it made available on its website in advance of the hearing. *See* R. at 8-34; and <http://www.portlandharbor.org/meetings-and-agendas>. It also made available at the hearing copies of written comments it received.

At the October 12 hearing, the Board accepted public comment from those in attendance. Twain Braden, counsel for Portland Pilots, Inc., a company providing pilotage services in Portland Harbor, spoke in favor of the rate suggested by Portland Pilots in correspondence dated October 10, 2017. *See* R. at 25-34. Specifically, Portland Pilots, Inc. suggested that a minimum rate of \$1200 and a pilot unit rate of \$7.18 is appropriate and urged the Board to adopt that rate. *Id.* Harold Pachios, counsel for Bay Ferries, which operates a vessel in Portland Harbor and requires pilotage services, spoke in opposition to the Board's review of pilotage rates as well as in opposition to the rate proposed by Portland Pilots. Attorney Pachios did not suggest an alternative rate.

Following public comment, the Board deliberated and ultimately voted unanimously (4-0) to propose a minimum pilotage rate in Portland harbor of \$1,200 and a pilot unit rate of \$7.18. The Board also voted unanimously (4-0) to hold a public hearing on November 1, 2017 as to whether it

would formally adopt the proposed rate. A copy of the minutes from the Board's October 12, 2017 hearing is included at R. 35.

On October 16, 2017, the Board mailed notices of the November 1, 2017 hearing to the Maine Department of Transportation and to the Cities of Portland, Maine and South Portland, Maine. Copies of the October 16, 2017 notices are included at R. 137-142. After the October 16 notices were sent, it became clear the Board would lack a quorum on November 1, 2017. Therefore, on October 18, 2017, the Board mailed a revised notice to the DOT and the Cities of Portland and South Portland explaining that the hearing would take place on November 2, 2017. Copies of the October 18, 2017 notices are included at R. 143-148. Notice of November 2, 2017 hearing was mailed on or about October 18, 2017 to pilots currently operating in Portland Harbor, to all known vessels operating in Portland Harbor that typically require pilotage, and to all ship agents operating in Portland Harbor. Copies of the notice and mailing list containing the addresses to which the October 18 notice was sent are included at R. 5-6 and 42. The notice was also emailed to the Board's usual distribution list. A copy of the email sending the notice is included at R. 43-46. Notice of the November 2, 2017 public hearing was published in the Portland Press Herald on October 18, 2017. A copy of the published notice is included at R. 47.

At the request of counsel for Bay Ferries, the Board held a workshop/prehearing conference at which it discussed with members of the public, including counsel for Bay Ferries and counsel for Portland Pilots, the Board's rules governing the conduct of public hearings. The workshop/prehearing conference was held at approximately 5:00 p.m. on November 2, 2017. Following the conclusion of the workshop at approximately 5:30, the Board held the November 2, 2017 hearing at the South Portland City Hall. *See* R. at 43-44. Prior to the November 2, 2017 hearing, the Board received written comments, which it made available on its website in advance of the hearing. R. at 36-41; 48-136; and 14-162. *See also* <http://www.portlandharbor.org/meetings-and-agendas/>. It also made available at the hearing copies of written comments. The Board also received written comments at the public hearing. Copies of all written comments and submissions provided in connection with the November 2, 2017 hearing are included at 36-41; 48-136; 14-162; and 166-190. *See also* <http://www.portlandharbor.org/meetings-and-agendas/>

The Board accepted public comment from those in attendance. Counsel for Portland Pilots, Inc., spoke in favor of the proposed rate. Counsel for Bay Ferries was permitted to ask follow up questions of Attorney Braden, through the Chair. Following the conclusion of Portland Pilots' comments and response to follow up questions, counsel for Bay Ferries spoke in opposition to the

proposed rate as well as in opposition to the Board's consideration of the proposed rate. Counsel for Bay Ferries then presented Richard Silkman, an economist who offered commentary on what he believes is the appropriate methodology for rate setting, generally. Mr. Silkman testified that, in his opinion, the setting of a "just and reasonable" rate requires examination of a utility provider's corporate financial documents, particularly income/revenue. Counsel for Bay Ferries requested that a representative of Portland Pilots be compelled to answer questions or provide evidence of the company's revenue. Portland Pilots refused that request. Counsel for Portland Pilots was permitted to ask follow up questions of Mr. Silkman and Attorney Pachios, through the Chair.

Following the presentations of Portland Pilots and Bay Ferries, Steve Hassan,¹ a former member of the Board of Commissioners, spoke and offered commentary on the manner in which he recalls rates being adopted in the past, his recollection that historically the Commission has only raised rates in response to an application filed by pilots, and his belief that the rate being considered by the Board was too high. Counsel for Bay Ferries and Portland Pilots were permitted to ask follow up questions of Mr. Hassan through the Chair. The attendance sheet documenting public comment is included at R. 235.²

At the conclusion of the public comment period and questioning by Attorneys Braden and Pachios as well as by the Board, the Chair closed public comment. The Board then voted unanimously (4-0) to table its deliberations to November 16, 2017. A copy of the minutes from the November 2, 2017 hearing is included at R. 163.

On November 7, 2017, the Board mailed notices of the November 16, 2017 hearing to the Maine Department of Transportation and to the Cities of Portland, Maine and South Portland, Maine. Copies of the November 7, 2017 notices are included at R. 202-204. Notice of the November 16, 2017 hearing was mailed to pilots currently operating in Portland Harbor, to all known vessels operating in Portland Harbor that typically require pilotage, and to all ship agents operating in Portland Harbor. R. at 165. A copy of the mailing list containing the addresses to which the notice of the November 16 hearing was sent is included at R. 5-6. The notice was also emailed to the Board's usual distribution list. A copy of the email sending the notice is included at R. 205-207. Notice of the

¹ Mr. Hassan's voice and his recitation of his name is not entirely clear on the recording of the hearing. "Steve Hassan" sounds correct but the Board recognizes the spelling may be incorrect. Mr. Hassan did not sign the attendance sheet.

² Although the sign-in sheet does not reflect Attorney Pachios' attendance, he was at the November 2, 2017 hearing on behalf of Bay Ferries. As noted above, Mr. Hassan was also in attendance and spoke.

November 16, 2017 public hearing was published in the Portland Press Herald on November 9, 2017. A copy of the published notice is included at R. 209.

Prior to the November 16, 2017 hearing, staff for the Board sought additional information relating to the distances traveled by other pilots and vessels in other ports. That additional information, in the form of a letter from Captain Gelinis of the Penobscot Bay & River Pilots Association was made available in advance of the hearing on the Board's website. Copies were also available at the November 16, 2017 public hearing. A copy of the additional information received by staff and presented to the Board is included at R. 210.

The Board held the November 16, 2017 hearing at 5:00 p.m. at the Portland City Hall. The Board allowed minimal public comment on the letter submitted by Captain Gelinis. Attorneys Braden and Pachios both spoke. The Board then closed additional public comment and undertook deliberations. At the beginning of Board deliberations, Board member Jongerden moved that the Board adopt the proposed minimum pilotage rate of \$1,200 and the proposed pilot unit rate of \$7.18. The motion was seconded and the Board deliberated. In the course of deliberations and following comment from other board members, Mr. Jongerden moved to amend his motion such that the Board consider adopting a minimum pilotage rate of 150 pilot units and a minimum pilot unit of \$7.18. The amendment was seconded and adopted. The Board ultimately voted unanimously (4-0) in favor of the amended motion.

II. FACTUAL FINDINGS

The statute creating the Board explains that the Board is a "public body corporate and politic" that is "charged with responsibility for the regulation of navigation and commerce within Portland Harbor." P. & S.L. c.98. Under the authority delegated to it by the Legislature, the Board has the authority to undertake a number of actions, including the authority to issue permits, engage in rule making, "appoint such number of pilots for the harbor of Portland as it deems necessary for the safety and convenience of commerce," and to "fix and establish such compensation for the services of the pilots as may, from time to time, be deemed just and reasonable." In furtherance of this charge and its duty to maintain the safety of the port, the Board has adopted a number of training and other licensure requirements that must be met by pilots seeking to operate in Portland Harbor. A copy of the portions of the Board's Rules relating to State Branch Pilots is included at R. 211-232.

The requirements imposed by the Board on pilots operating in Portland Harbor include:

- payment of a \$500 application fee;

- payment of a \$400 renewal fee every 5 years;
- proof of U.S. Residency and a minimum age of 21 years;
- proof of satisfactory completion of testing for physical fitness and drug use by the U.S. Coast Guard;
- possession of licenses and endorsements issued by the U.S. Coast Guard;
- proof of professional training at a recognized maritime college or equivalent;
- certification in the use of three different navigational systems;
- at least two (2) years of service as a licensed deck officer of seagoing vessels of a minimum dead weight tonnage of twenty thousand (20,000) tons or more within five (5) years immediately prior to the date of application for the license;
- under the tutelage of a licensed pilot, a combination of observation and conduct a minimum of two hundred and fifty (250) vessel movements on the waters of Portland Harbor and outer approaches over a sufficient period of time to experience typical wind, weather and conditions during all seasons; said vessel movements shall be representative of the port traffic profile;
- experience in anchoring skills, as well as skills in getting vessels underway from anchorage, and turning the vessel, if necessary, in restricted quarters without tug assistance;
- 40 hours of continuing education over each 5-year licensure period.³

R. at 213-225.

Based on its own work licensing pilots in the harbor, the Board is aware that as of the date of these proceedings, there are currently four State Branch Pilots licensed to operate in Portland Harbor. Two of those work full time for Portland Pilots, Inc. Although the requirements of pilots are rigorous, the Board considers them necessary to ensure the safety of the port.

In addition to setting the requirements for licensure to operate as a pilot in the port, the Board has also set compensation that may be received by pilots for their services. The last unopposed rate adopted by the Board was \$7.09 per pilot unit with a minimum of 100 pilot units paid for each trip in and out of the port. The Board adopted the \$7.09 pilot unit rate in 2016 on the application of the Portland Pilots. The 100-pilot unit minimum had been in effect for a number of years.

The Board's current review of pilotage rates is being done independently on its own initiative. The Board is not acting on any affirmative application or request by any party.

³ One example of the kinds of classes that are available to satisfy the continuing education requirement appears at R. 233. It is provided for illustrative purposes. There was no testimony at the hearing regarding the actual costs of continuing education incurred by any pilot operating in Portland Harbor.

In connection with its review of what constitutes "just and reasonable" compensation for pilots providing statutorily mandated services in Portland Harbor, the Commission received written comments, oral testimony, and other information gathered by staff regarding pilotage course and rates charged in other ports, all of which it found helpful. At the public hearings on this matter, the Board heard from counsel for the Portland Pilots about the costs that entity incurs in providing pilotage services to vessels operating in Portland Harbor. Included in the information provided by the Portland Pilots was the following, which the Board finds credible:

- Because of the varying sizes of vessels entering the port and requiring pilotage, as well as the varying weather, tidal and other conditions in the port, it is necessary that pilot ships of varying sizes and with varying maneuverability be available to pilot ships in and out of the port;
- In an effort to meet these varying conditions and demands, Portland Pilots maintains 3 different ships for piloting vessels in and out of Portland Harbor;
- the number of vessels entering Portland Harbor has decreased substantially over the last 18 years, resulting in a reduction in the demand for pilotage services and in revenues earned by pilots;
- Historically, rates paid by larger vessels (at the pilot unit rate, which is dependent on size) regularly entering the port helped to subsidize services provided to smaller vessels which, due to their smaller size, paid a more modest rate for services;
- Over the course of the last 18 years, the size of the vessels entering the port and requiring pilot services has also decreased;
- The reduction in vessels has made it more difficult for pilots to sustain their business and to provide reliable and safe pilotage services;
- With the decrease in the number of larger vessels requiring pilot services, Portland Pilots has reduced the size of its operations from 5 full time employees in 2000 to 2 full time employees in 2017. It has also reduced its overhead by eliminating office space;
- Portland Pilots foresees significant financial challenges for pilots continuing to provide services in Portland Harbor given the reduced traffic if rates are not increased to a level that is comparable to other ports;
- Adequate training and experience of pilots providing services in Portland Harbor is important both for the safety of the pilots as well as the safety of the vessels and crews they assist;
- Expenses associated with providing piloting services in Portland Harbor can include: ownership and maintenance of pilot vessels, salary and benefits for pilots; loan payments on vessels; various required insurances for pilots and vessels, fees charged pilots by the Board, rent/wharfage for vessels;

- The expenses Portland Pilots incurs in connection with its services with only 2 full time employees are approximately \$484,964.00 annually or \$1,328/day. With 5 full time employees and office space, the expenses Portland Pilots incurred would have been approximately \$701,275.26 annually or \$1,921.00/day.

R. at 155-160; and testimony at hearings.

In addition to the above, at the hearings on this matter, the Board heard commentary from counsel from Bay Ferries on the value of pilot services generally. At the hearing on October 12, 2017, Attorney Pachios noted that, in general, he recognizes the importance of having a pilot help maneuver a vessel into port. He acknowledged that a pilot's familiarity with local hazards as well as a pilot's unique experience helps improve the safety of a port and of vessels operating therein.

As noted, the Board received information gathered by staff regarding pilot rates authorized and charged in other ports from Eastport Maine to Providence Rhode Island which included the following:

Eastport, Maine	\$5.98 per pilot unit	150 pilot unit minimum with an additional pilot boat charge of \$450	(\$1,347)
Bar Harbor, Maine	\$7.34 per pilot unit	160 pilot unit minimum	(\$1,174)
Rockland, Maine	\$8.04 per pilot unit	160 pilot unit minimum	(\$1,286.40)
Boston, Ma.	Flat \$1,200 minimum fee		
Providence RI	\$12.84 per pilot unit	150 pilot unit minimum	(\$1,926)

R. at 13-15, 20, 22-23.

At a pilot unit rate of \$7.09 and a minimum pilot unit charge of 100 units, under the 2016 rates, the minimum charges a vessel entering Portland Harbor would pay were \$709.00. That rate is noticeably lower than the average minimum rates being charged in other ports in the region.

In addition to reviewing the rates charged by pilots operating in other ports in the region, the Board also considered how other ports evaluate and set pilotage rates. R. at 56-130. According to information gathered by staff and counsel for the Board, nearly all port authorities in the region include a comparison of pilotage rates charged in other ports in their assessment of an appropriate rate in their own port. *Id.* Regional consistency and comparability is important in order to balance the need to support pilotage services with the need to attract the vessels that use that service in order to sustain a robust and safe port.

The Board considered the distance of Portland Harbor and the course that pilots take when piloting vessels into the port. R. 55. According to information gathered by staff for the Board, the

average pilot course in Portland Harbor is approximately 11 miles. *Id.* According to counsel for Bay Ferries, its vessel (the "CAT") is taken on a course of approximately 12 miles, at Bay Ferries' request and in an effort to account specifically for numerous buoys in the port. Testimony from November 16, 2017 hearing. Counsel for Bay Ferries also indicated his belief that another company operating vessels in the port, Eimskip, takes a pilot at a station that is only 3.5 miles from the port. Counsel for Portland Pilots responded by noting that the pick-up point for each vessel is at the discretion of the pilot, not exclusively of an individual vessel and is dependent on weather and sea conditions, the particular vessel requiring pilotage, and a particular pilot's discretion as to where an appropriate pick up place might be -- such that the distances traveled for each vessel are not static. Eimskip was not present or represented at the hearing so did not confirm or deny Attorney Pachios' description of the pilot course taken by its vessels.

Although each port is different, the Board notes that the distances of pilot courses in other ports in the region include distances that are comparable to Portland Harbor. *See e.g.* R. at 166, 210. Additionally, although there was some dispute at the hearings regarding the correct measurement of ports in the region, the Board credits information provided by the Penobscot Bay & River Pilots Association regarding the actual distances pilots in those ports travel when providing pilotage. According to Captain Gelinis, the distances pilots travel for ports in Penobscot Bay, Penobscot River, and Bar Harbor include: 16 miles to Rockland and 15 miles to Bar Harbor. *Id.* As noted above, the minimum rates for pilotage services in those ports are 160 pilot units charged at a rate of \$8.04 and \$7.34, respectively. R. at 13-15.

As noted also above, the record contains information regarding the average number of vessels entering Portland Harbor over the last several years. R. at 31-33. According to information provided by Portland Pilots, in the year 2000, there were approximately 634 total ships entering and leaving the port and requiring pilotage services. *Id.* That number has continued to decline such that the number of vessels requiring pilotage in 2017 was expected to be 281. *Id.*

III. DECISION

The Board heard from counsel for Bay Ferries that the rate proposed by the Board and supported by Portland Pilots (\$1,200 minimum and \$7.18 pilot unit) is too high. Although Bay Ferries did not propose an alternative rate, the Board recognizes that, in addition to its obligation to ensure a safe port by, among other things, setting compensation at a rate that will sustain pilot services, it also must strive to maintain a robust and active port that is attractive and accessible to foreign and domestic vessels, alike. In setting a pilotage rate, the Board is mindful of not wanting to price foreign vessels,

or domestic vessels coming from a foreign port (which includes the CAT), out of Portland Harbor. The needs of the pilots must be carefully balanced with the needs of the vessels they serve.

