

# CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH  
DATE: MONDAY, MARCH 17, 2014 TIME: 7:00 PM

## AGENDA

- 5:45PM – ANTICIPATED “NON-MEETING” WITH COUNSEL REGARDING LITIGATION – RSA 91-A:2 I (c)

- I. CALL TO ORDER [7:00PM or thereafter]
- II. ROLL CALL
- III. INVOCATION
- IV. PLEDGE OF ALLEGIANCE

### PRESENTATION

1. Proposed Interim Space for Senior Programming – Recreation Director Rus Wilson and Senior Services Coordinator Brinn Chute (***Sample motion – move that The Subcommittee request the City Manager be authorized to enter into negotiations with Mark Wentworth Home and/or the Foundation for Seacoast Health for an interim senior programming space at the Community Campus location***)

- V. ACCEPTANCE OF MINUTES – JANUARY 6, 2014

- VI. PUBLIC COMMENT SESSION

- VII. PUBLIC HEARINGS

- A. ORDINANCE AMENDING CHAPTER 10 – ZONING ORDINANCE, SECTION 10.535 – EXCEPTIONS TO DIMENSIONAL STANDARDS IN THE CENTRAL BUSINESS DISTRICT, WHICH WOULD ELIMINATE A CONDITIONAL USE PERMIT UNDER SECTION 10.535.13
- B. ORDINANCE AMENDING CHAPTER 10 – ZONING ORDINANCE, INSERTING A NEW ARTICLE 5A – CHARACTER DISTRICTS (AKA FORM-BASED ZONING) AND FURTHER TO ADOPT THE ZONING MAP FOR THE CHARACTER DISTRICTS FOR THE MAPS REFERENCE IN SECTION 10.5A14.10 OF ARTICLE 5A
- C. ORDINANCE AMENDING CHAPTER 10 – ZONING ORDINANCE, MISCELLANEOUS CONFORMING AMENDMENTS TO IMPLEMENT CHARACTER-BASED ZONING

- VIII. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. Second Reading of Proposed Ordinance amending Chapter 10 – Zoning Ordinance, Section 10.535 – Exceptions to Dimensional Standards in the Central Business District, which would eliminate a Conditional Use Permit under Section 10.535.13

- B. Second Reading of Proposed Amendments to Chapter 10 – Zoning Ordinance, Inserting a New Article 5A – Character Districts (aka Form-Based Zoning) and further to Adopt the Zoning Map for the Character Districts for the Maps reference in Section 10.5A14.10 of Article 5A
- C. Second Reading of Proposed Amendments to Chapter 10 – Zoning Ordinance, Miscellaneous Conforming Amendments to Implement Character-Based Zoning

**IX. CONSENT AGENDA**

***A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA***

- A. Request for Approval of Pole License to install 1 pole and 40’ of underground conduit on Livermore Street for an electrical service to 32 Livermore Street ***(Anticipated action – move to approve the aforementioned Pole License Agreement as recommended by the Public Works Department with the approval conditioned upon amendment of the license to allow for the collection of any lawfully assessed real estate taxes)***
- B. Letter from Robert L. Sutherland, Jr., St. John’s Lodge requesting permission to hold the 5k “Out of Hibernation” Road Race on Saturday, April 12, 2014 at 8:00 a.m. ***(Anticipated action – move to refer to the City Manager with power)***
- C. Letter from Robert L. Sutherland, Jr., St. John’s Lodge requesting permission to hold a march for the observance of St. John’s Sunday, June 22, 2014 at 9:00 a.m. ***(Anticipated action – move to refer to the City Manager with power)***
- D. 2014 Omnibus Sidewalk Obstruction Renewals – See Attached Listings ***(Anticipated action – move to refer to the City Manager with power)***
- E. Letter from Matthew Raffio, Arthritis Foundation requesting permission to hold the Annual Jingle Bell Run on Saturday, December 13, 2014 at 10:00 a.m. ***(Anticipated action – move to refer to the City Manager with power)***

**X. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS**

- A. Letter from Chris Thompson, HarborCorp, LLC regarding Second Reading of Ordinance to Eliminate Conditional Use Permit

**XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS**

**A. CITY MANAGER**

**Items Which Require Action Under Other Sections of the Agenda:**

- 1. Public Hearing/Second Reading of Proposed Resolution and Ordinances:

- 1.1. Public Hearing/Second Reading of Proposed Ordinance amending Chapter 10 – Zoning Ordinance, Section 10.535 – Exceptions to Dimensional Standards in the Central Business District, which would eliminate a Conditional Use Permit under Section 10.535.13 (**Action on this item should take place under Section VIII of the agenda**)
- 1.2. Public Hearing/Second Reading of Proposed Amendments to Chapter 10 – Zoning Ordinance, Inserting a New Article 5A – Character Districts (aka Form-Based Zoning) and further to Adopt the Zoning Map for the Character Districts for the Maps reference in Section 10.5A14.10 of Article 5A (**Action on this item should take place under Section VIII of the agenda**)
- 1.3. Public Hearing/Second Reading of Proposed Amendments to Chapter 10 – Zoning Ordinance, Miscellaneous Conforming Amendments to Implement Character Based Zoning (**Action on this item should take place under Section VIII of the agenda**)

**City Manager's Items Which Require Action:**

1. Proposed Release of Funds for African Burying Ground
2. Proposed Borrowing Re: New Franklin School Energy Project
3. Establish a Date and Time for Pan Am Railways to make a Presentation to the City Council
4. Request for Approval on Teacher's/Administrator's Retirement Incentive
5. Proposed Easement Re: Hill Street
6. Request for Encumbrance License Re: 10 State Street

**Informational Items**

1. Events Listing
2. Public Input Session Re: Water/Sewer Rate Study
3. Information Memorandum from City Attorney Robert Sullivan Re: Portwalk

**B. MAYOR LISTER**

1. Appointments to be Considered:
  - Judith Bunnell appointed to the Citizens Advisory Committee
  - Steve Miller reappointment to the Conservation Commission
  - Elissa Hill Stone reappointment to the Conservation Commission
  - Allison Tanner reappointment to the Conservation Commission
  - Amy Schwartz reappointment to the Portsmouth Housing Authority
  - Stephen Philp reappointment to the Peirce Island Committee
  - John Simon reappointment to the Peirce Island Committee

- Jackie Cali-Pitts reappointment to the Recreation Board
  - Jason Boucher appointment to the Recreation Board
  - Kathryn Lynch appointment to the Recreation Board
2. Appointments to be Voted:
- R. Bruce Boley appointment to the Library Board of Trustees (*considered at February 18, 2014 Council meeting*)
  - Jack Jamison appointment to the Library Board of Trustees (*considered at February 18, 2014 Council meeting*)

**C. ASSISTANT MAYOR SPLAINE**

1. \*Sea-3 Propane Proposal Update
2. Creating A Fee Penalty Guideline for Violations of Land Use Board Approvals
3. Status of Abandoned or Derelict Buildings

**D. COUNCILOR MORGAN**

1. \*Master Plan – Update of our Master Plan’s Implementation Plan section, in anticipation of the 2015 Master Plan Review (***Sample motion – move to request the City Manager to coordinate with staff the update of the Implementation Plan in our current Master Plan, to be made available to the public and City Council by end of May 2014***)
2. \*Portwalk – Request for Work Session to review:
  - a) enforcement
  - b) penalties
  - c) process and path forward: how we got here and what is the plan/process to prevent this from happening again
3. \*Civility by City Officials

**E. COUNCILOR THORSEN**

1. Legal Analysis regarding Financial Disclosures received from NHMA and suggested amendment language to Administrative Code

**XII. MISCELLANEOUS/UNFINISHED BUSINESS**

**XIII. ADJOURNMENT [AT 10:00PM OR EARLIER]**

**KELLI L. BARNABY, CMC/CNHMC  
CITY CLERK**

*\*Indicates Verbal Report*



## **INFORMATIONAL ITEMS**

1. Notification that the Board of Adjustment Minutes of the November 20, 2012, February 19, 2013 and March 26, 2013 meetings are available on the City's website for your review
2. Notification that the Historic District Commission Minutes of the July 10, 2013, July 17, 2013 and August 14, 2013 meeting are available on the City's website for your review

*NOTICE TO THE PUBLIC WHO ARE HEARING IMPAIRED: Please contact Dianna Fogarty at 603-610-7270 one-week prior to the meeting for assistance.*

## PROPOSAL FOR INTERIM SENIOR PROGRAMMING SPACE

### TERMS:

Proposed agreement would be a sub-lease between the City of Portsmouth and the Mark Wentworth Home (MWH). The Mark Wentworth Home leases the space from the Foundation for Seacoast Health.

- Mark Wentworth Home agrees to continue to pay rent for the adult day program space at Community Campus through the remainder of their lease: \$3,000 per month which includes utilities (except phone and cable).
- The MWH lease is in effect through October 19, 2015 (20 months).
- The proposed sub lease would be signed with the MWH with approval from the Foundation for Seacoast Health (next board meeting is March 18).
- The space is available for immediate occupancy.
- Tenant of Foundation for Seacoast Health

### DESCRIPTION OF SPACE:

Community Campus, 100 Campus Drive, Portsmouth, NH 03801

- 2,400 square feet
- 2 program rooms with a connecting kitchenette and a front lobby room
- 2 offices on site
- Restrooms on site
- Furniture included; tables, chairs, kitchenette appliances, 2 TVs, piano, onsite storage cabinets (not including office furniture, washer/dryer)

### COMMUNITY CAMPUS AMENITY LIST:

Community Campus is managed by the Foundation for Seacoast Health

- Outdoor walking trails
- Tennis Courts
- Outdoor Basketball Court(s)
- Softball Field
- Large multipurpose fields/open green space
- Greenhouse
- Raised flower gardens for tenant use
- Patio
- Intergenerational opportunities with childcare center and New Heights
- Health & wellness connection with Families First
- Green Bean Café (in-house catering & drop in café at Campus)
- Gym, art room, test kitchen, New Heights game room all available for use with permission from Foundation
- Front lobby with fireplace, seating and big windows overlooking patio and playground
- Green Bean Café food service
- Senior Transportation and COAST Bus both go to Community Campus

## SAMPLE PROGRAMMING:

### **PHASE 1: Soft Opening**

Potential Start Date: May 6

3-days per week. Tuesday, Wednesdays & Thursdays 10:00am-2:00pm

#### **Sample Schedule:**

10:00 a.m. -2:00 p.m. The Drop-in-Lounge. Free (Wi-Fi, games, coffee & tea included)

- Tuesdays Scrabble
- Wednesdays Cribbage
- Thursdays Trivia

10:00 a.m. Fitness Class

- Tuesdays 10:00 a.m. Strength and Balance class
- Tuesdays 1:00 p.m. Chair Yoga
- Wednesdays TBD
- Thursday 9:00 a.m. Line Dancing
- Thursday 10:00 a.m. Tap Dancing

12:00 p.m. Enrichment

- Tuesdays Open Art Studio/Classes
- Wednesdays Lunchtime Lectures Series
- Thursdays Sing-a-long/Music

1:00 p.m. Resources

- Tuesdays ServiceLink
- Wednesdays Families First/home health care
- Thursdays Resource agency (VA, canine companion, hearing impaired phone devices)

### **PHASE 2: Grand Opening**

Potential Start Date: July 7

5-days per week. Monday-Friday 9:00am-3:00pm

Offer expanded programming

#### **Examples Other Potential Expanded Programs:**

- Garden/greenhouse/hydroponic/composters club
- Book Discussion Groups
- Trips
- Outdoor patio socials
- Tennis or Pickleball
- Softball league

- Mystery Lunch Bunch
- Armchair Travel talks
- Wellness Clinics
- Breakfast Club
- Sing a long (piano on site)
- Men's Group
- Cooking Class
- Cyber Senior activities: Facebook/Skype/YouTube Tutorial (intergenerational program)
- Memoire Writing
- Mother and Daughter (and granddaughter) afternoon tea
- Volunteer Club (drivers, fix it, community service)
- Volunteer training/orientations
- Caregivers Support Group/Adult Child services & support
- Ping Pong/pool/foosball in upstairs game room
- Ukulele and other music classes and clubs
- Additional fitness, art, music, educational, and enrichment classes
- Move all classes over to Interim Senior Center from Living Innovation
- Incorporate programming around Senior Luncheons and Social Time (2<sup>nd</sup> Tuesday & Fourth Thursday of Month)

#### **Pilot Fee Structure:**

- No annual membership fee during Interim Phase
- Offer a mix of both free and fee-based classes
- Examples of programs where no fee will be charged: drop-in, socializing, board games, art studio time, fitness classes (chair yoga, strength & balance, line dancing, tap dancing), lunchtime lectures
- Examples of programs with a fee structure: Fine art classes, new fitness classes with paid instructor, trips, luncheons

#### **Anticipated Costs:**

- For the remainder of the current fiscal year there would not be any additional budget increases.
- For FY15, the Senior Services Coordinator position would be changed to a full time position and additional part time staff costs would be associated with maintaining a 5-day/week program.
- Additional costs would include basic operational costs including signage, supplies, food, and cable/phone.



## CITY COUNCIL MEETING

MUNICIPAL COMPLEX  
DATE: MONDAY, JANUARY 6, 2014

PORTSMOUTH, NH  
TIME: 7:00PM [or thereafter]

### **I. CALL TO ORDER**

Mayor Lister called the meeting to order at 7:00 p.m.

### **II. ROLL CALL**

Present: Mayor Lister, Assistant Mayor Splaine, Councilors Shaheen, Kennedy, Lown, Dwyer, Morgan, Spear and Thorsen

### **III. INVOCATION BY REVEREND DAWN SHIPPEE, THE NORTH CHURCH**

Reverend Shippee of The North Church conducted the Invocation.

### **POSTING OF THE COLORS**

Members of the Portsmouth Police and Fire Departments Honor Guard held a procession and posted the colors.

### **IV. PLEDGE OF ALLEGIANCE**

Madison and Cameron Zadravec of New Franklin School, led in the Pledge of Allegiance to the Flag.

### **STAR-SPANGLED BANNER**

Wendell Purrington sang the Star Spangled Banner.

### **PORTSMOUTH POET LAUREATE – KIMBERLY CLOUTIER GREEN**

Ms. Green read the poem *The Road Not Taken* by Robert Frost.

### **MUSICAL SELECTION**

Patrick Dorrow sang *You'll Never Walk Alone* by Rodgers and Hammerstein.

### **OATH OF OFFICE**

City Clerk Barnaby administered the Oath of Office to the following officials who were elected at the November 5, 2013 Municipal Election.

#### **A. FIRE COMMISSION**

Commissioner Richard Gamester  
Commissioner Jennifer Mosher-Matthews

**B. POLICE COMMISSION**

Commissioner Brenna Cavanaugh  
Commissioner Gerald Howe was unable to attend due to a prior commitment.

**C. SCHOOL BOARD**

Nancy Novelline Clayburgh, Leslie Stevens, Helene Mullaney, Thomas Martin and Jeffrey Landry

**D. CITY COUNCIL**

Councilors Stefany Shaheen, Esther Kennedy, Brad Lown, M. Christine Dwyer, Zelita Morgan, Eric Spear and Jack Thorsen

1. Assistant Mayor James Splaine
2. Mayor Robert J. Lister

**V. ADDRESS BY MAYOR ROBERT J. LISTER**

Thank you very much, good evening and Happy New Year.

Welcome family, friends, neighbors, former City Mayors, Eileen Dondero Foley (watching this at home) Peter Weeks and Eric Spear, former City Councilors, School Board Members, Police and Fire Commissioners, City Manager John Bohenko, City Clerk Kelli Barnaby, City staff, Department Heads, and all special guests.

I would like to thank the Portsmouth Symphony, Reverend Dawn Shippee of the North Church, the Fire and Police Departments Honor Guard, Madison and Cameron Zdravec, students from New Franklin School, vocalist Wendell Purrington, Poet Laureate Kimberly Cloutier Green, the very talented Patrick Dorrow and everyone who made this evening of celebration possible. I am so grateful to all of you for sharing your talents with the community.

I am very appreciative to the residents of Portsmouth for electing me to be the 66<sup>th</sup> Mayor since 1850 for the great City of Portsmouth, New Hampshire. It is a privilege to stand before you this evening to address you and present and congratulate the newly elected City Council.

Assistant Mayor Jim Splaine  
Councilor Stefany Shaheen  
Councilor Esther Kennedy  
Councilor Brad Lown  
Councilor Chris Dwyer  
Councilor Eric Spear who I would like to recognize for his most recent service as former Mayor  
Councilor Zelita Morgan  
Councilor Jack Thorsen

I would like to acknowledge Mr. John Bohenko, the City Manager who, for the past 17 years has worked with many City Council members and a very competent City staff resulting in a long list of accomplishments always with the best interest of the City and residents in mind. The City has received many accolades and awards and we have been on the cutting edge of many initiatives as a result of his experience and longevity.

Tonight is a night not for formal City business but a time to celebrate the past, present and future, the new City Council's collective leadership, the new School Board and Police and Fire Commissions, enjoy families and focus on how we will move forward in this new year.

As a result of the last Municipal Election, we all learned from many residents when knocking on doors during the campaign that the City is at a crossroads. We will be entering into an in depth dialogue to determine the balance between smart growth, development and the preservation of the historical character of the downtown and the neighborhoods while maintaining the quality of life we enjoy and how to keep all this affordable for residents.

The community has some high expectations for the new Council and it is very clear to us that they want us to communicate and collaborate. We will need to find ways to innovate, create and evaluate, and build on our resources, guided by a vision and a new Master Plan as we face making some tough decisions. We are moving forward, for without action a vision is just daydreaming.

Moving forward will take the efforts of not one person but everyone working together. I would like to take the opportunity to acknowledge all those residents who volunteer to serve on City Committees, Boards and Commissions. They choose to take time out of their busy lives to be involved in City government and preserve our quality of life in Portsmouth. I urge other residents to get involved by applying to fill any vacancies on these Committees.

John F. Kennedy once said, "A nation's strength lies in the well being of its people". I believe we can apply this concept to our community. We must be aware of the needs of educating our youth through what my friend Wendell Purrington calls the 3 A's; Academics, Arts and Athletics. Our seniors need a place to gather and become involved, working families sometimes need support, and an active City Neighborhood Association is necessary. We should support the quality of our Police, Fire and Public Services who keep us all safe through their continued vigilance, and very soon, we face the task of collective bargaining with Municipal employees. As we proceed, we need to make sure that through this process we provide services to the residents that are affordable with fair wages for Municipal employees. There are other important decisions to be made as well, they include: developing an affordable budget, keeping the tax rate down, maintaining the infrastructure of the City, providing for safe neighborhoods and attracting businesses.

I would like to extend a special thank you to all the branches of the Military whose presence, past, present and future, have had a significant impact and benefit on this history of Portsmouth. Thank you all for your service!



Growing up in Lawrence, Massachusetts in a large family in a Mill City always undergoing constant change due to a changing diverse population, I learned two very important lessons. The value of a strong work ethic where hard work pays many dividends and it is always best when people work together for a common goal. Change was constant where I grew up and I believe it caused the City leadership to think before reacting.

I first came to Portsmouth when I was in the seventh grade in 1961 to stay with an uncle who lived here and worked at the Portsmouth Naval Shipyard. What I saw with him and his friends was a great example of a diverse workforce working together for a purpose. Many other people, (in particular, those who would be on these submarines) were depending on them to make the right decisions, work collaboratively, and act in a timely fashion. Coming back in 1968-1974 for an assignment at the then Pease Air Force Base with the New Hampshire National Guard, I noticed great changes in the City. Moving here in 1976 for a teaching job at Portsmouth High School, again I saw change. I mention this only because I have seen the character of more than one City change over time and the benefits of an involved citizenry and the importance of acting with a vision, evidence of a strong work ethic and I observed how important it is to work together, it doesn't matter whether you are in the Lawrence textile mills, the Navy Yard or in a small business downtown Portsmouth with only a few employees.

Although my parents are not here this evening, I have many family members and friends in attendance joining the many residents tonight who share the same work ethic and desire to "Do the Right Thing" for Portsmouth.

When I am asked the questions, "So what's so special about Portsmouth"? I am quick to respond...the people who live here, and I am convinced that this is a major reason why others want to visit and even live here.

Portsmouth has a proud history of hard working people and a bright future ahead! Already we are beginning preparation for the 400<sup>th</sup> Anniversary in the Year 2023.

I would like to close by thanking my wife and best friend Cindy who on more than one occasion has reminded me to "Get Real" and...to be brief with presentations. Also, my sons Joshua and Nathaniel, their wives Sarah and Mari and grandchildren Kaia and Oliver for their continued support.

Thank you again to all my family members who are here this evening and for everyone watching this celebration at home on television.

We all have a great deal to be thankful for and I look forward to serving the residents of Portsmouth.

Thank you, God Bless you all and God Bless the great City of Portsmouth and this great Country we live in.

## **VI. BENEDICTION BY REVEREND DAWN SHIPPEE, NORTH CHURCH**

Reverend Shippee performed the Benediction.

**VII. ADJOURNMENT**

At 7:45 p.m., Councilor Lown moved to adjourn. Seconded by Councilor Kennedy and voted.

A handwritten signature in black ink that reads "Kelli L. Barnaby". The signature is written in a cursive, flowing style.

Kelli L. Barnaby, CMC/CNHMC  
City Clerk

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Portsmouth City Council on Monday, March 17, 2014 at 7:00 p.m., Eileen Dondero Foley Council Chambers, Municipal Complex, 1 Junkins Avenue, Portsmouth, NH, on the proposed Ordinance:

That the Ordinances of the City of Portsmouth, Chapter 10 - Zoning Ordinance, be amended to read as follows (deletions from existing language stricken; additions to existing language bolded; remaining language unchanged from existing):

**LEGAL NOTICE**

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Portsmouth City Council on Monday, March 17, 2014 at 7:00 p.m., Eileen Dondero Foley Council Chambers, Municipal Complex, 1 Junkins Avenue, Portsmouth, NH, on the proposed Ordinance:

That the Ordinances of the City of Portsmouth, Chapter 10 - Zoning Ordinance, be amended to read as follows (deletions from existing language stricken; additions to existing language bolded; remaining language unchanged from existing):

**10.535.10 Building Height**

In addition to the standards set forth in Sections 10.517 and 10.531, buildings in the Central Business A and B districts shall also comply with the following standards:

**10.535.13 Increased Building Height by Conditional Use Permit**

Within the CBA and CBB districts, the Historic District Commission may grant a conditional use permit to allow an increase in building height above the maximum structure height specified in Section 10.531, up to a maximum of 50 feet in the CBA district or 60 feet in the CBB district, only if the proposed building and site design positively contributes to the context, quality, and overall historic character of the neighboring properties and the district as a whole, including:

- Publicly accessible open space areas such as widened sidewalks, plazas, pocket parks, playgrounds or other significant public open space areas;
- Underground parking in lieu of surface parking;
- The use of high quality building materials in the building design including, but not limited to: slate or copper roofing; copper gutters and downspouts; restoration brick; granite sills, lintels, foundations; stoops and steps; and wood windows along the facade elevation;
- Significant scaling elements in the building design such as increase setbacks, stepbacks, reduced footprint and volume, the use of pitched roof forms, banding, quoining and other masonry techniques to maintain a pedestrian scale along the facade;
- Significant restoration or reconstruction of a "focal" or "contributing" building;
- Permanent protection of a significant view corridor.

The complete Ordinance is available for review in the Office of the City Clerk and Portsmouth Public Library, during regular business hours.

KELLI L. BARNABY, CMC/CNHMC  
CITY CLERK

#12517 11P3/6

## ORDINANCE #

### THE CITY OF PORTSMOUTH ORDAINS

That the Ordinances of the City of Portsmouth, Chapter 10 – Zoning Ordinance, be amended to read as follows (deletions from existing language ~~stricken in red~~; additions to existing language **bolded in red**; remaining language unchanged from existing):

#### 10.535.10 Building Height

In addition to the standards set forth in Sections 10.517 and 10.531, buildings in the Central Business A and B districts shall also comply with the following standards:

#### ~~10.535.13 Increased Building Height by Conditional Use Permit~~

~~Within the CBA and CBB districts, the Historic District Commission may grant a conditional use permit to allow an increase in building height above the maximum structure height specified in Section 10.531, up to a maximum of 50 feet in the CBA district or 60 feet in the CBB district, only if the proposed building and site design positively contribute to the context, quality, and overall historic character of the neighboring properties and the district as a whole, including:~~

- ~~• Publicly accessible open space areas such as widened sidewalks, plazas, pocket parks, playgrounds or other significant public open space areas;~~
- ~~• Underground parking in lieu of surface parking;~~
- ~~• The use of high quality building materials in the building design including, but not limited to: slate or copper roofing; copper gutters and downspouts; restoration brick; granite sills, lintels, foundations, stoops and steps; and wood windows along the façade elevation;~~
- ~~• Significant scaling elements in the building design such as increased setbacks, stepbacks, reduced footprint and volume, the use of pitched roof forms; banding, quoining and other massing techniques to maintain a pedestrian scale along the façade;~~
- ~~• Significant restoration or reconstruction of a “focal” or “contributing” building;~~
- ~~• Permanent protection of a significant view corridor.~~

The City Clerk shall properly alphabetize and/or re-number the ordinances as necessary in accordance with this amendment.

All ordinances or parts of ordinances inconsistent herewith are hereby deleted.

This ordinance shall take effect upon its passage.

APPROVED:

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Robert J. Lister, Mayor

ADOPTED BY COUNCIL:

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Kelli L. Barnaby, City Clerk



## LEGAL NOTICE

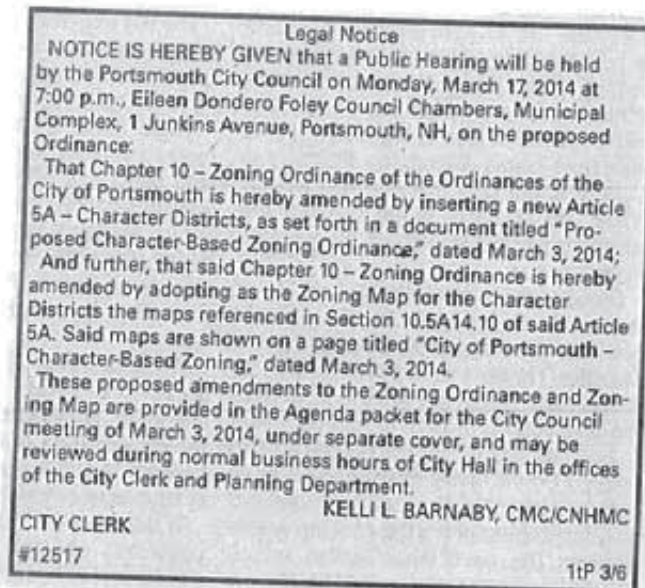
NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Portsmouth City Council on Monday, March 17, 2014 at 7:00 p.m., Eileen Dondero Foley Council Chambers, Municipal Complex, 1 Junkins Avenue, Portsmouth, NH, on the proposed Ordinance:

That Chapter 10 – Zoning Ordinance of the Ordinances of the City of Portsmouth is hereby amended by inserting a new Article 5A – Character Districts, as set forth in a document titled "Proposed Character-Based Zoning Ordinance," dated March 3, 2014;

And further, that said Chapter 10 – Zoning Ordinance is hereby amended by adopting as the Zoning Map for the Character Districts the maps referenced in Section 10.5A14.10 of said Article 5A. Said maps are shown on a page titled "City of Portsmouth – Character-Based Zoning," dated March 3, 2014.