In the Board's view, a rate that takes into account at least the following factors adequately balances these competing needs in order to set a pilot rate that is "just and reasonable":⁴ (1) the experience, training and continuing education of pilots meeting the licensure requirements for Portland Harbor; (2) the unique characteristics of the port; (3) the distance of the port and, more specifically, of the course pilots and vessels take (which goes to the amount of time a pilot spends providing the service); (4) the costs associated with providing a service mandated by state statute, without which vessels would not be permitted to enter Portland Harbor;⁵ (5) the rates charged in other ports in the region – both as a measure of fairness and to protect the affordability of Portland Harbor; (6) the needs and financial pressures felt by vessels required to take a pilot in order to avoid

⁴ As noted, on November 2, 2017, Bay Ferries presented the testimony of Mr. Silkman on the topic of appropriate and permissible rate setting and the meaning of "just and reasonable." During Board deliberations on November 16, 2017, Commissioner Haley noted that since the November 2 hearing, he had become aware of information relating to Mr. Silkman. According to Commissioner Haley, during Mr. Silkman's comments at the November 2, 2017 hearing, Mr. Haley recognized Mr. Silkman and believed he had heard something about him in the course of his work either on the Commission or as a member of the community at large. According to Mr. Haley, following the hearing on November 2 at which Mr. Silkman spoke, Commissioner Haley conducted an internet search of Mr. Silkman's name. As a result of that search, Commissioner Haley was reminded that Mr. Silkman had recently been fined by the Federal Energy Regulatory Commission for conceiving of and participating in a fraudulent scheme relating to rate setting by a paper mill located in Rumford, Maine. The penalty imposed by FERC was \$1,250,000 against Mr. Silkman, personally. Although Commissioner Haley understands that the penalty is being challenged by Mr. Silkman in court and is not final, he noted that his memory of the allegations against Mr. Silkman, the finding of fraud, and the imposition of a penalty did have a negative impact on Mr. Silkman's credibility in Mr. Haley's view. Although the decision issued by FERC is not formally part of the record in this matter, it is publicly available at the following: <https://www.ferc.gov/enforcement/civil-penalties/actions/2016/144FERC61164.pdf>. The Richard Silkman who is the subject of the FERC decision works for Competitive Energy Services, LLC, the same company in which Bay Ferries' witness indicated he has a leadership role.

⁵ Although counsel for Bay Ferries, as well as Bay Ferries' witness, Mr. Silkman, placed a great deal of emphasis on the need to examine the revenue of the Portland Pilots and repeatedly demanded that the Board subpoena Portland Pilots' books, the Board, through the Chair, declined this request. As noted above, the Board's review of pilotage rates is being done on its own initiative and not on the application of any one pilot or group of pilots. Therefore, unlike in other rate setting proceedings where a regulatory board is reviewing a request by a particular utility provider for a rate increase and seeks proof of necessity by examining the applicant's financial records, there is no such justification for that inquiry here. The rate set by the Board will be chargeable by all pilots operating in Portland Harbor, and is not specific to Portland Pilots. Therefore, while the cost of providing the service is certainly important and relevant, the profitability or not of one particular company is less so. In the context of this review by the Board, requiring some but not all pilots licensed to operate in the port to reveal their corporate financial information, particularly against their will, is neither necessary nor fair. If, however, at some point in the future, an application is submitted by the Portland Pilots or any other pilot affirmatively requesting an increase, the Board may well ask that applicant to justify the request by demonstrating that the rate set by the Board is inadequate. Financial records, including revenue, may well be needed in that instance. But, again, that is not this case.

pricing them out of Portland Harbor; and (7) the average number of vessels entering the port over the course of a year.

Based on the evidence presented to it, the Board concludes that a minimum charge of 150 units and a pilot unit rate of \$7.18 constitutes just and reasonable compensation for pilot services in Portland Harbor.⁶ In the Board's view, that rate: adequately recognizes the extensive training and experience required to provide pilot services in the port; it is at a level that will support the costs incurred to provide services as those costs appear in the record; because it is in line with rates authorized in other ports, Portland Harbor will remain competitive with other regional ports both for pilots providing pilot services and for vessels requiring those services; because the distance and characteristics of Portland Harbor are not substantially different than those present in other regional ports, there is no justification for a substantial deviation from rates authorized in other ports (i.e. the time and skill needed to navigate the ports are comparable); reflects the need to sustain pilotage despite a substantial drop in vessels entering the port.

Although the Portland Pilots advocated in favor of a minimum pilot rate of \$1,200 (rather than a minimum pilot unit), the Board concludes that the minimum charge of 150 pilot units is more appropriate. This rate is directly in line with the rate being charged in other ports and, based on the Board's understanding of current traffic in the port, will still support the representative expenses Portland Pilots has indicated are associated with providing pilotage services. In the absence of any financial data demonstrating that this rate is not just and reasonable or that pilots providing services in the port will not be able to sustain services at this rate, the Board declines to adopt a higher rate. As always, however, if Portland Pilots or any other pilot or pilot service operating in the port believes that the rates need to be adjusted, it/they may certainly submit an application to the Board for consideration.

With respect to the record of these proceedings, counsel for Bay Ferries has requested that the transcript of a workshop conducted by the Board in March 2017 regarding a prior application by the Portland Pilots to increase the pilotage fee be included in the record for this matter. The Board denies that request and declines to include the transcript of its March 2017 workshop. As noted above, the Board's current review of pilotage rates and its adoption of the rate discussed herein was undertaken on the Board's own initiative and is not in response to any application by the Portland Pilots or any

⁶ For a vessel paying the minimum charge, that minimum charge will be 150 units x \$7.18, or \$1,077 for each trip in and out of the harbor.

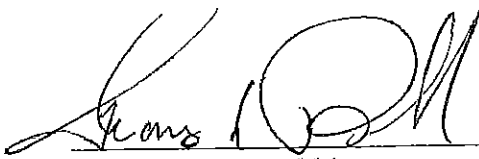
applicant. Accordingly, the transcript of an earlier proceeding on an application that is not presently before the Board is not relevant or appropriately considered here.

Therefore, for all of the reasons outlined herein and based on the evidence in the record, the Board hereby repeals all prior pilot unit minimums and all prior pilot unit rates authorized for pilotage fees in Portland Harbor and authorizes a minimum charge of 150 pilot units chargeable to vessels operating in Portland Harbor and a pilot unit rate of \$7.18. This rate shall go into effect as of January 5, 2018, 45 days from the date notice of the Board's adoption of the rate was mailed to the City Councils for Portland and South Portland, unless either city council takes official action disapproving the rate. *See* R. at 239-240.

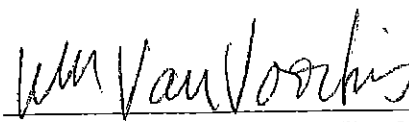
Date of Decision on the Record: November 16, 2017

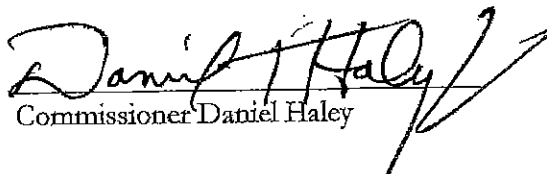
Date Notice of Decision was mailed to
City of Portland and City of South Portland: November 21, 2017

Date of Written Decision Accepted and Signed: November 28, 2017


Chair, Thomas Dobbins

Commissioner Bert Jongerden


Commissioner William VanVoorhis


Commissioner Daniel Haley

LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TENTH LEGISLATURE

SECOND SPECIAL SESSION

September 25, 1981

AND

THIRD SPECIAL SESSION

December 9, 1981

AND

SECOND REGULAR SESSION

January 6, 1982 to April 13, 1982

AND AT THE

FOURTH SPECIAL SESSION

April 28, 1982 to April 29, 1982

AND AT THE

FIFTH SPECIAL SESSION

May 13, 1982

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH IN
ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 164, SUBSECTION 6.

J.S. McCarthy Co.
Augusta, Maine
1981

**PRIVATE AND
SPECIAL LAWS**
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION
and
FIFTH SPECIAL SESSION
of the
ONE HUNDRED AND TENTH LEGISLATURE
1981

ing in said Augusta, a home for needy women, of the value of \$300,000, and to manage and control the same for the purpose aforesaid; and said corporation shall have all the powers and privileges and be subject to all the duties and liabilities of similar corporations in this State.

Effective July 13, 1982.

CHAPTER 97

H.P. 2193 - L.D. 2073

AN ACT to Amend the Charter of Coburn Classical Institute.

Be it enacted by the People of the State of Maine as follows:

P&SL 1901, c. 333, §1 is amended to read:

Sec. 1. Nathaniel Butler, Franklin W. Johnson, George D. B. Pepper, Horace Purinton, Leslie C. Cornish, Edwin C. Whittemore, Horatio R. Dunham and Cyrus W. Davis are hereby created a corporation by the name of Trustees of Coburn Classical Institute, for the purpose of maintaining a literary institution in the city of Waterville with all the powers of similar corporations, including the power to make and establish ~~by-laws~~ bylaws and regulations for the management of its affairs and the proper government of the institution.

Effective July 13, 1982.

CHAPTER 98

H.P. 2198 - L.D. 2077

AN ACT Relating to the Board of Harbor Commissioners and its Powers for the Harbor of Portland.

Be it enacted by the People of the State of Maine as follows:

Sec. 1. Definitions. As used in this Act, the following terms have the following meanings.

1. **Branch.** "Branch" means a license or certificate of competency issued by the commission.
2. **Commission.** "Commission" means the Board of Harbor Commissioners for Portland Harbor created under this Act.
3. **Harbor.** "Harbor" means Portland Harbor.
4. **Harbor lines.** "Harbor lines" means the line marking the boundary of the harbor beyond which wharves and other structures may not be extended.
5. **Pilot.** "Pilot" means any person taken on board a vessel for the purpose of navigating the vessel through the entrance, approaches or any channel within the harbor, other than navigation incidental to the activity of directing the mooring, anchoring, docking or undocking of vessels.
6. **Portland Harbor.** "Portland Harbor" means the entire harbor and tidal waters within the limits of Portland Harbor, including the tidal waters of Fore River, Back Cove and northeasterly along the shores of the easterly side of the mouth of the Presumpscot River to the Grand Trunk Railroad Company's bridge and about the islands within the City of Portland; and also southerly and easterly of the lines of the harbor, as far as the jurisdiction of the Cities of Portland and South Portland extend, including all channels and entrances into the harbor, as far as the same are not under the exclusive control of the United States, and also including all coves, inlets and other parts where the tide ebbs and flows, within the limits of those cities.
7. **Vessel.** "Vessel" means any watercraft used or capable of being used for transportation.

Sec. 2. Commission established. There is established a Board of Harbor Commissioners for Portland Harbor, which shall be public body corporate and politic and is charged with responsibility for the regulation of navigation and commerce within Portland Harbor in accordance with the provisions of this Act. The commission shall consist of 5 members and shall have a quorum of 3 members. Two members

of the commission shall be appointed by the City of Portland, and these members shall be and continue to be residents of the City of Portland during tenure. Two members of the commission shall be appointed by the City of South Portland, and these members shall be and continue to be residents of the City of South Portland. One member of the commission, who shall be appointed by the Governor, with the concurrence of both the City Councils of Portland and South Portland. The initial term for the member appointed by the Governor shall be for 1 year. The City Councils of Portland and of South Portland shall, immediately after this Act takes effect, or as soon thereafter as deemed advisable, meet separately and appoint the 2 members from each city who shall constitute the members of the commission. Each council shall designate one member to serve for a 3-year term and one member to serve a 2-year term. All appointments thereafter shall be for terms of 3 years, except in the case of a vacancy, which shall be for the remainder of the unexpired term. Each member shall continue to serve after expiration of his term until his successor is appointed and qualified provided such service shall not continue in excess of 60 days after expiration of his term. The 5 members appointed shall annually elect from their own membership a chairman and a clerk, and may from time to time adopt such procedural rules as are necessary for the proper conduct of the business of the commission. A member may be removed for cause, or upon a determination that such member is not a resident of that city, in the case of those members appointed by the city councils. Removal shall be by the appointing council or, in the case of the 5th member, by the Governor with concurrence of both of the 2 councils.

The present members of the Board of Harbor Commissioners for Portland Harbor shall continue in office until such time as a quorum of commissioners is appointed under this Act, at which time their offices shall be abolished and the term of each member shall be deemed to have terminated. The powers of the Board of Harbor Commissioners and any rules made by the commission in effect on the effective date of this Act shall be deemed to continue in full force and effect and be supplementary to this Act for a period of one year thereafter, unless sooner displaced by a rule of the commission adopted under this Act. The commission established under this Act shall succeed to all assets and assume all liabilities of the former Board of Harbor Commissioners.

Sec. 3. Location of office; retention of documents. The commission shall have an office in the City of Portland or South Portland in which shall be kept all maps, charts, plans and documents relating to the lands and waters over which it has control. The present Board of Harbor Commissioners shall deliver to the commission created under

this Act such maps, charts, plans and documents now in the custody of the commission relating to those waters and lands. The commission shall adopt measures to preserve and protect such maps, charts, plans and documents, which shall be public records except as provided by law, under such rules as the commission may adopt. The commission shall make, or cause to be made, such further maps and plans for the use of the harbor and the approaches thereto as it deems proper. To accomplish that end, members of the commission shall keep themselves informed of the present and probable future requirements of shipping and other marine uses and as to the best means which can be provided at that port for the accommodation thereof. The commission may also investigate and determine, so far as practicable, what improvements may be made to the harbor to make it safer and more advantageous for navigation and commerce. The commission may employ such persons as it may from time to time deem necessary to assist it in performing its duties, including, but not limited to, the retention of legal counsel to advise the commission and to aid in the enforcement of this Act.

Sec. 4. Harbor lines. The commission may from time to time establish harbor lines over the whole, or any part, of the waters and territory within its jurisdiction; and thereafter from time to time alter and modify the lines as in the judgment of the commission changes in navigation may require.

Sec. 5. Permits required.

1. Creation or maintenance of any obstruction. The creation and maintenance of any obstruction in any of the navigable waters of the harbor, or in any part of the harbor under the jurisdiction of the commission, except by the United States, without first obtaining a written permit from the commission, is prohibited. It is unlawful to enlarge or extend any wharf heretofore built, build any wharf, pier, dolphin, bulkhead or other structure, dump any stones or any other material into any of the waters, or upon any part of the flats, excavate any part of the harbor, fill in any part of the harbor or modify the course, location or condition of the water of the harbor without a permit from the commission for such purpose. The commission shall not issue any such permit when it determines that the activity will substantially or unreasonably interfere with navigation or injure the rights of others.

2. Operation as pilot. The commission shall appoint such number of pilots for the harbor of Portland as it deems necessary for the safety and convenience of commerce, fix and establish such compensation for the services of the pilots as may, from time to time, be deemed just and reason-

able. Every foreign vessel and every American vessel under registry with a draft of 9 feet or more shall take a pilot licensed under this chapter upon entering, departing or navigating upon the waters of Casco Bay and the approaches thereto. In case of refusal to take such a pilot, any such vessel shall pay the established pilot fee as if a pilot has been employed. A pilot boat shall not be obliged to remain on her station at all times. A pilot shall have a lien for his pilotage fees on all vessels liable therefor.

This section shall not apply to vessels under enrollment, fishing vessels or vessels powered by sail. This section shall not apply to vessels primarily engaged in the carriage of passengers for hire which operate on a published annual schedule and which are not in excess of 500 feet overall length and have a draft not in excess of 20 feet, so long as the master of any such vessel has navigated that specific vessel on the above described waters with the assistance of a pilot for a minimum of 15 round trips of ingress and egress to the above described waters. Provided, that a pilot shall pilot such vessel as described in this paragraph upon the above described waters at least one round trip during each calendar month that the vessel operates upon the above described waters and at such other times as may be required by the Department of Transportation to ensure port safety after hearing and notice.

It shall be unlawful for any person not licensed as a pilot under this section to pilot, or offer to pilot, a vessel not exempt under the preceding paragraph. Violations of this provision shall be a misdemeanor punishable by a fine of \$500, or by imprisonment not to exceed 12 months, or by both, for each violation.

Persons desiring a branch shall make written application to the commission stating their qualifications therefor. The applicant shall be a citizen of the United States of America and a resident and citizen of the State. The commission shall make careful examination and investigation of the qualifications of the applicant and if satisfied that he has the requisite qualifications, may give the applicant a branch under the hands of its members and the seal of the commission, authorizing such person to act as pilot. The commission shall prescribe the form of a written application, the method of investigation or examination, or both, of the qualifications of each applicant and the standards for the branch. Branches shall be granted initially and renewed for terms of 5 years from the date of issuance or renewal unless sooner terminated. Such branches may be granted subject to such reasonable conditions as the commission deems necessary for navigational safety and for the convenience of the public and commerce. The commission may

fix and establish by rule the compensation for the services of the pilots as may, from time to time, be deemed just and reasonable. A person licensed as a pilot shall not charge more than the maximum fee established by the commission where use of a pilot is required by this Act. Any branch issued to a pilot may be revoked at any time by the commission for negligence, incapacity or other sufficient cause. A branch may not be transferred or assigned. The branch, so granted, shall be recorded by the clerk of the commission in a book kept for that purpose, entitled "Pilots for Port of Portland;" and the clerk shall receive from the applicant, a reasonable fee for the branch to be established by the commission.

3. Special permits. The commission shall grant special permits to dredges, floating plants and for other activities requiring the temporary use of any part of the channels where the commission is satisfied that the work is necessary, and may impose reasonable conditions upon the activities. The commission upon complaint of any person may fix and determine the time when, and the circumstances under which, vessels may lie at the ends of and alongside the wharves in order to maintain open channels; in the interest of navigational safety; and to protect the rights of riparian owners and the persons using the harbor. The commission may provide upon what notice vessels may be removed from the channels where such removal is necessary.