These proposed amendments to the Zoning Ordinance and Zoning Map are provided in the Agenda packet for the City Council meeting of March 3, 2014, under separate cover, and may be reviewed during normal business hours of City Hall in the offices of the City Clerk and Planning Department.

KELLI L. BARNABY, CMC/CNHMC  
CITY CLERK



**Character-Based Zoning Ordinance**  
(aka Form-Based Zoning)  
March 3, 2014

ORDINANCE #  
THE CITY OF PORTSMOUTH ORDAINS

That Chapter 10 – Zoning Ordinance of the Ordinances of the City of Portsmouth is hereby amended by inserting a new Article 5A – Character Districts, as set forth in a document titled “Proposed Character-Based Zoning Ordinance,” dated March 3, 2014;

And further, that said Chapter 10 – Zoning Ordinance is hereby amended by adopting as the Zoning Map for the Character Districts the maps referenced in Section 10.5A14.10 of said Article 5A. Said maps are shown on a page titled “City of Portsmouth – Character-Based Zoning,” dated March 3, 2014.

These proposed amendments to the Zoning Ordinance and Zoning Map are provided in the Agenda packet for the City Council meeting of March 3, 2014, under separate cover, and may be reviewed during normal business hours of City Hall in the offices of the City Clerk and Planning Department.

The City Clerk shall properly alphabetize and/or re-number the ordinances as necessary in accordance with this revision.

All ordinances or parts of ordinances inconsistent herewith are hereby deleted.

This ordinance shall take effect upon its passage.

APPROVED:

\_\_\_\_\_  
Robert Lister, Mayor

ADOPTED BY COUNCIL:

\_\_\_\_\_  
Kelli L. Barnaby, City Clerk





City of Portsmouth

**PROPOSED CHARACTER-BASED ZONING ORDINANCE**  
City Council First Reading – March 3, 2014

(Changes from 11-18-13 version shown in highlighted text)



# PROPOSED CHARACTER-BASED ZONING ORDINANCE

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## **Article 5A Character Districts**

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### Section 10.5A10 General

#### 10.5A11 Purpose and Intent

The purpose of Article 5A is to encourage development that is compatible with the established character of its surroundings and consistent with the City's goals for the preservation or enhancement of the area. This is accomplished by providing a range of standards for the elements of development and buildings that define a place.

#### 10.5A12 Effective Date

Article 5A shall become effective when the initial Regulating Plan has been adopted.

#### 10.5A13 Applicability; Compliance

##### **10.5A13.10 Applicability**

Article 5A shall apply to the "Character-Based Zoning Area" as shown on the Regulating Plan, as the same may be adopted and amended from time to time, and to the Character Districts and Civic Districts within said Character-Based Zoning Area. Municipal Districts are shown on the Regulating Plan for reference but are governed by other sections of the Zoning Ordinance and not by Article 5A.

##### **10.5A13.20 Compliance with Regulating Plan**

10.5A13.21 In the Character Districts and Civic Districts, all lots hereafter created or modified, all buildings and structures hereafter erected, reconstructed, altered, enlarged or moved, all uses hereafter established, all other development or improvements, and all plans, applications and submissions shall comply with the requirements of Article 5A, as well as with all provisions of this Zoning Ordinance that are not superseded by Article 5A.

10.5A13.22 No development, improvement, subdivision, re-subdivision or construction of or on any building, lot or parcel of land shall occur and no Development Plan or application for approval of a Development Plan may be submitted or approved except pursuant to the Regulating Plan and in compliance with the applicable standards and requirements for such District.

**10.5A13.30 Relationship to Other Provisions of the Zoning Ordinance**

10.5A13.31 The provisions of Article 5A shall take precedence over all other provisions of the Zoning Ordinance that would be in conflict with Article 5A. Provisions of the Zoning Ordinance that do not apply within the Character-Based Zoning Area include, but are not limited to, the following:

In Article 5 – Dimensional and Intensity Standards:

- Section 10.530 – Business and Industrial Districts
- Section 10.570 – Accessory Buildings, Structures and Uses
- Section 10.580 – Special Dimensional Requirements for Certain Uses

In Article 11 – Site Development Standards:

- 10.1113.20 (Location of Parking Facilities on a Lot)

10.5A13.32 All provisions of the Zoning Ordinance that are not specifically modified or superseded by Article 5A, or that are not in conflict with Article 5A, shall apply to lots, buildings and uses within the Character-Based Zoning Area. Provisions of the Zoning Ordinance that apply within the Character-Based Zoning Area include, but are not limited to, **Articles 1-6 and 8-15<sup>1</sup>**

**10.5A13.40 Compliance with Other Rules and Regulations**

10.5A13.41 Any proposal, project, application or Development Plan that involves the subdivision of land shall comply with the Subdivision Rules and Regulations, in addition to the requirements of Article 5A.

10.5A13.42 Any proposal, project, application or Development Plan that requires Site Plan Review under the Site Plan Review Regulations shall comply with such Regulations, in addition to the requirements of Article 5A.

10.5A13.43 If any provision of the Subdivision Rules and Regulations or Site Plan Review Regulations conflicts with a provision of Article 5A, the standards and requirements of Article 5A shall supersede and be controlling.

10.5A13.44 The provisions of Article 5A do not modify or supersede any provision of the Building Code, other City ordinances or regulations, or State laws relating to the development of land.

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<sup>1</sup> This replaces the prior text which listed some limited examples of the sections of the existing Zoning Ordinance that remain in full effect.

## 10.5A14 Construction

### 10.5A14.10 Maps

The following maps are an integral part of Article 5A, and together constitute the Zoning Map for the Character-Based Zoning Area:

Map 10.5A21A – Regulating Plan<sup>2</sup>

Map 10.5A21B – Special Requirements: Specific Building Height Requirement Areas<sup>3</sup>

Map 10.5A21C – Special Requirements: Specific Shopfront, Officefront, Step Frontage, and Frontage Buildout and Special Use Requirement Areas<sup>4</sup>

### 10.5A14.20 Tables, Diagrams, Photographs and Illustrations

10.5A14.21 The metrics and standards in the following tables are an integral part of Article 5A:

Table 10.5A42.10A – Character District Standards: CD4-L General Urban District—Limited

Table 10.5A42.10B – Character District Standards: CD4 General Urban District

Table 10.5A42.10C – Character District Standards: CD5 Urban Center District

Table 10.5A51.20 – Civic Spaces

Table 10.5A54.20 – Yard Types

Table 10.5A54.30 – Private Frontage Types

Table 10.5A55.90 – Building Types

10.5A14.22 The diagrams, photographs and illustrations contained in the above tables are provided only to indicate the general character or location of or reference to the various Character Districts and elements thereof shown thereon and they shall have regulatory force and effect only to that extent.

10.5A14.23 All graphical and tabular depictions entitled “Illustration” are provided for illustrative, explanatory purposes only and are not regulatory.

### 10.5A14.30 Priority Among Metrics

Where in conflict, numerical metrics shall take precedence over graphic metrics.

## 10.5A15 Definitions

Terms used throughout Article 5A may be defined in Section 10.5A60, in Article 15 or elsewhere in the Zoning Ordinance. Terms not so defined shall be accorded their commonly accepted meanings. In the event of any conflict between the definitions in Article 5A, those in Article 15, other sections of the Zoning Ordinance, the Subdivision

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<sup>2</sup> Refer to the changes shown on the updated Regulating Plan as attached.

<sup>3</sup> Refer to the changes shown on the updated Special Requirements Map for Building Height

<sup>4</sup> Refer to the changes shown on the updated Special Requirements Map for Shopfronts and Uses



Rules and Regulations, or any other local land use ordinances, rules or regulations, those of Article 5A shall take precedence.

## Section 10.5A20 Regulating Plan

### 10.5A21 General

#### **10.5A21.10 Contents of Regulating Plan**

The Regulating Plan and each amendment thereto shall designate and show the Character Districts, Civic Districts, Municipal Districts and any special requirements of the Character Districts. The initial Regulating Plan consists of the following maps:

- Map 10.5A21A – Regulating Plan
- Map 10.5A21B – Special Requirements: Specific Building Height Requirement Areas
- Map 10.5A21C – Special Requirements: Shopfront, Officefront, Step Frontage, and Frontage Buildout and Special Use Requirement Areas

#### **10.5A21.20 Special Requirements**

A Regulating Plan may designate any of the special requirements listed in Sections 10.5A21.21 through 10.5A21.23 below. If a Regulating Plan designates any one or more of such special requirements, such designation indicates that the following standards shall be applied as follows:

##### ***10.5A21.21 Specific Building Height Requirement Areas***

As designated on Map 10.5A21B, assignments for specific building heights require a building to have no more than the designated maximum number of stories or the maximum height in feet.<sup>5</sup>

##### ***10.5A21.22 Specific Shopfront, Officefront, Step and Frontage Buildout and Special Use Requirement Areas***

As designated on Map 10.5A21C,

- (a) Assignments for shopfront, officefront or step frontage requires that a building be provided with a shopfront, officefront or step frontage at the sidewalk level along the entire length of its private frontage.
- (b) Designations for frontage building percentage require that a building occupy no more than 50% of the frontage of the lot, wood siding shall be used for the exterior of the building and special uses apply to some properties along the waterfront area.

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<sup>5</sup> Previous text: “no more or less than the designated number of stories from sidewalk level along the entire length of its private frontage.”

## 10.5A22 Regulating Plan Amendment

### 10.5A22.10 General

The Regulating Plan in effect from time to time may be amended as a Zoning Map amendment in accordance with the provisions of Article 1 (Purpose and Applicability), and Section 10.150 (Changes and Amendments).

An application for Regulating Plan amendment initiated by or on behalf of the owner of property shall be accompanied by a Development Plan for such property that has been approved in accordance with this Section 10.5A22.

[section deleted]<sup>6</sup>

### 10.5A22.20 Preparation and Requirements

An application for Regulating Plan amendment shall be prepared in accordance with 10.5A22.30 and shall conform to the requirements of Section 10.5A22.40 and other provisions hereof.

### 10.5A22.30 Application Requirements

In addition to all other requirements for zoning map amendments under Section 10.150, an application for a Regulating Plan Amendment shall include a Development Plan that complies with Section 10.5A30 and indicates the area proposed to be rezoned and all adjacent property; all existing zoning districts or Character Districts, Municipal Districts, and civic spaces; and **the maximum number of stories and the maximum building height in feet**<sup>7</sup> and any other special requirements.

### 10.5A22.40 Plan Submission

An application for a Regulating Plan Amendment shall be submitted and processed in accordance with Sections 10.150, 10.5A22 and 10.5A30 as applicable.

### 10.5A22.50 Action on Plan

Any application for a Regulating Plan Amendment shall be processed and be subject to submission, consideration and approval as a zoning map amendment under Section 10.150, subject to the provisions of this Section 10.5A22.

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<sup>6</sup> Previous section 10.5A22.20 (“When Regulating Plan Amendment Necessary”) would have required City Council approval of proposed developments that did not conform to use or height requirements of the Regulating Plan. That section has been deleted in the current draft due to concerns about conflict with State law regarding variances.

<sup>7</sup> Previous text: “the allowed range of the number of stories”.

## Section 10.5A30 Development Plans

### 10.5A31 Procedural Requirements

#### **10.5A31.10 Plan Required**

Except for lawful nonconformities allowed pursuant to Article 3, none of the following shall occur or be proposed except in compliance with Article 5A, the Regulating Plan and a Development Plan that has been prepared, submitted and approved in accordance with this Section 10.5A30 and all standards and requirements applicable thereto:

- 10.5A31.11 Any new construction, alteration, extension or addition to any existing or proposed building or other structure, except activities listed in Section 10.633.20 (Exemptions from Certificate of Approval).
- 10.5A31.12 Subdivision or re-subdivision of any lot or other land;
- 10.5A31.13 The construction or alteration of any new or proposed off-street parking or drive-through facilities;
- 10.5A31.14 Any Regulating Plan amendment.

#### **10.5A31.20 Preparation and Submission**

- 10.5A31.21 In addition to meeting any applicable requirements for a Site Plan under Article 2 of the City's Site Plan Regulations, each Development Plan shall be prepared and submitted by or on behalf of the Owner of the applicable property. It shall be in accordance with Section 10.5A33.10 and shall conform to the requirements of Section 10.5A33.20 and other provisions hereof.
- 10.5A31.22 Each Development Plan shall be submitted pursuant to Section 10.5A34 for review, action and approval in accordance with Section 10.5A35.

### 10.5A32 Plan Requirements

#### **10.5A32.10 Plan Compliance with Standards and Requirements**

Each Development Plan submitted shall include (1) the Development Plan area and each proposed block, lot and building therein, as applicable; and (2) each of the items listed in Section 10.5A33.20, which shall comply with the standards and requirements the applicable Character District or Civic space in which the land covered by such Development Plan is situated, as determined by the Regulating Plan then in effect or the proposed Regulating Plan Amendment.

#### **10.5A32.20 Plan Contents**

Unless waived for small projects by the Planning Board or its designee, each Development Plan submitted shall demonstrate compliance with or show the following items:

- (1) All applicable and adjacent Character Districts, Municipal Districts and Civic Districts.
- (2) Building placement, including without limitation setbacks and lot layers (Section 10.5A53.10);
- (3) Yard type (Section 10.5A54.20);
- (4) Building form and building type (Section 10.5A55);
- (5) Building and lot use (Section 10.5A57);
- (6) Off-street parking and loading requirements (Section 10.5A58);
- (7) For projects valued over \$25,000, detailed architectural elevations and a detailed rendering of each façade of each building proposed to be built or modified (Section 10.5A60). An electronic or physical model may also be required.
- (8) Signs (Section 10.5A59);
- (9) Any applicable special requirements (Section 10.5A21);
- (10) Existing and any proposed streets pedestrian alleys including without limitation, if the Development Plan area exceeds 2 acres or if the Development Plan requires or includes any extension or change to any existing streets, in compliance with applicable City standards;
- (11) Existing and any required or proposed civic spaces (Section 10.5A51 and Table 10.5A51.20);
- (12) Existing and any proposed Character Districts (Section 10.5A41.20);
- (13) If the Development Plan area exceeds 2 acres, Block Perimeter (Section 10.5A33.30);
- (14) If the Development Plan contains any element or use that would require Site Plan Review under the Site Plan Review Regulations, all requirements for Site Plans thereunder;
- (15) One or more maps of the Development Plan site and all adjacent property reflecting the existing building heights, Character Districts, civic spaces, any special requirements and any proposed amendments to the Regulating Plan; and,
- (16) Any existing structures or other improvements, indicating whether they are to remain, be altered or be demolished.

**10.5A32.30 Block Perimeter**

If a proposed Development Plan would create or divide a block or would consolidate two or more blocks, each such resulting block shall conform to the applicable Block Perimeter Standards set forth in Table 10.5A32.30.

**TABLE 10.5A32.30 BLOCK PERIMETER STANDARDS**

CHARACTER DISTRICT	MAXIMUM BLOCK PERIMETER
CD4-L	1,000 FEET
CD4	1,000 FEET
CD5	1,000 FEET

**10.5A33 Administration**

**10.5A33.10 Responsibility**

Except as otherwise provided herein, this Section 10.5A33 and applications and Development Plans submitted hereunder shall be administered by the Planning Department.

**10.5A33.20 Review and Determination**

10.5A33.21 The Planning Department shall, within 14 days of its receipt of an application and Development Plan required to be submitted, review and determine whether the same are complete and notify the applicant in writing of its determination.

10.5A33.22 The Planning Department shall forward a copy of the application and Development Plan to the Historic District Commission, which shall review, consider, and take action with respect thereto pursuant to Section 10.630. Upon issuance of all required Certificates of Approval by the Historic District Commission, the application and Development Plan shall be eligible for further processing, review, consideration and/or action, as applicable, in accordance with Sections 10.5A34 and 10.5A35, as applicable.

**10.5A34 Development Plan Submissions**

10.5A34.10 No development, improvement, subdivision, re-subdivision or construction of or on any building, lot or parcel of land shall occur without prior submission of a Development Plan and application for approval of a Development Plan that comply with Section 10.5A30 and approval thereof pursuant to Section 10.5A35. A Development Plan is not required for any items listed as exempt under Section 10.633.20.

10.5A34.20 Subject to issuance of any required Certificate of Approval from the Historic District Commission and any required review and approval pursuant to the Subdivision Rules and Regulations, a Development Plan and application for approval thereof that does not propose or involve any matter that would require Site Plan Review under the Site Plan Review

Regulations shall be subject to administrative review and action by the Planning Department in accordance with Section 10.5A35.10 hereof.

- 10.5A34.30 Subject to issuance of any required Certificate of Approval from the Historic District Commission, any required review and approval pursuant to the Subdivision Rules and Regulations and any required Site Plan Review and approval, a Development Plan and application for approval thereof that proposes or involves any matter which would require Site Plan Review under the Site Plan Review Regulations shall be subject to review and action by the Planning Board in accordance with Section 10.5A35.20.

## 10.5A35 Development Plan Review and Action

### **10.5A35.10 Development Plans Not Subject to Site Plan Review**

- 10.5A35.11 Within 14 days of its determination pursuant to Section 10.5A33.20 with respect to an application and Development Plan that do not require Site Plan Review, the Planning Department shall review such application and Development Plan to determine whether they comply with the Regulating Plan, Article 5A and other applicable City laws, ordinances and regulations subject to issuance or granting of any requested variance, special exception or conditional use permit.
- 10.5A35.12 If the Planning Department determines that an application and Development Plan that do not require Site Plan Review comply with the Regulating Plan, Article 5A and all other applicable City laws, ordinances and regulations, it shall approve the application and Development Plan subject to issuance or granting of any requested variance, special exception or conditional use permit.
- 10.5A35.13 If the Planning Department determines that an application and Development Plan that do not require Site Plan Review do not comply with the Regulating Plan, Article 5A and all other applicable City laws, ordinances and regulations, it shall reject the application and Development Plan.
- 10.5A35.14 In either case, the Planning Department shall notify the applicant and Planning Board in writing of its determination, and if applicable, the reason(s) for rejecting the application and Development Plan.

### **10.5A35.20 Development Plans Subject to Site Plan Review**

- 10.5A35.21 Within 14 days of its determination pursuant to Section 10.5A33.20 with respect to an application and Development Plan that require Site Plan Review, the Planning Department shall review the application and Development Plan to determine whether they comply with the Regulating Plan, Article 5A and other applicable City laws, ordinances and regulations subject to issuance or granting of any requested variance, special exception or conditional use permit.

- 10.5A35.22 If the Planning Department determines that an application and Development Plan that requires Site Plan Review comply with the Regulating Plan, Article 5A and all other applicable City laws, ordinances and regulations, it shall notify the applicant and the Planning Board in writing, subject to issuance or granting of any requested variance, special exception or conditional use permit.
- 10.5A35.23 If the Planning Department determines that an application and Development Plan that requires Site Plan Review do not comply with the Regulating Plan, Article 5A and all other applicable City laws, ordinances and regulations, it shall not recommend the same to the Planning Board and shall notify the applicant and the Planning Board of its determination in writing, stating the reasons for not recommending the same.
- 10.5A35.24 In either event, within 14 days of the Planning Department’s notice pursuant to Section 10.5A35.22 or 10.5A35.23, the Planning Department shall forward the application and Development Plan to the Planning Board, which shall process and review the same, provide and hold any and all required notices and public hearings and determine whether the application and Development Plan comply with Article 5A, the Regulating Plan and all other applicable City laws, ordinances and regulations.<sup>8</sup>
- 10.5A35.25 If the Planning Board determines that an application and Development Plan comply with the Regulating Plan, Article 5A and all other applicable City laws, ordinances and regulations, it shall approve the application and Development Plan.
- 10.5A35.26 If the Planning Board determines that the application and Development Plan do not comply with the Regulating Plan, Article 5A and all other applicable City laws, ordinances and regulations, it shall reject the application and Development Plan.
- 10.5A35.27 In either case, the Planning Board shall notify the applicant and Planning Department in writing of its determination, and if applicable, the reason(s) for rejecting the application and Development Plan.

**10.5A35.30 Subdivision and Site Plan Review**

Subject to the limitations of Section 10.5A14.50, all Development Plans, applications and approvals shall be subject to any required subdivision and/or Site Plan review and approval pursuant to the Subdivision Rules and Regulations or Site Plan Review Regulations. Any and all subdivision and Site Plan Review applications, submissions and reviews may be conducted concurrently with or as a part of the Development Plan application, submission and review process.

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<sup>8</sup> Text deleted from the end of this and the following paragraph: “, subject to issuance or giving of any requested variance, special exception or conditional use permit.” The effect of deleting this phrase is to require that any requested variance, special exception or conditional use permit be granted prior to approval of a Development Plan.



## Section 10.5A40 Character Districts, Civic Spaces, Civic Districts and Municipal Districts

### 10.5A41 General

#### 10.5A41.10 Applicability

This Section 10.5A40 applies to Character Districts, Municipal Districts and Civic Spaces to the extent provided herein. Development, land, improvements, construction, subdivision, resubdivision, structures and lots within each Character District or Civic Space, as applicable, shall include the respective elements and shall comply with the respective standards applicable to each. This Section 10.5A40 shall apply to Municipal Districts only as to their designation on the Regulating Plan (Map 10.5A21.A).

#### 10.5A41.20 Character Districts

There are three Character Districts, as follows:

General Urban District – Limited	CD4-L	<ul style="list-style-type: none"> <li>• Medium density transitional area</li> <li>• Mix of medium to large residential house types</li> <li>• Almost entirely residential uses</li> <li>• Shallow front setbacks</li> <li>• Shallow to medium to side setbacks</li> <li>• Variable private landscaping</li> <li>• Streets with curbs, sidewalks, and street trees that define medium to large blocks</li> </ul>
General Urban District	CD4	<ul style="list-style-type: none"> <li>• Medium-to-high density transitional area</li> <li>• Mix of building types</li> <li>• Residential, retail, and other commercial uses</li> <li>• Shallow or no front setbacks</li> <li>• Medium to no side setbacks</li> <li>• Variable private landscaping</li> <li>• Streets with curbs, sidewalks, and street trees that define small to medium blocks</li> </ul>
Urban Center District	CD5	<ul style="list-style-type: none"> <li>• High density development center</li> <li>• Mix of building types</li> <li>• Residential, retail and other commercial uses</li> <li>• No front setbacks</li> <li>• No side setbacks</li> <li>• Limited landscaping</li> <li>• Streets with curbs, sidewalks and street trees that define small to medium blocks</li> </ul>

**TABLE 10.5A42.10 CHARACTER DISTRICT DESCRIPTIONS**

**CD4-L General Urban District—Limited**



**CD4-L General Urban District—Limited.** This District consists of a medium density transitional area that has a mix of medium to large residential house types with almost entirely residential uses; there are shallow front Setbacks and shallow to medium to side Setbacks; it has variable private landscaping; and it has Streets with curbs, sidewalks, and street trees that define medium to large blocks.

**CD4 General Urban District**



**CD4 General Urban District.** This District consists of a medium-to-high density transitional area that has a mix of building types and residential, retail, and other commercial uses; there are shallow or no front Setbacks and medium to no side Setbacks; it has variable private landscaping; and it has Streets with curbs, sidewalks, and street trees that define small to medium blocks.



**CD5 Urban Center District** This District consists of a high density development center with a mix of building types and residential, retail and other commercial uses; there are no front Setbacks and no side Setbacks; it has limited landscaping; and it has Streets with curbs, sidewalks and street trees that define small to medium blocks.

## 10.5A42 Elements and Standards

### 10.5A42.10 Character Districts

Development, improvements, land, structures and lots within each Character District shall include the applicable elements indicated for such Character District throughout Article 5A and shall comply with the applicable Character District general description and intent thereof described in Section 10.5A41 (Character District Descriptions) and the standards applicable to such Character District set forth in Tables 10.5A42.10A-C (Character District Standards) and elsewhere in Article 5A.

### 10.5A42.20 Civic Spaces

Development, improvements, land, structures and lots within each civic space shall comply with applicable requirements of Article 5A including, without limitation, Section 10.5A50.

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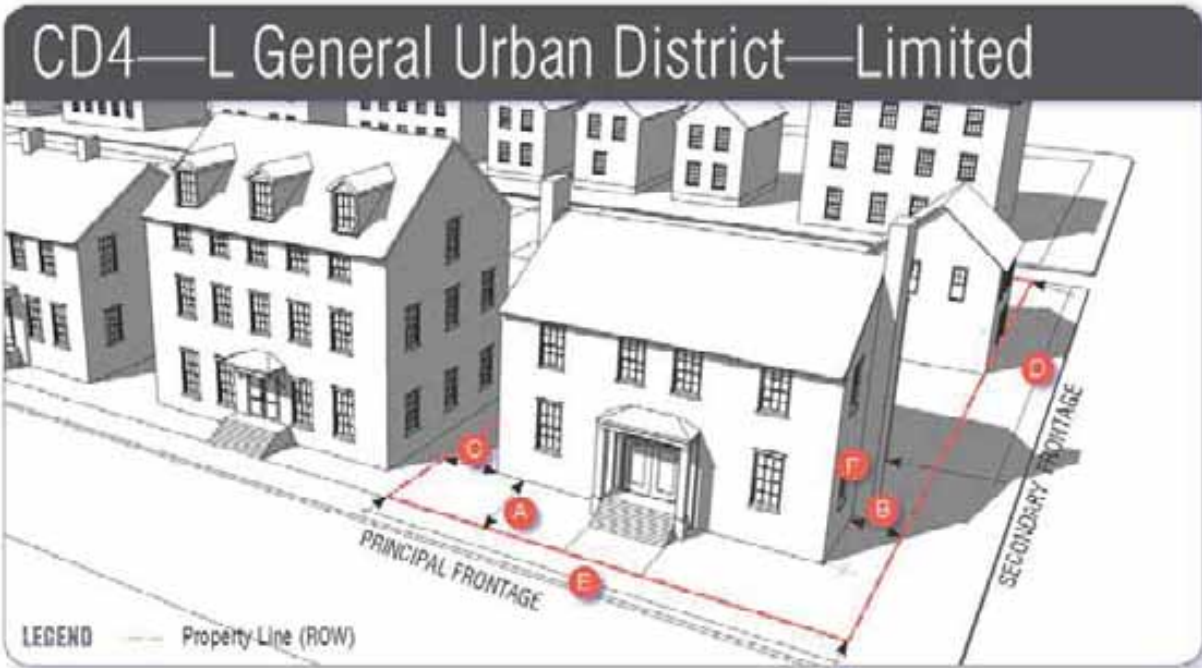
**ILLUSTRATION 10.5A41.20A CHARACTER DISTRICT STANDARDS  
GENERAL URBAN DISTRICT—LIMITED**

CD4-L

**CD4-L General Urban District—Limited.** This District consists of a medium density transitional area that has a mix of medium to large residential house types with almost entirely residential uses; there are shallow front Setbacks and shallow to medium to side Setbacks; it has variable private landscaping; and it has Streets with curbs, sidewalks, and street trees that define medium to large blocks.



**TABLE 10.5A42.10A CHARACTER DISTRICT STANDARDS  
GENERAL URBAN DISTRICT—LIMITED CD4-L**



**BUILDING PLACEMENT — PRINCIPAL BLDG**

Front Setback, Principal Frontage*	0 ft min, 15 ft max	<b>A</b>
Front Setback, Secondary Frontage	0 ft min, 12 ft max	<b>B</b>
Side Setback	5 ft min, 20 ft max	<b>C</b>
Rear Setback	greater of 5 ft min or 10 ft from center line of alley	<b>D</b>
Frontage Buildout	60% min to 80% max at front setback	

**YARD TYPES**

(see Table 10.5A54.20)

Edgeyard	permitted
Sidyard	permitted
Rearyard	permitted

**BUILDING & LOT USE**

See Section 10.5A57

\*\* 70% min for shopfront

**LOT OCCUPATION**

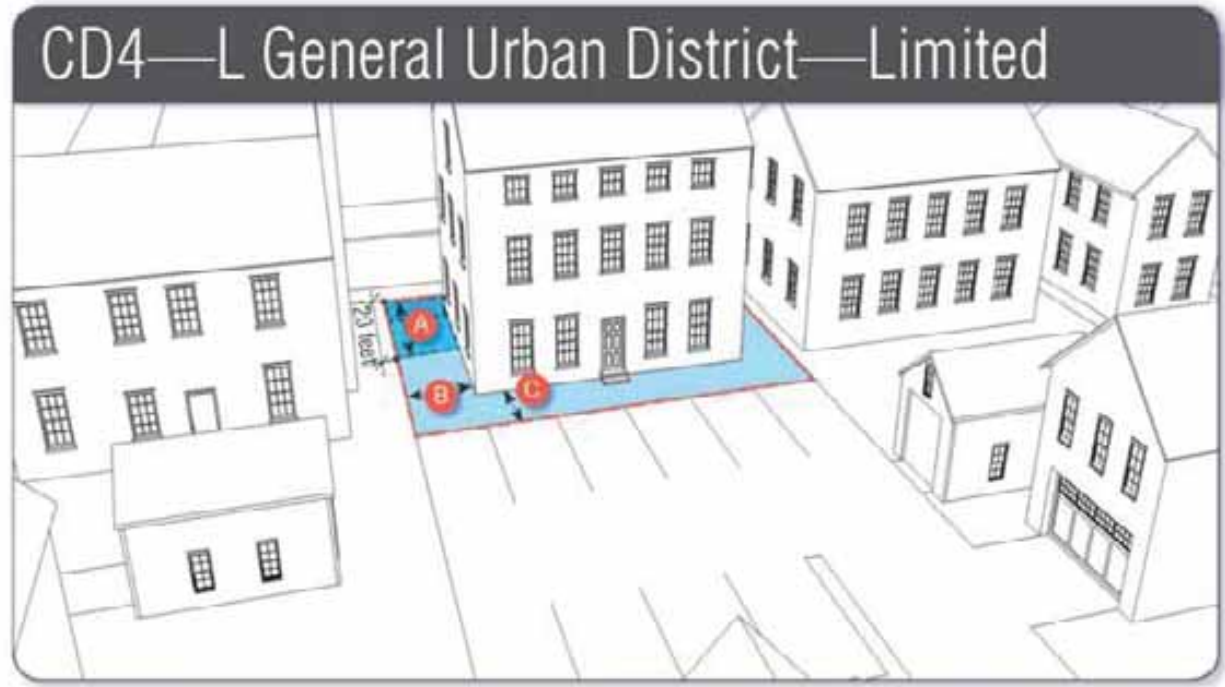
Lot Width	35 ft min, 80 ft max	<b>E</b>
Building Coverage	60% max	
Open Space	25% Min	
Min. Lot Area	3,000 sf	
Min. Lot Area/Dwell Unit	3,000 sf	
Lot Width	35-80ft	
Max Building Footprint	NR	
Max Facade Modulation	NR	

**BUILDING FORM — PRINCIPAL BUILDING**

Building Height	See Map 10.5A21.B & Section 10.5A55.30 Special Requirements: Specific Building Height Requirements/Areas	<b>F</b>
Ground Floor Height	10 ft min	
Upper Floor Height	9 ft min	
Facade Glazing	25% to 40% **	
Roof Type	gable, hip, gambrel	
Roof Pitch, if any	gable: 6:12 min, 12:12 max hip: 3:12 min gambrel: 6:12 min, 30:12 max	



**TABLE 10.5A42.10A CHARACTER DISTRICT STANDARDS  
GENERAL URBAN DISTRICT—LIMITED** CD4-L



**LEGEND** --- Property Line (ROW)      ■ First Layer      ■ Second Layer      ■ Third Layer

**BUILDING PLACEMENT — OUTBUILDING**

Front Setback	Principal Bldg setback + 20 ft min	<b>A</b>
Side Setback	0 ft min	<b>B</b>
Rear Setback	3 ft min	<b>C</b>

**PARKING**

LOCATION	
Third Lot Layer	Principal Bldg setback + 20 ft

**PRIVATE FRONTAGES & ENCROACHMENTS**

PRIVATE FRONTAGE TYPES	(see Table 10.5A54.30)*
Common Lawn	not permitted
Porch	permitted
Forecourt	not permitted
Step	permitted
Stoop	permitted
Shopfront	not permitted
Officefront	not permitted*

**ENCROACHMENT OF BUILDING ELEMENTS**

Porches, Stoops, and other Elements may encroach the indicated setbacks by the following distances.

Front Setback, Principal Frontage	10 ft max
Front Setback, Secondary Frontage	10 ft max
Rear Setback	5 ft max

\* See Illustration 10.5A21C for additional requirements.

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**ILLUSTRATION 10.5A42.10B CHARACTER DISTRICT STANDARDS  
CD4 GENERAL URBAN DISTRICT**

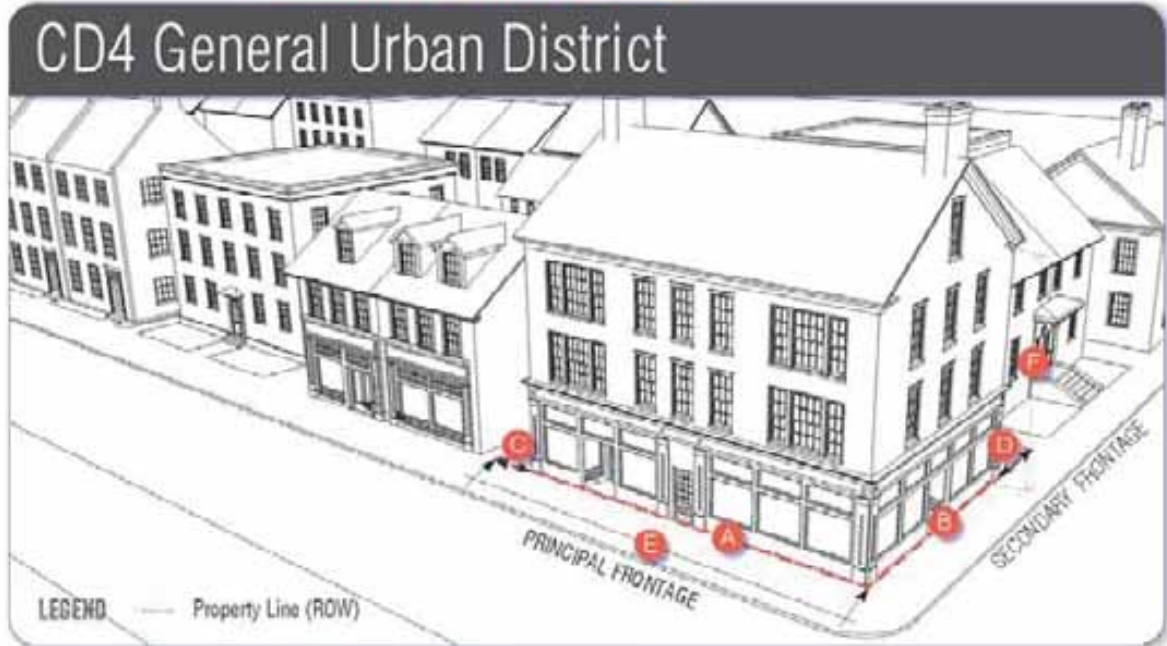
CD4

**CD4 General Urban District.** This District consists of a medium-to-high density transitional area that has a mix of building types and residential, retail, and other commercial uses; there are shallow or no front Setbacks and medium to no side Setbacks; it has variable private landscaping; and it has Streets with curbs, sidewalks, and street trees that define small to medium blocks.





**TABLE 10.5A42.10B CHARACTER DISTRICT STANDARDS  
GENERAL URBAN DISTRICT CD4**



**BUILDING PLACEMENT — PRINCIPAL BLDG**

Front Setback, Principal Frontage	0 ft min, 10 ft max	<b>A</b>
Front Setback, Secondary Frontage	0 ft min, 15 ft max	<b>B</b>
Side Setback	0 - 20 ft max	<b>C</b>
Rear Setback	greater of 5 ft min or 10 ft from center line of alley	<b>D</b>
Frontage Buildout	50% min at front setback; except no min - 50% max, per Special Req. Map 10.5A21C on Ceres Street	<b>E</b>

**YARD TYPES**

(see Table 10.5A54.20)

Edgeyard	permitted
Sideyard	permitted
Rearyard	permitted

**BUILDING & LOT USE**

See Section 10.5A57

\* Except for mixed-use parking structures designed in accordance with Section 10.5A58  
 \*\* 70% min for shopfront

**LOT OCCUPATION**

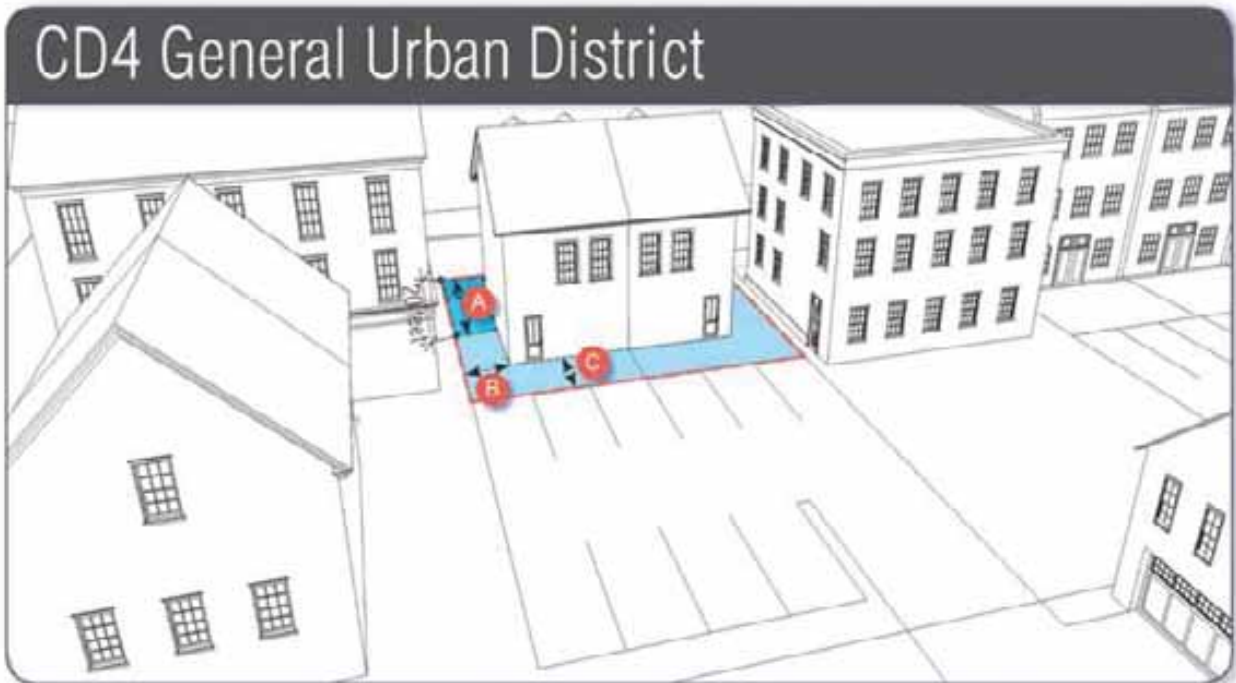
Lot Width	18 ft min, 6'	<b>E</b>
Building Coverage	90% max	
Open Space	10% Min	
Minimum Lot Area	2,000 sq ft (N/A per dwelling unit)	
Minimum Lot Width	18 ft	
Max Building Footprint	10,000 sq ft*	
Max Facade Modulation	80 ft*	

**BUILDING FORM — PRINCIPAL BUILDING**

Building Height	See Map 10.5A21.B & Section 10.5A55.30 Special Requirements: Specific Building Height Requirement Areas	<b>F</b>
Ground Floor Height	12 ft min	
Upper Floor Height	9 ft min	
Facade Glazing	20% min - 50% max **	
Roof Type	flat, hip, gable, gambrel, mansard	
Roof Pitch, if any	gable: 6:12 min, 12:12 max hip: 3:12 min mansard / gambrel: 6:12 min, 30:12 max	

**TABLE 10.5A42.10B CHARACTER DISTRICT STANDARDS  
CD4 GENERAL URBAN DISTRICT**

**CD4**



**LEGEND** ——— Property Line (ROW)      ■ First Layer      ■ Second Layer      ■ Third Layer

**BUILDING PLACEMENT — OUTBUILDING**

Front Setback	Principal Bldg setback + 20 ft min	<b>A</b>
Side Setback	0 ft min	<b>B</b>
Rear Setback	3 ft min	<b>C</b>

**PARKING**

LOCATION	
Third Lot Layer	Principal Bldg setback + 20 ft

**PRIVATE FRONTAGES & ENCROACHMENTS**

PRIVATE FRONTAGE TYPES	(See <b>Table 10.5A54.30</b> )*
Common Lawn	not permitted
Porch	permitted
Forecourt	permitted
Step	permitted
Stoop	permitted
Shopfront	permitted
Officefront	permitted

**ENCROACHMENT OF BUILDING ELEMENTS**

Porches, Stoops, and other Elements may encroach the indicated setbacks by the following distances.

Front Setback, Principal Frontage	8 ft max
Front Setback, Secondary Frontage	8 ft max
Rear Setback	5 ft max

\* See Illustration 10.5A21C for additional requirements.

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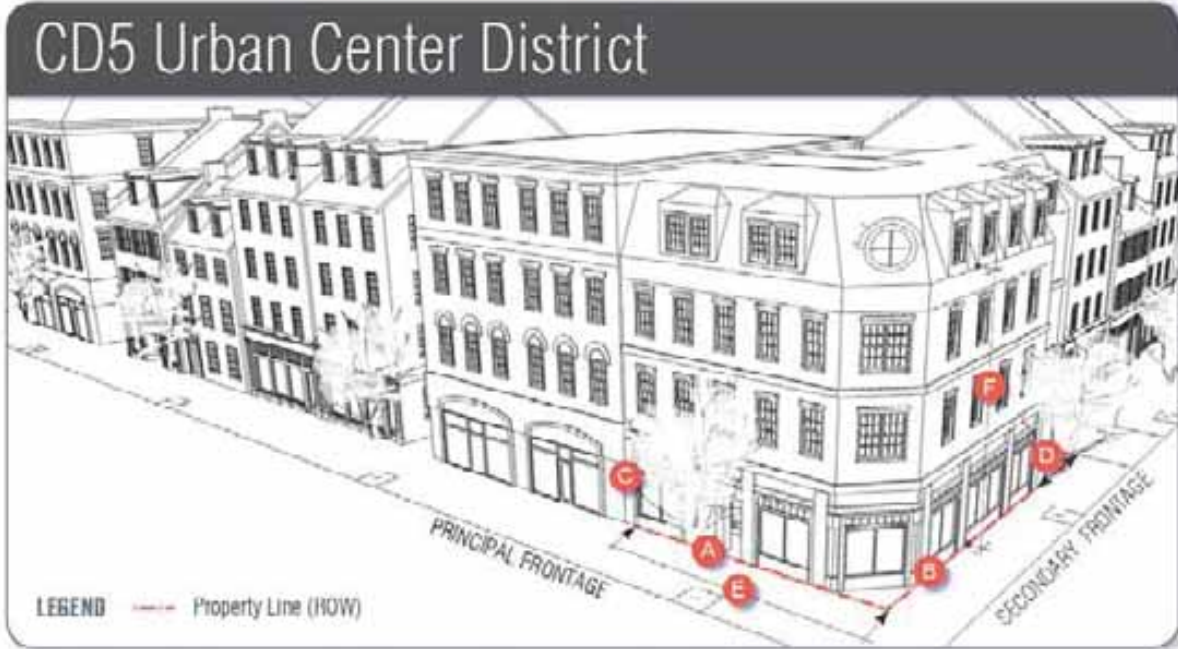
**ILLUSTRATION 10.5A42.10C CHARACTER DISTRICT STANDARDS  
URBAN CENTER DISTRICT** CD5

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**CD5 Urban Center District.** CD5 Urban Center District. This District consists of a high density development center with a mix of building types and residential, retail and other commercial uses; there are no front Setbacks and no side Setbacks, it has limited landscaping; and it has Streets with curbs, sidewalks and street trees that define small to medium blocks.



**TABLE 10.5A42.10G CHARACTER DISTRICT STANDARDS**  
**URBAN CENTER DISTRICT** CD5



**BUILDING PLACEMENT — PRINCIPAL BLDG**

Front Setback, Principal Frontage	0 ft max.*	<b>A</b>
Front Setback, Secondary Frontage	0 ft max.	<b>B</b>
Side Setback	0 ft max.	<b>C</b>
Rear Setback	greater of 0 ft min. or 10 ft from center line of alley	<b>D</b>
Frontage Buildout	100% at front setback **	

\* Building setbacks may be increased where public access easements are accepted by the City.  
 \*\* Except for Truncated Corners, Building Projections or other Open Spaces.

**YARD TYPES** (see Table 10.5A54.20)

Edgeyard	not permitted
Sidyard	not permitted
Rearyard	permitted

**BUILDING & LOT USE**

See Section 10.5A57

\* Except for mixed-use parking structures designed in accordance with Section 10.5A58  
 \*\* 70% min for shopfront

**LOT OCCUPATION**

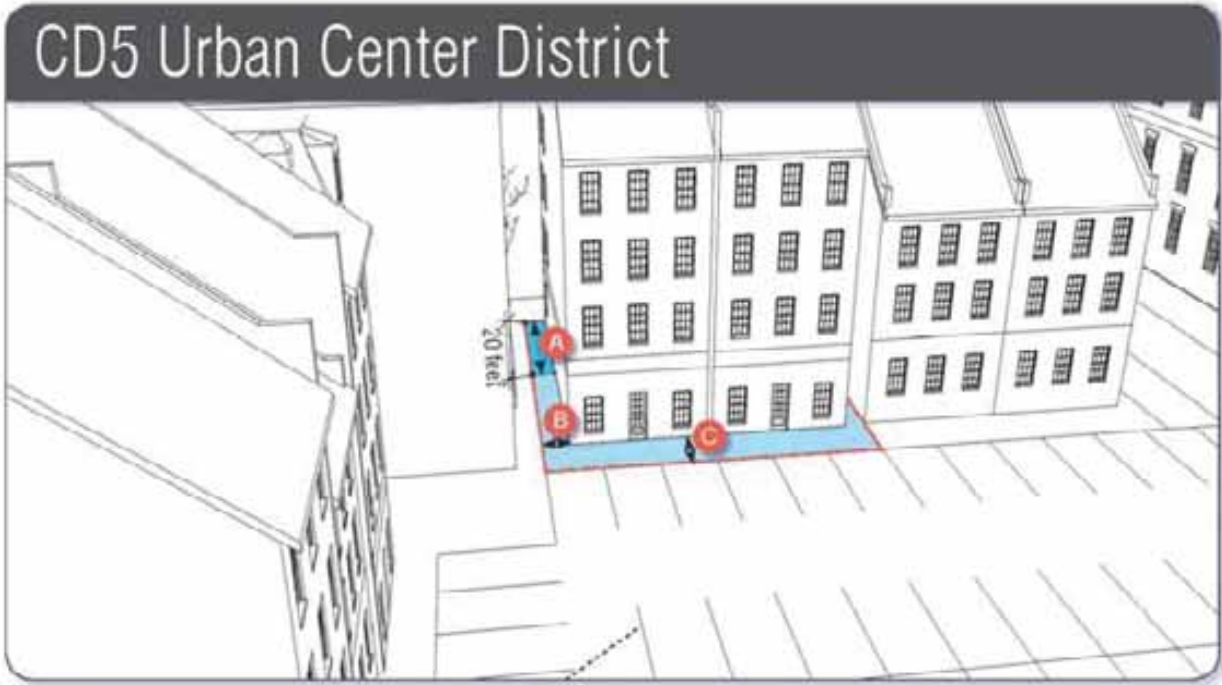
Lot Width	18 ft min. 60 ft max. **	<b>E</b>
Building Coverage	95% max	
Open Space	5% Min	
Minimum Lot Area	2,000 sq. ft. (NR per Dwelling Unit)	
Minimum Lot Width	18 ft	
Max Building Footprint	15,000 sq. ft.	
Max Facade Modulation	100 ft*	

**BUILDING FORM — PRINCIPAL BUILDING**

Building Height	See Map 10.5A21.B Special Requirements: Specific Building Height Requirement Areas	<b>F</b>
Ground Floor Height	12 ft min	
Upper Floor Height	6 ft min	
Facade Glazing	20% min - 50% max	
Roof Type	flat, hip, gable, mansard, gambrel	
Roof Pitch, if any	gable: 6:12 min, 12:12 max hip: 3:12 min mansard/gambrel: 6:12 min, 30:12 max	



**TABLE 10.5A42.10C CHARACTER DISTRICT STANDARDS  
URBAN CENTER DISTRICT** CD5



**LEGEND**    Property Line (ROW)    First Layer    Second Layer    Third Layer

**BUILDING PLACEMENT — OUTBUILDING**

Front Setback	Principal Bldg setback + 20 ft min	<span style="border: 1px solid black; border-radius: 50%; padding: 2px;">A</span>
Side Setback	0 ft min	<span style="border: 1px solid black; border-radius: 50%; padding: 2px;">B</span>
Rear Setback	3 ft min	<span style="border: 1px solid black; border-radius: 50%; padding: 2px;">C</span>

**PARKING**

LOCATION	
Third Lot Layer	Principal Bldg setback + 20 ft

**PRIVATE FRONTAGES & ENCROACHMENTS**

PRIVATE FRONTAGE TYPES	(see <b>Table 10.5A54.30</b> )*
Common Lawn	not permitted
Porch	not permitted
Forecourt	not permitted
Step	permitted
Stoop	permitted
Shopfront	permitted
Officelfront	permitted

**ENCROACHMENT OF BUILDING ELEMENTS**

Porches, Stoops, and other Elements may encroach the indicated setbacks by the following distances.

Front Setback, Principal Frontage	10 ft max
Front Setback, Secondary Frontage	10 ft max
Rear Setback	5 ft max

\* See illustration 10.5A21C for additional requirements.

## Section 10.5A50 Development Standards

### 10.5A51 Municipal Districts, Civic Districts, and Civic Spaces

#### 10.5A51.10 Municipal Districts

Structures and uses within the Municipal District are governed by the provisions of Section 10.460 and 10.560.

#### 10.5A51.20 Civic Districts

10.5A51.21 Structures in the Civic District may be converted to other uses permitted under 10.5A57 without the need for a Development Plan or Regulating Plan amendment provided that no development or improvements are made to the existing structures, and that the new uses remain civic.

10.5A51.22 New structures and alterations and expansions of existing structures in the Civic District are exempt from the requirements of 10.5A54 and 10.5A55 provided that all uses remain civic. A Development Plan is required for any development or improvements made to the existing structures or the lot.

10.5A51.23 Structures in the Civic District that are proposed for development or improvements and/or conversion to non-civic uses permitted under 10.5A57 shall require a Development Plan and Regulating Plan amendment as set forth in Section 10.5A22.

#### 10.5A51.30 Civic Spaces

10.5A51.31 Any Development Plan having an aggregate area of 2 acres or more shall include at least 5% but not more than 20% of its gross land area assigned and improved as civic spaces. The Planning Board shall determine the size, location and type of the required civic spaces based on the size and location of the development, and the proposed and adjacent uses.

10.5A51.32 Civic spaces shall be designed as generally described in Table 10.5A51.20 (Civic Spaces) as related to the adjacent Character District, or if adjacent to more than one, as related to the highest numbered adjacent Character District.

### 10.5A52 Special Requirements

A Development Plan shall designate any applicable special requirements described in Section 10.5A21.20.

**TABLE 10.5A51.20 CIVIC SPACES**



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A natural preserve available for structured or unstructured recreation. A park may be independent of surrounding building Frontages. Other than active use areas, its landscape shall consist of Paths and trails, meadows, waterbodies, woodland and open shelters, all naturalistically disposed. Parks may be lineal, following the trajectories of natural corridors.

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A linear Civic Space that may follow natural corridors providing unstructured and limited amounts of structured recreation. A Greenway may be spatially defined by landscaping rather than building Frontages. Its landscape shall consist of paths and trails, waterbodies, and trees, naturalistically disposed.

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A paved/brick pedestrian connector between buildings. Pedestrian Alleys provide shortcuts through long blocks and connect rear Parking Areas and other Civic Spaces with Street Frontages. Pedestrian Alleys may be covered by a roof and or lined by Shopfronts.

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**TABLE 10.5A51.20 CIVIC SPACES (CONTINUED)**



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A Civic Space available for unstructured recreation and Civic purposes. A Square is spatially defined by building Frontages. Its landscape shall consist of paths, lawns and trees, formally disposed. Squares shall be located at the intersection of important Thoroughfares. The minimum size shall be 1/8 acre.

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A Civic Space available for Civic purposes and Commercial activities. A Plaza shall be spatially defined by building Frontages. Its landscape shall consist primarily of pavement. Trees are optional. Plazas should be located at the intersection of important streets. The minimum size shall be 1/8 acre.

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A Civic Space available for informal activities in close proximity to neighborhood residences. A Pocket Park is spatially defined by building Frontages. Its landscape shall consist of paths, lawns and trees, formally disposed. Pocket Parks shall be in public places or in more intimate mid-block locations. There is no minimum size.

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A Civic Space designed and equipped for the recreation of children. A playground should be fenced and may include an open shelter. Playgrounds shall be interspersed within Residential areas and may be placed within a Block. Playgrounds may be included within parks and greens. There shall be no minimum size.

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## 10.5A53 Lots

### 10.5A53.10 Lot Layers

Lots are composed of three lot layers, the first lot layer, the second lot layer and the third lot layer, as shown in Illustration 10.5A53.10 (Lot Layers) and as defined in Section 10.5A60 (Definitions).