Sec. 6. Rulemaking. The commission shall from time to time adopt such rules as it deems necessary and proper, not inconsistent with law, for keeping open convenient channels for the passage of vessels, promoting navigational safety in the waters under its control and protecting persons having riparian rights, including, without limitation, procedures, standards and fees, and subject to the provisions of section 5, subsection 1 of this Act for the issuance of permits to build or extend wharves and other structures or to fill or excavate; to limit the speed of vessels within the harbor; to permit moorings; and to cause the removal of derelict and abandoned vessels. The commission may impose reasonable penalties by rule for violation of the rules, which penalties shall not be in excess of \$500 a day for each violation. The commission shall not promulgate any rule other than as an emergency without first presenting such rule to the Department of Transportation, Bureau of Transportation Planning and Services for review and comment. Thereafter the commission shall hold a public hearing, preceded by publication, as to the subject matter of the rule and the time and place of the public hearing, at least 7 days prior to the hearing. The rules shall be effective 45 days from the date on which notice of such rulemaking is sent to the City Managers of Portland and South Portland,

addressed to the City Councils of the cities, unless either City Council takes official action disapproving the rule or rules, in whole or in part, prior to the expiration of the 45-day period. All rules of the commission shall remain in effect until repealed or amended, as provided in this section, or when limited by the terms thereof. When the commission determines that an emergency involving the public health, safety or welfare requires that a rule take effect immediately, it may promulgate such rule with immediate effect upon notice to the City Councils and such findings shall be conclusive, provided that the reasons constituting the emergency are set forth therein. Such emergency rules shall be effective for not more than 14 days, unless extended after a public hearing after 7 days' prior published notice. In no case shall such rule be extended for a period in excess of 60 days from the date originally promulgated and the rule shall expire immediately upon disapproval by either City Council.

Sec. 7. Harbor master and deputy.

1. Harbor master and deputy; appointment. The rules of the commission shall be enforced and carried out by a harbor master and one or more deputy harbor masters appointed by the commission. It shall be the duty of the harbor master or his deputies to collect in the name of the commission all penalties incurred for the violation of such rules and the money so received shall be applied by the commission to carry out the purpose of this Act. The appointment of the harbor master and of any deputy harbor master shall be by the commission pursuant to rules of the commission adopted pursuant to section 6. The persons so appointed shall receive compensation fixed by rules of the commission as provided in section 6. Each deputy shall have all the powers and authority of the harbor master. The harbor master and deputies shall hold office for a term of one year from the date of approval of the appointment, but either may be removed by the commission at any time during such term, for cause, after notice and an opportunity to be heard. The commission shall fill any vacancy only for the remainder of the term, provided that such appointment shall be approved by the City Councils.

2. Duties. The harbor master or his deputies shall cause any vessel or vessels anchoring or mooring within the channel lines established by the commission or anchoring in such a manner that any portion of the hull, spars or booms extend beyond the lines, due to tide or wind, or which the harbor master finds in any way obstructing the free movement or anchorage or mooring of vessels in any part of the harbor, to move to such anchorage or mooring area as he designates for that purpose, and enjoy all the authority con-

ferred upon harbor masters under the provisions of the general law, except the power to arrest. Any vessel which obstructs commerce or navigation, or which violates the provisions of this Act or any rule made pursuant to this Act, is declared to be a nuisance. If such vessel is without a crew on board, or if the master, owner or person in charge neglects or refuses to move that vessel upon the order of the harbor master or his deputies, the harbor master or his deputies may put a crew on board, or may employ a tug or other tow boat, and move, anchor or otherwise secure that vessel at the cost and risk of the owner or owners of the vessel, and the expense occasioned thereby shall constitute a lien on that vessel, which the harbor master or his deputies may enforce in the name of the commission in any manner authorized by law. Any person aggrieved by any enforcement action taken pursuant to this Act without prior court approval may appeal to the commission to set aside such order, and the commission shall hear and decide the appeal within 7 days. The claims secured by such liens shall include any costs of collection and enforcing the liens, including reasonable attorneys' fees. Any person aggrieved by such action of the harbor master or his deputies may file a complaint for review of governmental action, accompanied by a bond for sufficient sureties in an amount equal to the full amount of the lien, whether or not that person has appealed to the commission as provided in this subsection. Upon approval of such bond, such vessel shall be released from the lien, the validity of which and the liability of the surety or sureties shall be determined in such action.

Sec. 8. Judicial review and violations. Decisions and actions of the commission, the harbor master or any deputy shall be reviewed pursuant to the Maine Rules of Civil Procedure, Rule 80B, and shall not be subject to the Maine Administrative Procedure Act, the Revised Statutes, Title 5, chapter 375. The Superior Court may award the penalties provided for violations of this Act or rules made hereunder as part of the adjudication of any action before the court to review or enforce decisions or actions of the commission, the harbor master or any deputy and shall restrain and enjoin violations of this Act and rules lawfully made pursuant thereto. If the court determines that any person, firm or corporation has violated any provision of this Act or any rule issued thereunder, the court shall award the commission all of its costs and expenses incurred in such proceeding, including reasonable attorneys' fees. In addition to such jurisdiction, the District Court shall have jurisdiction to award the penalties for violations of this Act and of rules made pursuant thereto as civil violations. All such penalties shall be for the use of the commission. It is a violation of this Act for any person to obstruct,

hinder or delay the harbor master or the deputy in the discharge of the duties of his office, or to obstruct, hinder or delay any person assisting them under the provisions of this Act. Any person so acting is guilty of a Class E crime, unless the Maine Criminal Code provides a greater punishment classification for the same act, in which case the Maine Criminal Code provisions shall apply.

Sec. 9. Annual reports. The commission shall annually deliver to the City Manager of each city, and the Department of Transportation, Bureau of Transportation, Planning and Services a copy of a report addressed to the City Councils of the cities, which report shall include statements as to its activities hereunder; any recommendations with respect to legislation by the cities, State or Federal Government which may be necessary or expedient to improve the harbor and access thereto or to enable the commission to more efficiently regulate its affairs; a detailed budget for the next fiscal year; and a statement as to any appropriations if any are deemed necessary by the commission to finance its activities for the next fiscal year.

Sec. 10. Appropriations by cities. Each city may appropriate or lend such money or contribute such services for the use of the commission as it deems reasonable and proper to further the purposes of this Act. The commission's fiscal year shall run from July 1st to June 30th.

Sec. 11. Compensation. Members of the commission shall serve without compensation, except that each commissioner shall be entitled to reimbursement for necessary and reasonable expenses incurred in the performance of his duties under this Act.

Sec. 12. Wharves and fish weirs. The provisions of the Revised Statutes, Title 38, chapter 9, do not apply to any wharf or fish weir built or extended within Portland Harbor under a permit of the commission issued pursuant to section 5.

Sec. 13. Inconsistent acts repealed. Except as provided in this Act, Private and Special Law 1917, chapter 192; Private and Special Law 1927, chapter 24; Private and Special Law 1955, chapter 134; Private and Special Law 1957, chapter 65; and Private and Special Law 1963, chapter 96, as amended, are repealed. No other acts or resolves of the Legislature shall be affected hereby except as expressly provided.

LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND FIFTEENTH LEGISLATURE

THIRD SPECIAL SESSION
October 1, 1992 to October 6, 1992

FOURTH SPECIAL SESSION
October 16, 1992

ONE HUNDRED AND SIXTEENTH LEGISLATURE

FIRST REGULAR SESSION
December 2, 1992 to July 14, 1993

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
OCTOBER 13, 1993

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
1993

PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE

AS PASSED AT THE

FIRST REGULAR SESSION

of the

ONE HUNDRED AND SIXTEENTH LEGISLATURE

1993

ees until the next annual election. If at any annual election there exists a vacancy in an unexpired term, a trustee is elected to fill such vacancy for such unexpired term, and the voters of the district shall cast the ballots as prescribed in this section, voting for as many candidates as there are offices to be filled.

See title page for effective date.

CHAPTER 34

S.P. 315 - L.D. 948

An Act Relating to the Portland Harbor Commission and Portland Harbor

Mandate preamble. This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, two thirds of all of the members elected to each House have determined it necessary to enact this measure.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, it is essential that this legislation take effect before July 1, 1993 because Long Island will no longer be a part of the City of Portland after that date; and

Whereas, unless this legislation is enacted as an emergency measure the composition of the Portland Harbor Commission will not comply with the laws of this State; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. P&SL 1981, c. 98, §2, first ¶, as amended by P&SL 1989, c. 61, §1, is further amended to read:

Sec. 2. Commission established. There is established a Board of Harbor Commissioners for Portland Harbor, which ~~shall be~~ is a public body corporate and politic and is charged with responsibility for the regulation of navigation and commerce within Portland Harbor in accordance with the provisions of this Act. The commission ~~shall consist~~ consists of 7 ~~5~~ members and ~~shall have~~ has a quorum of ~~4~~ 3 members. Two mem-

bers of the commission ~~shall~~ must be appointed by the City of Portland, and these members ~~shall~~ must be and continue to be residents of the City of Portland during tenure. Two members of the commission ~~shall~~ must be appointed by the City of South Portland, and these members ~~shall~~ must be and continue to be residents of the City of South Portland. ~~Three members~~ One member of the commission ~~shall~~ must be appointed by the Governor, with the concurrence of the ~~City Councils~~ city councils of Portland and South Portland. ~~One of the gubernatorial appointees shall be a holder of a commercial fishing license and one of the gubernatorial appointees shall be a person representing commercial, marine or shipping interests.~~ All appointments ~~shall be~~ are for terms of 3 years and ~~shall~~ must be staggered. Members appointed to fill a vacancy shall serve for the remainder of the unexpired term. Each member shall continue to serve after expiration of that member's term until a successor is appointed and qualified provided that service ~~shall~~ may not continue in excess of 60 days after expiration of the term. The ~~7~~ 5 members appointed shall annually elect from their own membership a chair and a clerk; and may from time to time adopt such procedural rules as are necessary for the proper conduct of the business of the commission. A member may be removed for cause or, in the case of those members appointed by the city councils, upon a determination that the member is not a resident. Removal ~~shall~~ must be by the appointing council or, in the case of the gubernatorially appointed ~~members~~ member, by the Governor with concurrence of both of the 2 councils.

Sec. 2. P&SL 1981, c. 98, §6 is amended to read:

Sec. 6. Rulemaking. The commission shall from time to time adopt such rules as it ~~deems~~ considers necessary and proper, not inconsistent with law, for keeping open convenient channels for the passage of vessels, promoting navigational safety in the waters under its control and protecting persons having riparian rights, including, without limitation, procedures, standards and fees, and subject to the provisions of section 5, subsection 1 of this Act for the issuance of permits to build or extend wharves and other structures or to fill or excavate; to limit the speed of vessels within the harbor; to permit moorings; and to cause the removal of derelict and abandoned vessels. The commission may impose reasonable penalties by rule for violation of the rules, which penalties ~~shall~~ may not be in excess of \$500 a day for each violation. The commission ~~shall not promulgate~~ may not adopt any rule other than as an emergency without first presenting ~~such the~~ the rule to the Department of Transportation, ~~Bureau of Transportation Planning and Services~~ Bureau of Transportation Planning and Services for review and comment. The commission shall send any proposed rules to the councils of each city at the same time the proposed rules are sent to the Department of Transportation. Thereafter the commission shall hold a public hearing, preceded by publication, as to the subject matter of the rule and the time and place of the public hear-

ing, at least 7 days prior to the hearing. The rules shall be are effective 45 days from the date on which notice of such rulemaking is sent to the City Managers city managers of Portland and South Portland, addressed to the City Councils city councils of the cities, unless either City Council city council takes official action disapproving the rule or rules, in whole or in part, prior to the expiration of the 45-day period. All rules of the commission shall remain in effect until repealed or amended, as provided in this section, or when limited by the terms thereof of this section. When the commission determines that an emergency involving the public health, safety or welfare requires that a rule take effect immediately, it may ~~promulgate such~~ adopt that rule with immediate effect upon notice to the City Councils city councils and such findings shall be are conclusive, provided that the reasons constituting the emergency are set forth therein in the notice. Such emergency rules shall be effective for not may not be effective for more than 14 days, unless extended after a public hearing after 7 days' prior published notice. In no case shall may such rule be extended for a period in excess of 60 days from the date originally promulgated adopted and the rule shall expire expires immediately upon disapproval by either City Council city council.

Sec. 3. P&SL 1981, c. 98, §7, sub-§1 is amended to read:

1. Harbor master and deputy; appointment. The rules of the commission shall must be enforced and carried out by a harbor master and one or more deputy harbor masters appointed by the commission. Rules of the commission may be enforced and carried out by Portland and South Portland police officers as provided in subsection 4. It shall be is the duty of the harbor master or his the harbor master's deputies to collect in the name of the commission all penalties incurred for the violation of such rules and the money so received shall be applied by the commission to carry out the purpose of this Act. The appointment of the harbor master and of any deputy harbor master shall be is by the commission pursuant to rules of the commission adopted pursuant to section 6. The persons so appointed shall receive are entitled to compensation fixed by rules of the commission as provided in section 6. Each deputy shall have has all the powers and authority of the harbor master. The harbor master and deputies shall hold office for a term of one year from the date of approval of the appointment, but either may be removed by the commission at any time during such term, for cause, after notice and an opportunity to be heard. The commission shall fill any vacancy only for the remainder of the term, provided that such appointment shall be is approved by the City Councils city councils.

Sec. 4. P&SL 1981, c. 98, §7, sub-§4 is enacted to read:

4. Enforcement. In addition to their powers as police officers, Portland or South Portland police offi-

cers have all the powers conferred upon the Portland harbor master by state law, municipal ordinance, this Act or rules adopted pursuant to this Act, except that police officers may not exercise the powers of harbor masters to assign moorings under the Maine Revised Statutes, Title 38, section 3. Police officers from Portland or South Portland may exercise these powers anywhere within Portland Harbor. Nothing in this section may be construed to limit the authority granted by state law to harbor commissions, harbor masters, deputy harbor masters or police officers.

Sec. 5. P&SL 1981, c. 98, §10 is amended to read:

Sec. 10. Appropriations and budget approval by cities. Each city may appropriate or lend such money or contribute such services for the use of the commission as it deems considers reasonable and proper to further the purposes of this Act. The commission's fiscal year shall run runs from July 1st to June 30th. The commission shall submit its annual budget to the Portland City Council and the South Portland City Council no later than March 1st of each year. Each city must act upon the commission's budget prior to July 1st. Unless approved by the city council of each city, the commission may not spend more money than the amount authorized in its approved budget. Any surplus at the end of the fiscal year may not lapse but must be carried forward and accounted for by the commission in its next budget submission.

Sec. 6. P&SL 1989, c. 61, §§2 and 3 are repealed.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective June 4, 1993.

CHAPTER 35

H.P. 1020 - L.D. 1366

An Act to Undedicate Certain Revenues of the Department of Environmental Protection

Be it enacted by the People of the State of Maine as follows:

Sec. 1. Funding source study. The Commissioner of Environmental Protection shall conduct a study on the present mix of funding from Federal Expenditures, Other Special Revenue and the General Fund for the Department of Environmental Protection. This study must identify the specific funding resources, the historical context in which those resources were established and the amounts that would be affected if all dedicated revenues were undedicated as General Fund revenues.

LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE

FIRST SPECIAL SESSION
September 27, 2011

SECOND REGULAR SESSION
January 4, 2012 to May 31, 2012

THE EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
LAWS IS
SEPTEMBER 28, 2011

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 30, 2012

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH THE MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Augusta, Maine
2012

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	\$0	\$2,500
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$2,500

Licensing and Enforcement 0352

Initiative: Provides a one-time allocation in fiscal year 2012-13 for the rule-making costs associated with the licensing of pharmacy interns by the Maine Board of Pharmacy.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	\$0	\$2,500
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$2,500

**PROFESSIONAL AND
FINANCIAL
REGULATION,
DEPARTMENT OF
DEPARTMENT TOTALS**

	2011-12	2012-13
OTHER SPECIAL REVENUE FUNDS	\$0	\$5,000
DEPARTMENT TOTAL - ALL FUNDS	\$0	\$5,000

See title page for effective date.

CHAPTER 497**S.P. 562 - L.D. 1663**

**An Act To Correct Errors in
Recently Enacted Laws
Governing Agency Liquor
Stores**

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, Public Law 2011, chapter 460 was enacted into law in the First Regular Session of the 125th Legislature; and

Whereas, as a result of a clerical error, provisions in the enacted law do not reflect the language

contained in the legislative documents that were adopted by the Legislature; and

Whereas, it is necessary to immediately correct this error; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 28-A MRSA §1010-A, sub-§2, ¶A, as enacted by PL 2011, c. 460, §2, is amended to read:

A. Full-time, one year, after payment of the initial agency liquor store license fee under section 453-B, ~~\$775~~ \$700. The license may be prorated; and

Sec. 2. 28-A MRSA §1013, as enacted by PL 2011, c. 460, §3, is repealed.

Sec. 3. Appropriations and allocations. The following appropriations and allocations are made.

**HEALTH AND HUMAN SERVICES,
DEPARTMENT OF (FORMERLY BDS)**

Office of Substance Abuse 0679

Initiative: Deallocates funds no longer required for underage drinking prevention programs.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	(\$750)	(\$750)
OTHER SPECIAL REVENUE FUNDS TOTAL	(\$750)	(\$750)

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective March 14, 2012.

CHAPTER 498**H.P. 1321 - L.D. 1795**

**An Act Regarding the
Oversight and Safety of
Certain Commercial Vessels
Operating in Maine Waters**

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 38 MRSA §87-A, sub-§1, ¶D, as amended by PL 2011, c. 14, §1, is repealed.

Sec. 2. P&SL 1981, c. 98, §5, sub-§2, 2nd ¶ is amended to read:

This section ~~shall~~ does not apply to vessels under enrollment, fishing vessels or vessels powered by sail. ~~This section shall not apply to vessels primarily engaged in the carriage of passengers for hire which operate on a published annual schedule and which are not in excess of 500 feet overall length and have a draft not in excess of 20 feet, so long as the master of any such vessel has navigated that specific vessel on the above described waters with the assistance of a pilot for a minimum of 15 round trips of ingress and egress to the above described waters. Provided, that a pilot shall pilot such vessel as described in this paragraph upon the above described waters at least one round trip during each calendar month that the vessel operates upon the above described waters and at such other times as may be required by the Department of Transportation to ensure port safety after hearing and notice.~~

See title page for effective date.