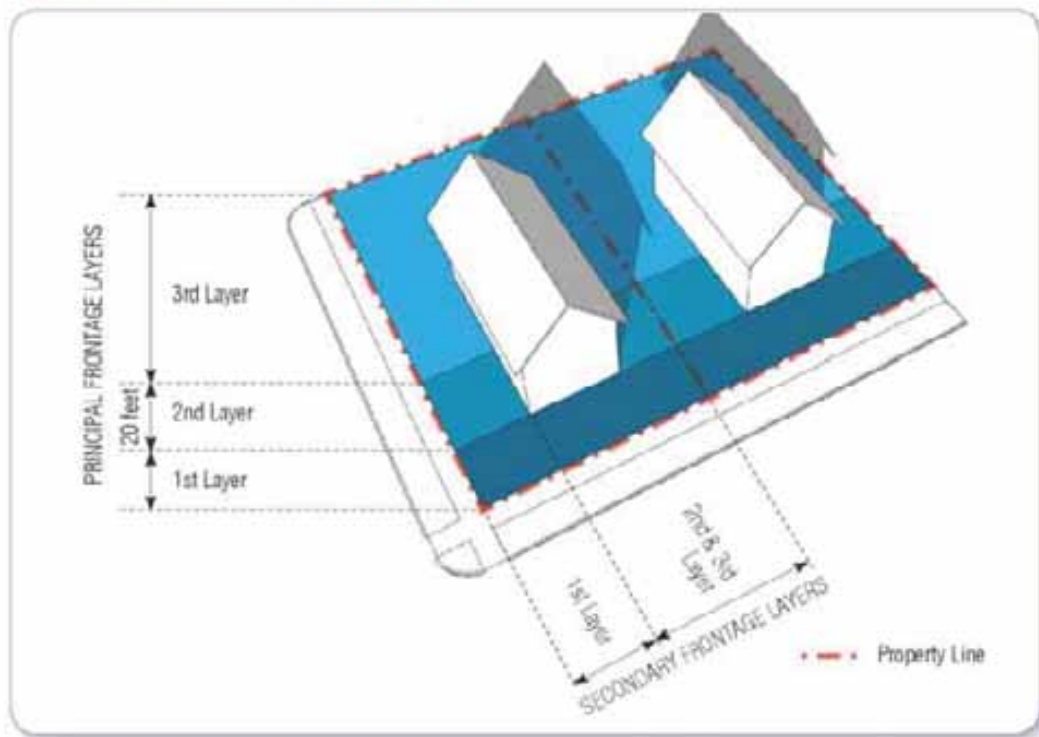
### 10.5A53.20 Lot Dimensions

Newly platted lots within each Character District shall be dimensioned according to Tables 10.5A42.10A-C (Character District Standards).

### 10.5A53.30 Building Coverage

Building coverage within each Character District shall not exceed that recorded in Tables 10.5A42.10A-C (Character District Standards).

**ILLUSTRATION 10.5A33.10 LOT LAYERS**



## 10.5A54 Building Placement and Yard Types

### 10.5A54.10 Building Placement

Buildings shall be disposed in relation to the boundaries of their lots within each Character District according to Tables 10.5A42.10A-C (Character District Standards).

### 10.5A54.20 Yard Types

Buildings and lots shall conform to the Yard Type standards within each Character District, as set forth on Table 10.5A54.20 (Yard Types).

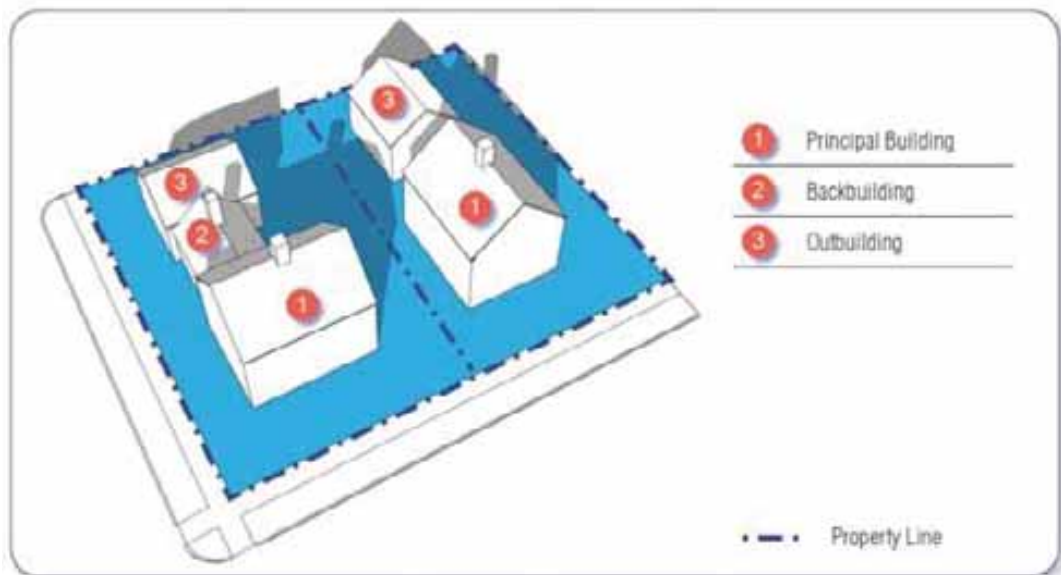
### 10.5A54.30 Principal Building

Within each Character District, only one principal building may be built on each lot at the frontage, as illustrated generally in Illustration 10.5A54.30 (Principal Building/Backbuilding/Outbuilding).

### 10.5A54.40 Backbuildings and Outbuildings

Within each Character District a detached or attached outbuilding may be built on each lot to the rear of the principal building, as illustrated generally in Illustration 10.5A54.30 (Principal Building/Backbuilding/Outbuilding). All backbuildings or outbuildings shall conform to the requirements listed in Section 10.570.

**ILLUSTRATION 10.5A54.30 PRINCIPAL BUILDING/BACKBUILDING/OUTBUILDING**



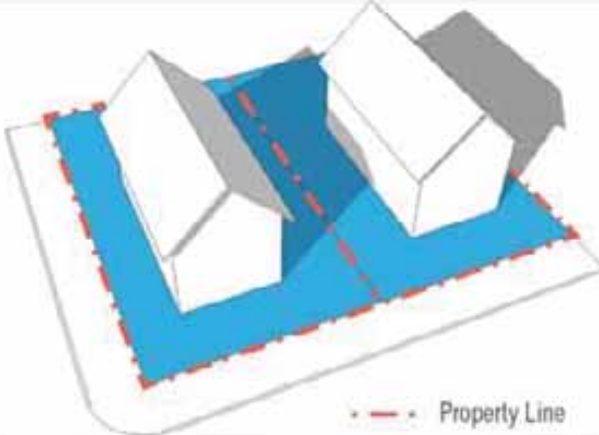


### 10.5A54.50 Other Components

Any structure other than a principal building, fence or streetscreen shall be situated in the second lot layer or third lot layer and shall be screened from the frontage by a principal building or streetscreen.

### 10.5A54.60 Building Facades

**10.5A54.61** Within each Character District, building façades shall be built parallel to a rectilinear principal frontage line or to the tangent of a curved principal frontage line, and along the indicated minimum and/or maximum percentage of the frontage line width at the setback, as specified as Frontage Buildout on Tables 10.5A42.10A-C (Character District Standards) and/or Map 10.5A21C (Special Requirements: Specific Shopfront, Step Frontages, Percent Frontage Buildout and Use Requirement Areas).

**TABLE 10.5A54.20 YARD TYPES**

Yard Type	Permitted Districts:	Districts
<p><b>Edgeyard</b></p>  <p>• - - • Property Line</p>	<p>Permitted Districts:</p>	<p>CD4—L CD4</p>
<p><b>Sideyard</b></p>  <p>• - - • Property Line</p>	<p>Permitted Districts:</p>	<p>CD4—L CD4</p>
<p><b>Rearyard</b></p>  <p>• - - • Property Line</p>	<p>Permitted Districts:</p>	<p>CD4—L CD4 CD5</p>

Specific Types - single family House, cottage, villa, estate house, urban villa. A building that occupies the center of its Lot with Setbacks on all sides. This is the least urban of types as the front yard sets it back from the Frontage, while the side yards weaken the spatial definition of the public Thoroughfare space. The front yard is intended to be visually continuous with the yards of adjacent buildings. The rear yard can be secured for privacy by fences and a well-placed Backbuilding and/or Outbuilding.

Specific Types - single house, duplex, zero lot line house. A building that occupies one side of the Lot with the Setback to the other side. A shallow Frontage Setback defines a more urban condition. If the adjacent building is similar with a blank side wall, the yard can be quite private. This type permits systematic climatic orientation in response to the sun or the breeze. If a Sideyard House abuts a neighboring Sideyard House, the type is known as a twin or double House. Energy costs, and sometimes noise, are reduced by sharing a party wall in this disposition.

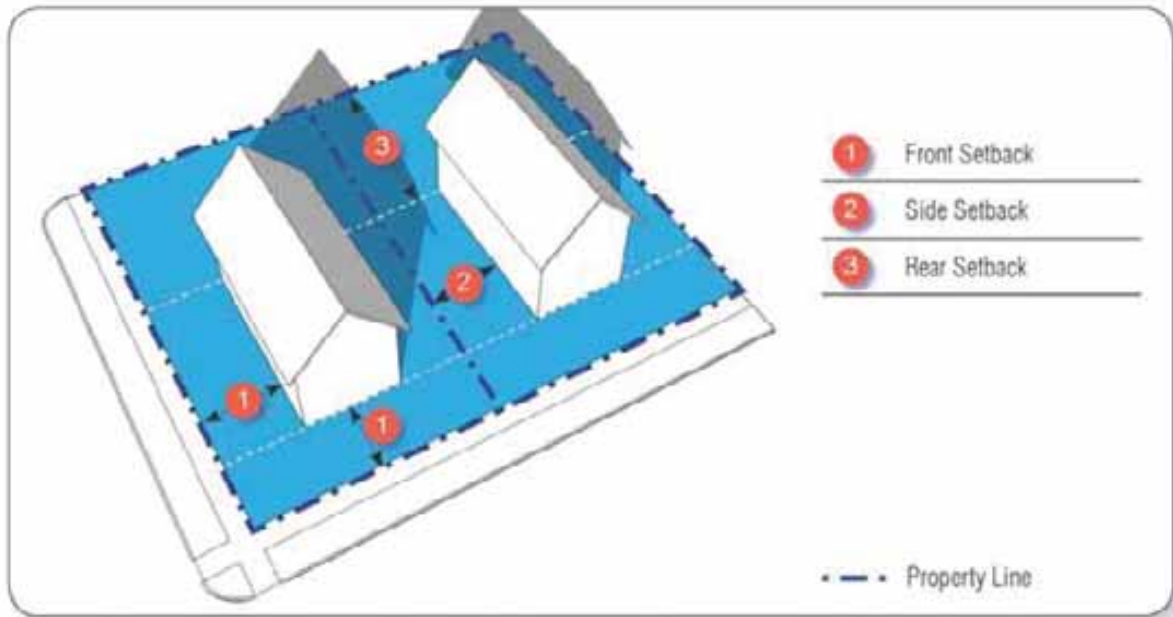
Specific Types - Rowhouse, Live-Work unit, Apartment House, Small Commercial Building, Large Commercial Building. A building that occupies the full Frontage, leaving the rear of the Lot as the sole yard. This is a very urban type as the continuous Facade steadily defines the public Thoroughfare. The rear Elevations may be articulated for functional purposes. In its Residential form, this type is the Rowhouse. For its Commercial form, the rear yard can accommodate substantial parking.

10.5A54.62 Any façade facing a frontage line shall be modulated by major breaks in the façade plane and/or changes in exterior materials or rooflines, in order to render the appearance of individual buildings or wings no wider than the dimensions listed in Tables 10.5A42.10A-C. Façades that are all brick or masonry and have a high degree of fenestration, traditional masonry detailing, and traditional window styling (including recessed windows in the openings and use of multi-panes) shall be exempt from the modulation requirements listed in Tables 10.5A42.10A-C.

**10.5A54.70 Building Setbacks<sup>9</sup>**

10.5A53.71 Setbacks for buildings shall be as shown in Tables 10.5A42.10A-C (Character District Standards). See Illustration 10.5A54.70 (Setback Designations).

**ILLUSTRATION 10.5A54.70 SETBACK DESIGNATIONS**



**10.5A55 Building Form and Building Types**

**10.5A55.10 Private Frontage – General**

The private frontage within each Character District shall conform to and be allocated in accordance with Table 10.5A54.30 (Private Frontage Types) and Tables 10.5A42.10A-C (Character District Standards), as applicable, and any applicable private frontage special requirements indicated on the Regulating Plan.

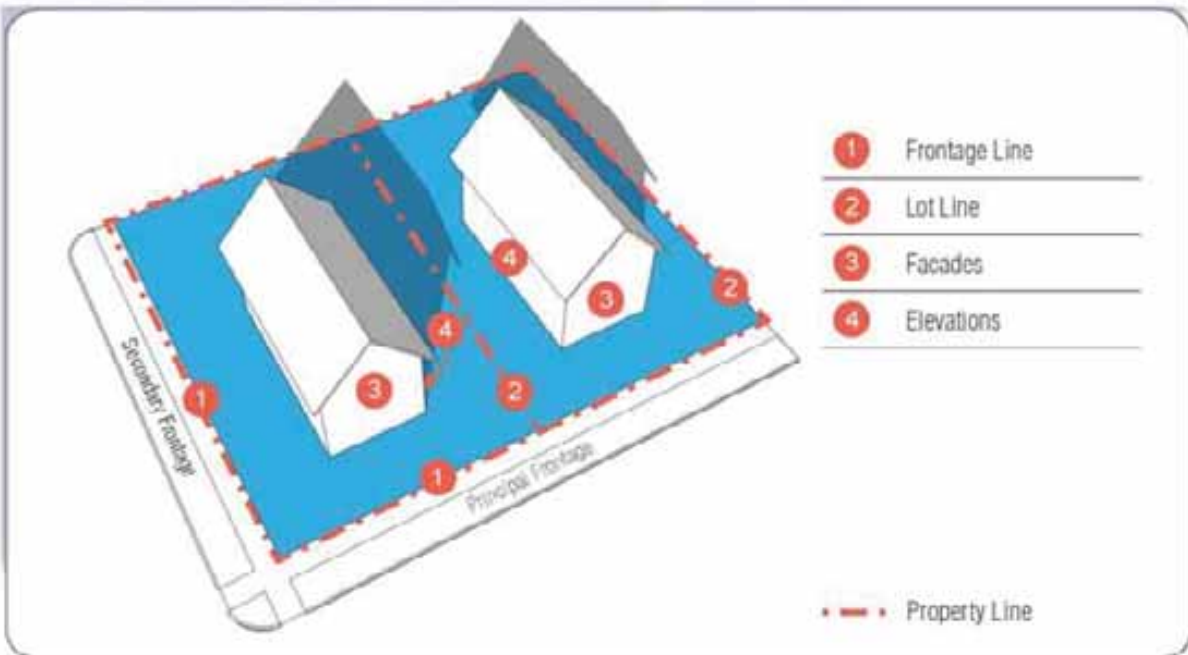
<sup>9</sup> The previous version contained a provision allowing for an increased building setback to accommodate steep slopes.

### 10.5A55.20 Multiple Private Frontages

10.5A55.21 Each building shall have a private frontage along each of its street frontages. If a building has more than one street frontage, one of its frontages shall be designated as the principal frontage and the other frontage or frontages shall be secondary frontages, as illustrated generally in Illustration 10.5A55.20 (Frontage and Lot Lines).

10.5A55.22 The requirements for the second lot layer and third lot layer of corner lots and through lots pertain only to the principal frontage. The requirements for the first lot layer of lots with more than one frontage pertain to both frontages. See Illustration 10.5A53.10 (Lot Layers).

**ILLUSTRATION 10.5A55.20 FRONTAGE AND LOT LINES**





**TABLE 10.5A54.30 PRIVATE FRONTAGE TYPES**

**Common Lawn** Permitted Districts: **CD4—L**



A planted Frontage wherein the Facade is set back substantially from the Frontage Line. The front yard created remains unfenced and is visually continuous with adjacent yards, supporting a common landscape. The deep setback provides a buffer from the higher speed Thoroughfares.

**Porch** Permitted Districts: **CD4—L** **CD4**



A planted Frontage wherein the Facade is set back from the Frontage Line with an attached porch or stoop permitted to Encroach. This may be used with or without a fence to maintain street spatial definition.



**TABLE 10.5A54.30 PRIVATE FRONTAGE TYPES (CONTINUED)**

**Stoop** Permitted Districts: **CD4—L** **CD4** **CD5**



A 3D architectural rendering of a three-story building with a gabled roof and dormer windows. The building features three distinct entrance areas, each with a blue-tinted stoop that is elevated from the sidewalk. The facade is aligned close to the frontage line.

A Frontage wherein the Facade is aligned close to the Frontage Line with the first Story elevated from the Sidewalk sufficiently to secure privacy for the windows. The entrance is usually an exterior stair and landing. This type is recommended for ground-floor Residential use. This frontage type is only allowed outside the Downtown Overlay District.

**Step** Permitted Districts: **CD4—L\*** **CD4** **CD5**



A 3D architectural rendering of a two-story building with a flat roof. The building has a single entrance with a blue-tinted step that is flush with the sidewalk. The facade is aligned close to the frontage line.

A Frontage wherein the Facade is aligned close to the Frontage Line. The entrance is usually an exterior single step without a landing. This type is recommended for ground-floor Residential Office or Retail use. See Map 10.5A21C

**TABLE 10.5A54.30 PRIVATE FRONTAGE TYPES (CONTINUED)**

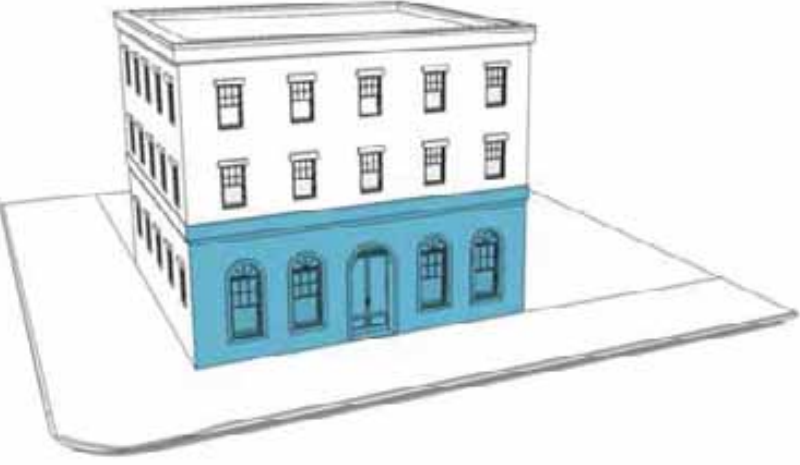
**Shopfront** Permitted Districts: **CD4—L\*** **CD4** **CD5**



A Frontage wherein the Facade is aligned close to the Frontage Line with the building entrance at Sidewalk grade. This type is conventional for Retail use. It has a substantial glazing on the Sidewalk level and may have an awning that may overlap the Sidewalk to within 2 feet of the Curb.

\* Only as shown on Map 10.5A21C Special Requirements: Specific Shopfront & Step Private Frontages Requirements Areas

**Officefront** Permitted Districts: **CD4—L\*** **CD4** **CD5**



A Frontage wherein the Facade is aligned close to the Frontage Line with the building entrance at or above Sidewalk grade. This type is conventional for Office use. It may have substantial glazing on the Facade.

\* Only as shown on Map 10.5A21C Special Requirements: Specific Shopfront & Step Private Frontages Requirements Areas

**TABLE 10.5A54.30 PRIVATE FRONTAGE TYPES (CONTINUED)**

<b>Forecourt</b>	Permitted Districts:	CD4
		
<p>A Frontage wherein a portion of the Facade is close to the Frontage Line and the central portion is set back. The Forecourt created is suitable for vehicular drop-offs. This type should be allocated in conjunction with other Frontage types. Large trees within the Forecourts may overhang the Sidewalks. This frontage type is only allowed outside the Downtown Overlay District.</p>		

**10.5A55.30 Building and Floor Heights**

10.5A55.31 Building heights and floor heights within each Character District shall conform to Tables 10.5A42.10A-C (Character District Standards) and the special requirements for Specific Building Height Requirement Areas indicated Map 10.5A21B.

10.5A55.32 In calculating height of a parking structure or garage, except for a roof-top level parking with a parapet wall less than four feet in height, each above-ground level counts as a single story regardless of its relationship to habitable Stories.

10.5A55.33 A short story includes either: (1) the use of a top story that is below the cornice line of a sloped roof and is at least 20% shorter in height than the story below; or (2) a story within a mansard roof with a pitch no greater than 30:12.

10.5A55.34 In calculating building height, roof appurtenances that are less than 10 feet above the roof surface and that are set back at least 10 feet from any edge of the roof shall not be considered, provided that the total horizontal area of all such roof appurtenances shall not exceed 33 percent of the total roof area of the building.

10.5A55.35 The specific Height Requirement Areas are listed on Map 10.5A21B. In calculating building height, the maximum building height in each Height Requirement Area shall be as follows:

Height Requirement Area	Minimum Height in Stories	Maximum Height in Stories	Maximum Height in Feet
2 stories	2	2	35
2 stories (short 3 <sup>rd</sup> )	2	2 + short 3 <sup>rd</sup>	40
2-3 stories	2	3	45
2-3 stories (short 4 <sup>th</sup> )	2	3 + short 4 <sup>th</sup>	50
2-4 stories (short 5 <sup>th</sup> )	2	4 + short 5 <sup>th</sup>	60

**10.5A55.40 Maximum Building Footprint**

No buildings or other structures shall be greater than the maximum building footprints listed in Table 10.5A42.10A-C Character District Standards); except that this limitation shall not apply to off-street parking structures designed in accordance with the standards in Section 10.5A58.

**10.5A55.50 Roof Type and Pitch**

Building roof type and pitch within each Character District shall conform to Tables 10.5A42.10A-C (Character District Standards).

**10.5A55.60 Facade Glazing**

Window glazing of building facades within each Character District shall conform to Tables 10.5A42.10A-C (Character District Standards).

**10.5A55.70 Loading Docks and Service Areas**

Loading docks and service areas shall not be permitted on frontages or within the first lot layer. See Illustration 10.5A53.10 (Lot Layers).

**10.5A55.80 Streetscreens**

Any streetscreen along a frontage shall be built on the same plane as the façade of the principal building and shall be between 3.5 and 4.0 feet in height. Streetscreens located on a private frontage shall be between 3.5 and 6 feet in height. Streetscreens along the frontage shall have openings no larger than necessary to allow automobile and pedestrian access.




**10.5A55.90 Building Type**

Buildings in each Character District shall be of one or more of the building types specified for such Character District in Table 10.5A55.90 (Building Types).

**10.5A56 Encroachments**

Encroachments of building elements in setback areas shall be allowed within each Character District as set forth in Tables 10.5A42.10A-C (Character District Standards).

**TABLE 10.5A55.90 BUILDING TYPES**

<b>House</b>	Permitted Districts:	<b>CD4—L</b> <b>CD4</b>
	<p>House: Building having an Edgeyard yard type, initially intended as a single-family dwelling on a medium to large Lot, often shared with an Accessory Building in the back yard. This building type is only allowed outside the Downtown Overlay District.</p>	
<b>Duplex</b>	Permitted Districts:	<b>CD4</b>
	<p>Duplex: a Building having an Edgeyard yard type, initially intended as a single-family dwelling, usually on a small Lot that may be shared with an Accessory Building in the back yard. This building type is only allowed outside the Downtown Overlay District.</p>	
<b>Rowhouse</b>	Permitted Districts:	<b>CD4</b> <b>CD5</b>
	<p>Rowhouse: a Building Type having a Rearyard Yard Type, initially intended for single-family dwelling, that shares a party wall with another of the same type and occupies the full Frontage Line. See Rearyard Building. (Syn: Townhouse). This building type is only allowed outside the Downtown Overlay District.</p>	




**TABLE 10.5A55.90 BUILDING TYPES (CONTINUED)**

**Live / Work** Permitted Districts: **CD4** **CD5**



Live-Work: a Mixed Use unit designed to accommodate a ground floor commercial use and a Residential use above. The commercial Use may be anywhere in the unit.

**Small Commercial Building** Permitted Districts: **CD4** **CD5**




Small Commercial Building: a Building having a Shopfront at the ground floor that may be used for Retail, Office, Medical, Commercial, Service, Personal Service, Civic, Education, or other Uses permitted in the applicable Character District. Only non-residential Uses are allowed on the ground floor in the Downtown Overlay District. The floors above may be used for a Residential Principal Function or for any other Function permitted in the applicable Character District.

**Apartment** Permitted Districts: **CD4—L**



Apartment: a Building with an Edgeward yard type, initially intended for a Residential Principal Use, including multiple attached single-family Dwelling Units. This building type is only allowed outside the Downtown Overlay District. This building type may be designed from the exterior to complement detached single-family houses in certain Character Districts while containing actually several flats on the interior; may be for rent, or for sale as a condominium.

**TABLE 10.5A55.90 BUILDING TYPES**

<b>Large Commercial Building</b>	Permitted Districts:	<b>CD5</b>
		
<p>Large Commercial Building: a Building having a Shopfront at the ground floor that may be used for Retail, Office, Medical, Commercial, Artisan Light Industrial, Workshop, Service, Personal Service, Civic, Education, or other Uses permitted in the applicable Character District. The floors above may be used for a Residential Principal Function or for any other Function permitted in the applicable Character District.</p>		

**10.5A57 Building and Lot Uses**

**10.5A57.10 Uses**

10.5A57.11 All buildings, other structures and land within the CD4 and CD5 Character Districts shall comply with the use regulations for the Central Business B district set forth in Section 10.440, and with the special requirements for uses set forth on Map 10.5A21C (Special Requirements: Use Areas).<sup>10</sup>

10.5A57.12 All buildings, other structures and land within the CD4-L Character Districts shall comply with the use regulations for the Mixed Office Residential (MRO) district set forth in Section 10.440.

**10.5A57.20 Downtown Overlay District**

Except as provided in Section 10.5A58.20, the ground floor of any building located within the Downtown Overlay District shall comply with the requirements listed under Section 10.640, subject to any applicable shopfront or officefront special requirement.

<sup>10</sup> Introductory phrase in previous draft has been deleted because it was redundant.

## 10.5A58 Off-Street Parking and Loading Requirements

### 10.5A58.10 General

Except as otherwise provided in this Section, all buildings, other structures and uses in the Character Districts shall comply with the off-street parking requirements set forth in Section 10.1110.

### 10.5A58.20 Number of Required Spaces

10.5A58.21 Uses in the Character-Based Zoning Area that are not located in the Downtown Overlay District shall provide off-street parking in accordance with Section 10.1112.

10.5A58.21 Uses in the Character-Based Zoning Area that are included in the Downtown Overlay District shall comply with the off-street parking requirements for the Downtown Overlay District in accordance with Section 10.1115.

### 10.5A58.20 Supplemental Requirements in the Downtown Overlay District

Buildings, other structures and uses in the Character Districts that are also within the Downtown Overlay District shall comply with the additional standards in Section 10.643.

### 10.5A58.30 Parking, Loading, and Driveway Locations and Standards

10.5A58.31 All off-street parking areas, parking garages and off-street loading areas shall be located in the second lot layer or third lot layer.

10.5A58.32 Parking areas, parking lots and loading locations shall be screened from the frontage by a building or streetscreen except for any access driveway.

10.5A58.33 Driveways at frontages shall be no wider than 24 feet in the first lot layer.

10.5A58.34 Pedestrian exits from all parking lots, garages, and parking structures shall be directly to a frontage line and not directly into a building, except for underground parking accommodations.

10.5A58.35 Parking structures shall have liner buildings of at least 24 feet deep lining the parking structure throughout its entire height along the frontage **except for access driveways and entrances**.

10.5A58.36 In addition to any walkway or sidewalk around such parking area or parking lot, each parking area or parking lot that exceeds 75 parking spaces shall have least one pedestrian walkway of a minimum width of eight (8) feet that is paved differently from the parking spaces with respect to texture, material, style, and/or color.