CHAPTER 499

H.P. 1352 - L.D. 1832

An Act To Increase the Amount of Time an Employer May Employ an Employee without Being Charged for Unemployment Benefits

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 26 MRSA §1221, sub-§3, ¶C, as amended by PL 1965, c. 381, §19, is further amended to read:

C. For the purposes of paragraph A, the experience rating record of the most recent subject employer ~~shall~~ may not be charged with benefits paid to a claimant whose work record with such employer totaled ~~5~~ 6 consecutive weeks or less of total or partial employment, but in such case the most recent subject employer with whom claimant's work record exceeded ~~5~~ 6 consecutive weeks of total or partial employment ~~shall~~ must be charged, if such employer would have otherwise been chargeable had not subsequent employment intervened.

This paragraph is repealed March 14, 2014.

Sec. 2. 26 MRSA §1221, sub-§3, ¶C-1 is enacted to read:

C-1. Beginning March 14, 2014, for the purposes of paragraph A, the experience rating record of the most recent subject employer may not be charged with benefits paid to a claimant whose work record with such employer totaled 5 consecutive weeks or less of total or partial employment, but in such case the most recent subject employer with whom the claimant's work record exceeded 5 consecutive weeks of total or partial employment must be charged, if such employer would have otherwise been chargeable had not subsequent employment intervened.

Sec. 3. **Report.** The Commissioner of Labor shall submit a report by December 15, 2013 to the joint standing committee of the Legislature having jurisdiction over labor matters on the effect of the change made pursuant to this Act, specifically with regard to increasing the number of weeks to 6 for which an individual can work for an employer before the employer becomes potentially chargeable for unemployment benefits paid upon separation of that work. In addition to reporting the total impact of the change to the Unemployment Insurance Trust Fund, the report must include the impact on the number of employers affected and on prior employers who are charged for any ensuing benefits as a result of this change, as well as the impact on all employers if the costs are spread out among all employers. The commissioner shall include any employer comments received pertaining to this change.

The joint standing committee is authorized to introduce a bill related to the commissioner's report to the Second Regular Session of the 126th Legislature.

Sec. 4. **Effective date.** That section of this Act that enacts the Maine Revised Statutes, Title 26, section 1221, subsection 3, paragraph C-1 takes effect March 14, 2014.

See title page for effective date, unless otherwise indicated.

CHAPTER 500

H.P. 1250 - L.D. 1698

An Act To Establish Veterans Treatment Courts

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, studies have shown that combat service may exact a tremendous psychological toll on members of the United States Armed Forces who are faced with the constant threat of death or injury over an extended period of time; and

Tab 11 12-18-17

Order 110-17/18

Motion to postpone to December 18, 2017: 8-0 on 11/20/2017

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

**CITY OF PORTLAND
IN THE CITY COUNCIL**

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

**AMENDMENT TO PORTLAND CITY CODE
NEW CHAPTER 34 PESTICIDE USE**

WHEREAS, the City of Portland wishes to protect the quality of Casco Bay and other waterways that support the economic vitality of local fisheries and the working waterfront; and

WHEREAS, the City of Portland recognizes that healthy soils serve as the foundation for vibrant ecosystems and pest-resistant plant life; and

WHEREAS, the City of Portland wishes to promote land care practices that promote the development of healthy soils to minimize the need to apply pesticides to control unwanted pests; and

WHEREAS, the City of Portland also recognizes that there may still be a need to manage pests to protect public health and safety, wildlife, our environment and City assets; and

WHEREAS, many synthetic pesticides are harmful to humans, pets, wildlife, including threatened and endangered species, soil microbiology, plants, and natural ecosystems; and

WHEREAS, many citizens desire to be protected from exposure to pesticides in the air, water or soil that may result from chemical drift and contaminated runoff; and

WHEREAS, the use of pesticides has been known or suspected to cause serious health problems is not necessary to grow and maintain green lawns and ornamental landscapes, given the availability of viable alternative practices and products; and

WHEREAS, a growing number of communities and municipalities including the City of Portland are embracing a

precautionary approach to the use of pesticides in order to adequately protect people and the environment from their harmful effects; and

WHEREAS, the State of Maine allows municipalities, through their home rule authority, to enact ordinances dealing with municipal affairs pursuant to 30-A M.R.S. §3001;

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND *That the Portland City Code is hereby amended by adding a Chapter, to be numbered Chapter 34, Sections 34-1 to 34-16, which said Sections read as follows:*

Chapter 34

PESTICIDE USE

Sec. 34-1. Title.

This chapter shall be known as the City of Portland Pesticide Use Ordinance (hereinafter, the "Ordinance").

Sec. 34-2. Purpose.

The purpose of this ordinance is to safeguard the health, safety and welfare of the residents of the City and to conserve and protect the City's waterways and natural resources by curtailing the use of pesticides for turf, landscape and outdoor pest management.

Sec. 34-3. Definitions.

The following words, terms and phrases, when used in this ordinance, shall have the following meaning:

Aggrieved party means an individual or entity that applies for but is denied a waiver from provisions of this ordinance as described in Section 34-6.

Broadcast application means the spreading of pesticides over an entire area.

Commercial Agriculture means the production of crops for sale, including crops intended for widespread distribution to wholesalers or retail outlets and any non-food crops.

Emergency means a serious, unexpected, and often dangerous situation requiring immediate action.

EPA means the United States Environmental Protection Agency.

FIFRA means the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 136 et seq.

Golf course means an area of land laid out for playing the game of golf with a series of 9, 18 or more holes. Mini-golf and disc golf courses are not considered golf courses.

High Use Athletic Facilities means the following playing fields located in the following parks as listed in Chapter 18, section 18-11: Fox Field, Quinn Field and Deering Oaks Baseball Field at Deering Oaks Park; Back Cove Park; and Payson A Field in Payson Park. It shall also include Presumpscot Field at Deering High School.

Repellant means a substance that deters insects or other pests from approaching or settling.

Invasive Species means a plant or insect that is not native to a particular ecosystem, and whose introduction does or is likely to cause economic or environmental harm or harm to human health. Invasive species include those plants listed under the Maine Department of Agriculture, Conservation and Forestry's Natural Areas Program as currently invasive, potentially or probably invasive, and highly likely but not currently invasive, as well as those insects listed by the Maine Forest Service as threats to Maine's forests and trees.

Natural, organic or "non-synthetic" means a substance that is derived from mineral, plant, or animal matter and does not undergo a "synthetic" process as defined in the Organic Foods Production Act, 7 U.S.C. § 6502(21), as the same may be amended from time to time.

Organic pest management means the act of managing or controlling pests through the use of mechanical, cultural, or, biological processes, or through the use of natural, organic, or non-synthetic substances.

Person means any individual natural person, partnership, joint venture, society, association, company, club, trustee, trust or corporation; or any officer, agent, employee, or personal representative of any thereof, in any capacity acting either for her or himself or for any other person under either personal appointment or pursuant to law.

Pest shall have the same meaning as the term set forth in 40 C.F.R. § 152.5, as the same may be amended from time to time.

Pest Management means the act of managing or controlling pests through the use of chemical, mechanical, cultural, biological, or genetic measures.

Pesticide means 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 EPA. Herbicides, fungicides, insecticides and rodenticides are considered pesticides.

Pests of significant public health importance means the pests listed by the EPA, in conjunction with the U.S. Department of Health and Human Services and the U.S. Department of Agriculture, as pests of significant public health importance.

Preemptive application means the application of pesticides as a measure against something possible, anticipated or feared, i.e., as a preventive or deterrent measure.

Public utility means any transmission and distribution utility, telephone utility, water utility, gas utility, or natural gas pipeline utility that is subject to the jurisdiction of the Maine Public Utilities Commission.

Restricted Entry Interval, also known as the re-entry interval or re-entry time, means the minimum amount of time that must pass after a pesticide is applied to an area before people or pets can safely go into that area. The labels on pesticides provide information about an individual pesticide's REI.

Synthetic means 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.

Water body means any great pond, river, stream or tidal area as those terms are defined in Chapter 14 of the Portland Code of Ordinances.

Wetland means a coastal or shoreland freshwater wetland as those terms are defined in the City's Zoning Ordinance, Chapter 14 of the Code of Ordinances.

Sec. 34-4. Applicability

The following provisions shall apply to all outdoor pest management activities conducted within the boundaries of the City of Portland (hereinafter, the "City"), on both public and private land.

Sec. 34-5 Permitted, prohibited, and exempt pesticides

Subject to the applicability dates set forth in Sec. 34-14 herein, the following provisions shall apply to all outdoor pest management activities in the City.

(a) Permitted Pest Management Activities and/or Materials, except as provided in (b) (3) below:

1. Organic Pest Management, except as provided in (b)2 below;
2. Use or application of Synthetic substances specifically listed as "allowed" on the U.S. Department of Agriculture's National List of Allowed and Prohibited Substances (the "National List"); and/or
3. Use or application of Pesticides determined to be "minimum risk pesticides" pursuant to the FIFRA and listed in 40 C.F.R. § 152.25(f)(1) or (2), as may be amended from time to time.

(b) Prohibited Pest Management Activities and/or Materials:

1. Use or application of Synthetic substances other than those described in (a) (2) above;

2. Use or application of Non-synthetic substances specifically listed as "prohibited" on the National List; and/or
3. The use or application of pesticides (whether natural, organic, "non- synthetic," synthetic or otherwise) within seventy five feet of a water body or wetland.

(c) Exempt Pest Management Activities and/or Materials. The following are exempt from the provisions of this ordinance (and therefore are allowed):

1. Use or application of Pest Management Activities and/or Materials in connection with Commercial agriculture;
2. Pet supplies, such as shampoos and tick and flea treatments, when used in the manner specified by the manufacturer;
3. Disinfectants, germicides, bactericides, miticides and virucides, when used in the manner specified by the manufacturer;
4. Insect repellents when used in the manner specified by the manufacturer;
5. Rat and rodent control supplies when used in the manner specified by the manufacturer;
6. Swimming pool supplies when used in the manner specified by the manufacturer; and/or
7. General use paints, stains, and wood preservatives, and sealants when used in the manner recommended by the manufacturer.

(d) Exempt Applications. The following applications are exempt from the provisions of this ordinance (and therefore are allowed):

1. Specific health and safety applications. Prohibited pesticides may be used to control plants that are poisonous to the touch, such as poison ivy, pests of significant health importance such as ticks and mosquitoes, and animals or insects that may cause damage to a structure, such as carpenter ants or termites;
2. Golf course applications. Prohibited pesticides may be used on golf courses provided that the course is

designated through Audubon International as a
Certified Audubon Cooperative Sanctuary;

3. Hadlock Field applications;
4. Treatments for Heritage Elms;
5. Applications on fields at High Use Athletic facilities
(until January, 2021, unless this date is extended by
the City Council);
6. Prohibited pesticides may be used to control the
Emerald Ash Borer, Asian Longhorned Beetle, Hemlock
Woolly Adelgid, Browntail Moth and other insects
identified as invasive by the Maine Forest Service;
and/or
7. Right-of-way applications. Prohibited pesticides may
be used by a public utility that maintains a right-of-
way through the City.

For any exempt applications by the City, disclosure shall
be made in the annual report described in Section 34-9 of this
ordinance.

(e) Exempt Uses. The following uses are exempt from the
provisions of this ordinance (and therefore are allowed):

1. Any use of pesticides mandated by state or federal law
or required by an order or decision from a court or
state or federal board or agency.

Sec. 34-6. Pest Management Advisory Committee.

(a) The Pest Management Advisory Committee ("PMAC") is
hereby established. The PMAC shall consist of seven (7) members
as follows:

1. One (1) member of city staff, designated by the City
Manager, who shall be accredited by the Northeast
Organic Farming Association in Organic Land Care or
shall receive such accreditation within a reasonable
time frame;
2. One (1) practicing agronomist appointed by the City
Council;
3. Two (2) Maine Board of Pesticides Control-licensed
landscape professionals, at least one (1) of whom has

experience in organic land care management and is accredited by the Northeast Organic Farming Association in Organic Land Care, each appointed by the City Council; and

4. Three resident or taxpayer representatives appointed by the City Council at least one of whom has experience in organic land care management.

(b) The terms of office of the six (6) PMAC members appointed by the City Council shall be three-year terms, except that the initial appointments after the establishment of the PMAC shall be such that the terms of office of no more than two (2) members shall expire in any single year. The term of office for the City employee PMAC member shall be for as long as the employee holds said employment position.

(c) The PMAC shall advise the City Council and the City's Sustainability Coordinator with respect to the following:

1. Advising the Sustainability and Transportation Committee and the City's Sustainability Coordinator of any problems encountered or amendments that may be required to achieve the full and successful implementation of this ordinance;
2. Reviewing and acting upon waiver applications when applicable;
3. Developing and implementing outreach and education as specified in Sec. 34-11 of this ordinance (in coordination with the Sustainability Coordinator);
4. Seeking 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;
5. Encouraging broad community participation, from parents, schools, advocates, and local arboriculture and landscaping businesses, in the activities of the PMAC;
6. Reviewing annual data and issuing a summary report annually by March 31 to the Sustainability and Transportation Committee, or whatever committee is assigned an oversight role by the City Council, which includes, among other things, a summary of its educational outreach; recommendations on any necessary amendments to this chapter; the number of waivers

granted in the past year; and comprehensive data taken from the written documents provided by Applicators and/or Licensed Applicators about the use of pesticides within the City of Portland including, but not limited to:

- a. The amount of pesticides used on privately or publicly owned land in the City of Portland;
- b. The reasoning for such use of pesticides; and
- c. The specific pesticides that were used.

7. Any additional responsibilities as may be assigned and deemed necessary by the City Council.

(d) PMAC Officers, meetings and records.

- 1. The members shall annually elect a chair and a secretary from their membership;
- 2. All meetings of the PMAC shall be noticed and open to the public in accordance with the City's notice policies and Maine's Freedom of Access Act;
- 3. A quorum shall consist of four members;
- 4. The PMAC shall meet at least five (5) times annually;
- 5. Minutes shall be kept of all meetings and posted on the City web page; and
- 6. An annual report of the PMAC's activities shall be submitted to the Sustainability and Transportation Committee by March 31 of each year.

(e) Waiver Subcommittee:

- 1. A subcommittee of the PMAC shall be established annually and consist of the designated City staff member and one (1) other member of the PMAC designated by the Chair;
- 2. This subcommittee shall be authorized to review and decide waiver applications as described in section 34-7; and
- 3. The PMAC shall schedule meetings of the Waiver Subcommittee frequently enough to be responsive to waiver requests. All meeting dates shall be posted in advance on the City calendar.

Sec. 34-7. Waivers.

(a) In situations that are an emergency, threaten the public health, safety or welfare, or for the control of invasive species that pose a threat to the environment, persons shall apply to the PMAC Waiver Committee for a waiver from the provisions of this ordinance prior to the use/application of a prohibited pesticide or prior to the conduct of a prohibited application.

(b) The waiver application shall be filed with the PMAC Waiver Committee, on a form prescribed by the Committee and shall include the following information: the reason for requesting the use/application of a prohibited pesticide; the proposed location(s) of the proposed application(s); details on the timing(s) of use, substance(s) and amounts to be applied; date(s) of application; management plan that excludes broadcast and preemptive applications; and a pest identification and threshold report. In order to approve a waiver application, the PMAC Waiver Committee must find that all of the following criteria are met:

1. A situation exists that: is an emergency; threatens the public health, safety and/or welfare; involves an invasive species;— that poses a threat to the environment;— or requires a non-permitted pest management activity and/or material to protect buildings or structures from damage;
2. The applicant has carefully evaluated all alternative methods and materials including, but not limited to, non-pesticide management tactics, minimum risk pesticides, non-synthetic pesticides, and is choosing to use the minimum amount of the least toxic, most effective pesticide necessary;
3. The applicant will, to the greatest extent practical, minimize the impact of the application on abutting properties; and
4. To the maximum extent possible the grant of the waiver will not be detrimental to the public's health, safety or welfare.

(c) The Waiver Committee shall conduct a hearing on all complete waiver applications received within ten business days of receipt of the complete application and shall seek to issue a

written decision on the application within three (3) business days of reviewing an application.

(d) In approving any waiver application, the Waiver Committee may also prescribe conditions and safeguards as are appropriate to further the purposes of this ordinance. The waiver decision of the Waiver Committee shall be in writing, with copies provided to the applicant, the PMAC, and the Sustainability Coordinator, and the City Clerk.

(e) An Aggrieved Party may appeal a written decision of the PMAC Waiver Committee to the City Manager or his or her designee within five (5) business days of the issuance of the committee's decision. The appeal shall be in writing and shall state the basis for the appeal. The City Manager or his or her designee (who shall not be a member of the PMAC) shall act upon the appeal within five (5) business days of receipt of the appeal. The decision of the City Manager or designee shall be in writing, with copies provided to the aggrieved party, the PMAC Waiver Committee, and the Sustainability Coordinator. The decision of the City Manager or his or her designee shall be final.

Sec. 34-8. Reporting by State of Maine Licensed Applicators.

In addition to complying with the Maine Board of Pesticides Control rules regarding record keeping and reporting requirements as outlined in 01-026 C.M.R. Ch. 50, as amended from time to time, all State of Maine licensed applicators are required to submit to the PMAC an annual summary report on or before February 1st of each calendar year relating to the preceding calendar year. This report shall contain the following information for applications performed in the City in the prior calendar year: target site, pesticide brand name, EPA registration number, total undiluted formulation (in pounds or gallons), and total area treated as listed and as amended on the Commercial Applicator Annual Summary Report required by the Maine Board of Pesticides Control.

Sec. 34-9. Management plan and annual reporting for publicly owned parks and open spaces.

The City shall maintain a management plan for public open spaces that shall be posted on the City website. The City Manager or his or her designee shall provide an annual report to the PMAC

describing efforts to reduce the use of synthetic pesticides, a description of synthetic pesticides used during the previous year, the reason for their use, and the cost of such pesticide usage.

34-10. Public Notification.