**10.5A58.40 Surface Parking Lot and Parking Area Landscaping<sup>11</sup>**

**Surface** parking areas and parking lots that contain ten (10) or more spaces shall conform to the following:

- 10.5A58.41 Parking areas and parking lots shall contain one landscape island for every 10 parking spaces. Parking lots with more than one landscape island shall have such islands distributed throughout the parking lot. Each landscape island shall be a minimum of 325 square feet.
- 10.5A58.42 For every 2,000 square feet of parking area or parking lot, at least one tree shall be installed or preserved within the parking area or parking lot.
- 10.5A58.43 No parking space shall be more than 75 feet from a tree within the lot, as measured from the center of the tree to the nearest line demarcating the space.
- 10.5A58.44 All landscaping required pursuant to this Section 10.5A58.40 and adjacent to the paved portion of any parking area, parking lot, loading area, accessway or thoroughfare shall be located in a manner to protect the vegetation from vehicular damage. Without limiting the foregoing, all trees shall be separated from parking area or parking lot paved surfaces by at least 3 feet.

**10.5A59 Architectural Design Guidelines**

In reviewing a proposed project in a Character District under Section 10.630, the Historic District Commission shall review the Development Plan for compliance with Architectural Design Guidelines adopted for the Character Districts or for the Historic District generally. The initial Guidelines shall be those contained in the document titled “Interim Architectural Design Guidelines for the Character-Based Zoning Ordinance,” **Recommended for Adoption by the HDC, dated November 18, 2013**, which shall apply until superseded by new guidelines adopted by the Historic District Commission and approved by the City Council.

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<sup>11</sup> The previous provision regarding obstructions for visibility at intersections was deleted as Section 10.516.30 – Corner Lot Vision Obstruction - of the Zoning Ordinance still applies.

## Section 10.5A60 Definitions

This Section provides definitions for certain terms in Article 5A that are not otherwise defined in Article 15:

### Adjacent

Having any distance of real property boundary in common with, or being separated from such a common real property boundary by a **thoroughfare**, right-of-way, alley or easement.

### Attic space

The interior part of a building contained within a gable, **gambrel**, hip-roof **mansard or penthouse level**.

### Backbuilding

A single-story structure connecting a principal building to an outbuilding. See Illustration 10.5A54.30 (Principal Building/Backbuilding/Outbuilding).

### Block

The aggregate of private lots, Rear Alleys and Rear Lanes, circumscribed by thoroughfares.

### Block face

The aggregate of all the building facades on one side of a block.

### Building element

Any component or part of a building.

### Character District

A zoning district shown on the Regulating Plan to which certain development, lot and building standards, and other elements of the intended built environment are applicable.

### Civic

The term describing activities, uses, purposes and organizations other than the City of Portsmouth which are open to the general public, dedicated to arts, culture, education, religion, recreation, government, transit, gardening, horticulture, public gathering, assembly or meeting.

### Civic space

An open area dedicated for civic use which is owned and operated by a not-for-profit organization or entity other than the City of Portsmouth. There are several civic space types defined by the combination of certain physical constants, including the relationships among their intended use, their size, their landscaping and the buildings that front on them. The civic space types are shown on Table 10.5A51.20 (Civic Spaces).

### Configuration

The form of a building, including its massing, private frontage, and height.



Cornice

A crowning projected molded horizontal top of a building or some part of a building. A trimmed eave on the gable end of a gable-roofed building creates a cornice, consisting of two raking or sloping cornices with connected horizontal cornice.

Curb

The edge of the vehicular pavement that is raised to a granite curb. It usually incorporates the drainage system.

Development

Activity directed toward making an improvement.

Development Plan

A plan meeting the requirements of Section 10.5A33.10.

Driveway

A vehicular lane within a lot, often leading to a garage or parking area.

Edgeyard

A Yard Type in which buildings occupy the center of a lot with Setbacks in the front, the rear and on all sides. See Table 10.554.20 (Yard Types).

Elevation

An exterior wall of a building not along a frontage line. See Illustration 10.5A55.20 (Frontage and Lot Lines). See also façade.

Encroach

To break the plane of a vertical or horizontal regulatory limit with a structural element, so that it extends into a setback, or above a height limit.

Encroachment

Any structural element that breaks the plane of a vertical or horizontal regulatory limit, extending into a setback, or above a height limit, or the breaking of such limit by a structural element.

Facade

The exterior wall of a building that is set along a frontage line. See Illustration 10.5A55.20 (Frontage and Lot Lines). See also elevation.

Façade Glazing

The portion of a façade that consists of transparent windows and doors.

First Lot Layer

That portion of a lot bounded by (a) the side lot lines, (b) the frontage line, and (c) the front setback line.

Floor height

The minimum floor height is measured from floor to ceiling along the building facade which is located on the public frontage.

Frontage

As applicable to Article 5A, the area between a building facade and the vehicular lanes, inclusive of its built and planted components. Frontage is divided into private frontage and public frontage. See Illustration P.1 (Thoroughfares and Frontages), Table 10.5A54.30 (Private Frontage Types), and Illustration 10.5A55.20 (Frontage and Lot Lines).

Frontage Line

A lot line bordering a public frontage. See also Illustration 10.5A55.20 (Frontages and Lot Lines).

Garage

An enclosed area integral to a non-municipal principal building or an outbuilding that provides as an accessory use space for parking or storage of vehicles incidental to the principal use of the lot or principal building on the lot. Not synonymous with parking structure.

Green

A civic space type for unstructured recreation, spatially defined by landscaping rather than building frontages and conforming to Table 10.5A51.20 (Civic Spaces: Green).

Improvement

Except as listed as an exempt activity under Section 10.633.20, any man-made alteration of land, a lot, a building or other structure whether horizontal, vertical, surface or subsurface.

Liner building

A building that is at least 24 feet deep measured from the façade and is specifically designed to mask a parking lot or a parking structure from the public frontage.

Lot layer

A range of depth of a lot within which certain elements are permitted. See first lot layer, second lot layer and third lot layer. See Illustration 10.5A53.10 (Lot Layers).

Lot width

The length of the frontage line of a lot, or in the case of a lot with two frontages, the principal frontage line.

Mansard roof

A four-sided flat- or hip-top roof characterized by two slopes on each of its sides with the lower slope punctured by dormer windows. The upper slope of the roof may not be visible from street level when viewed from close to the building.

Officefront

A private frontage type conventional for office or lodging use, wherein the façade is aligned close to the frontage line with the building entrance at or elevated above sidewalk grade. See Table 10.5A54.30 (Private Frontage Types).

Outbuilding

An accessory building, usually located toward the rear of the same lot as a principal building, and sometimes connected to the principal building by a backbuilding. See Illustration 10.5A54.30 (Principal Building/Backbuilding/Outbuilding).

Park

A civic space type that is open space available for structured or unstructured recreation and complies with the requirements of Table 10.5A51.20 (Civic Spaces: Park).

Parking area

An off-street, ground-level open area within a non-municipal lot for parking vehicles as an accessory use incidental to a principal use of the lot or principal building on the lot. Not synonymous with parking lot.

Parking lot

An off-street, ground-level open area within a non-municipal lot for parking vehicles as a principal use. Not synonymous with parking area.

Parking structure

A non-municipal structure containing one or more stories of parking above grade.

Path

A pedestrian way traversing a park, square or other open space, or otherwise separated from streets by landscaped areas, and ideally connecting directly with the urban sidewalk network.

Pedestrian Alley

A pedestrian connector, open or roofed, that passes between buildings to provide shortcuts through long blocks and connect rear parking areas to frontages.

Penthouse Level

A penthouse level includes all habitable space within the uppermost portion of a building above the cornice which is setback at least 15 feet from all edges of the roof and that the total floor area of which shall not exceed 50% of the area of the story below.

Placement

The disposition of a building on its lot. See Illustrations 10.5A53.10 (Lot Layers) 10.5A54.30 (Principal Building/Backbuilding/Outbuilding) and 10.5A54.70 (Setback Designations).

Plaza

A civic space type designed for civic and commercial purposes, uses and activities, generally paved, spatially defined by building frontages and complying with Table 10.5A51.20 (Civic Spaces: Plaza).

Principal building

The main building on a lot, usually located toward the frontage. See Illustration 10.5A54.30 (Principal Building/Backbuilding/Outbuilding).

Principal entrance

The main point of access for pedestrians into a building.

Principal frontage

On corner lots and through lots, the private frontage designated to bear the address, and the measure of minimum lot width. Prescriptions for the location of parking in certain lot layers pertain only to the principal frontage. Prescriptions for the first lot layer pertain to both frontages of a corner lot. See Illustration 10.5A55.20 (Frontage and Lot Lines). See also frontage.

Private frontage

The privately held area between and including the frontage line and the principal building facade. See Table 10.5A54.30 (Private Frontage Types). See frontage.

Public frontage

The area between the curb of the vehicular lanes and the frontage line. See also frontage.

Rearyard

A Yard Type wherein a building occupies the full frontage line, leaving the rear of the lot as the sole yard. See Table 10.5A54.20 (Yard Types).

Regulating Plan

The zoning map or set of maps that shows the Character Districts, Municipal Districts, civic spaces and special requirements, if any, of areas subject to, or potentially subject to, regulation by Article 5A.

Secondary frontage

On corner lots, the private frontage that is not the principal frontage. As it affects the public realm, its first lot layer is regulated. See frontage.

Second lot layer

That portion of a lot bounded by (a) the side lot lines, (b) the front setback line and (c) a line which is 20 feet from and parallel to the front setback line.

Setback

- (a) The required distance between a structure or use and a specified reference point such as a use, lot line, zoning district boundary, wetland or water body.
- (b) An area within a lot in which buildings or other structures are not permitted in the absence of a permitted encroachment. (See also yard in Article 15.)
- (c) The placement of a building or other structure away from a lot line.

Shopfront

A private frontage type conventional for retail, office, service or restaurant use, with substantial glazing and with or without an awning, wherein the façade is aligned close to the frontage line with the building entrance at sidewalk grade. See Table 10.5A54.30 (Private Frontage Types).

Short Story-

A short-story includes either: 1) a use of a top story that is below the cornice line of a hip-roof that is at least 20% shorter in height than the story below; or 2) a story within a mansard roof.

Sidewalk

The paved section of the public frontage dedicated exclusively to pedestrian activity.

Sideyard

A Yard Type having a setback on one side and a building occupying the other side with no setback.

Special requirements

Provisions of Section 10.5A21.20 (Special Requirements) and/or the associated designations on a Regulating Plan or other map(s) for those provisions.

Square

A civic space type designed for unstructured recreation and civic purposes, spatially defined by building frontages, consisting of paths, lawns and trees, formally disposed, and complying with Table 10.5A51.20 (Civic Spaces: Square).

Step frontage

A private frontage type wherein the facade is aligned close to the frontage line with the first story elevated from the sidewalk for privacy, with exterior step without a landing at the entrance. See Table 10.5A54.30 (Private Frontage Types).



Stoop frontage

A private frontage type wherein the facade is aligned close to the frontage line with the first story elevated from the sidewalk for privacy, with an exterior stair and landing at the entrance. See Table 10.5A54.30 (Private Frontage Types).

Story

Except for habitable space within a short-story, an attic space or basement at least 50% below grade, a story is the habitable level of building below the lowest point of its cornice or eave or, the top of a flat-top mansard roof. See Tables 10.5A42.10A-C (Character District Standards).

Streetscreen

A freestanding wall built along the frontage line, on the same plane as a facade or at or along any lot or boundary line which masks a parking lot from the street, provides privacy to a side yard, and/or strengthens the spatial definition of the public realm.

Third lot layer

That portion of a lot bounded by (a) the side lot lines, (b) the rear lot line and (c) the line of the second lot layer that is parallel to and furthest from the frontage line. See Illustration 10.5A53.10 (Lot Layers).

Thoroughfare

A way for use by vehicular and/or pedestrian traffic and to provide access to lots and open spaces, consisting of vehicular lanes and/or pedestrian ways and the public frontage. See Illustration P1 (Thoroughfares and Frontages). Existing and potential pedestrian ways include Vaughan Mall, Commercial Alley, Ladd Street and Haven Court.



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# M E M O R A N D U M

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**TO:** John P. Bohenko, City Manager  
**FROM:** Rick Taintor, Planning Director *RT.*  
**DATE:** February 26, 2014  
**RE:** City Council Referral – Proposed Character-Based Zoning Ordinance

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At its meeting on February 20, 2014, the Planning Board voted unanimously to recommend that the City Council amend the Zoning Ordinance by inserting a new Article 5A – Character Districts, as set forth in the document titled "Proposed Character-Based Zoning Ordinance – City Council First Reading – March 3, 2014." The effect of this amendment is to establish Character-Based Zoning (also known as "form-based zoning") within the boundary shown on the Regulating Plan. The Character Districts will replace the existing CBA, CBB and MRO zoning districts within this boundary.

## Background

Throughout 2013, the Planning Department and the City's consultants, Town Planning and Urban Design Collaborative (TPUDC), worked to develop new "form-based" zoning standards for the historic core of the downtown. This approach was taken in order to address a recognition that the scale and style of new developments as permitted under current zoning is not always consistent with the downtown's historic character.

The Planning Board originally considered these proposed amendments in a public hearing on October 24, 2013, and a special meeting on October 31, 2013, and voted unanimously to recommend that the City Council adopt the new Article 5A, along with several amendments to other sections of the Ordinance. On October 21, 2013, the City Council scheduled first reading on the proposed zoning amendments for November 18, 2013. However, at the November 18 meeting, the Council voted to postpone the ordinance until January 2014, in order to provide for additional review and input. At its meeting on January 13, 2014, the City Council voted to schedule the proposed Character-Based Zoning for first reading on March 3, 2014, with a public hearing and second reading at the March 17, 2014 City Council meeting.

To provide residents with an opportunity to ask questions about the proposed Character-Based Zoning and to make suggestions for changes, the Planning Department held a public informational drop-in session and forum on January 29, 2014. Both the afternoon drop-in session and the evening forum were well attended and generated much discussion and input.

Based on comments from residents, including those who participated in the January 29 public forum, the Planning Department prepared a revised draft of the proposed Character-Based Zoning ordinance. This draft was posted on the Planning Department's



website (<http://planportsmouth.com/formbasedzoning.html>) and reviewed in a public hearing at the Planning Board's February 20th meeting. As a result of the public hearing, the Planning Board voted to make several additional revisions to the proposed ordinance.

#### Changes to the Proposed Ordinance

In the revised draft (dated March 3, 2014), text that is new or changed from the previous version is highlighted in yellow. In addition, footnotes indicate areas where text has been deleted from the previous version.

The major changes from the draft presented to the City Council for first reading in November 2013 are as follows:

#### **10.5A13 – Applicability; Compliance**

##### 10.5A13.30 - Relationship to Other Provisions of the Zoning Ordinance

- 10.5A13.31 - In order to clarify the applicable sections of the existing Zoning Ordinance we have listed the sections of the existing zoning ordinance that remain in full effect under the CBZ. Essentially, unless the provisions of the CBZ amend or modify the existing zoning requirements, all provisions of the existing zoning ordinance remain in full effect.

#### **105A20 – Regulating Plan**

##### 10.5A21 - General

- 10.5A21 - Map 10.5A21A - Regulating Plan - The Regulating Plan has been modified to reassign several properties along Court Street to CD4-L. Although many of these properties have land use characteristics that can be found in the CD4 district, the historical significance and current use of these structures is more conducive to the uses permitted within the CD4-L.
- 10.5A21 - Map 10.5A21B - Special Requirements: Specific Building Height Areas - The maximum building heights have been modified to reflect public input on the building heights along Ceres, Bow and Congress Streets:
  - In order to minimize the potential for 2½-story buildings with shed dormers along Ceres Street, the maximum building height was increased to 3 stories from 2 and the wood siding requirement was clarified to allow for alternate materials that resemble wood siding.
  - On Congress Street, the maximum building height was reduced in areas to reflect the narrower right-of-ways along High Street and on Congress Street from Fleet Street to Maplewood Ave.

In addition, the maximum height in feet in 3-story height district was increased from 40 feet to 45 feet in order to provide flexibility for greater floor to ceiling heights between stories.

- 10.5A21 - Map 10.5A21C - Special Requirements: Specific Shopfront, Step Frontages, Percent Frontage Buildout and Use Requirement Areas - This Special Requirements Map has been modified to retain the uses currently permitted in the CBA for the properties located along the waterfront on Bow Street.
- 10.5A21.21 and Map 10.5A21B - Specific Building Height Requirement Areas - This Section and the Special Requirements Map have been modified as follows:
  - The section has been modified to include a reference to the maximum building height in feet as well as the maximum number of stories.
  - The section has been modified so that the way building height in the Character Districts is calculated is consistent with the existing zoning requirements.
  - The minimum number of stories has been set at two stories in all Character Districts.

#### 10.5A22 - Regulating Plan Amendment

- 10.5A22.20 - When Regulating Plan Amendment Necessary [deleted] - This section in the previous draft would have required City Council approval of proposed developments that did not conform to use or height requirements of the Regulating Plan. That section has been deleted in the current draft due to concerns about conflict with State law regarding variances.

#### **10.5A30 – Development Plan**

##### 10.5A35 - Development Plan Review and Action

- 10.5A35.20 - Development Plans Subject to Site Plan Review - This section has been modified to remove the provision that Development Plan approval may be made subject to the granting of variances, special exceptions or conditional use permits. The effect of deleting this phrase is to require that any required variance, special exception or conditional use permit be granted prior to approval of a Development Plan.

#### **10.5A40 – Character Districts, Civic Spaces, Civic Districts and Municipal Districts**

##### 10.5A42 - Character District Descriptions

- Table 10.5A42.10A - CD4-L General Urban District - Limited
  - Table 10.5A42.10B - CD4 General Urban District
  - Table 10.5A42.10C - CD5 Urban Center District
- These Tables have been modified to clarify that all the dimensional requirements for parcels located in the applicable Character District are exclusively listed within the Table. In addition, the maximum lot width requirements have been replaced with facade modulation requirements in order to break up the facades of larger buildings.



## **10.5A50 – Development Standards**

### 10.5A51 - Municipal Districts, Civic Districts and Civic Spaces

- 10.5A51.30 - Civic Spaces - This section has been modified to clarify how the Planning Board will determine and locate the most appropriate type of Civic Space within large redevelopment projects.

### 10.5A54 Buildings

- 10.5A54.40 - Backbuildings and Outbuildings - This section has been modified to include detached and attached outbuildings and to reference the existing zoning requirements for accessory buildings listed under 10.570.
- 10.5A54.62 - Facade Modulation - This new provision replaces the maximum lot width requirement in order to preserve an appropriate sense of scale and make new buildings more inviting to pedestrians. It requires that the façade of a larger building be divided into distinct sections through changes in materials, patterns, textures and/or heights.
- 10.5A54.72 - Building Setbacks - This section has been deleted as all proposed buildings or structures located within the CD4 and CD4-L are permitted to have a front yard setback. In contrast, all properties located within the CD5 are required to be constructed with no front yard setback.

### 10.5A55 Building Form and Building Types

- 10.5A55.34 - Building and Ceiling Heights - This section has been modified to add a requirement that any rooftop appurtenances are set back at least 10 feet from the edge of the roof.
- 10.5A55.35 - Building and Ceiling Heights - Due to public concerns that the minimum story heights originally proposed for buildings along Bow, Congress, Market and Pleasant Streets would encourage demolition of existing shorter historic buildings, this section has been modified to reduce the minimum story height for all buildings in all three Character Districts to two stories.
- 10.5A55.40 - Maximum Building Footprint - This section has been modified to list the maximum building footprint requirements for each Character District within the Tables listed under Section 10.5A40.
- 10.5A55.80 - Streetscreens - This section has been modified to clarify that taller streetscreens are required along property lines between properties in order to adequately screen surface parking lots.

### 10.5A59 - Architectural Design Guidelines

- This section has been modified to reflect that Historic District Commission voted to recommend adoption of the revised *Interim Architectural Design Guidelines* on November 18th, 2013.

#### 10.5A60 – Definitions

- Attic Space - This definition has been modified to include other sloped roofs as well as a recessed penthouse level on flat roofed buildings.
- Floor Height - This definition has been added to clarify that the minimum floor heights are measured from the finished floor to the ceiling. Given that these are listed as the minimum, taller floor heights are permitted provided that the total height of the building is less than the maximum number of stories or building height in feet.
- Mansard Roof - Because the definition of "short story" includes a mansard roof, a new definition has been added for both types of mansard roofs.
- Penthouse Level - This is a new definition that has been included in the definition of Attic Space to allow a recessed penthouse level above the cornice for a flat-roof building. Note that the penthouse level must still conform to the maximum building height in feet.
- Short Story - This definition has been added to clarify the two types of "short stories" permitted as shown in Map 10.5A21B.
- Story - This definition has been modified to clarify the exemptions for attic spaces and short stories, and to include as a story any habitable level within a flat-topped mansard roof.



NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Portsmouth City Council on Monday, March 17, 2014 at 7:00 p.m., Eileen Dondero Foley Council Chambers, Municipal Complex, 1 Junkins Avenue, Portsmouth, NH, on the proposed Ordinance:

That the Ordinances of the City of Portsmouth, Chapter 10 – Zoning Ordinance, are hereby amended as follows (inserted text in bold; deleted text in strikethrough):

**LEGAL NOTICE**

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Portsmouth City Council on Monday, March 17, 2014 at 7:00 p.m., Eileen Dondero Foley Council Chambers, Municipal Complex, 1 Junkins Avenue, Portsmouth, NH, on the proposed Ordinance:

That the Ordinances of the City of Portsmouth, Chapter 10 – Zoning Ordinance, are hereby amended as follows (inserted text in bold; deleted text in strikethrough):

1. In Article 4, Section 10.410 – Establishment and Purpose of Districts, insert the following before the row titled "Business Districts":

Character Districts	
Character District 4-L CD4-L	To promote the development of walkable, mixed-use, human-scaled places by providing standards for building form and placement and related elements of development.
Character District 4 CD 4	
Character District 5 CD5	

2. In Article 4, Section 421 – District Location and Boundaries, insert the following new Section 10.421.30:

10.421.30 The following maps are incorporated by reference in the Zoning Map:

10.421.31 The Regulating Plan and Special Requirements Maps for the Character Districts (Maps 10.5A21A through 10.5A21C), as most recently amended.

10.421.32 The Flood Insurance Rate Maps (FIRM) for the City of Portsmouth, prepared by the Federal Emergency Management Agency (FEMA), as most recently amended.

10.421.33 The "FAR Part 77 Imaginary Surfaces Plan" for Pease International Tradeport, dated May 1995.

3. In Article 6 – Overlay Districts, Section 10.640 – Downtown Overlay District, Section 10.641.10, insert the words "and the Character Districts" after the words "Central Business B districts," so that the paragraph reads as follows:

10.641.10 The Downtown Overlay District (DOD) is an overlay district applied to portions of the Central Business A and Central Business B districts and the Character Districts. All properties located in the DOD must satisfy the requirements of both the DOD and the underlying districts.

4. In Article 6 – Overlay Districts, Section 10.640 Downtown Overlay District, Section 10.643 – Off-Street Parking Facilities, amend Sections 10.643.20 and 10.643.30 as follows:

10.643.20 In the DOD, accessory off-street parking facilities at or above ground level providing spaces for more than two vehicles shall not be located within 30 24 feet of the following streets:

Bow Street	Daniel Street	Middle Street
Chapel Street	Fleet Street	Penhallow Street
Chestnut Street	Hanover Street	Pleasant Street
Congress Street	High Street	State Street
Court Street	Market Street	Vaughan Mall

10.643.30 In the DOD, the vehicular entrance into a building or structure containing off-street parking facilities for more than two vehicles shall not face any of streets listed in paragraph 10.643.20 the following streets:

Bow Street	High Street	Pleasant Street
Congress Street	Market Street	State Street
Daniel Street		

and the vehicular entrance shall be set back at least 30 24 feet from any street listed in paragraph 10.643.20, and shall be located at least 50 feet from any street intersection.

5. In Article 12 – Signs, Section 10.1230 – Sign Districts, Section 10.232, insert the words "Character District 4-L" in the row titled "Sign District 2" and insert the words "Character District 4" and "Character District 5" in the row titled "Sign District 3" as follows:

Sign District 2	Mixed Residential Office Mixed Residential Business Waterfront Business Character District 4-L
Sign District 3	Central Business A Central Business B Character District 4 Character District 5

6. In Article 15 – Definitions, Section 10.1520 – Terms With Specialized Applications, insert the following new Section 10.1525:

10.1525 Terms that are used primarily in Article 5A, Character Districts, are defined in Section 10.5A60, including

Adjacent	Outbuilding
Attic space	Park
Backbuilding	Parking area
Block	Parking lot
Block face	Parking structure
Building *	Path
Building element	Pedestrian alley
Character District	Penthouse level
Civic	Placement
Civic space	Plaza
Configuration	Principal entrance
Cornice	Principal frontage
Curb	Private frontage
Development	Public frontage
Development Plan	Rearyard
Edgeward	Regulating Plan
Elevation *	Second lot layer
Encroach	Secondary frontage
Encroachment	Setback
Façade	Shopfront
Façade modulation	Short story
First lot layer	Sidewalk
Floor height	Sideward
Frontage *	Special requirements
Frontage line	Square
Garage	Step frontage
Green	Stoop frontage
Improvement *	Story *
Liner building	Streetscreen
Lot layer	Structure *
Lot width	Third lot layer
Mansard roof	Thoroughfare
Officefront	

\* These terms are defined differently for Section 10.5A60 than for other sections of this Ordinance.

The complete Ordinance is available for review in the Office of the City Clerk and Portsmouth Public Library, during regular business hours.

KELLI L. BARNABY, CMC/CNHMC  
CITY CLERK



ORDINANCE #  
THE CITY OF PORTSMOUTH ORDAINS

That the Ordinances of the City of Portsmouth, Chapter 10 – Zoning Ordinance, are hereby amended as follows (inserted text in **bold**; deleted text in ~~strikethrough~~):

1. In Article 4, Section 10.410 – Establishment and Purpose of Districts, insert the following before the row titled "Business Districts":

Character Districts		
<b>Character District 4-L</b>	<b>CD4-L</b>	<b>To promote the development of walkable, mixed-use, human-scaled places by providing standards for building form and placement and related elements of development.</b>
<b>Character District 4</b>	<b>CD 4</b>	
<b>Character District 5</b>	<b>CD5</b>	

2. In Article 4, Section 421 – District Location and Boundaries, insert the following new Section 10.421.30:

**10.421.30 The following maps are incorporated by reference in the Zoning Map:**

**10.421.31 The Regulating Plan and Special Requirements Maps for the Character Districts (Maps 10.5A21A through 10.5A21C), as most recently amended.**

**10.421.32 The Flood Insurance Rate Maps (FIRM) for the City of Portsmouth, prepared by the Federal Emergency Management Agency (FEMA), as most recently amended.**

**10.421.33 The "FAR Part 77 Imaginary Surfaces Plan" for Pease International Tradeport, dated May 1995.**

3. In Article 6 – Overlay Districts, Section 10.640 – Downtown Overlay District, Section 10.641.10, insert the words "and the Character Districts" after the words "Central Business B districts," so that the paragraph reads as follows:

**10.641.10 The Downtown Overlay District (DOD) is an overlay district applied to portions of the Central Business A and Central Business B districts and the Character Districts. All properties located in the DOD must satisfy the requirements of both the DOD and the underlying districts.**

4. In Article 6 – Overlay Districts, Section 10.640 Downtown Overlay District, Section 10.643 – Off-Street Parking Facilities, amend Sections 10.643.20 and 10.643.30 as follows:

10.643.20 In the DOD, accessory off-street parking facilities **at or above ground level** providing spaces for more than two vehicles shall not be located within ~~30~~ **24** feet of the following streets:

Bow Street	Daniel Street	<b>Middle Street</b>
<b>Chapel Street</b>	<b>Fleet Street</b>	<b>Penhallow Street</b>
<b>Chestnut Street</b>	<b>Hanover Street</b>	Pleasant Street
Congress Street	High Street	State Street
<b>Court Street</b>	Market Street	<b>Vaughan Mall</b>

10.643.30 In the DOD, the vehicular entrance into a building or structure containing off-street parking facilities for more than two vehicles shall not face any of streets ~~listed in paragraph 10.643.20~~ **the following streets:**

<b>Bow Street</b>	<b>High Street</b>	<b>Pleasant Street</b>
<b>Congress Street</b>	<b>Market Street</b>	<b>State Street</b>
<b>Daniel Street</b>		

and the vehicular entrance shall be set back at least ~~30~~ **24** feet from any street listed in paragraph 10.643.20, and shall be located at least 50 feet from any street intersection.