Any person shall comply with the following posting requirements. For all prohibited pesticide uses or applications:

(a) A warning sign shall be posted on the privately or publicly owned land. These signs must be posted before application activities commence on the land and be left in place for at least forty-eight (48) hours after actual application or until expiration of the restricted entry interval indicated by the pesticide label, whichever is longer;

(b) All signs shall be at least five (5) inches high and four (4) 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 the duration of the placement;

(c) All 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;

(d) The sign must include the following:

1. The word "CAUTION" in 72-point type;
2. The words "PESTICIDE APPLICATION" in 30-point type or larger;
3. The Maine Board of Pesticides Control designated symbol;
4. Any reentry precautions from the pesticide labeling;
5. The name and telephone number of the entity making the pesticide application;
6. The date and time of the application;
7. A date and/or time to remove the sign;
8. the chemical and trade name of the pesticide; and
9. the length of time to remain off the treated area as indicated by the pesticide label; and

(f) For licensed applicators, the requirements above are in addition to any requirements that may also apply to State of Maine licensed applicators subject to the Maine Board of Pesticides Control rules, as may be amended from time to time, regarding public notification.

Sec. 34-11. Outreach and Education.

(a) The Sustainability Coordinator or his or her designee shall publish notice of this ordinance in a newspaper of general circulation in the City upon adoption and shall attempt to provide information about it to identified retailers and lawn, garden, and tree-care providers serving the City of Portland, as well as to churches, schools, and other institutions in Portland.

(b) The PMAC shall prepare and publish materials designed to educate the community about the role of pesticides in the local environment and the benefits of organic pest management. This outreach may include: a community-based social marketing campaign targeting City households and businesses; promotion of professional education and training for State of Maine licensed applicators; distribution of information and news about City practices through Portland internet and web-based resources; public service announcements; news releases and news events; tax bill inserts; posters and brochures made available at City events and applicable locations that serve the public; workshops, trainings, and demonstration projects; targeted outreach to schools; and/or any additional methods deemed appropriate by the PMAC.

(c) The PMAC shall also develop a program to work directly with retailers that sell pesticides in the City of Portland to:

1. Provide educational training for all retail store employees who recommend and sell pesticides for use in the home and garden, highlighting the following:
 - a. federal, state, and local pesticide regulations;
 - b. principles of organic pest management;
 - c. pesticide toxicity and health and environmental concerns;
 - d. proper pesticide display and storage; and

- e. the role of personal protective equipment, pesticide poisoning symptoms, and emergency procedures in case of spills; and
- 2. 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 this ordinance and alternatives to prohibited pesticides.

Sec. 34-12. Violations.

Any person violating any of the provisions of this ordinance or failing, neglecting or refusing to obey any order or notice of the City Manager or his or her designee issued hereunder shall be subject to enforcement action as provided in §34-13.

Sec. 34-13. Enforcement and Remedies.

(a) This ordinance may be enforced by the City Manager or his or her designee;

(b) The City Manager or his or her designee shall have the authority to enact rules and regulations in order to implement the provisions of this ordinance; and

(c) Any violation of this chapter shall constitute a civil violation subject to the penalties contained in Portland City Code, Chapter 1, § 1-15.

Sec. 34-14. Severability.

If any section, paragraph, sentence, word or phrase of this ordinance is for any reason held to be invalid or unenforceable by any court, such decision shall not affect the validity of the remaining provisions of this ordinance.

Sec. 34-15. Conflicts with Other Ordinances.

Whenever a provision of this ordinance conflicts with or is inconsistent with another provision of this ordinance or of any other ordinance, regulation or statute, the more restrictive chapter, article or ordinance of the Portland City Code shall control.

Sec. 34-16. Effective date; Applicability dates.

In order to allow time for residents and businesses to become familiar with the requirements of this ordinance, the prohibitions on the use of certain products and/or applications (and the related public notification, signage and reporting requirements) shall be effective as follows:

(a) Phase One: Commencing no later than March 1, 2018, the provisions set forth in Sec. 34-5 on outdoor pest management activities shall apply to City-owned property (but not to high use athletic fields or golf courses);

(b) Phase Two: Commencing no later than January 1, 2019, the provisions set forth in Sec. 34-5 on outdoor pest management activities shall apply to private property (but not high use athletic fields or golf courses); and

(c) Phase Three: Commencing no later than January 1, 2021, the provisions set forth in Sec. 34-5 on outdoor pest management activities with respect to high use athletic fields shall apply to public or private property, except that the City Manager or his or her designee may request that the City Council extend this applicability date if he or she determines more time is necessary to transition to organic management practices for these properties and facilities.

**AMENDMENT 1 TO ORDER 110-17/18
NEW CHAPTER 34 PESTICIDE ORDINANCE
PREPARED BY CORPORATION COUNSEL
FOR MAYOR ETHAN STRIMLING
RE: ILLEGAL TO USE PESTICIDES WITHIN 250 FEET OF A BODY OF WATER**

Chapter 34

PESTICIDE USE

...

Sec. 34-5 Permitted, prohibited, and exempt pesticides

Subject to the applicability dates set forth in Sec. 34-14 herein, the following provisions shall apply to all outdoor pest management activities in the City.

(a) Permitted Pest Management Activities and/or Materials, except as provided in (b) (3) below:

...

(b) Prohibited Pest Management Activities and/or Materials:

1. Use or application of Synthetic substances other than those described in (a) (2) above;
2. Use or application of Non-synthetic substances specifically listed as "prohibited" on the National List; and/or
3. The use or application of pesticides (whether natural, organic, "non- synthetic," synthetic or otherwise) within seventy-five two hundred and fifty feet of a water body or wetland.

...

**AMENDMENT 2 TO ORDER 110-17/18
NEW CHAPTER 34 PESTICIDE ORDINANCE
PREPARED BY CORPORATION COUNSEL
FOR MAYOR ETHAN STRIMLING
RE: AGGRIEVED PARTY**

Chapter 34

PESTICIDE USE

...

Sec. 34-3. Definitions.

The following words, terms and phrases, when used in this ordinance, shall have the following meaning:

Aggrieved party means an individual or entity that applies for but is denied a waiver from provisions of this ordinance as described in Section 34-~~67~~. It also means an individual or entity that owns or has legal residence in a property that abuts a property on which another individual or entity has received a waiver as described in Section 34-7.

Broadcast application means the spreading of pesticides over an entire area.

...

MEMORANDUM
City Council Agenda Item

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

FROM: Jon Jennings, City Manager
Troy Moon, Sustainability Coordinator

DATE: October 19, 2017

SUBJECT: Order Establishing Chapter 34: City of Portland Pesticide Use Ordinance

SPONSOR: Sustainability & Transportation Committee, Councilor Thibodeau, Chair

COUNCIL MEETING DATE ACTION IS REQUESTED: November 6, 2017

1st reading x Final Action

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

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

I. ONE SENTENCE SUMMARY: This order creates Chapter 34 of the Portland City Code as the City of Portland Pesticide Ordinance.

II. AGENDA DESCRIPTION: On October 12 the Sustainability and Transportation Committee voted 3-0 to recommend the creation of the City of Portland Pesticide Ordinance. that prohibits the use of synthetic pesticides for outdoor pest management on public and private property within the City of Portland. It provides limited exceptions that allow the use of otherwise prohibited pesticides in emergency situations and when an imminent threat to the health and welfare of the public exists. In other circumstances, it creates a process where persons who wish to apply a prohibited pesticide may apply for a waiver from a committee established to hear such requests. The committee may grant a waiver only if the request meets specific criteria. The ordinance also creates an advisory committee tasked with assisting in the development of a robust education campaign to educate the public and retailers about land care practices that do not require pesticides and about organic alternatives to synthetic pesticides. Provisions of the ordinance would be enforced by the City Manager or designee and could be subject to fines as described in Chapter 1 of the Portland City Code. Staff has provided the Board of Pesticides Control with notice of this ordinance as well a copy of the text as required by statute.

III. BACKGROUND: Elected officials, City staff, and residents have long been concerned about the impact of pesticides on the environment in Portland. Councilors and staff have heard

concerns raised by residents that pesticide use threatens pollinators, degrades local water quality, and that applications on one property can impact neighboring properties due to runoff and drift. These residents argued that existing regulations at the State level do not provide adequate protection to City residents. In order to study this issue more carefully the City Council voted in May, 2016 to create the Pesticide and Fertilizer Task Force and asked it to review the ordinance developed in the City of South Portland and to consider measures from other jurisdictions as well as the costs and benefits of adopting new regulations. The task force was comprised of a diverse group of stakeholders including members of environmental and citizen groups, an entomologist, property owners, retailers, and landscaping professionals. Led by Councilor Mavodones, they met regularly between June, 2016 and January, 2017. The Sustainability and Transportation Committee began reviewing their draft ordinance, along with the South Portland ordinance, in June, 2017. Following two public hearing and a panel discussion of expert stakeholders, the committee drafted the Portland Pesticide Ordinance and voted to recommend it to the full City Council for adoption on October 12, 2017.

IV. INTENDED RESULT AND OR COUNCIL GOAL ADDRESSED: Adopting the order creates Chapter 34 in the Portland City Code and regulates the use of pesticides on public and private property in the City of Portland.

V. FINANCIAL IMPACT: Implementing the ordinance as drafted will require the City to invest in additional personnel and equipment.

Administration: The ordinance creates a variety of administrative duties for staff. It requires the City Manager to appoint a staff member to serve on and support the Pesticide Management Oversight Committee. This staff person will also be required to staff and participate on a committee that hears requests from individuals seeking waivers from ordinance provisions. A separate staff member would be required to hear appeals if such waiver requests are denied. Staff would also be responsible for receiving and processing reports from pesticide applicators and from City departments that may use pesticides. The ordinance also requires the City to develop and implement a comprehensive education and outreach program targeting City staff, retail establishments, landscaping companies, as well as individual residents that will require significant staff time as well as funds to create educational materials.

Additional resources to handle administration and education:

½ time Sustainability Associate	\$40,000
Funds for training, education, and outreach:	\$25,000

Operations: Organic management of athletic facilities is labor and equipment intensive. Moving to strictly organic practices at the high use athletic facilities will require additional staffing to achieve success:

1 full time MWIII focused on aeration, over seeding, top dressing, deep tine aerations, applying liquid organics	\$60,000
2 seasonal employees focused on hand weeding and agricultural work	\$24,000

Staff will also need a variety of new and upgraded equipment in order to conduct the regular turf treatments that will be required to maintain the fields in a safe, playable condition:

New tractor with turf attachments	\$155,000
Installation of irrigation systems at several fields	\$90,000
Liquid organics holding tanks / mixing systems	\$50,000
Seed spreaders	\$3,000

Without the ability to proactively address pests (such as grubs) the City will need to be prepared to replace turf on athletic fields periodically due to unsafe playing conditions caused by a proliferation of weeds and bare spots. \$100,000 - \$250,000

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

VII. RECOMMENDATION: Staff has several recommendations for amendments to the order as drafted that would facilitate implementation and administration of the ordinance.

1. Replace the waiver subcommittee described in Section 34-7 of the ordinance with an administrative process as described in Section 34-8 of the ordinance recommended by the Pesticide and Fertilizer Task Force. An administrative process will allow an applicant to receive a response more quickly than a committee process. Since waivers would be primarily for emergency situations, a speedier process would benefit the public.
2. Allow High Use Athletic Facilities to remain exempt from the ordinance after 2021. The athletic facilities in this category are used substantially more than is considered best practice. Consequently, the turf does not have time to recover after intense use. This leads to compacted, stressed soils that are susceptible to pests. Limited and strategic use of pesticides can be a necessary tool to maintain healthy and safe turn on these fields.
3. Amend the effective start date from March, 2018 to January, 2019 to provide consistent one year intervals between implementation phases.
4. In Section 34-5 add applications to control plants categorized as *currently considered invasive in Maine* by the Maine Department of Agriculture, Conservation, and Forestry as exempt applications.
5. Eliminate the requirement noted in Section 34-6 that the City staff person designated to serve on the Pesticide Management Advisory Committee be certified by the Northeast Organic Farming Association in organic land management. This requirement limits the pool of employees who may serve on this advisory board and places an ongoing requirement for staff to receive and maintain this particular certification. Employees may have knowledge in this area without receiving this accreditation.
6. The ordinance should sunset on December 31, 2023 unless specifically extended by vote of the City Council.

VIII. LIST ATTACHMENTS: Draft Ordinance

Prepared by: Jon Jennings, City Manager and Troy Moon, Sustainability Coordinator
Date: 10/26/2017

Bean/agendarequestmemo/rev 1/23/2017

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

**CITY OF PORTLAND
IN THE CITY COUNCIL**

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

Order 124-17/18
Tab 9 12-4-17
Tab 12 12-18-17

**MORATORIUM
RE: DEVELOPMENT AND DEMOLITION OF STRUCTURES IN THE
R-6 ZONE ON MUNJOY HILL**

WHEREAS, in or around April 2015, the City of Portland's Land Use Code was amended to allow for more infill development and reconstruction in the City's R-6 zone in an effort to advance the City's goal to produce additional housing; and

WHEREAS, that change in zoning has helped meet City goals for new housing production, resulting in approximately 92 net new housing units overall; and

WHEREAS, a significant portion of the R-6 zone in the City of Portland is located on Munjoy Hill; and

WHEREAS, of the 92 net new units overall, 29 of them have been on Munjoy Hill; and

WHEREAS, this redevelopment has included the demolition of eleven (11) housing structures and the construction of larger housing structures, many of which do not adequately fit with the neighborhood context; and

WHEREAS, the rest of the R-6 zone has seen demolition of only four (4) housing structures as a result of new development; and

WHEREAS, there is a strong likelihood that the R-6 zone on Munjoy Hill will continue to be subjected to this demolition pressure; and

WHEREAS, at present there may be a need for additional regulation in the City's Land Use Code to address these aforementioned increases in demolitions and to further refine regulations regarding the character and size of permissible replacement buildings in the R-6 Zone on Munjoy Hill; and

WHEREAS, pursuant to 30-A M.R.S. § 4356(1)(B), there is concern that existing City Land Use Code provisions, regulations or other laws are inadequate to address the aforementioned development and demolition pressures in the R-6 zone on Munjoy Hill and to prevent the public harm from these demolitions, the associated residential developments, and their collective impacts on the fabric of this particular neighborhood; and

WHEREAS, after sufficient notice and a public hearing, there is strong support for this Moratorium on the City Council; and

WHEREAS, it is typical for City staff to conduct a review of significant zoning changes after they have been in place for approximately 2 years and to recommend revisions that improve their effectiveness; and

WHEREAS, that process is underway but will require at least one hundred and eighty (180) days for City staff to fully develop and implement any necessary amendments to address negative impacts of demolitions on Munjoy Hill while also helping to achieve City housing production goals; and

WHEREAS, in the judgment of the Portland City Council, these facts and conclusions outlined above create an emergency within the meaning of 30-A M.R.S. § 4356(1) and the City Charter, and require the following Moratorium as immediately necessary for the preservation of the public health, safety and welfare;

NOW THEREFORE, BE IT ORDERED that, pursuant to its authority in 30-A M.R.S. §§ 3001 and 4356, the Portland City Council hereby ordains that a Moratorium is imposed on any and all demolition applications (as defined and except as exempted below) in the R-6 zone on Munjoy Hill depicted on the map attached hereto as Exhibit A; and

BE IT FURTHER ORDERED, that no demolition permit applications for demolition of 50% or more of the exterior surface of and/or the front façade of a structure, shall be accepted, processed, or reviewed by the City, for any and all property located in the R-6 zone on Munjoy Hill in the City of Portland (see Exhibit A) for the entire period of this Moratorium, unless that demolition is part of a site plan application approved prior to the effective date of this moratorium; and

BE IT FURTHER ORDERED, that this Moratorium shall go into effect and be applicable to the above-described applications on December 4, 2017, and remain in effect for one hundred and eighty (180) days thereafter, unless extended, repealed, or modified by the Portland City Council; and

BE IT FURTHER ORDERED, that, in addition to the moratorium on demolition permits outlined above and for all of the reasons outlined above, for an interim period beginning on December 4, 2017 and lasting for forty-five (45) days thereafter, no development applications for properties located in the R-6 zone on Munjoy Hill, specifically including any and all Level I, II or III Site Plan applications and amendments thereto, shall be accepted by, nor shall any approval be issued or granted by, the Planning Authority or the Planning Board; and