5. In Article 12 – Signs, Section 10.1230 – Sign Districts, Section 10.232, insert the words "Character District 4-L" in the row titled "Sign District 2", and insert the words "Character District 4" and "Character District 5" in the row titled "Sign District 3" as follows:

Sign District 2	Mixed Residential Office Mixed Residential Business Waterfront Business <b>Character District 4-L</b>
Sign District 3	Central Business A Central Business B <b>Character District 4</b> <b>Character District 5</b>



6. In Article 15 – Definitions, Section 10.1520 – Terms With Specialized Applications, insert the following new Section 10.1525:

**10.1525 Terms that are used primarily in Article 5A, Character Districts, are defined in Section 10.5A60, including:**

Adjacent	Outbuilding
Attic space	Park
Backbuilding	Parking area
Block	Parking lot
Block face	Parking structure
Building *	Path
Building element	Pedestrian alley
Character District	Penthouse level
Civic	Placement
Civic space	Plaza
Configuration	Principal entrance
Cornice	Principal frontage
Curb	Private frontage
Development	Public frontage
Development Plan	Rearyard
Edgeyard	Regulating Plan
Elevation *	Second lot layer
Encroach	Secondary frontage
Encroachment	Setback
Façade	Shopfront
Façade modulation	Short story
First lot layer	Sidewalk
Floor height	Sideyard
Frontage *	Special requirements
Frontage line	Square
Garage	Step frontage
Green	Stoop frontage
Improvement *	Story *
Liner building	Streetscreen
Lot layer	Structure *
Lot width	Third lot layer
Mansard roof	Thoroughfare
Officefront	

\* These terms are defined differently for Section 10.5A60 than for other sections of this Ordinance.

The City Clerk shall properly alphabetize and/or re-number the ordinance as necessary in accordance with this amendment.

All ordinances or parts of ordinances inconsistent herewith are hereby deleted.

This ordinance shall take effect upon its passage.

APPROVED:

\_\_\_\_\_  
Robert Lister, Mayor

ADOPTED BY COUNCIL:

\_\_\_\_\_  
Kelli L. Barnaby, City Clerk

**InterOffice Memo**

**To:** John P. Bohenko, City Manager  
**From:** Tom Richter, Engineering Technician  
**Date:** February 20, 2014  
**Subject:** PSNH License Agreement 63-0571

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I have reviewed the pole and underground conduit location information provided by PSNH for Petition and Pole License 63-0571.

This request is to license 1 pole on Livermore Street and 40' of underground conduit. This underground system is an electrical service to 32 Livermore Street.

At this time the underground system has been constructed but the lines are still overhead. The installation of this pole and underground system posed no impact to existing City infrastructure. The Public Works Department recommends approval of this license.

Attached is a picture of the pole and corresponding utility trench. Please call with any questions you may have.

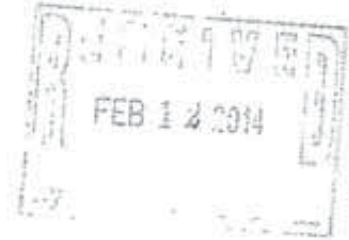
cc: Peter Rice, P.E. Director of Public Works  
Kelli Barnaby, City Clerk



**Public Service  
of New Hampshire**

A Northeast Utilities Company

Public Service Company of New Hampshire  
P.O. Box 330  
Manchester, NH 03105-0330  
(603) 669-4000  
www.psnh.com



February 10, 2014

Office of the City Clerk  
City of Portsmouth  
One Junkins Avenue  
Portsmouth, NH 03801

Dear City Clerk,

Public Service of New Hampshire is hereby requesting permission to install/replace pole(s) located in City of Portsmouth, New Hampshire.

Enclosed for your review find two copies of PSNH Petition and Pole License number 63-0571 for City of Portsmouth review.

Upon approval, please have each copy of the Petition and Pole License signed by the proper authority.

Retain the Petition and Pole License copy labeled "Portsmouth" and mail the remaining signed copies along with any invoice for payment to PSNH in the enclosed self-addressed envelope.

If the Petition and Pole License is not approved, please return all copies to PSNH with an explanation.

Please contact me by telephone or e-mail with any questions you may have.

Thank you.

*Lisa-Marie Pinkes*

Lisa-Marie Pinkes  
Customer Operations Support - Licensing  
Public Service of New Hampshire  
PO Box 330  
Manchester, NH 03105-9989  
Tel. 603-634-2218  
E-Mail: lisa-marie.pinkes@nu.com

Enclosure(s)



**PETITION AND POLE LICENSE  
PETITION**

Manchester, New Hampshire

February 10, 2014

To the City Council of the City of Portsmouth, New Hampshire.

PUBLIC SERVICE OF NEW HAMPSHIRE requests a license to install and maintain underground conduits, cable and wires, and maintain poles and structures with wires, cables, conduits and devices thereon, together with such sustaining, strengthening and protecting fixtures as may be necessary along, and under the following public ways:

License one ( 1) pole(s), 40 Feet Underground Cable City ROW on Livermore Street in the City of Portsmouth.

**PUBLIC SERVICE OF NEW HAMPSHIRE**

BY: *Lisa-Marie Pinkes*  
Lisa-Marie Pinkes, PSNH CO Support / Licensing

**LICENSE**

Upon the foregoing petition and it appearing that the public good so requires, it is hereby

**ORDERED**

This 10th day of February, 2014, that, PUBLIC SERVICE OF NEW HAMPSHIRE be granted a license to erect and maintain poles and structures, with wires, cables, conduits and devices thereon, together with sustaining, strengthening and protecting fixtures, in the public ways covered by said petition. All of said wires, except such as are vertically attached to poles and structures, shall be placed in accordance with the National Electrical Safety Code in effect at the time of petition and/or license is granted.

The approximate location of the poles and structures shall be shown on plan marked "PUBLIC SERVICE OF NEW HAMPSHIRE" No. 63-0571, dated 2/10/2014, attached to and made a part hereof.

Town of Portsmouth, New Hampshire

Town of Portsmouth, New Hampshire

BY: \_\_\_\_\_

BY: \_\_\_\_\_

BY: \_\_\_\_\_

BY: \_\_\_\_\_

BY: \_\_\_\_\_

BY: \_\_\_\_\_

Received and entered in the records of the Town of Portsmouth, New Hampshire, Book \_\_\_\_\_, Page \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
Town Clerk





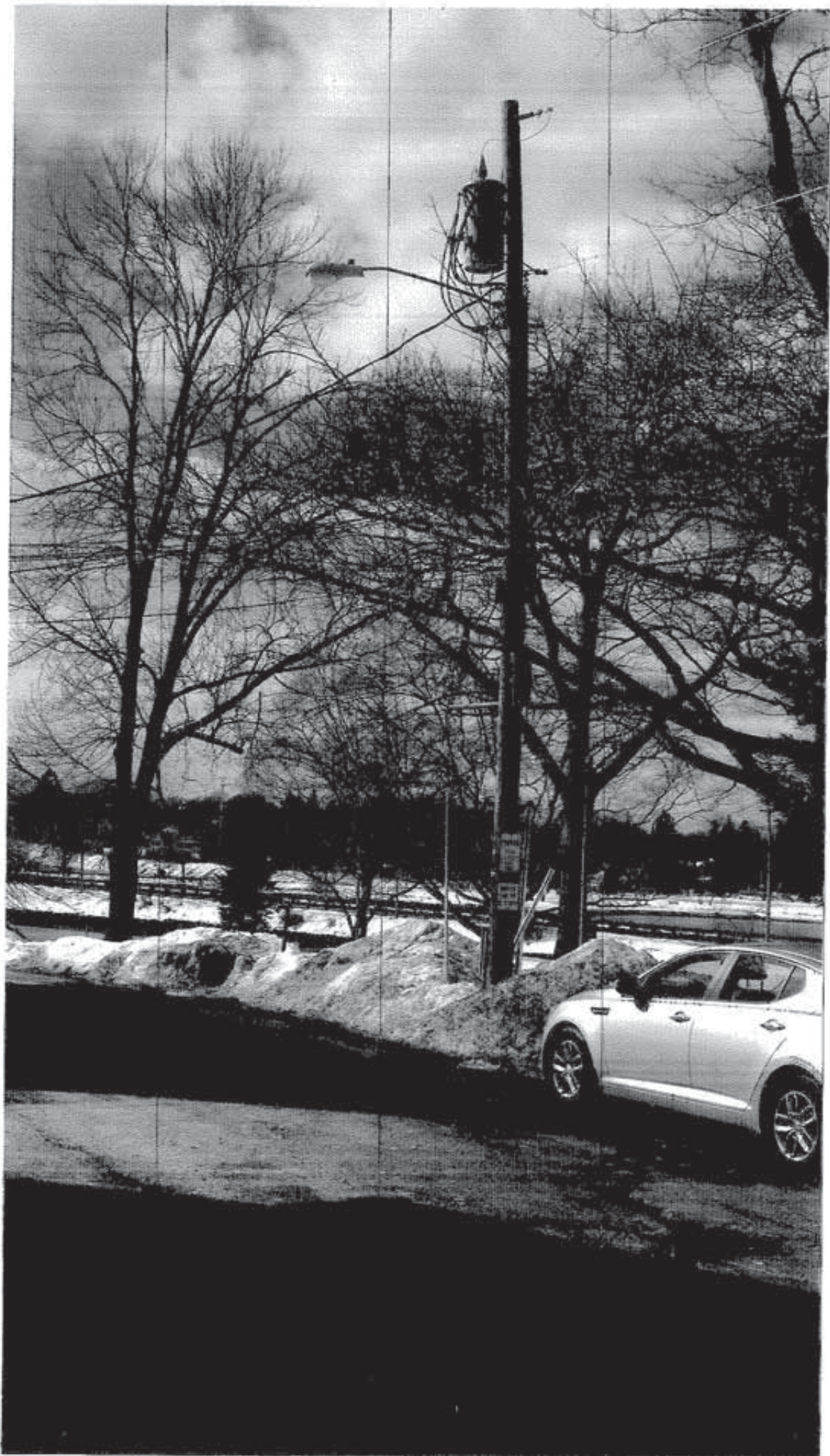
ADDENDUM PER RSA 231:163

- 1) All licensee(s) and any other entity using and/or occupying property of the City pursuant to a license, lease or other agreement shall provide for the payment of properly assessed real and personal property taxes by the party using or occupying said property no later than the due date.
- 2) All licensee(s) and any other entity using and/or occupying property of the City shall provide for the payment of properly assessed real and personal property taxes on structures or improvements added by the licensee(s) or any other entity using or occupying property of the city; and
- 3) Failure of the licensee(s) and any other entity using and/or occupying property of the City to pay duly assessed personal and real taxes when due shall be cause to terminate said agreement by the lessor.

The changes to the licenses, leases and other agreements set forth in the preceding paragraphs shall remain in effect until changed in accordance with the requirements of RSA 231:163.

**Approved by City Council:**







FEB 28 2014

RW Robert L. Sutherland Jr. Sec  
St. John's Lodge No 1 F. & A. M.  
99 Hanover St. Unit 205  
Portsmouth, NH 03801-3899

February 26, 2014  
To: The City Manager  
1 Junkins Ave.  
Portsmouth, NH 03801

Dear Mr. Bohenko

The Worshipful Master of St. John's Lodge No. 1 Wor. Bro Floyd Caron request that we be allowed to hold our annual 5K again this year on April 12 at 8 AM using the same route as last year. We will have the usual insurance that is required and look forward to your response.

The funds from this year's race will be going to the Seacoast Food Pantry.

Sincerely,

*Robert L. Sutherland Jr.*

RW Robert L. Sutherland, Jr.  
Sectary: robert7615@aol.com  
99 Hanover St Unit 205  
Portsmouth, NH 03801-3899  
630-828-5246



FEB 28 2014

**RW Robert L. Sutherland Jr. Sec**  
**St. John's Lodge No 1 F. & A. M.**  
99 Hanover St. Unit 205  
Portsmouth, NH 03801-3899

February 26, 2014  
To: The City Manager  
1 Junkins Ave.  
Portsmouth, NH 03801

Dear Mr. Bohenko

The Worshipful Master of St. John's Lodge No. 1 Wor. Bro Floyd Caron request that the Offices and member be allowed to march to St John's Church, Chapel St. Portsmouth NH, we will be taking a route from the William Pitt Tavern on Court Street crossing State St. then up Chapel St to the Church. The date for this even will be June 22<sup>nd</sup> for the observance of St. John's Sunday at (Queen Chapel ) St John's Church in Portsmouth for the 259th time.

Lodge will be opened at the William Pitt Tavern at 8:30 AM and the procession will step off at 9:00 AM for services at 9:30 AM. We will return to the Tavern, following the service.

Sincerely,

*Robert L. Sutherland Jr.*

RW Robert L. Sutherland, Jr.  
Sectary: robert7615@aol.com  
99 Hanover St Unit 205  
Portsmouth, NH 03801-3899  
630-828-5246



**OFFICE OF THE CITY CLERK  
CITY OF PORTSMOUTH, N.H.**

**Kelli L. Barnaby, CMC/CNHMC  
City Clerk  
1 Junkins Avenue  
Portsmouth, NH 03801  
603-610-7207  
Fax: 603-427-1579  
[Klbarnaby@cityofportsmouth.com](mailto:Klbarnaby@cityofportsmouth.com)**

# Memo

**To:** Mayor Robert Lister and City Council  
**From:** Kelli L. Barnaby, City Clerk  
**Date:** March 17, 2014  
**Re:** 2014 Omnibus Sidewalk Obstruction Renewals

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Please find attached the listing of 2014 Omnibus sidewalk obstruction renewal applications without changes, submitted thus far and that have met the appropriate insurance and fee requirements.

If you should have any questions, please do not hesitate to contact me directly or via e-mail at [klbarnaby@cityofportsmouth.com](mailto:klbarnaby@cityofportsmouth.com).

cc: John P. Bohenko, City Manager

## 2014 Sidewalk Obstruction Renewal Applications

<u>Business</u>	<u>LOCATION</u>	<u>FEE</u>	<u>Tables</u>	<u>Chairs</u>	<u>Bench</u>	<u>Planters</u>	<u>Sign</u>	<u>INSURANCE</u>	<u>App Date</u>
A Little Bit of Naples	130 Congress St.	\$60.00					1	9/1/2014	2/18/2014
Art with a Splash	222 State St.	\$60.00					1	10/1/2014	3/4/2014
Better Homes & Gardens, Masiello	79 Congress St.	\$60.00					1	7/30/2014	2/24/2014
Blue Grasshopper	10 Commercial Alley	\$74.00		2			1	5/15/2014	3/3/2014
Breaking New Grounds	14 Market Sq.	\$1,194.00	15	42				9/24/2014	3/12/2014
Canine Cupboard	220 State St.	\$60.00					1	1/1/2015	3/6/2014
Ceres Bakery	51 Penhallow St.	\$190.00	2	10				7/15/2014	2/21/2014
Chamber of Commerce	500 Market St.	\$60.00					1	4/6/2014	2/24/2014
Colby's Breakfast & Lunch	105 Daniel St.	\$60.00					1	10/1/2014	2/24/2014
Corks & Cords	13 Commercial Alley	\$60.00					1	11/13/2014	2/24/2014
Diversions Puzzles & Games	123 Congress St.	\$60.00					1	7/15/2014	3/12/2014
Dos Amigos Burritos	107 State St.	\$148.00	2	4				9/25/2014	2/26/2014
Fat Belly's	2 Bow St.	\$60.00					1	9/12/2014	2/27/2014
Friends of the Music Hall	104 Congress St.	\$60.00					1	7/1/2014	3/6/2014
Geno's Chowder and Sandwich Shop	177 Mechanic St.	\$60.00					1	4/1/2015	3/11/2014
Hampshire First Bank	77 Hanover St.	\$60.00					1	2/1/2015	3/11/2014
Helen Marks	42 Market St.	\$60.00					1	5/2/2014	3/6/2014
Izzy's Frozen Yogurt	33 Bow St.	\$60.00			1			7/1/2014	2/19/2014
Jumpin' Jay's Fish Café	150 Congress St.	\$60.00			1			9/25/2014	3/5/2014
Kaffee Vonsolln	79 Daniel St.	\$148.00	2	4				8/12/2014	3/4/2014
Martingale Wharf	99 Bow St.	\$60.00					1	6/1/2014	3/3/2014
Michelle's on Market Square	10 Market Sq.	\$208.00	2	4			1	9/1/2014	3/10/2014
Moxy	106 Penhallow St.	\$120.00			2			3/22/2014	2/27/2014
North Church	2 locations	\$0.00					2	10/1/2014	2/18/2014
Portsmouth Athenaeum, The	9 Market Square	\$60.00					1	8/26/2014	2/11/2014
Portsmouth Gaslight	64 Market St.	\$120.00					2	4/23/2014	3/6/2014
Portsmouth Salt Cellar	7 Commercial Alley	\$60.00					1	1/18/2015	3/7/2014
River House, The	53 Bow St.	\$120.00			2			4/22/2014	2/25/2014
Rudi's Portsmouth	43 Rutland St.	\$60.00					1	10/14/2014	3/3/2014
Rudi's Portsmouth	20 High St.	\$60.00					1	10/14/2014	3/3/2014
Scallops	65 Daniel St.	\$60.00					1	9/11/2014	3/3/2014
Seacoast Green Alliance	75 Congress St.	\$60.00					1	10/1/2014	2/13/2014
Serendipity	41 Pleasant St.	\$120.00					2	10/7/2014	2/26/2014
State Street Saloon/Roger's Café	268 State St.	\$60.00					1	5/18/2014	3/12/2014
Surf Portsmouth	99 Bow St.	\$60.00					1	6/30/2014	3/11/2014
Ten Thousand Villages	87 Congress St.	\$60.00					1	11/15/2014	2/24/2014
Tugboat Alley	47 Bow St.	\$60.00			1			10/25/2014	2/24/2014
Water Monkey	33 Vaughan Mall	\$60.00					1	5/25/2014	3/3/2014



## NEW ENGLAND REGION

**Connecticut Office**  
35 Cold Spring Rd, Suite 411  
Rocky Hill, CT 06067  
860-563-1177  
800-541-8350  
Fax 860-563-6018

**Massachusetts Office**  
29 Crafts St, Suite 450  
Newton, MA 02458  
617-244-1800  
800-766-9449  
Fax 617-558-7686

**New Hampshire Office**  
6 Chenell Dr, Suite 260  
Concord, NH 03301  
603-224-9322  
800-639-2113  
Fax 603-224-3778

**Rhode Island Office**  
2348 Post Rd, Suite 104  
Warwick, RI 02886  
401-739-3773  
Fax 401-739-8990

received  
3/10/14

Portsmouth City Council  
City Hall  
1 Junkins Avenue  
Portsmouth, NH 03801

March 6, 2014

Dear Mayor Lister and Council Members:

I am writing to you to support the Arthritis Foundation New England Region 2014 Portsmouth Jingle Bell Run by granting the requisite event permits and street closure to host a road race in the city of Portsmouth.

The Arthritis Foundation hosts Jingle Bell Run events nationwide in the Foundation's attempt to reach a world free of arthritis pain as the proceeds fund research, advocacy and public policy initiatives. That is, the event seeks to generate funds and help those 265,000 adults and 1,200 children who are impacted by arthritis in New Hampshire.

The Portsmouth Jingle Bell Run is to be taking place on Saturday, December 13<sup>th</sup> at the Little Harbour School on 50 Clough Drive (registration begins at 9:00 am; race begins at 10:00 am). This year the road race is expected to attract a wide array of runners as its 7k distance provides a unique incentive for participants to set statewide records at each "Age-Gender" level thresholds. Correspondingly, the expected number of runners is consistent to the industry trend growth rate; 370 participants (compared to 170 runners in 2013).

Please advise the enclosed document containing a depiction of the 7k route [and the corresponding streets] we intend to use.

Thank you for your consideration.

Sincerely,

*Matthew A. Raffio*

Matthew Raffio  
Regional Development Director  
Office: 603-224-0177  
Email: [mraffio@arthritis.org](mailto:mraffio@arthritis.org)

[www.arthritis.org](http://www.arthritis.org)



Please remember the Arthritis Foundation in your will.





Arthritis Foundation®

# 7K - Portsmouth, NH

- Start Little Harbor School
- Right onto Brackett Road
- Right onto New Castle Avenue
- Left onto Marcy Street
- Left S. School Street
- Left onto South Street
- Right onto Junkins Avenue
- Left onto Lincoln Avenue
- Right onto Kent Street
- Left onto Rockland Street
- Right onto Richards Avenue
- Right onto Parrott Avenue
- Left onto Junkins Avenue
- Left onto Pleasant Street
- Left onto Porter Street
- Left onto Fleet Street
- Right onto State Street
- Left onto Middle Street
- Left onto Park Street
- Right onto Orchard Street
- Left onto Willard Avenue
- Right onto Wilbird Street
- Left onto South Street
- Left onto Broad Street
- Right onto Highland Street
- Right onto Miller Avenue
- Left onto Lincoln Avenue
- Right onto Richards Avenue
- Left onto Haven Street
- Continue onto Brackett Road
- Right onto Clough Drive





# HARBORCORP, LLC

55 Lisbon Street, Suite 2400  
Lewiston, Maine 04240  
Telephone: (207) 784-0335  
Fax: (207) 784-3319

## HAND-DELIVERED

March 12, 2014

Mayor and City Council  
City of Portsmouth  
1 Junkins Avenue  
Portsmouth, NH 03801

Re: Second Reading of Ordinance to Eliminate Conditional Use Permit

Dear Honorable Mayor and fellow Councilors:

As you know, HarborCorp has put forward a proposal for a multi-use development on a surface parking lot in the Northern Tier. Our North End project includes a conference center and small boutique hotel, Whole Foods Market, a parking garage, and 14 residential condos. We believe strongly that the economic and civic benefits of this multi-use development for Portsmouth are great and have the support of the majority of residents of Portsmouth. In fact, the large majority of the City Council has voiced support for our development concept and for that we are appreciative. You now have an opportunity to positively act on that support, and continue the great partnership between the City and our team that started over a quarter century ago.

Irrespective of our project, we feel that the Conditional Use Permit ("CUP") as originally implemented last summer, and as recently endorsed in its enhanced form by the Planning Board, is an excellent tool for driving and incentivizing quality projects that strive to create a strong sense of place and deliver significant public benefit. Our project does all of these things, and as you know and have acknowledged in the past, from the outset of this project we have worked in good faith with the City and its many stakeholders to make this the best project possible.

We want the Council to know that it is impossible for us to build this proposed project with its dynamic and integrated programming at a height of 45 feet. It cannot be done. This is why, as we have noted since we started this process, we will be applying for a CUP that, if approved, would allow us to

build up to 60 feet as needed in key locations in order to satisfy program requirements.

As you also know, our project is vested and protected from zoning changes, including protection from the elimination of the CUP. However, and unfortunately, it appears as if opponents of our project, whom we feel are a distinct vocal minority, will be challenging our vesting. Already one or more Councilors have said publicly that our project is not vested. Having to fight that battle through long and expensive court proceedings places the project in serious jeopardy. It creates a negative environment for the approval process before the HDC. Maintaining a CUP process continues the positive working environment that we have all worked so hard to create, and removes the contentious vesting question. We're all here to try to make this a great project, not to put up roadblocks for each other, for staff, and for the volunteer boards who give their time and energy to try and make Portsmouth the best City it can be.

To be absolutely clear, a vote in favor of elimination of the CUP is a vote in opposition to our mixed-used development proposal. There is no way around it.

The continuation of of the CUP is supported by the City planning staff and the Planning Board; the Economic Development Commission; the Chamber of Commerce; the chairman of the Historic District Commission; and the Portsmouth Advocates , as well as the silent majority who have showed up in great numbers in past public meetings to voice their support. The opponents, by contrast, are few.

Over the past several months, we have met with countless residents and organizations including the Islington Creek Neighborhood Association. We have also offered to meet with every neighborhood group. There is no widespread public outcry calling for buildings 45 feet and lower. In fact, we have witnessed considerable public support for our project, which requires additional height, and we have heard many times that as long as the building is of high quality and creates a great sense of place, people would support going even higher than 60 feet. That is to say, there is a strong public sentiment in support of the construction of buildings that fit into the character of their surroundings and stand the test of time, much like the Sheraton we built nearly three decades ago – and which is over 70 feet tall, or the 60' Westin hotel and conference center (with garage and residential



condos) that was approved on this site and ready to go to construction back in 2007. We are committed to building a high quality project that the community can be proud of, and I believe most people trust us to do it.

Some on the Council have asked us to produce elevation and massing plans before the vote on this ordinance change on March 17<sup>th</sup>. Because we are following City prescribed review process that includes an initial four-step review process before the HDC, we cannot do this. In fact, at the joint work session with the Planning Board, EDC, and HDC in January, we were specifically advised by the HDC members present not to come forward with new elevations, but rather to come forward and engage in their four-step process and together we would arrive at the right design for the building and its facades. We are trying to follow the City's rules, and respect its processes. To this end we have moved forward following the guidance provided by planning staff and the HDC, who have asked us to proceed as follows in accordance with the HDC's newly adopted written process:

- Step 1 – Site Context
- Step 2 – Massing
- Step 3 – Façade Treatment Study and Architectural Style Options
- Step 4 – Elevation Study

Here is what we can tell the City Council prior to the 17<sup>th</sup>. First, we have been active good neighbors in the City of Portsmouth for 26 years, developing and managing the Sheraton during that period of time. We have a long track record here and have always kept to our word. We have worked hard to earn the trust of the community and the city council and we would not do anything to jeopardize that trust. Second, we recently finished the Design Review process on January 16, 2014. We found that process to be extremely helpful as it provided us with some excellent feedback about ways we can improve our project. Since that time, we have been diligently working to implement as many of these suggestions as possible. The planning staff's report to the HDC identified 10 suggestions that came from the Design Review process. Based on the staff report and our understanding of what the HDC is looking for these suggestions are:

- a. The building footprint should be reduced and the design should appear to be a collection of smaller structures rather than a single large building;
- b. Alleyways should be considered between the buildings;



- c. The architectural design of the buildings should also be consistent and compatible with the surrounding buildings;
- d. Consideration should be given to transposing the Whole Foods building to the corner of Maplewood Avenue;
- e. Alternative uses for the ground floor of the parking structure should be considered;
- f. The buildings should have varied heights and roof-forms and high quality materials should be used to execute the design;
- g. All sides of the building design should be given equal consideration;
- h. Increased setbacks along Russell and Deer Streets should be considered to enhance pedestrian circulation;
- i. Public amenities like plazas or pocket parks should be included; and
- j. On- and off-site traffic circulation should be carefully assessed given the proposed uses and the existing demand.

We are taking all of these suggestions seriously. We feel we can meet or exceed nearly all of them, and are working hard to do that.

As you know, our landscape site plan presented at the joint HDC-EDC-Planning Board meeting already began to explore and implement many of these concerns. For example, we have adjusted the building footprint to incorporate wider sidewalks, allowing for benches and enhanced pedestrian use as well as widening the overall streetscape. We have also revised the loading area to accommodate additional vehicles and traffic. And we are working hard to improve the overall traffic circulation, create 360 degree design so there is no back of building, vary heights and roof-forms to reduce portions of the building below 60', and create a design that is compatible with the surrounding buildings.

As part of the HDC four-step review process, we will first provide the HDC with a comprehensive analysis of the surrounding area as defined in step one. This analysis, particularly for projects on larger parcels of land, is vital to determine the most appropriate design path to pursue. There are many factors to consider and we will be exploring them at the HDC meeting on Wednesday, March 12. We encourage you to view the video of our presentation as we will be covering the evolution of the city in that area as well as the influences that contributed to the architecture of today and yesterday. We will also be looking at building designs in detail, including what factors create our perceptions of architecture and how to arrive at a design that everyone can be proud of.



March 12, 2014

Page 5

As we take our first step toward implementing this new four step process - a process designed to improve public participation, overall understanding, and most importantly achieve an optimal end result, we ask for your patience and hope you will reserve judgment until we collectively recognize our optimal path.

In step two, we will provide the HDC with a series of massing options that incorporate as many of the review suggestions as possible in various ways. These massing options will also explore the conclusions drawn from the step one analysis on March 12.

HarborCorp wants to build a first-class multi-use project that includes a conference center, parking garage and downtown grocery store. We hope the City Council supports us in our effort and will not put our project at risk by voting to eliminate the conditional use permit. If you support our multi-use development with its many public benefits, we ask you to vote to keep the conditional use permit. If you prefer to put our project in jeopardy you should consider that you may end up causing the development of a single-use, three and a half story project, which has no incentive to create open spaces or strive for high quality architecture.

We ask for your support by maintaining the CUP process with the suggested amendments made by the Planning Board.


Yours sincerely,

A handwritten signature in black ink, appearing to read "Chris Thompson".

Chris Thompson  
HarborCorp, LLC

**CITY OF PORTSMOUTH  
PORTSMOUTH, NH 03801**

*Office of the City Manager*

**Date:** March 13, 2014  
**To:** Honorable Mayor Robert J. Lister and City Council Members  
**From:** John P. Bohenko, City Manager   
**Re:** City Manager's Comments on March 17, 2014 City Council Agenda

---

*5:45 p.m. – Non-meeting with counsel.*

For details on this matter, please refer to the confidential envelope inserted in the inside pocket of your binder.

.....

***Presentation:***

1. **Proposed Interim Space for Senior Programming.** In January, the Mark Wentworth Home notified the City and their clients of their decision to close the Adult Day Program at the Community Campus located at 100 Campus Drive. The Mark Wentworth Home has offered the City use of their 2,400 square foot adult day program space for use as an interim senior programming space for the remainder of their lease with the Foundation for Seacoast Health. This lease is in effect through October 19, 2015 and the Mark Wentworth Home has offered to continue paying the lease until that date.

The Senior Subcommittee of the Recreation Board has submitted a proposal recommending that the City accept Mark Wentworth Home's offer and proceed with establishing an interim senior programming space at the Community Campus. Senior Subcommittee members include: Carl Diemer, Chair; Judith Bunnell, Nancy Novelline Clayburgh, Todd Henley, Maureen O'Leary, Cindi Shanley, Diane Share, and Kory Sirmaian.

This proposal is consistent with the recommendation put forth in the December 16, 2013 Blue Ribbon Senior Committee report to the City Council, which recommended that the Senior Subcommittee consider locations for a gathering space for drop-in activities in the immediate short-term. The Senior Subcommittee is excited about the prospect of being able to immediately serve the needs of seniors in the Portsmouth area by providing an interim



gathering place, activities and resources in one centralized location while still working towards a permanent senior center solution.

For your review, I have attached the proposal from the Senior Subcommittee outlining a proposed timeline and suggested programming. Additionally, I have asked Rus Wilson, Recreation Director, and Brinn Chute, Senior Services Coordinator, to make a presentation regarding this proposal.

If this moves forward, we would anticipate a May 6<sup>th</sup> opening and the cost could be absorbed in the current fiscal year.

*Move that the Senior Subcommittee requests that the City Manager be authorized to enter into negotiations with Mark Wentworth Home and/or the Foundation for Seacoast Health for an interim senior programming space at the Community Campus location.*

### ***Items Which Require Action Under Other Sections of the Agenda:***

#### **1. Public Hearing/Second Reading of Proposed Resolution and Ordinances.**

- 1.1 **Public Hearing and Second Reading of an Ordinance Amending Chapter 10 – Zoning Ordinance, Section 10.535 – Exceptions to Dimensional Standards in the Central Business District, which would eliminate a Conditional Use Permit under Section 10.535.13.** At its meeting on January 21, 2014, the City Council voted to pass first reading on a proposed amendment to the Zoning Ordinance to delete Section 10.535.13 – “Increased Building Height by Conditional Use Permit (Central Business A and B Districts).” The effect of this proposed amendment would be to reduce the allowable building height in the entire Central Business District to the lesser of 45 feet or 3½ stories. Any increase in building height above this level would require a variance from the Zoning Board of Adjustment.

On September 16, 2013, the Council amended the Ordinance by establishing the lower of 45 feet or 3½ stories as the maximum height allowable as of right, and by inserting a new Section 10.535.13 that allows buildings to reach the previously permitted heights of 60’ in CBB and 50’ in CBA by obtaining a Conditional Use Permit from the Historic District Commission. This is the provision that is now being proposed for elimination.

To date, there has been one application for a Conditional Use Permit under the provision adopted in September. This was for the proposed project at 173-175 Market Street, which had been under review by the Historic District Commission for many months.

The Planning Board held a public hearing on the proposed Zoning Ordinance amendment on February 20, 2014. As a result of that hearing, the Planning Board

voted 7-2 to recommend that the criteria for a Conditional Use Permit be retained but that the criteria for approval be modified to require that a proposed development address a total of four elements, two relating to building design and two relating to site planning. The wording recommended by the Planning Board is as follows (new text is indicated by underlining):

*10.535.13 Increased Building Height by Conditional Use Permit*

*Within the CBA and CBB districts, the Historic District Commission may grant a conditional use permit to allow an increase in building height above the maximum structure height specified in Section 10.531, up to a maximum of 50 feet in the CBA district or 60 feet in the CBB district, only if both the following conditions are met for the building and site design:*

*(a) The proposed building design positively contributes to the surrounding context and the overall historic character of the district and includes at least 2 of the following elements:*

- *The use of high-quality building materials in the building design including, but not limited to: slate or copper roofing; copper gutters and downspouts; restoration brick; granite sills, lintels, foundations, stoops and steps; and wood storefront windows along the façade elevation;*
- *Significant scaling elements in the building design such as increased setbacks, stepbacks, reduced footprint(s) and building volume(s), varied building heights, pitched roof forms, projections, banding, and other massing techniques;*
- *A significant restoration or reconstruction of a “focal” or “contributing” building; or*
- *Underground or structured parking (except within 24 feet of a public street on the street-level floor) in lieu of surface parking.*

*(b) The proposed site plan includes at least 2 of the following elements:*

- *New publicly accessible open space area such as a greenway, pedestrian alleys, plazas, pocket parks, playgrounds or other significant public open space areas;*
- *A significant contribution to the redesign or improvement of an existing public open space located on a surrounding property;*
- *Permanent protection of a significant view corridor to a historic building or riverfront area; or*
- *A significant contribution to the restoration of an existing public historic resource located on a surrounding property.*



The Planning Board's recommendation represents a significant change from the ordinance that has been advertised for the public hearing, and the Legal Department has determined that a new notice and hearing would be required if the City Council wishes to consider this recommendation. To address this situation, the Legal Department recommends that the City Council proceed as follows:

- 1) Open its scheduled public hearing on the ordinance at the City Council meeting of March 17, 2014 and hear any public comment which might be received at that time.
- 2) Subsequent to the receipt of public comment, consider any further amendments to the proposed ordinance, including the changes recommended by the Planning Board.
- 3) If no amendments are accepted, vote on whether to pass second reading on the proposed ordinance, with any minor amendments.
- 4) If the Council votes to accept the Planning Board's recommended action (or any other proposed amendment to Section 10.535.13), move to schedule a new public hearing and second reading of the proposed amended Ordinance on April 7, 2014.

It is important to note that the City's Council's action on the establishment of Character-Based Zoning in the downtown, as proposed in the next two items on the agenda, could significantly diminish the effect of both the proposed deletion of Section 10.535.13 and the amendment of that section proposed by the Planning Board. If the Council adopts Character-Based Zoning, the majority of the downtown area will no longer be zoned CBA or CBB, and therefore will not be subject to the Conditional Use Permit process or affected by its elimination. As stated by the Planning Director at the March 3rd City Council meeting, the deletion of Section 10.535.13 would then only affect three relatively small areas around the perimeter of the downtown area:

- 1) The area of the Northern Tier zoned CBA between the railroad tracks and North Mill Pond, consisting of about 15 acres and 15 existing parcels. The maximum allowed building height in this district is currently 50 feet, with only 40 feet allowed within 10 feet of a street. Therefore, the reduction to 45 feet would have a marginal impact on development potential.
- 2) Two parcels on Deer Street and Bridge Street (Gary's Beverages/Wells Fargo, and Redlon & Johnson), currently zoned CBB (maximum allowed height of 60 feet); and
- 3) The parcels on Islington Street between Bridge Street and Rockingham Street, zoned CBB, consisting of about 9 acres and 27 parcels. All but 5 or 6 of these parcels are subject to special dimensional standards including reduced building height (40 feet) due to their proximity to residential zoning districts.

The aforementioned areas are among those proposed as additional areas within which to implement Character-Based Zoning. If the Council votes to implement Character-



Based Zoning in these areas, the only remaining Central Business zoned parcels will be at Noble's Island.

Prior to the public hearing, Rick Taintor, Planning Director, will be making a presentation regarding this proposed Ordinance and amendments.

*The City Council may take the following actions:*

- 1) *Move to approve the Zoning Ordinance as proposed, by deleting Section 10.535.13, and schedule third and final reading for April 7, 2014; or*
- 2) *Move to amend Section 10.535.13 of the Zoning Ordinance as recommended by the Planning Board, and schedule a new public hearing on the amendment for April 7, 2014.*

*Action on this item should take place under Section VIII of the Agenda.*

- 1.2 **Public Hearing and Second Reading of Proposed Amendments to Chapter 10 – Zoning Ordinance, Inserting a New Article 5A – Character Districts (aka Form-Based Zoning) and further to Adopt the Zoning Map for the Character Districts for the Maps Referenced in Section 10:5A14.10 of Article 5A.** At its meeting on March 3, 2014, the City Council passed first reading on a proposed amendment to the Zoning Ordinance to implement Character-Based Zoning (aka Form-Based Zoning) in the downtown area. As you know, the Planning Department and the City's consultants, Town Planning and Urban Design Collaborative (TPUDC), worked throughout 2013 to develop new "form-based" zoning standards for the historic core of the downtown. This approach was taken in order to address a recognition that the scale and style of new developments as permitted under current zoning is not always consistent with the downtown's historic character.

The proposed ordinance will add a new Article 5A – Character Districts to the Zoning Ordinance. The development standards in Article 5A are based on the historic design character of downtown Portsmouth and seek to encourage new buildings and developments that fit in well with the surrounding context. The goal of this effort is to create zoning regulations that promote development that not only respects the historic character, but actually strengthens and enhances that character by filling in holes in the urban fabric with high-quality buildings.

The Planning Board originally considered these proposed amendments in a public hearing on October 24, 2013, and a special meeting on October 31, 2013, and voted unanimously to recommend that the City Council adopt the new Article 5A, along with several amendments to other sections of the Ordinance. On October 21, 2013, the City Council scheduled first reading on the proposed zoning amendments for November 18, 2013. However, at the November 18th meeting, the Council voted to postpone the ordinance until January 2014, in order to provide for additional review

and input. At its meeting on January 13, 2014, the City Council voted to schedule the proposed Character-Based Zoning for first reading on March 3, 2014, with a public hearing and second reading at the March 17, 2014 City Council meeting.

To provide residents with an opportunity to ask questions about the proposed Character-Based Zoning and to make suggestions for changes, the Planning Department held a public informational drop-in session and forum on January 29, 2014. Both the afternoon drop-in session and the evening forum were well attended and generated much discussion and input.

Based on comments from residents and further internal review, the Planning Department prepared a revised draft of the proposed Character-Based Zoning ordinance. This draft was posted on the Planning Department's website (<http://planportsmouth.com/formbasedzoning.html>) and reviewed in a public hearing at the Planning Board's February 20th meeting. As a result of the public hearing, the Planning Board voted to make several additional revisions to the proposed ordinance, and voted unanimously to recommend that the City Council enact the proposed ordinance as amended.

The revised proposed ordinance incorporating the changes recommended by the Planning Board is attached (dated March 3, 2014). Also attached is a memorandum from the Planning Director summarizing the substantive changes from the previous version.

*I would recommend the City Council move to pass second reading and schedule a third and final reading of the proposed Ordinance, as presented, at the April 7, 2014 City Council meeting. Action on this item should take place under Section VIII of the Agenda.*

- 1.3 **Public Hearing and Second Reading of Proposed Amendments to Chapter 10 – Zoning Ordinance, Miscellaneous Conforming Amendments.** At its meeting on March 3, 2014, the City Council passed first reading on the attached ordinance which includes a set of proposed amendments to the Zoning Ordinance that will be required if the Council votes to adopt the proposed Article 5A – Character Districts. These “conforming amendments” to other sections of the Zoning Ordinance would make the following changes:

- Add references to the new Character Districts in the listing of Zoning Districts (Sec. 10.410), the description of the Downtown Overlay District (Sec. 10.641.10) and the listing of Sign Districts (Sec. 10.1230);
- Incorporate into the Zoning Map, by reference, the Regulating Plan maps, along with two other maps that describe areas subject to special zoning regulations;
- Add a cross-reference in Article 15 to definitions in the new Article 5A.



The proposed “conforming amendments” also include several substantive changes to the off-street parking provisions of the Downtown Overlay District: parking setbacks from certain streets are reduced from 30 feet to 24 feet, the list of such streets is expanded, and the setback requirement is changed to apply only to above-ground parking areas (i.e., off-street parking in basement levels would not have to be set back from the street).

The Planning Board originally considered these proposed amendments in a public hearing on October 24, 2013, and a special meeting on October 31, 2013, and voted unanimously to recommend that these amendments be enacted. Following the public informational forum on January 29, 2014, the Planning Department drafted several additional amendments, and the Planning Board held another public hearing on the amended proposed ordinance on February 20, 2014. After closing the public hearing, the Planning Board voted unanimously to recommend that the revised amendments be enacted.

*I would recommend the City Council move to pass second reading and schedule a third and final reading of the proposed Ordinance, as presented, at the April 7, 2014 City Council meeting. Action on this item should take place under Section VIII of the Agenda.*

### ***City Manager’s Items Which Require Action:***

1. **Proposed Release of Funds for African Burying Ground.** As you will recall, in late February, the City released a Request for Qualifications for Construction Services for the African Burying Ground Memorial Park, *We Stand in Honor of Those Forgotten*. In the coming weeks, this process will move forward and additional construction related activities will be planned for, including archaeological monitoring and construction oversight for examples. As of this date, no timeline for onsite construction activities has been determined; meanwhile, City staff and the design team are continuing work with members of the African Burying Ground Committee, fundraising volunteers as well as project abutters to keep the project moving forward. As you will recall, per the terms of the African Burying Ground Trust, the City Manager must be authorized by the City Council to request expenditures from the Trust. In the coming weeks and months, funding from the Trust will be required in order to facilitate project construction. As a result, I recommend the City Council move to authorize the City Manager to request funds from the African Burying Ground Trust of up to \$1,200,000 million for the purposes of constructing the African Burying Ground Memorial Park. I will continue to update the City Council at each stage of the project and continue to coordinate closely with the African Burying Ground Committee.

*In accordance with the terms of the African Burying Ground Trust, I would recommend that the City Council move to authorize the City Manager to expend funds from the Trust up to \$1,200,000 for the construction of the African Burying Ground Memorial Park.*



2. **Proposed Borrowing Re: New Franklin School Energy Project.** Attached is a letter from Superintendent of Schools Edward McDonough requesting approval for the borrowing of up to \$400,000 for the New Franklin School Energy Project. Also attached is a proposed Resolution that would allow for this borrowing. As you are aware, borrowing Resolutions require a first reading and public hearing and adoption. I would recommend that the City Council bring back for first reading the attached borrowing Resolution in an amount not to exceed \$400,000 for the New Franklin School Energy Project as presented in the correspondence from Edward McDonough, Superintendent of Schools dated February 26, 2014. Please note that this project has been approved by the School Board.

Business Administrator Stephen Bartlett will be in attendance on Monday evening to answer any questions you might have regarding this matter.

*I would recommend that the City Council bring back for first reading the attached borrowing Resolution in an amount not to exceed \$400,000 for the New Franklin School Energy Project, as presented in the correspondence from Edward McDonough, Superintendent of Schools, dated March 5, 2014, at the April 7, 2014 City Council meeting.*

3. **Establish a Date and Time for Pan Am Railways to make a Presentation to the City Council.** At the meeting with Pan Am Railways on Wednesday, March 5<sup>th</sup>, I made a request to have Pan Am Railways be available to make a presentation to the City Council to answer any questions you might have regarding the proposed increase of rail traffic if the Sea-3 project is approved. Cynthia Scarano, Executive Vice President of Pan Am Railways indicated that they would make themselves available to the City Council.

*I would recommend the City Council move to authorize the City Manager to schedule a date for this presentation.*

4. **Request for Approval on Teacher's/Administrator's Retirement Incentive.** In an attempt to achieve savings without compromising education, the School Board approved a retirement incentive package, subject to the approval of the City Council. The purpose of this program was to provide an incentive to long-term employees who are eligible to retire. The savings would be achieved by replacing employees at the top of the pay scale with new employees who would be paid at a lower rate.

On Monday evening, I am requesting that the City Council approve the request from the Portsmouth School Board to offer a retirement incentive to teachers/administrators. The details are outlined below:

Option # 1:

Eligible members who have ten (10) years or more service in the district by the end of the 2013-14 school year, and who filed an irrevocable commitment to retire from the district on

or before January 23, 2014 and who actually retire under the NHRS at the end of the 2013-14 school year can receive

a one-time payment of \$12,000.

Any eligible members who have less than ten (10) years or more service in the district by the end of the 2013-14 school year, and who filed an irrevocable commitment to retire from the district on or before January 23, 2014 and who actually retire under the NHRS at the end of the 2013-14 school year can receive

a one-time payment of \$10,000.

#### Option # 2: Medical Subsidy

Eligible members who have ten (10) years or more service in the district by the end of the 2013-14 school year, and who filed an irrevocable commitment to retire from the district on or before January 23, 2014 and who actually retire under the NHRS at the end of the 2013-14 school year can receive a medical subsidy for the next two years (2014-15, 2015-16) in an amount equal to 100% of a single and no more than 50% of a two person plan.

Any eligible members who have less than ten (10) years or more service in the district by the end of the 2013-14 school year, and who filed an irrevocable commitment to retire from the district on or before January 23, 2014 and who actually retire under the NHRS at the end of the 2013-14 school year can receive a medical subsidy for two years (2014-15, 2015-16) in an amount equal to no less than 80% of a single and no more than 40% of a two person plan.

One teacher and one administrator have accepted to take advantage of this package subject to City Council approval. Both employees have opted for Option #1 and if approved will receive the one-time payment of \$12,000. The anticipated savings to the school district is \$39,309 in FY'15.

Assistant Superintendent Steve Zdravec will be in attendance on Monday evening to answer any questions you might have regarding this matter.

*The School Board is recommending that the City Council move to approve the request to offer a retirement incentive to teachers/administrators, as presented.*



5. **Proposed Easement Re: Hill Street.** On January 16, 2014, Hill-Hanover Group LLC obtained subdivision approval from the Planning Board to relocate a lot line between two parcels at 159-181 Hill Street and 317-339 Hanover Street. The new lot line bisects an existing common right-of-way that was formerly a public street, being the extension of Hill Street. The subdivision was approved by the Planning Board subject to certain stipulations, including the grant of a utility easement to the City to maintain existing public utilities. Attached are a plan and an aerial photograph showing the proposed easement area.

*I would recommend the City Council move to authorize the City Manager to accept a utility easement from Hill-Hanover Group LLC.*

6. **Request for Encumbrance License Re: 10 State Street.** Ten State Street, LLC requests a license to encumber the sidewalk immediately fronting its property located at 10 State Street (Tax Map 105, Lot 4) ("Property") and City land abutting the Property to both the North and South to facilitate construction of a three story building with associated site improvements. See attached letter from the Owner's contractor, DeNiro Construction, and Site Encumbrance Plan and attached photo. The Site Encumbrance Plan depicts three encumbrance areas; Encumbrance Area 1 is City land South of the Property, Encumbrance Area 2 is City land North of the Property and Encumbrance Area 3 is the sidewalk immediately fronting the Property.

The Owner seeks to use Encumbrance Area 1 for staging and it will be inaccessible to pedestrians and vehicles for 16 months until completion of the project. As consideration for use of City land, the Owner has agreed to improve the City sidewalk located between the extension of State Street and the fence along the North Parking Lot immediately outside Encumbrance Area 1. See attached picture of the area. The improvements would be performed to City specifications by the Owner.

Ten State Street LLC seeks to use Encumbrance Area 2 for staging during construction and the area will be inaccessible to pedestrians for 16 months until the completion of the project. The Owner has entered into a separate Letter of Agreement whereby it has agreed to repair and improve Encumbrance Area 2 by installing a brick walkway and decorative fence at the headwall consistent with specifications approved by the City.

The Owner seeks to encumber the City sidewalk located in Encumbrance Area 3 for five months, after which the license for this area will terminate and pedestrians will regain access to the area.

*I would recommend the City Council move to authorize the City Manager to enter into a license with Ten State Street, LLC to facilitate construction activities at 10 State Street, which will include improvements to City land by Owner after completion of the project.*

### ***Informational Items:***

1. **Events Listing.** For your information, attached is a copy of the Events Listing updated after the last City Council meeting on March 3, 2014. In addition, this can be found on the City's website.
2. **Public Input Session Re: Water/Sewer Rate Study.** Just a reminder that the Public Input Session regarding the Water/Sewer Rate Study is on Wednesday, March 19, 2014 at 6:30 p.m., in the Eileen Dondero Foley Council Chambers. Attached is an agenda.
3. **Information Memorandum from Robert Sullivan, City Attorney Re: Portwalk.** Attached for your information is a memorandum from Robert Sullivan, City Attorney, giving a brief explanation of the current land use regulatory issues at the Portwalk development site.



IN THE YEAR OF OUR LORD  
TWO THOUSAND FOURTEEN  
PORTSMOUTH, NEW HAMPSHIRE

RESOLUTION # – 2014

A RESOLUTION AUTHORIZING THE BORROWING OF UP TO FOUR HUNDRED THOUSAND DOLLARS (\$400,000) THROUGH THE ISSUE OF BONDS AND NOTES OR THE EXECUTION OF LEASE PURCHASE AGREEMENTS FOR THE NEW FRANKLIN SCHOOL BOILER REPLACEMENT AND OTHER IDENTIFIED ENERGY CONSERVATION MEASURES.

RESOLVED: THAT, the sum of up to **Four Hundred Thousand Dollars (\$400,000)** is appropriated for the New Franklin School boiler replacement and other energy conservation measures identified in an energy efficiency plan adopted by the Portsmouth School Board;

THAT, to meet this appropriation, the City Treasurer, with the approval of the City Manager, is authorized to borrow, on a competitive or negotiated basis, up to **Four Hundred Thousand Dollars (\$400,000)** through the issuance of bonds and/or notes and /or lease purchase agreements of the City under the Municipal Finance Act;

THAT the expected useful life of the project is determined to be at least Twenty (20) years, and;

THAT this Resolution shall take effect upon its passage.

APPROVED:

\_\_\_\_\_  
ROBERT J. LISTER, MAYOR

ADOPTED BY THE CITY COUNCIL:

\_\_\_\_\_  
KELLI L. BARNABY, CMC/CNHMC  
CITY CLERK



# PORTSMOUTH SCHOOL DEPARTMENT

## OFFICE OF THE SUPERINTENDENT OF SCHOOLS

EDWARD McDONOUGH  
SUPERINTENDENT OF SCHOOLS

STEPHEN ZADRAVEC  
ASSISTANT SUPERINTENDENT

STEPHEN BARTLETT  
BUSINESS ADMINISTRATOR

March 5, 2014

Portsmouth City Hall  
1 Junkins Avenue  
Portsmouth, NH 03801

Attention: Mr. John P. Bohenko, City Manager

Subject: New Franklin Energy Project

The Portsmouth School Department contracted with Energy Efficient Investments (EEI), located in Merrimack, N.H. to identify energy saving measures for the City's Schools.

The New Franklin School was chosen as the building to implement the initial phase of the energy conservation program. The attached report outlines nine (9) energy conservation measures (ECM) recommended by EEI for the New Franklin School. These measures include the replacement of the failing boilers and are identified in the matrix on page 4 of the attached report.

At their meeting on November 12, 2013 the Portsmouth School Board approved the project pending city approved financing. There remains \$90,000 from FY13 School Improvement bond earmarked for the replacement of a boiler located at New Franklin School. To meet the implementation cost of the additional energy saving measures, the School Board is requesting approval from the City Council for financing of \$400,000. This borrowing will be offset through the use of energy savings and rebates from the utility companies.

Sincerely,

Edward R. McDonough  
Superintendent of Schools

Enclosures: 1

cc: Ms. Judie Belanger, Finance Director  
Stephen T. Bartlett, Business Administrator

"THE PURPOSE OF THE PORTSMOUTH SCHOOLS IS TO EDUCATE ALL STUDENTS BY CHALLENGING THEM TO BECOME THINKING, RESPONSIBLE, CONTRIBUTING CITIZENS WHO CONTINUE TO LEARN THROUGHOUT THEIR LIVES."



**ENE Systems, Inc./Energy Efficient Investments, Inc.  
Preliminary Investment Grade Audit**

FOR:

**NEW FRANKLIN SCHOOL  
CITY OF PORTSMOUTH, NH  
SCHOOL DEPARTMENT  
SCHOOL ADMINISTRATIVE UNIT #52**

Prepared by:

Paul Murphy, CEM  
Michael Davey, CEM

Date: November 6, 2013



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## 1. Executive Summary

Energy Efficient Investments, Inc. (EEI) has completed several site visits to the New Franklin School in Portsmouth in the past 3 months, with the goal of identifying potential energy saving measures. EEI is located in Merrimack, NH, and has a proven track record of designing and implementing energy improvements to mechanical systems, building controls systems, insulation and renewable systems. EEI is also an approved energy management contractor with Better Buildings, Pay for Performance, PSNH, Liberty Utilities, and Unilil in New Hampshire.