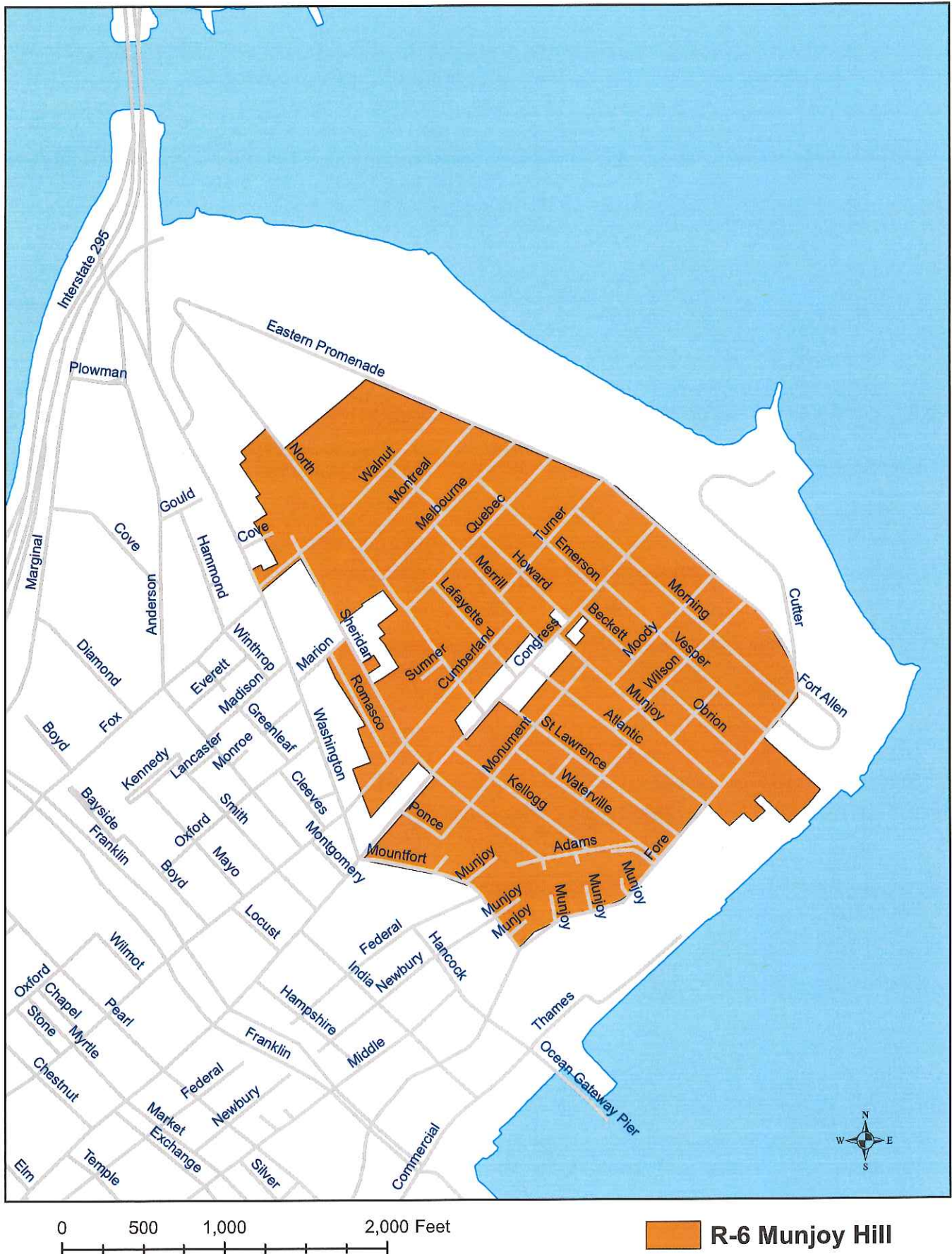
BE IT FURTHER ORDERED, that in that interim period the City's Department of Planning and Urban Development shall draft an interim ordinance to govern development in the R-6 zone during the remaining one hundred and thirty-five (135) days of

the aforementioned demolition Moratorium for review and approval by the City Council; and

BE IT FURTHER ORDERED, that to the extent any provision of this Moratorium is deemed invalid by a court of competent jurisdiction, the balance of the Moratorium that shall remain shall be considered valid; and

BE IT FURTHER ORDERED, that in view of the emergency cited in the preamble above, that it is hereby found and determined by the Portland City Council that it is necessary that this Moratorium take effect immediately as an emergency pursuant to Article II, Section 8 of the City of Portland Charter.

Exhibit A: Area of R-6 Zone on Munjoy Hill



MEMORANDUM
City Council Agenda Item

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

FROM: Councilor Belinda Ray

DATE: November 21, 2017

SUBJECT: Development and Demolition of Structures in the R-6 Zone on the East End of the Portland Peninsula

SPONSOR: Councilor Belinda Ray

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st reading December 4, 2017 **Final Action** December 18, 2017

Can action be taken at a later date: ____ Yes __ **X** __ No (If no why not?)
Moratorium start date is December 4, 2017 and time is of the essence.

PRESENTATION: (List the presenter(s), type and length of presentation)
Staff will be available to answer questions.

I. ONE SENTENCE SUMMARY

The City is seeking a Moratorium on demolition applications for a one-hundred-and-eighty-day (180) period, with an interim suspension of forty-five (45) days on all Site Plan applications, in the R-6 zone on Munjoy Hill, in order to develop and implement amendments to the City's Land Use Code to mitigate impacts of development pressures in this area.

II. AGENDA DESCRIPTION

The City is seeking a moratorium on new development applications and demolitions in order to allow the Planning Division to recommend changes to the Land Use Code for the R-6 on Munjoy Hill. A recent acceleration of development on Munjoy Hill has hastened the need for prompt changes, and a pause to activity while zone changes are developed and implemented. While the R-6 zone has allowed for much needed housing production, Munjoy Hill has been subject to a particular concentration of this activity, raising concerns about loss of neighborhood fabric, rate of demolitions, and the scale and character of new development not being contextually sensitive.

The proposed one-hundred-and-eighty (180) day moratorium is for: all demolition applications in the R-6 zone on Munjoy Hill (unless the application is part of a previously approved site plan approved prior to the effective date of the moratorium); and any and all Level I, II, or III Site Plan applications and amendments in addition to all demolition applications, for an interim period of the first forty-five (45) days of the moratorium.

III. BACKGROUND

In 2015, zoning amendments to the R-6 zone were aimed on enabling infill housing development, as well as allowing greater flexibilities to alterations and additions to existing properties. Typically, City staff will conduct a review of significant zoning changes after approximately two years, and that process is underway for the R-6. However, a recent acceleration of development on Munjoy Hill has hastened the need for prompt changes, and a pause to development activity while zone amendments are developed and implemented. In the previous two+ years there have been ninety-two (92) net new housing units in the R-6 zone overall, twenty-nine (29) of them on Munjoy Hill. In addition, of the fifteen (15) demolitions in the R-6 zone in the same period, eleven (11) have been concentrated on Munjoy Hill. The moratorium will allow for interim and long term changes to be implemented to improve the R-6 standards so that they continue to allow for infill housing development while minimizing negative impacts on Munjoy Hill related to demolitions, scale, and neighborhood character.

IV. INTENDED RESULT AND OR COUNCIL GOAL ADDRESSED

The intended result is to temporarily pause demolitions and to slow down new residential development on Munjoy Hill so that improvements can be made to the Land Use Code that will further comprehensive plan housing policy goals and strategies, including:

- Encourage additional contextually appropriate housing density in and proximate to neighborhood centers, concentrations of services, and transit nodes and corridors as a means of supporting complete neighborhoods; and

- Evaluate whether current zoning allows for new development consistent with historic patterns of form, density, and/or use, as well as whether it allows for priority growth areas.

V. FINANCIAL IMPACT

As the intent of the moratorium is not to ultimately prohibit development applications beyond the one-hundred-and-eighty-day (180) period, there are no anticipated long term financial impacts.

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

A significant proportion of all demolitions in the R-6 zone since 2015 has been on Munjoy Hill (11 out of 14) despite the fact that Munjoy Hill has not seen a similarly disproportionate level of new development compared to the balance of the R-6 zone. For this reason a moratorium on demolitions is warranted, with interim zoning to be put in effect during the term of the moratorium.

Additional analysis will be completed as part of the interim zoning to be proposed, as well as the R-6 audit and drafting of any permanent changes to the district.

VII. STAFF RECOMMENDATION

Planning Staff supports the proposed moratorium in order to provide time to complete the R-6 audit and draft changes to the R-6 zone to address issues related to scale and unnecessary demolitions.

VIII. PLANNING BOARD RECOMMENDATION

N/A

IX. LIST ATTACHMENTS

- A. Moratorium Re: Development and Demolition of Structures in the R-6 Zone on Munjoy Hill
- B. Exhibit A: Area of R-6 Zone on Munjoy Hill

Prepared by: Christine Grimando

Date: November 21, 2017

**Moratorium
Re: Development and Demolition of Structures in the
R-6 Zone on Munjoy Hill**

WHEREAS, in or around April 2015, the City of Portland's Land Use Code was amended to allow for more infill development and reconstruction in the City's R-6 zone in an effort to advance the City's goal to produce additional housing; and

WHEREAS, that change in zoning has helped meet City goals for new housing production, resulting in approximately 92 net new housing units overall; and

WHEREAS, a significant portion of the R-6 zone in the City of Portland is located on Munjoy Hill; and

WHEREAS, of the 92 net new units overall, 29 of them have been on Munjoy Hill; and

WHEREAS, this redevelopment has included the demolition of eleven (11) housing structures and the construction of larger housing structures, many of which do not adequately fit with the neighborhood context; and

WHEREAS, the rest of the R-6 zone has seen demolition of only four (4) housing structures as a result of new development; and

WHEREAS, there is a strong likelihood that the R-6 zone on Munjoy Hill will continue to be subjected to this demolition pressure; and

WHEREAS, at present there may be a need for additional regulation in the City's Land Use Code to address these aforementioned increases in demolitions and to further refine regulations regarding the character and size of permissible replacement buildings in the R-6 Zone on Munjoy Hill; and

WHEREAS, pursuant to 30-A M.R.S. § 4356(1)(B), there is concern that existing City Land Use Code provisions, regulations or other laws are inadequate to address the aforementioned development and demolition pressures in the R-6 zone on Munjoy Hill and to prevent the public harm from these demolitions, the associated residential developments, and their collective impacts on the fabric of this particular neighborhood; and

WHEREAS, after sufficient notice and a public hearing, there is strong support for this Moratorium on the City Council; and

WHEREAS, it is typical for City staff to conduct a review of significant zoning changes after they have been in place for approximately 2 years and to recommend revisions that improve their effectiveness; and

WHEREAS, that process is underway but will require at least one hundred and eighty

(180) days for City staff to fully develop and implement any necessary amendments to address negative impacts of demolitions on Munjoy Hill while also helping to achieve City housing production goals; and

WHEREAS, in the judgment of the Portland City Council, these facts and conclusions outlined above create an emergency within the meaning of 30-A M.R.S. § 4356(1) and the City Charter, and require the following Moratorium as immediately necessary for the preservation of the public health, safety and welfare;

NOW THEREFORE, pursuant to its authority in 30-A M.R.S. §§ 3001 and 4356, the Portland City Council hereby ordains that a Moratorium is imposed on any and all demolition applications [as defined and except as exempted below] in the R-6 zone on Munjoy Hill depicted on the map attached hereto as Exhibit A; and

BE IT ORDERED, that no demolition permit applications for demolition of 50% or more of the exterior surface of and/or the front façade of a structure, shall be accepted, processed, or reviewed by the City, for any and all property located in the R-6 zone on Munjoy Hill in the City of Portland (see Exhibit A) for the entire period of this Moratorium, unless that demolition is part of a site plan application approved prior to the effective date of this moratorium; and

BE IT FURTHER ORDERED, that this Moratorium shall go into effect and be applicable to the above-described applications on December 4, 2017, and remain in effect for one hundred and eighty (180) days thereafter, unless extended, repealed, or modified by the Portland City Council; and

BE IT FURTHER ORDERED, that, in addition to the moratorium on demolition permits outlined above, for an interim period beginning on December 4, 2017 and lasting for forty-five (45) days thereafter, no development applications for properties located in the R-6 zone on Munjoy Hill, specifically including any and all Level I, II or III Site Plan applications and amendments thereto, shall be accepted by, nor shall any approval be issued or granted by, the Planning Authority or the Planning Board; and

BE IT FURTHER ORDERED, that in that interim period the City's Department of Planning and Urban Development shall draft an interim ordinance to govern development in the R-6 zone during the remaining one hundred and thirty-five (135) days of the aforementioned demolition Moratorium for review and approval by the City Council; and

BE IT FURTHER ORDERED, that to the extent any provision of this Moratorium is deemed invalid by a court of competent jurisdiction, the balance of the Moratorium that shall remain shall be considered valid; and

BE IT FURTHER ORDERED, that in view of the emergency cited in the preamble above, that it is hereby found and determined by the Portland City Council that it is necessary that this Moratorium take effect immediately as an emergency pursuant to Article II, Section 8 of the City of Portland Charter.

From: **Steve Goodman** <goducks@veryfast.biz>

Date: Fri, Dec 1, 2017 at 10:43 AM

Subject: Temporary Moratorium on Munjoy Hill

To: jlevine@portlandmaine.gov

What is called 'gentrification' is progressing more rapidly than expected in Portland, and on the East End in particular. There are many issues that are being ignored due to the pace at which neighborhoods are being transformed. These issues affect the health, stability and the pursuit of happiness of the population, and the current laws and regulations need to be examined, and my opinion, revised and updated for the good of all.

For these reasons, as a resident of the Munjoy Hill neighborhood, I support the proposal offered by Belinda Ray, and support in concept any proposal that would allow the citizenry and their representative boards and officers the time to establish improved laws and regulations before too much is lost due to unfettered opportunistic development.

Sincerely,

Steven Goodman

Subject: stop allowing developers to tear down 1800 circa historic buildings

Message

Jeff Levine <jlevine@portlandmaine.gov>

Mon, Dec 11, 2017 at 9:15 AM

To: Jennifer Munson <jmy@portlandmaine.gov>, Sonia Bean <stb@portlandmaine.gov>

Public comment on the moratorium.

Jeff Levine, AICP
Director
Planning & Urban Development Department
389 Congress Street 4th Floor
Portland, Maine 04101
Phone (207)874-8720
Fax (207)756-8258
<http://www.portlandmaine.gov/planning>
@portlandplan

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

From: e w <eenebw@hotmail.com>
Date: Sat, Dec 9, 2017 at 12:45 PM
Subject: stop allowing developers to tear down 1800 circa historic buildings
To: "jlevine@portlandmaine.gov" <jlevine@portlandmaine.gov>

Munjoy hill's major appeal has been the old historic buildings and architecture. During the summer I see many people taking pictures of the old buildings which they do not have 'back home'. With that being said, What purpose other than generating profit for greedy developers does tearing down 1800 circa buildings provide for Munjoy Hill and Portland in general? In addition, opinions are that most of the new buildings being built as replacements are really ugly, huge and do not at all blend in architecturally with the hill. So we end up with a really ugly looking hill with a mixture of classic buildings and tin shack looking structures.

As the council and planning board must be aware, razing displaces tenants and does not make rents affordable. It actually removes apartments from the market. All it does is makes the hill look like some sort of unplanned ugly looking neighborhood much like any other city area in the country. Kind of like we have one or two of everything but nothing fits together look.

I really do not understand why the Portland city council and planning board, who supposedly represent the interests of the voters, allows the razing of historic old buildings vs. promoting renovation. I agree that many structures need updating but why not take the approach that expansion of a building is ok along with interior modifications. Again what is the purpose of tearing down the look that attracted people, with the exception of the super rich, in the first place?

Please consider stopping the destruction of 1800 buildings. Other areas and cities that care about history, allow interior reno but require the look and feel of the building on the outside to stay reasonable close to how it has always been. What is wrong with that approach? I don't understand why the planning board and council seems so hell bent on tearing down what makes portland great. A hot real estate market is no excuse for allowing the destruction of buildings like the one on the corner of St. Lawrence and Fore and now 9 Moody street. 9 Moody street was an awesome victorian house with a curved tower look. How can portland justify it is ok to tear that down vs. rennovate it? Seriously, do you guys even see all the comments on facebook's Munjoy hill past and present site that condemns the destruction of the Moody Street house? If not maybe it is time to look and realize how unpopular this destruction is in the eyes of residents, not to be confused with non-resident developers.

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

From: **Bryce Avallone** <bryce.avallone@gmail.com>

Date: Wed, Dec 13, 2017 at 11:09 AM

Subject: Comments on the proposed demolition moratorium

To: cityclerk@portlandmaine.gov

Hello,

I have owned the property at 33 Howard Street since 2001. It is a 4-unit rental property built in 1897. This building is approaching the end of its useful life. The apartments are very small, and have outdated floor plans. It no longer makes sense to invest money in upgrading this building. It is also flanked by two modern buildings, one built in 2009, and the other finishing construction this year.

In June of 2017, I employed Bild Architects, a local Portland design company, to help me design a new building for this site. We completed the block design, which used existing code to determine what could be built on the property, during the summer. We then continued with a design of the building, including elevations and floor plans. We are scheduled to have our preliminary meeting with the city during the first week of January 2018.

The proposed moratorium on demolishing buildings has a direct impact on this project. I have spent \$30,000 on design work in good faith based on the current building codes. I have also invested my own time, and I have a local builder lined up to begin construction this spring or summer once we have obtained building permits. I believe that because this design project is essentially complete, and we began the process six months ago, that we should be allowed to proceed with acquiring building permits and move forward with a new building at this site. It will be a major improvement over a small, outdated building with no historical value. It will also be more in line with the buildings that surround it.

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

**CITY OF PORTLAND
IN THE CITY COUNCIL**

*Order 131-17/18
Tab 13 12-18-17*

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

**ORDER APPROVING 22-MONTH EXTENSION OF LEASE WITH
GENERAL SERVICES ADMINISTRATION
RE: TRANSPORTATION SECURITY ADMINISTRATION
OFFICE SPACE AT JETPORT**

ORDERED, that the 22-month extension of lease, in substantially in the form attached hereto, with the United States General Services Administration for office and administrative space at the Portland International Jetport for the Transportation Security Administration is hereby approved; 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 this order.

MEMORANDUM
City Council Agenda Item

TO: Mayor and City Council

FROM: Paul Bradbury, Airport Director

DATE: December 6, 2017

DISTRIBUTION: Jon Jennings, City Manager; Mayor Ethan Strimling; Danielle West-Chuhta, Corporation Counsel; Sonia Bean; Nancy English; Julie Sullivan

SUBJECT: Lease amendment to extend current TSA/GSA Lease at the Portland International Jetport by 22 months.

SPONSOR: Jon Jennings, City Manager

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading: December 18, 2017 **Final Action:** December 18, 2017

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

The current lease expires on December 31, 2017 and the General Services Administration has requested I seek Council approval for the 22 month extension to avoid a month to month lease term.

I. SUMMARY OF ISSUE (Agenda Description)

The Transportation Security Administration's current lease for office space at the Portland International Jetport will expire on December 31, 2017. The General Services Administration (GSA) on the TSA's behalf has agreed to extend the current lease for an additional 22 months. All terms of the current lease outlined below will remain in effect; the only change will be the extension of the lease for an additional 22 months. The basic terms of the lease are as follows:

- Term: 22 months
- Area: The lease premises include 8,215 square feet of office space on the second level of the Jetport's terminal building and 15 parking spaces in the short term section of the parking garage.
- Rate: The rate is \$38.70 per square foot annually. This equates to a total annual payment of \$317,920.50. This rate is comparable to the airport terminal rate currently being paid by the airlines under the Jetport's airline signatory lease agreement previously approved by the City Council.

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

All leases issued by the City of Portland that do not contain a termination for convenience clause must have City Council approval. The GSA requested a 22 month extension, and would not accept an extension containing a termination for convenience clause.

III. INTENDED RESULT

This will allow the TSA to continue to operate their administrative offices at the Portland International Jetport. This space currently has no other immediate use, and its highest and best use for the 22 month term of the lease is to continue in its current function as TSA administrative offices and TSA agent support space.

IV. COUNCIL GOAL ADDRESSED

The Portland International Jetport provides a robust connection for the region to the national air transportation system and in doing so plays an important role in supporting the City Council's economic development goals. Approval of this lease extension allows the Jetport to provide the administrative space required by the TSA to perform its security functions at the Jetport.

V. FINANCIAL IMPACT

If accepted by the City Council this lease will generate \$317,920.50 in revenue to the Jetport over its one year term.

VI. STAFF ANALYSIS AND RECOMMENDATION

Since this is the highest and best use of this space and it is being leased at a comparable rate to the Jetport's airline leases, I recommend the City Council's approval of this item.

VIII. LIST ATTACHMENTS

General Services Administration's proposed Lease Amendment 6 to its current lease with the City of Portland for space at the Portland International Jetport.



Signature

December 6, 2017

Date

GENERAL SERVICES ADMINISTRATION PUBLIC BUILDINGS SERVICE	LEASE AMENDMENT 6
LEASE AMENDMENT	TO LEASE NO. GS-01P-LME04821
ADDRESS OF PREMISES City of Portland/Portland International Jetport 1001 Westbrook Street Portland, ME 04102	Building Number: ME4235

THIS AGREEMENT, made and entered into this date by and between **City of Portland/Portland International Jetport** whose address is: **1001 Westbrook Street**
Portland, ME 04102

hereinafter called the Lessor, and the **UNITED STATES OF AMERICA**, hereinafter called the Government:

WHEREAS, the parties hereto desire to amend the above Lease. .

NOW THEREFORE, these parties for the considerations hereinafter mentioned covenant and agree that the said Lease is amended, effective as follows:

1. Term: To extend the lease term by striking date of "December 31, 2017" contained on page 1 of the Lease Amendment No. 5 and substituting the date "October 31, 2019."
2. Rent: No Change in Rent.

All other terms and conditions of the lease shall remain in force and effect.

IN WITNESS WHEREOF, the parties subscribed their names as of the below date.

FOR THE LESSOR:

FOR THE GOVERNMENT:

Signature: _____
Name: _____
Title: _____
Entity Name: _____
Date: _____

Signature: _____
Name: George Welch
Title: Lease Contracting Officer
GSA, Public Buildings Service, _____
Date: _____

WITNESSED FOR THE LESSOR BY:

Signature: _____
Name: _____
Title: _____
Date: _____



Jeff Levine, AICP
Director, Planning & Urban Development Department

Memorandum

To: Mayor Strimling and Members of the City Council
From: Jeff Levine, Director
Date: 12/14/17
Re: Proposed Work Plan and Samples of Interim Planning Districts

At your workshop, you asked a few related questions about our proposed work plan over the next six months should the moratorium be approved. You also asked for examples of other Interim Planning Districts and Interim Planning Overlay Districts to give a sense of how that process might work.

Staff supports the moratorium and believes it is necessary to prevent additional demolitions until new land use controls are in place. Staff further feels the moratorium would be helpful as we complete our work on new land use regulations based on our R-6 audit. It would give us an important pause in the day-to-day review of new buildings on Munjoy Hill and allow us to devote that time instead to completing the R-6 audit and recommendations for interim and final zoning language.

Proposed Work Plan

Attached to this memo is an overview of the work plan should the moratorium be approved. In December and January, staff would draft an interim set of regulations to govern development in the area of the moratorium. These regulations would follow the model of an Interim Planning Overlay District (IPOD), a planning tool used in communities around the country in similar situations.

An IPOD is a temporary set of zoning rules that are put into place when there is a concern that the current zoning may not be adequate to address identified threats to public health, safety or welfare, but where final language has not yet been developed. IPOD's can be used instead of, or in conjunction with, a moratorium. Most often, an IPOD reflects the best guess as to what the final solutions may be and puts them in place to ensure that developments in the meantime better address issues that were identified. Sometimes IPOD's are more conservative than the final zoning approved, and sometimes it's more complicated than that.

Information about IPOD's, from a variety of communities are attached:

- Pittsburgh, PA
- Brookline, MA

- San Francisco, CA

IPOD's are used in communities wrestling with growth and change and trying to find the right balance between allowing development to continue and enhancing the best qualities of their neighborhoods.

The proposed IPOD would need to be put into place fairly quickly to be effective. Staff proposes a Planning Board hearing in January with a Council action shortly thereafter.

We have been working since the summer on an audit of the R-6 zoning district overall. That audit has identified some ways in which the R-6 language might be adjusted to address community character issues, some of which may have been caused by the 2015 amendments, and some of which predate those amendments. That audit work would be completed once the IPOD is in place and its findings presented. Some of the findings would be specific to Munjoy Hill – such as why there are so many demolitions and whether tools exist to address that issue, if appropriate- and some would be zone-wide.

Staff would work with stakeholders to look at a variety of options for final land use tools. Stakeholders involved would include:

- Neighborhood residents;
- The Munjoy Hill Neighborhood Organization;
- Residents and neighborhood organizations from other neighborhoods with R-6 zoning;
- Developers;
- Landowners;
- Housing advocates;
- Greater Portland Landmarks;
- Portland Society for Architecture;
- Other groups and individuals identified during the process

In early- to mid-April, staff would recommend land use controls for Munjoy Hill and the rest of the R-6 zone that address issues identified during our R-6 audit. Those changes would then be presented to the Planning Board and other relevant Boards and Commissions for recommendations to the City Council. The goal would be for final changes to be in place prior to the expiration of any moratorium.

TIMELINE & WORK PLAN

DEC 17

JAN 18

JUN 18

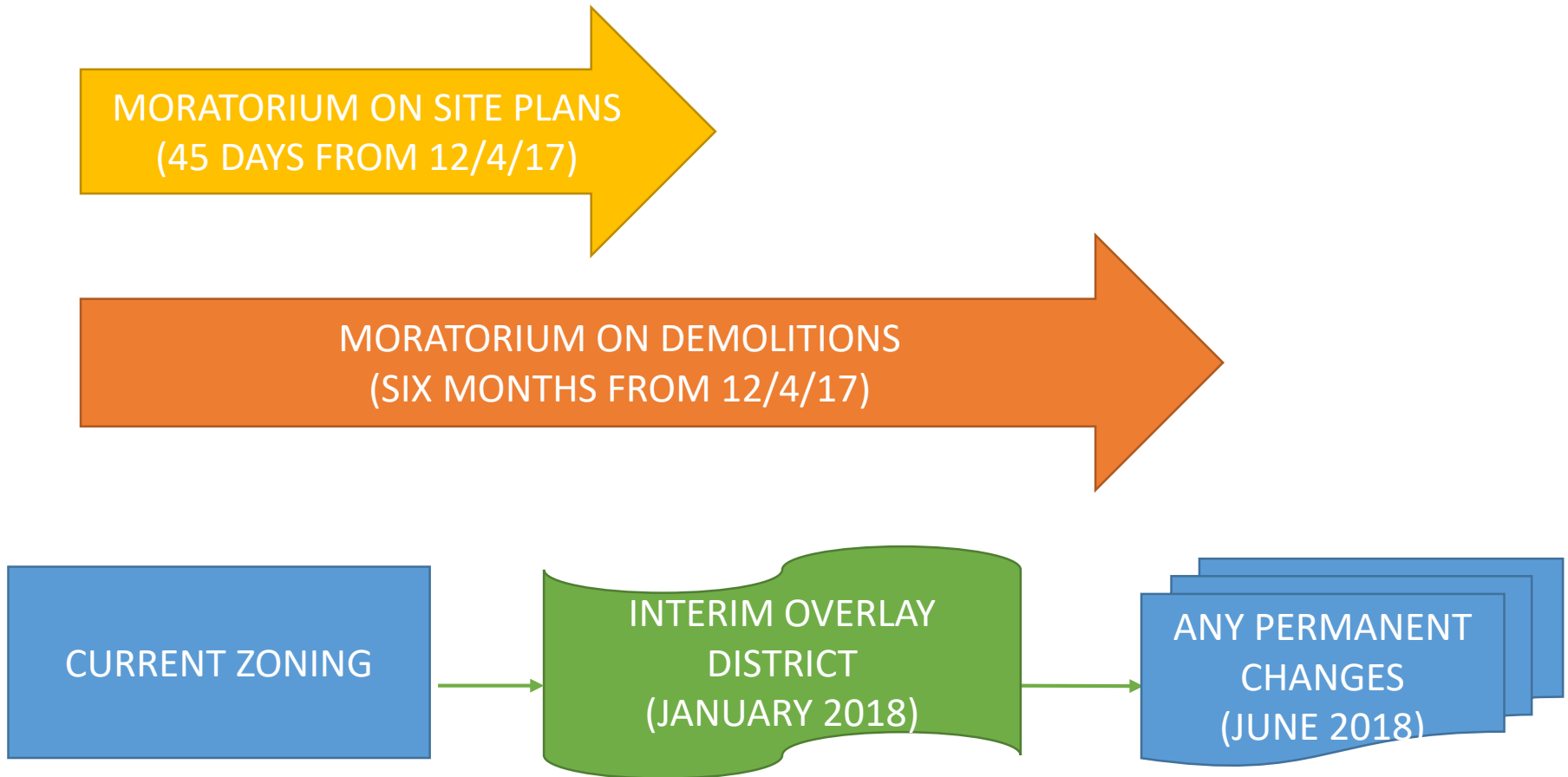
MORATORIUM ON SITE PLANS
(45 DAYS FROM 12/4/17)

MORATORIUM ON DEMOLITIONS
(SIX MONTHS FROM 12/4/17)

CURRENT ZONING

INTERIM OVERLAY
DISTRICT
(JANUARY 2018)

ANY PERMANENT
CHANGES
(JUNE 2018)



3.03.6.1 *Coolidge Corner Interim Planning Overlay District*

- a. The Coolidge Corner Interim Planning Overlay District (CCIPOD) consists of the parcels outlined in the map titled “Coolidge Corner Interim Planning Overlay District- November 2005” prepared by the Town of Brookline, bearing the signatures of the members of the Planning Board and on file in the office of the Town Clerk.
- b. The area covered by the CCIPOD consists of M-2.5, M-2.0, M-1.5, M-1.0 and G-1.75 (CC) districts in the vicinity of the intersection of Beacon Street and Harvard Street. This area has a commercial core with dense residential neighborhoods surrounding it. Residential density in the area is very high- over 15 persons per acre. Most of the area is developed, although some open spaces remain on the periphery. Buildings in the area were generally constructed in the early to mid-1900’s, although some older buildings remain. This is an area of Brookline where significant development pressures- particularly for denser residential developments- are resulting in pressure to tear down existing structures and replace them with larger ones.
- c. The CCIPOD is being created to provide the Town with a window of opportunity to create a Coolidge Corner District Plan that will provide strategies for neighborhood conservation while maintaining and enhancing the commercial core of the area. The existing zoning districts permit a level of residential development in the area that threatens the character and quality of existing neighborhoods and the commercial core.
- d. The Brookline Comprehensive Plan calls for the creation of a Coolidge Corner District Plan, and that a CCIPOD should be created during the development of the District Plan. According to the Comprehensive Plan, “[t]he interim zoning regulations ... established during the study period will ensure that an area is not subjected to inappropriate development proposals. After the ... District Plan is complete, the interim zoning might be replaced with new, permanent zoning consistent with the findings of the planning study.” (*Brookline Comprehensive Plan*, p. 34)
- e. The Coolidge Corner District Plan will be a one year planning process directed by the Department of Planning and Community Development and guided by a District Planning Council of residents, businesspersons, and other interested parties. According to the Comprehensive Plan, “[d]istrict Plans would conduct buildout analyses and alternative development scenarios for each district, and then develop a vision for a preferred future of the district. The District Plans would then develop strategies for these areas in a variety of subject areas, including regulatory tools, development preferences, transportation issues, and open space priorities.” (*Brookline Comprehensive Plan*, p. 34) A full scope for the district planning process is available from the Department of Planning & Community Development.
- f. The CCIPOD will be effective until April 30, 2007. While some zoning changes have been submitted to the Fall 2006 Town Meeting, as anticipated, the Coolidge Corner District Planning Council believes that an additional six months are required to complete the zoning work as part of its charge. The District Planning Council shall, prior to the completion of its work, hold a

public hearing, and the Department of Planning and Community Development shall present a report to the Board of Selectmen by no later than March 15, 2007. For parcels within the CCIPOD, the following sections of the Zoning By-Law will be replaced or amended:

- Replacing Principal Use 6 (multiple or attached dwelling units over 2 units) of Section 4 with the table in h. below;
- Adding additional criteria outlined in h. below to those in Section 9.05, regarding conditions for approval of special permits.

h.

1. Multiple or Attached Dwelling Units: For parcels within the CCIPOD, Principal Use 6 in Section 4 shall be governed by the following use table:

Property within the Coolidge Corner Interim Planning Overlay District	
6. Multiple or attached dwelling other than the preceding item divided into dwelling units each occupied by not more than one family but not including lodging house, hotel, dormitory, fraternity or sorority. * Compliance with §4.08 required if containing 6 or more dwelling units. In L and G districts, the ground floor of a building must have no more than 40% of its frontage along a street devoted to residential use, including associated parking or lobby use. A development of three to five units may be permitted by special permit as provided in Section 9.05 and Section 3.03.6.1.h.2	No*

2. Special Permits in the CCIPOD: For parcels within the CCIPOD, any applicant for a special permit shall be required to obtain an additional finding that they meet CCIPOD Interim Guidelines. These Interim Guidelines shall be adopted by the Planning Board pursuant to Section 5.09.4.n. after holding a public hearing, and shall be adopted within 60 days of the approval of this CCIPOD by Town Meeting. All special permit and variance applications must meet these conditions in addition to any conditions outlined in Section 9.05 or elsewhere in the

Zoning By-Law. These Interim Guidelines shall include, but need not be limited to, the following general items:

- Relationship of proposed developments to the existing neighborhood
 - Relationship of proposed developments to the street edge
 - Materials, massing and scale of proposed developments
3. Underlying Zoning: In all other ways the underlying zoning districts shall continue to apply to parcels within the CCIPOD. In cases of conflicts between this Section 3.03.6.1. and the remainder of the Zoning By-Law, this Section 3.03.6.1. shall govern.
4. Applicability/Exemptions: The terms and conditions of the CCIPOD shall not apply to any proposed development within the area covered by the CCIPOD if the development review process - including the filing of an application for a special permit; variance or beginning the major impact project review process under Section 5.09.3.b. - began prior to September 15, 2005, the date when the Planning Board advertised the notice of hearing on the proposed CCIPOD.



Listen Live · WESA

LOADING...



Community Members Show Support for Proposed Uptown Eco-Innovation District

By [LIZ REID \(/PEOPLE/LIZ-REID\)](#) • MAY 12, 2015

[Tweet \(http://twitter.com/intent/tweet?url=http%3A%2F%2Fwww.tinyurl.com%2Fpm5ct4d&text=Community%20Members%20Show%20Support%20for%20Proposed%20Uptown%20Eco-Innovation%20District\)](http://twitter.com/intent/tweet?url=http%3A%2F%2Fwww.tinyurl.com%2Fpm5ct4d&text=Community%20Members%20Show%20Support%20for%20Proposed%20Uptown%20Eco-Innovation%20District)
[Share \(http://facebook.com/sl...t=Community%20Members%20Innovation%20District\)](http://facebook.com/sl...t=Community%20Members%20Innovation%20District)



(http://mediad.publicbroadcasting.net/p/wesa/files/styles/x_large/public/201505/8017276206_a84345d34d_z.jpg)

The city of Pittsburgh expects a wave of development as plans for a bus rapid transit line through Uptown move forward.

CREDIT FLICKR USER JON CASSIE

Real estate agent Helen Perilloux has lived in Pittsburgh's Uptown neighborhood for nine years, and says off the top of her head, she can think of about 30 buildings that have been demolished in that time.

Only one has been replaced with a new structure, she told Pittsburgh City Council President Bruce Kraus and members of the City Planning Department at a public hearing Tuesday.

"I get calls every week from people looking to move to Uptown, but we do have a dwindling housing supply," Perilloux said. "As you know, most of these demolitions have occurred without a plan for redevelopment, so we're stuck with a

lot of vacant lots right now."

Tuesday's public hearing concerned a proposed Interim Planning Overlay District, or IPOD, for Uptown. The designation would put tighter controls on any building and demolition in the area, ahead of a wave of development expected to occur when the Port Authority of Allegheny County runs a bus rapid transit line through Uptown from Oakland to downtown.

Justin Miller, senior planner with the city of Pittsburgh, said construction projects would also face increased public scrutiny during the 18-month IPOD period.

The goal is to put the brakes on the trend of building demolition and the establishment of surface parking lots while the city figures out how best to manage the proposed "eco-innovation" district slated for Uptown (<http://wesa.fm/post/uptown-become-urban-laboratory-sustainable-development>).

The plans are a key part of the city's P4 Initiative (<http://wesa.fm/post/p4-initiative-pittsburgh-looks-future-development>), which prioritizes performance, place, planet and people in development projects. City Planning Director Ray Gastil told City Council in April that they want to take a district-wide approach to issues such as stormwater management, energy, and transportation.

About half a dozen Uptown residents spoke at Tuesday's hearing, and all were supportive of the city's plans. Some residents had even taken it upon themselves to begin rehabilitating the hillsides.

"We are working with the watershed and the natural eco-system up there, how the hillside is setup, we are actually reinforcing the infrastructure for soil retention, to retain the hillside so it doesn't come down," said horticulturalist Dennis Raspanti.

Resident Don Johnson said Uptown community members are advocating for specific initiatives that would fit within the city's eco-innovation theme.

"We've come up with a very lengthy list of sustainability-minded projects, involving urban farms, community gardens, food forests, and we also have plans to control the water flow and set up irrigation systems and establish animal habitats," Johnson said.

James Noschese spoke on behalf of the Pittsburgh Association for the Deaf, which is located on Forbes Avenue, and said he wanted to make sure that plenty of parking spaces remained nearby for the organization's 320 members.

Pittsburgh City Council is slated to discuss the IPOD proposal at their committee meeting next Wednesday.

TAGS: [UPTOWN \(/TERM/UPTOWN\)](#) [DEVELOPMENT \(/TERM/DEVELOPMENT\)](#)

[SUSTAINABILITY \(/TERM/SUSTAINABILITY\)](#) [BUILDING INNOVATION \(/TERM/BUILDING-INNOVATION\)](#)

 [Tweet \(http://twitter.com/intent/tweet?url=http%3A%2F%2Fwww.tinyurl.com%2Fpm5ct4d&text=Community%20Members%20Show%20Support%20for%20Proposed%20Uptown%20Eco-Innovation%20District\)](http://twitter.com/intent/tweet?url=http%3A%2F%2Fwww.tinyurl.com%2Fpm5ct4d&text=Community%20Members%20Show%20Support%20for%20Proposed%20Uptown%20Eco-Innovation%20District)

 [Share \(http://facebook.com/s...t=Community%20Members%20Show%20Support%20for%20Proposed%20Uptown%20Eco-Innovation%20District\)](http://facebook.com/s...t=Community%20Members%20Show%20Support%20for%20Proposed%20Uptown%20Eco-Innovation%20District)

RELATED CONTENT

[Public Hearing Held on Prospective Bus Rapid Transit Corridor Connecting Downtown to Oakland](/post/public-hearing-held-prospective-bus-rapid-transit-corridor-connecting-downtown-oakland) [\(/po](#)
[\(/post/public-hearing-held-prospective-bus-rapid-transit-corridor-connecting-downtown-oakland\)](/post/public-hearing-held-prospective-bus-rapid-transit-corridor-connecting-downtown-oakland)
MAY 5, 2015

[Uptown to Become 'Urban Laboratory for Sustainable](/post/uptown-become-urban-laboratory-for-sustainable-development)
[Development \(/post/uptown-become-urban-laboratory-](/post/uptown-become-urban-laboratory-sustainable-development)
[sustainable-development\)](/post/uptown-become-urban-laboratory-sustainable-development)

APR 1, 2015



[\(/post/p4-initiative-pittsburgh-looks-future-development\)](/post/p4-initiative-pittsburgh-looks-future-development)

[With 'P4' Initiative, Pittsburgh Looks To Future Development](/post/p4-initiative-pittsburgh-looks-future-development)
[\(/post/p4-initiative-pittsburgh-looks-future-development\)](/post/p4-initiative-pittsburgh-looks-future-development)

MAR 31, 2015

(<https://www.facebook.com/905wesa/>)

(<https://twitter.com/905wesa>)



(<https://www.instagram.com/905wesa>)

About Us (<http://wesa.fm/about-us>)

Staff (<http://wesa.fm/people/capacity/staff>)

Contact Us (<http://wesa.fm/contact-us>)

Employment (<http://wesa.fm/topic/905-wesa-employment-opportunities>)

Community Calendar (<http://wesa.fm/community-calendar#stream/0>)

Archives (<http://wesa.fm/archives#stream/0>)

Help with Streaming (<http://wesa.fm/post/having-problems-our-stream>)

90.5 WESA Privacy & Terms of Use (<http://wesa.fm/privacy-terms-use>)

eNewsletter Signup (<http://bit.ly/1OVfj8l>)

© 2017 90.5 WESA



SAN FRANCISCO PLANNING DEPARTMENT

New Planning Code Summary

Interim Controls: Large Residential Projects in RH-1, RH-2, and RH-3 Zoning Districts

Amended Sections:	134 and 136
Case Number:	Board File No. 150192 & 160989 Enactment Nos: 076-15 and 461-16
Legislative Sponsor:	Supervisors Wiener
Effective Date:	March 20, 2015
Expiration Date	March 20, 2017

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

These Interim Controls apply only to parcels zoned RH-1, RH-2, or RH-3, and located within the area bound by Market Street, Clayton Street, Ashbury Street, Clifford Terrace, Roosevelt Way, Museum Way, the eastern property line of parcel 2620/063, the eastern property line of parcel 2619/001A, and Douglass Street. These interim controls apply to all applications for residential development in the area covered by the controls where a final site or building permit has not been issued as of the effective date of the Interim Controls.

The Way It Was:

1. Properties located within the area affected by the Interim Controls zoned RH-1 were permitted to cover up to 75% of the lot without seeking a Variance or Conditional Use authorization.
2. Properties zoned RH-2 and RH-3 within the area affected by the Interim Controls were permitted to cover more than 55% of lot based on averaging the depths of the adjacent buildings without seeking a Variance or Conditional Use authorization.
3. For all properties located within the area affected by the Interim Controls, encroachments into the required rear yard were permitted if the applicant obtained a Rear Yard Variance.
4. For properties located within the area affected by the Interim Controls, there were no requirements for Conditional Use Authorization based on the size of a proposed addition.

The Way It Is Now:

Parcels zoned RH-1, RH-2 and RH-3 located within the within the area affected by the Interim Controls are subject to the following requirements for the next 18 months:

1. Conditional Use authorization is required for any residential development, either as an addition to an existing building or as a new building that results in greater than 55% lot coverage. Lot coverage is interpreted to mean how much of the lot a building covers, and not how far the building extends into the lot.
2. Conditional Use authorization is required for any residential development that will result in total residential square footage exceeding 3,000 gross square feet on a parcel if the residential development will occur on a vacant parcel;
3. Conditional Use authorization is required for any residential development that will increase the total existing gross square footage on a developed parcel in excess of 3,000 square feet and by (a) more than 75% without increasing the existing legal unit count or (b) more than 100% if increasing the existing legal unit count; and

The Interim Controls outline the following findings for Conditional Use authorization:

1. Planning Commission shall only grant a Conditional Use authorization allowing residential development to result in greater than 55% lot coverage upon finding unique or exceptional lot constraints that would make development on the lot infeasible without exceeding 55% total lot coverage, or, in the case of the addition of a residential unit, that such addition would be infeasible without exceeding 55% total lot coverage.
2. The Planning Commission, in considering a Conditional Use authorization in a situation where an additional new residential unit is proposed on a through lot on which there is already an existing building on the opposite street frontage, shall only grant such authorization upon finding that it would be infeasible to add a unit to the already developed street frontage of the lot.

The link to signed legislation:

<https://sfgov.legistar.com/LegislationDetail.aspx?ID=2230063&GUID=528EB9C9-7D8B-4998-86AC-3917F888023F&Options=ID|Text|&Search=150192>



Memorandum

Planning and Urban Development Department

Planning Division

To: Mayor Strimling and Members of the City Council
From: Christine Grimando, Senior Planner
Date: December 15, 2017
Re: R-6 Munjoy Hill Moratorium
Meeting Date: December 18, 2017

At the December 11, 2017 City Council Workshop a request was made for additional data regarding total buildings in the R-6 zone and total demolitions, as well as an update on any applications in-process that would be impacted by the proposed R-6 moratorium. Below are total buildings, demolitions since mid-2015, and percentage of demolitions for all of the R-6 and for Munjoy Hill specifically. Data on city buildings is taken from a map file that is not updated on a regular basis, and so the totals listed below are inexact totals. The total number of buildings standing in the R-6 zone today may vary slightly, but the data effectively gives an order of magnitude of the changes being experienced.

	Totals	Demolitions	Percentage of Total
Buildings in the R6 All	3,215	17	0.53%
Buildings in the R6 Munjoy Hill Only	1,149	13	1.13%

Total demolitions have altered since the December 6th Planning Board communication that was forwarded to the City Council for their most recent workshop. The most recent list, with addresses, is included below, and shows 13 demolitions on Munjoy Hill, and four demolitions elsewhere in the zone.

Address	Location
107 Monument Street	Munjoy Hill
16 Morning Street	Munjoy Hill
30 Merrill Street	Munjoy Hill
31 Fore Street	Munjoy Hill
34 Howard Street	Munjoy Hill
40 Quebec Street	Munjoy Hill
44 Quebec Street	Munjoy Hill
5 Cumberland Avenue	Munjoy Hill
5 Merrill Street	Munjoy Hill
67 Merrill Street	Munjoy Hill
9 Merrill Street	Munjoy Hill
9 Moody Street	Munjoy Hill
95 Cumberland Avenue	Munjoy Hill
161 York Street	Not Munjoy Hill
22 Tate Street	Not Munjoy Hill
70 Anderson Street	Not Munjoy Hill
17/19 Dow Street	Not Munjoy Hill

The list of demolitions only includes demolition permits issued since April 2015 through December 15, 2017 in the R-6 zone. Not included in the list are demolition permits issued prior to this period, demolition permits issued in other zones, properties for sale that could potentially be demolitions, or speculation on building permits that might be applied for in the future.

Open projects that were submitted prior to the moratorium effective date include:

1. **25 Monument Street.** An application has been submitted for a 5-unit building to replace an existing 3-unit building. A demolition permit for the existing building has been applied for. As the application includes elimination of three housing units, it is subject to the City's Housing Replacement requirements; funds will be held in escrow until the new building is complete. The application requires Planning Board review.

Under the proposed moratorium, this project could be reviewed after 45 days under interim review standards. The demolition portion of the project would be subject to a six-month delay.

2. **24 St. Lawrence Street.** An application has been submitted for a 5-unit building to replace an existing 2-unit building. The project includes demolition of the existing building. The application requires Planning Board review.

Under the proposed moratorium, this project could be reviewed after 45 days under interim review standards. The demolition portion of the project would be subject to a six-month delay.

3. **9 Moody Street.** An application has been submitted for a 2-unit building to replace an existing 2-unit building. The building has been demolished. The application requires Planning staff review.

Under the proposed moratorium, this project could be reviewed after 45 days under interim review standards.

4. **40 O'Brien Street.** An application has been submitted for a 2-unit project. No demolition required. The application requires Planning staff review.

Under the proposed moratorium, this project could be reviewed after 45 days under interim review standards.

Both the 45-day and the six-month timeline are as of the effective moratorium date of December 4th.

In addition to any interim provisions implemented for new projects in the 45-day window, all of the above, whether reviewed by Planning staff or the Planning Board, are subject to the standards of the City's Land Use Code, and subject to the R-6 design guidelines, which can be found in Appendix 7 here:

<http://www.portlandmaine.gov/DocumentCenter/View/3415>.

**MEMORANDUM**

TO: Mayor Strimling and Members of the Council

FROM: Deb Andrews, Historic Preservation Program Manager

DATE: December 14, 2017

SUBJECT: **Demolition Review in Portland's Historic Districts**

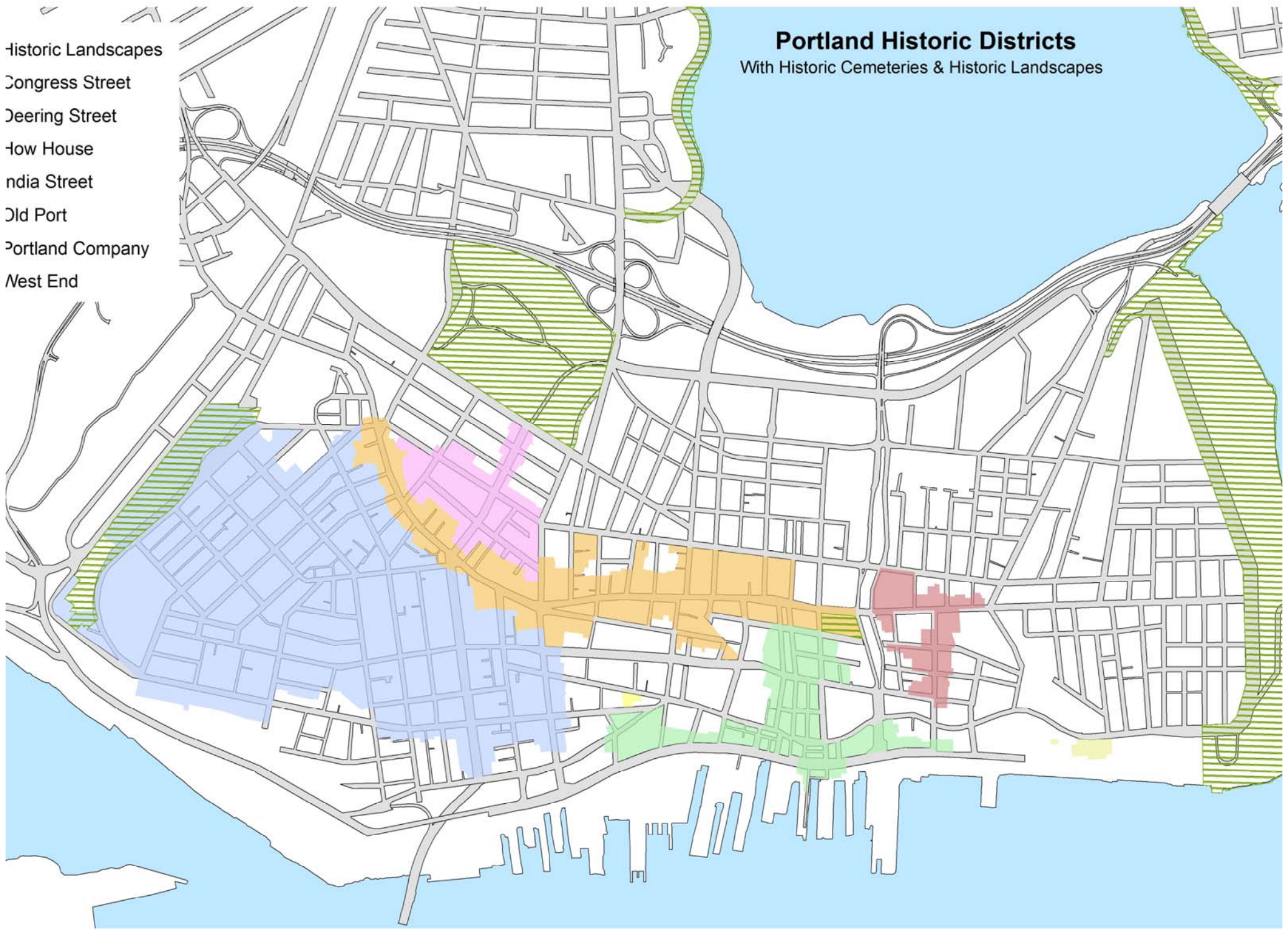
At the Council's December 11 workshop on the proposed demolition moratorium for Munjoy Hill, a question was asked about how demolition proposals are reviewed for properties within Portland's local historic districts. (A map of peninsula historic districts is attached.)

Portland's historic preservation ordinance requires that every building within a proposed historic district be assigned a classification at the time of district designation. Each building is identified as a "landmark", "contributing structure" within the district or "non-contributing structure". The classification is based on research about the building's historic, architectural and/or cultural significance as well as an assessment of its level of integrity at the time of district designation. Integrity, as defined in the ordinance, means "integrity of location, design, condition, materials and workmanship to make it worthy of preservation or restoration."

This process of assigning a classification at the time of district designation is intended to provide current and future property owners as well as city staff and Board members clarity as to a building's relative "preservation value" when considering proposals for alterations or demolition. Under the provisions of the historic preservation ordinance, noncontributing structures may be demolished as-of-right and without further consideration. (Any new construction on the site will be subject to review under the HP ordinance's new construction standards. Demolition of a landmark or contributing structure within a district is not allowed unless: 1) an amendment or rescission of designation is sought and approved by the HP Board, Planning Board and Council following the same process and criteria set forth for designation; 2) the City determines that the building's condition represents an immediate hazard to public health or safety; or 3) the applicant applies for and receives a certificate of economic hardship from the board of appeals. The ordinance identifies the information that must be supplied by the applicant and the factors that will be considered by the board of appeals in making its determination. The board of appeals "shall approve a request for a certificate of economic hardship only upon a determination that the denial of approval of the proposed demolition will result in the *loss of all reasonable use* of the structure" as defined in the ordinance. The historic preservation ordinance also provides for an incentive plan to allow a reasonable use without the demolition of all or part of the structure.

Historic Landscapes
Congress Street
Deering Street
How House
India Street
Old Port
Portland Company
West End

Portland Historic Districts
With Historic Cemeteries & Historic Landscapes



**MEMORANDUM**

TO: Mayor Strimling and Members of the Council

FROM: Deb Andrews, Historic Preservation Program Manager

DATE: December 14, 2017

SUBJECT: **Fire Department Training in Buildings Proposed for Demolition**

At the Council's December 10 workshop, it was noted that the Fire Department sometimes conducts training sessions in buildings approved for demolition. A question was asked about the potential impact of the proposed moratorium on this practice. Captain Keith Gatreau, Chief of Fire Prevention, plans to attend the Council's hearing to describe the department's current practices and speak to any potential impacts.

Briefly, staff understands that proposed demolitions come to the attention of the Fire Department as part of the demolition application process. Any applicant proposing to demolish a building in the city is required to make a series of calls to identified city departments or agencies (e.g. DigSafe) to inform them of the proposed demolition and, where appropriate, seek approval. The Fire Department is one of departments contacted by applicants. When training sessions are being planned, the fire department contacts the applicant to arrange for use of the building for training purposes prior to its demolition.