The New Franklin School is a 40,000 square foot elementary school that was completed in three phases with the most recent addition in 2002. The building has two 80% AFUE natural gas boilers, one of which has recently failed. The building has an Energy Star Benchmark score of 71 out of 100. Currently the building has an estimated annual utility cost of \$75,000 per year (electric, natural gas, and water/sewer). Our preliminary audit has identified a potential to reduce energy costs by \$18,633 (25%), through a combination of energy efficiency and renewable measures. These improvements could offset approximately 25 metric tons of carbon dioxide emissions.



The development of every energy project starts with the initial energy assessment which includes a site visit and the collection of utility and operational costs for each location. The next step entails defining measures, budgetary costs, and estimated savings values by measure for each building. This information is documented in the **Preliminary Investment Grade Audit (PIGA)**. This report is reviewed carefully by Portsmouth School District to determine which conservation measures have the funding and savings necessary to be included in the project.

Following the Preliminary Investment Grade Audit approval by School Board EEI will finalize this document to a **Final Investment Grade Audit (FIGA) with exact rebate amounts**. The Final Investment Grade Audit is presented to the customer for acceptance as part of the **Energy Performance Contract (EPC)**. The Energy Performance Contract will clearly define the responsibilities of each party, and will include a **Measurement and Verification (M&V)** procedure that will be used to measure the energy performance of the new systems and equipment installed throughout the school.



Below, you will find the Energy Conservation Measure (ECM) Matrix which summarizes the results of our findings. We fully understand that some of the measures identified above will not be selected due to estimated cost of construction or other factors. These adjustments will be made to the matrix in the Final Investment Grade Audit.

## 2. ECM Matrix

ECM Matrix

Measure Number	ECM Description	selected	Installed Costs \$	Energy Savings \$	Utility Rebates <sup>1</sup>	Simple Payback (Years)
<b>All Improvements Studied</b>						
ECM #1	Lighting Retrofit	X	\$ 69,900	\$ 4,916	\$ 11,530	
ECM #2	Walk-in Cooler Controls	X	\$ 7,119	\$ 600	\$ 2,000	
ECM #3	Boiler Upgrade - 3 x 850mbh Condensing Boilers	X	\$ 139,080	\$ 3,300	\$ 12,000	
ECM #4	Kitchen Hood Controls	X	\$ 17,290	\$ 1,450	\$ 4,000	
ECM #5a	Digital Pneumatic Controls		\$ 50,540	\$ 3,300	\$ 1,125	
ECM #5b	Direct Digital Controls (DDC)	X	\$ 99,343	\$ 3,300	\$ 1,125	
ECM #6	Solar Photovoltaic	X	\$ 50,000	\$ 1,417	\$ 7,300	
ECM #7	Water Conservation Measures	X	\$ 30,757	\$ 2,400		
ECM #8	Building Weatherization (Airseal, Weatherstrip...)	X	\$ 30,590	\$ 1,300	\$ 10,706	
ECM #9	Computer Power Management Software (40 Lic)		\$ 4,522	\$ 600		
	<b>ECM 2 Subtotal</b>		<b>\$ 444,079</b>	<b>\$ 18,683</b>	<b>\$ 48,661</b>	<b>21.2</b>
	Project Development and Management (Included Above)		\$ -	\$ -	\$ -	
	<b>Total All Measures</b>		<b>\$ 444,079</b>	<b>\$ 18,683</b>	<b>\$ 48,661</b>	<b>21.2</b>
N/A	Design & Construction Contingency	0%	\$ -	n/a	n/a	n/a
N/A	Measurement and Verification		\$ -	n/a	n/a	n/a
N/A	Owner Investment		\$ (90,000)	n/a	n/a	n/a
	<b>ECM Totals</b>		<b>\$ 354,079</b>	<b>\$ 18,683</b>	<b>\$ 48,661</b>	<b>16.3</b>

Note 1: Rebate amounts are estimated at this point, once Portsmouth approves the project, EEI will lock in the rebate amounts with PSNH/Unitil. Any adjustments in rebate amounts will be brought to the attention of the Business Administrator at time of financing. It should be noted that PSNH is currently reviewing their municipal rebate program and there is a potential for larger electric rebates.



### **3. Facilities Background**

#### **New Franklin School**

The New Franklin Elementary School is a 40,000sf, brick structure with un-insulated cement block infill and brick veneer exterior. The school was constructed in three phases. The roofs are rubber with a wood superstructure, rubber membrane covering, and foam insulation (assumed). There is batt-style insulation loosely laid at the ceiling tiles. There is no barrier between the eave soffit of the first floor and the interstitial space between the ceiling tile and 2nd floor deck.



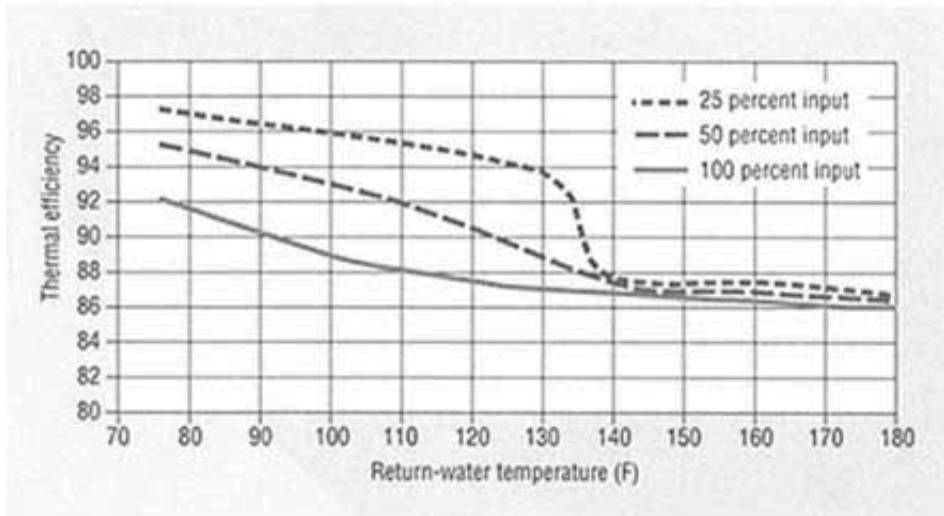
### **4. Standards of Comfort**

In determining the energy savings in your building we needed to make assumptions on use and occupancy. For this location we have assumed a heating set point of 68 degrees during occupied school days and temperature of 60 degrees after 8:00 PM.

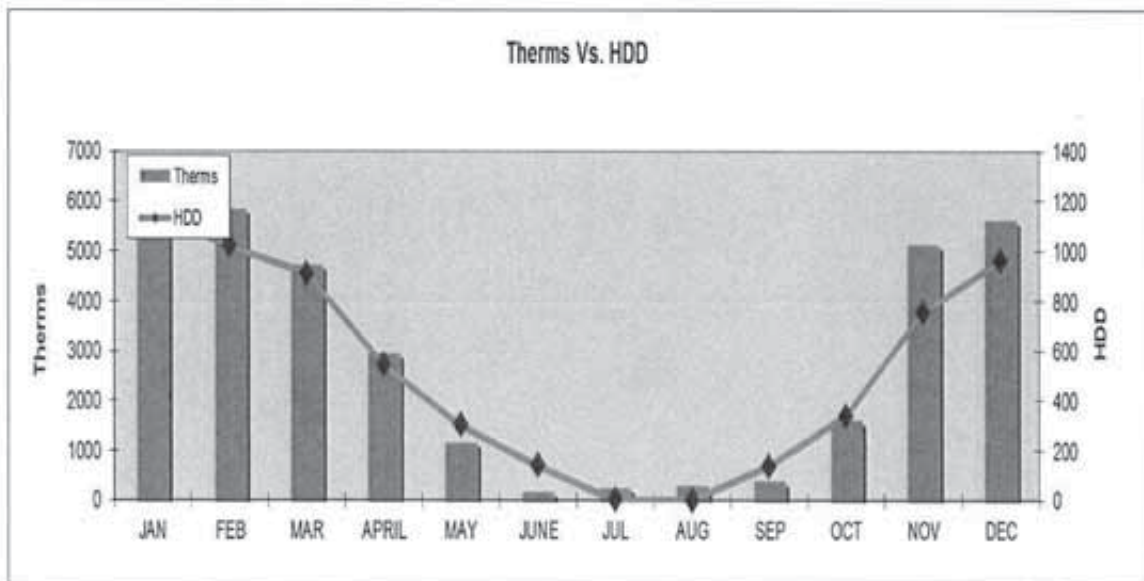
We have assumed 263 students and operating times as shown. These same assumptions and setbacks have been used to calculate the potential energy savings. Changes in these values can affect the results of the energy project. If at any time during the performance period the building use has changes, EEI will update the energy savings to reflect the changes in usage.

## 5. Utility Data Analysis

The Graph below demonstrates how the efficiency of the condensing boiler increases with colder water:



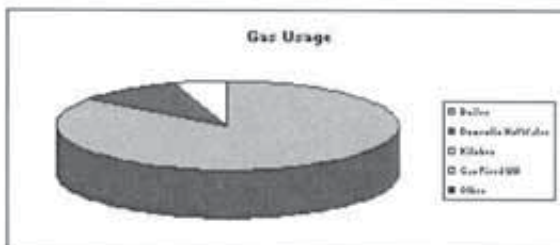
The graph below, heating degree days versus gas usage, indicates there are several months when the school will substantially benefit from condensing technology (months with lower HDD are better for condensing because the boiler can operate at lower temperatures).



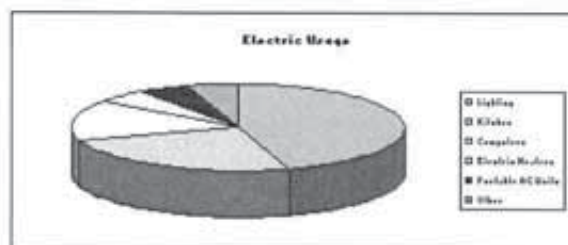


### Utility Data

Gas Using Equipment	% Usage
1 Boiler	85%
2 Domestic Hot Water	10%
3 Kitchen	5%
4 Gas Fired UH	0%
5 Other	0%
	100%



kWh Using Equipment	% Usage
1 Lighting	45%
2 Kitchen	25%
3 Computers	15%
4 Electric Heaters	5%
5 Portable AC Units	5%
6 Other	5%
	100%



## 6. Economic Analysis

Making good economic decisions requires analysis of available information, and understanding the time value of money. A Discounted Life Cycle Cost Analysis (DLCCA) is very useful for this type of analysis when multiple alternatives exist. This is Federal Energy Management Program (FEMP) approved method of analysis and is used to aid in decisions that are based on the most favorable economic outcome.

This project can be funded through a cost neutral loan or lease (the finance vehicle will be selected by the school board). EEI has spoken with the Bank of New Hampshire and the Municipal Leasing Company and both organizations are willing to fund this project. In our analysis, we have excluded fuel escalation and interest costs. It is our belief that current interest rates will be equal to fuel escalation over a 15 year period.

EEI will apply for rebates from PSNH/Unitil Electric, Solar PV recs, and state grants for renewable work.

**15 Year Discounted Life Cycle Cost - @ 3% Discount Factor**

Do Nothing					
Cost Items	Base Date Cost	Year of Occurrence	Discount Factor	Factor	Present Value
<b>Capital</b>					
Initial Investment	\$ -	Base			
Utility Rebates <sup>1</sup>	\$ -	Base			
Total Investment	\$ -	Base	Already @ PV		\$ -
Current Capital <sup>2</sup>	\$ 5,000.00	0	SPV0	1	\$ 5,000
Year 1 Capital	\$ 16,000	1	SPV1	0.971	\$ 15,536
Year 2 Capital	\$ 16,000	2	SPV2	0.943	\$ 15,088
Year 3 Capital	\$ 16,000	3	SPV3	0.915	\$ 14,640
Year 4 Capital	\$ 16,000	4	SPV4	0.888	\$ 14,208
Year 5 Capital	\$ 16,000	5	SPV5	0.863	\$ 13,808
Year 10 Capital	\$ -	10	SPV10	0.744	\$ -
<b>Utilities</b>					
Oil Cost	\$ -	15	FEMP UPV * 15	12.00	\$ -
Gas Cost	\$ 17,295	15	FEMP UPV * 15	12.16	\$ 210,307
Electrical Cost	\$ 160,362	15	FEMP UPV * 15	11.25	\$ 1,804,073
Gas & Electric Ave	\$ -	15	FEMP UPV * 15	11.705	\$ -
<b>Maintenance<sup>2</sup></b>					
OM&R	\$ 10,000	15	UPV15	15	\$ 150,000
<b>Total LCC</b>					<b>\$ 2,242,660</b>

The issues resolved by replacing the equipment would include replacement of 1-2 Compressors per

Full Improvement Package					
Cost Items	Base Date Cost	Year of Occurrence	Discount Factor	Factor	Present Value
<b>Capital</b>					
Initial Investment	\$ 410,511	Base			
Owner Investment	\$ (90,000)	Base			
Utility Rebates <sup>2</sup>	\$ (37,955)	Base			
Total Investment	\$ 320,511	Base	Already @ PV		\$ 320,511
Year 5 Capital	\$ 3,500	5	SPV5	0.863	\$ 3,021
Year 10 Capital	\$ 3,500	10	SPV10	0.744	\$ 2,604
<b>Utilities</b>					
Oil Cost	\$ -	15	FEMP UPV * 15	12.00	\$ -
Gas Cost	\$ 17,295	15	FEMP UPV * 15	12.16	\$ 210,307
Electrical Cost	\$ 94,591	15	FEMP UPV * 15	11.25	\$ 1,064,149
Gas & Electric Ave	\$ -	15	FEMP UPV * 15	11.71	\$ -
<b>Maintenance<sup>2</sup></b>					
OM&R	\$ 5,000.00	15	UPV15	15	\$ 75,000
<b>Total LCC</b>					<b>\$ 1,675,591</b>

15 Year LCC Savings **\$ 567,068**

*Best Value Alternative*

**Notes:**

Note 1: Rebate amounts to be confirmed with and approved by Unitil & PSNH

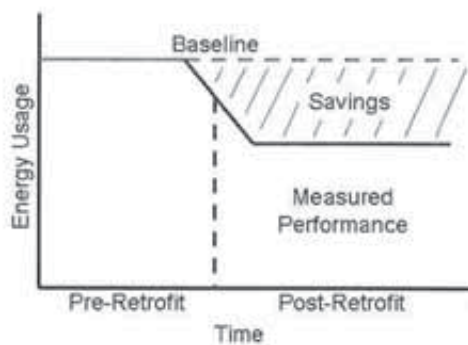
Note 2: Assumed 5,000/year Preventative Maintenance plus past 2 year average repair cost.

Note 3: Add for known VFD repair on Police Unit.

## 7. Energy Conservation Measures

In this section of the document we will define the Energy Conservation Measures we have evaluated for this project. Then we will define the measures on a building by building basis. Careful consideration was given to each measure and its interaction with the overall building performance.

We have formatted this report so that individuals that are not as familiar with the building will gain an understanding and appreciation for the improvements proposed. The format includes a brief section on existing conditions, followed by a definition of the proposed improvement. The final section defines how we calculated the overall Energy saving and assumptions that were made in our building energy model.





## **General ECM Descriptions**

### **ECM 1 – Lighting Interior**

#### **EXISTING CONDITIONS**

The schools currently use a combination of T8 and T12 fluorescent lighting and we will replace existing fixtures with new LED and high performance T8 lighting with higher efficiency. EEI performed a detailed survey of the interior and exterior spaces in order to identify opportunities in which we can improve lighting quality, reduce maintenance costs, and save energy.

The existing lighting demand (kW) per fixture, hours of operation, fixture quantities, and recommended retrofits are based on the physical inspection and site visits conducted by EEI in the Fall of 2013. As a result of the survey and analysis, EEI has developed a high efficiency lighting upgrade project that will provide the New Franklin School with new energy efficient lamps, ballasts, and lighting fixtures resulting in guaranteed annual energy savings and a reduction in electrical demand.

To make sure the proposed improvement is a viable solution that meets the needs of the school we installed a sample light in the Café for demonstration purposes.

#### **PROPOSED IMPROVEMENT**

EEI proposes retrofitting or replacing existing lighting fixtures with new high efficiency T8 fluorescent lamps and LED fixtures. LED type lighting provides significant illumination and has longer life expectancy and savings in electric consumption. Also, by standardizing all fixtures and lamps it will reduce future maintenance requirements. Therefore new lighting levels will meet or exceed existing light levels while still saving energy.



We have included replacing the GYM lights with LED style fixtures and all spaces that currently have 2x4 lamps shall be replaced with 2x4 LED retrofit kits. Areas that have 2 lamp strip/linear fixtures will be retrofitted with high performance T8 Lamps/ballasts. Exit signs will be replaced with LED exit signs.

It was assumed that classroom fixtures will run on average 1,800 hours per year, hallways & Cafeteria 2,100 hours per year, & Kitchen 2,700 hours per year.

Replace 14 exterior metal halide with LED Rab Slim 26 Wall Pak Fixtures. It is assumed that existing fixtures run dusk to dawn.

## ECM 2 – Walk-In Cooler Controls

### EXISTING CONDITIONS

The existing walk-in coolers are controlled with original OEM controls. These controls were designed before energy conservation was mandated through code revision.

Currently electric heaters run 24/7 to keep condensate from building up on the doors, however condensation is only an issue when there is humidity in the building.

### PROPOSED IMPROVEMENT

EI recommends refrigeration controllers on walk-in coolers and freezers and installing electronically commutated (EC) motors on evaporator fans. A controller can start/stop the evaporator fans when operation is unnecessary. The EC motors are 30% more efficient than the standard two-pole motors. Energy savings will be realized by reducing the runtime of the compressors and evaporator fans as well as the reduction in power load of the new fans. Each walk-in cooler or freezer will have a new EC fan motor and blade installed as well as a dedicated controller. In addition, controllers will be installed on the freezer to optimize the operation of the electric defroster and door heater. The controller unit senses when refrigerant has ceased flowing through the evaporator coil and controls the fan motors. The cycle time is considered the bare minimum required to provide defrosting and prevent air in the chiller from stratifying into layers of higher and lower temperature. Door and frame heaters are controlled based on dew point, reducing their run time by 95% in chillers and 60% in freezers. The controllers will reduce compressor and evaporator runtime by up to 10%.

### ENERGY SAVINGS CALCULATION

Energy savings will result from both reducing the fan power and the efficient control of the evaporator fans and door heaters. In general, EEI uses the following approach to determine savings forth is specific measure:

[Existing kW Cost per kWh  
Cost of Existing Equipment  
Cost of Proposed Equipment Energy Savings\$

Listed Equipment Amperage x Voltage of Equipment Average Site Data Package \$/kWh  
= Existing kW x Cost per kWh x Effective Full Load Hours  
= Existing kW x Cost per kWh x Full Load Hours Using Control  
= Existing Equipment Costs- Proposed Equipment Costs

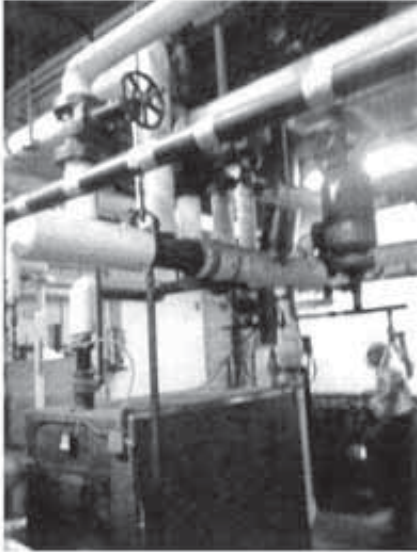
It was noted that one of the condensers is water cooled that will be further looked into for a potential water saving measure.



### ECM 3 – Condensing Boiler

#### EXISTING CONDITIONS

Currently there are 2 standard efficiency natural gas boilers that are at end of life. The boilers have an estimated efficiency of 82%.



#### PROPOSED IMPROVEMENT (SCOPE)

EI proposes to install 3 condensing Lochinvar or Keystone 850 KS boilers. Each boiler has an efficiency of up to 95% and the three boiler layout will provide additional redundancy than the current two boiler layout.



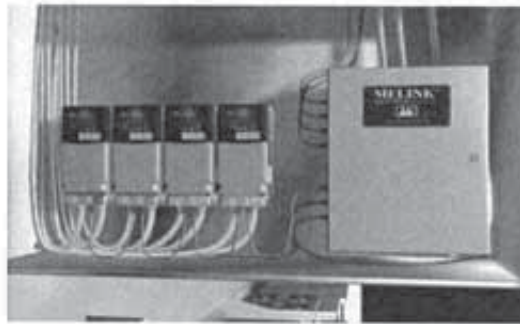
## ECM 4 – Kitchen Hood Controls

### EXISTING CONDITIONS

EI found that currently the kitchen exhaust hood is being left on 24/7 during the school year because the kitchen gets very hot overnight. EI proposes to install the Captive Air automated kitchen hood control system which will modulate the exhaust duct based upon outside air temperature. A variable speed exhaust fan will wrap the exhaust CFM up and down passed upon heat sensors located in the hood. This measure will save electricity from reducing fan run hours and gas through reducing heated air exhausted through hood.

### PROPOSED IMPROVEMENT (SCOPE)

EI proposes to install the Captive Air automated kitchen hood control system which will modulate the exhaust duct based upon outside air temperature. A variable speed exhaust fan will wrap the exhaust CFM up and down passed upon heat sensors located in the hood. This measure will save electricity from reducing fan run hours and gas through reducing heated air exhausted through hood.

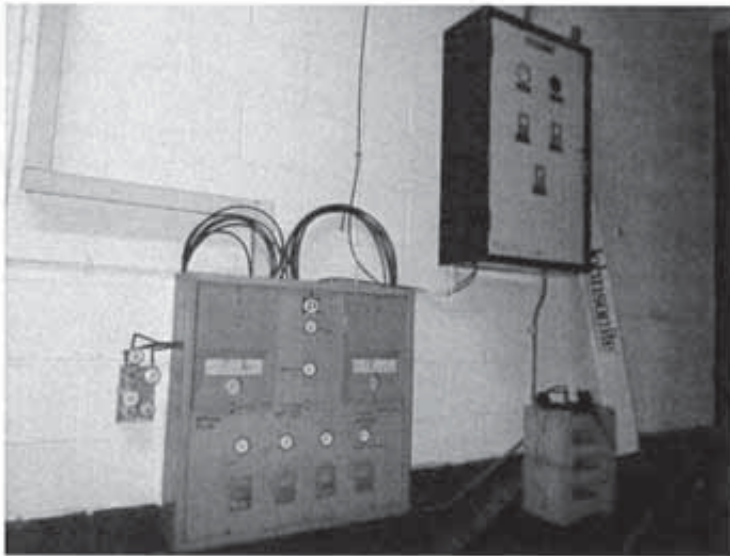




## ECM 5A & 5B – Digital Controls

### EXISTING CONDITIONS

The current building controls system consists of pneumatic controls which is an obsolete technology that is very expensive for the school to maintain. Pneumatic controls utilize compressed air to open or close valves throughout the school. The 2002 wing of the building currently has a digital control system. The existing controls are not very functionally and there are numerous complaints about inability to adjust space temperature.



### PROPOSED IMPROVEMENT (SCOPE)

E EI proposes to convert schools existing pneumatic control system to a digital controls system which will allow for better set back management, reduced maintenance cost and building start up optimization.

Option 5A is for Cypress Digital Pneumatic controls, these controls utilizing the existing pneumatic valves but have digital addressable wireless pneumatic thermostats that will be added to the buildings existing front end. This Option was not selected.

Option 5B is for an expansion of the existing CTI controls system to include all classrooms and air handlers in the building. Only the pumps would remain on the pneumatic controls with this upgrade and those can be changed out over time as they fail. This has a higher upfront cost but would transition the building away from pneumatic systems.



## ECM 6 – Solar PV Systems

### EXISTING CONDITIONS

No existing solar system. The Sloped EPDM Roof was installed Circa 2000 and the newest section of roof was installed Circa 2002.

### PROPOSED IMPROVEMENT (SCOPE)

Electricity generated from electricity-producing solar photovoltaic (PV) panels will reduce the quantity of power purchased from the local utility. Many factors affect the size of the solar PV installation, including on site load, available and suitable roof space, and available governmental incentives.



Solar electrical energy is generated when the sun's energy strikes the solar photovoltaic (PV) panel. A series of PV panels are combined in a PV array. Electrical energy, in Direct Current (DC), is sent from the array to an inverter, which converts the electricity to Alternating Current (AC) power. The AC electrical output from the inverter is integrated into the building's electrical system. Good practice and typical utility company requirements include the use of a disconnect switch between the inverter output and the tie-in point into the building's electrical system.

Monitoring of electrical output from the PV system can typically be viewed on most inverters. To ensure proper accounting of system output as well as to facilitate that potential revenue can be gained by selling the renewable energy attributes or credits (RECs) (versus the electricity) from the PV system, the system needs a revenue-grade electrical meter to measure AC kilowatt-hour production.

To determine the best location for a potential PV system, EEI surveyed all roof areas, and associated interior areas, to determine which areas may be best suited for such a system. While there are various roof areas that receive significant amounts of direct solar radiation, some roofs present greater challenges in distance from electrical panels. EEI believes that the best potential location are on the 2002 flat EPDM Roof at the addition or on one of the sloped EPDM roofs.

Savings assumption based on average solar days City of Portsmouth from PV Watts Energy Model.



## ECM 7 – Water Conservation

### EXISTING CONDITIONS

The New Franklin School as the highest water per student ratio in the district this is due to the high water consuming bathroom fixtures and the water cooled condenser for the walk in cooler.

With the exception of the 2002 addition the bathrooms were found to have toilets with 3.0 GPF, sinks with 2.2 GPM aerators and urinals with 1.0 GPF valves.

### PROPOSED IMPROVEMENT (SCOPE)

Domestic low flow devices will be installed to reduce the amount of water that is used by the New Franklin School. Locations for low flow device installation include restrooms, kitchens, and staff lounges. Reducing the amount of water with high quality low flow devices can save significant energy and water.

EEI proposes to eliminate the existing water cooled condenser and install a roof mounted electrical unit.

EEI has completed a detailed survey of the building to determine water consumption for the school. This ECM is designed to reduce water consumption, wastewater production and hot water energy usage through the installation of highly efficient plumbing products and controls. Low Flow Devices are important because they provide durable, long-term use with minimal maintenance, improved hygiene, and energy efficiency.

The installation of this type of equipment will:

- Lower operating costs by reducing the amount of water being used per toilet/urinal flush or sink use
- Improve appearance of older fixtures by replacing with new, high efficiency ones
- Lower maintenance costs associated with plumbing leaks, clogs and breakage by replacing older fixtures with new, high efficiency ones

EEI proposes to change out older, high flow fixtures in order to meet or exceed the Energy Act of 1992 which requires that toilet water use is limited to 1.6 gallons per flush, showerheads are limited to 2.5 gallons per minute, and faucets deliver less than 2.0 gallons per minute.

The upgrades will include:

*Staff and Public Restroom Faucets:* Installation of 0.5 gallons per minute (GPM) aerator flow restrictors on faucets that currently have 2.0+ GPM aerator flow restrictors. The current faucets will also be repaired and/or replaced as necessary to eliminate leaks. The new aerator flow restrictors will be tamper proof so that users cannot remove them. The maintenance department will be supplied with special keys that can be used to remove the aerator flow restrictors for any necessary maintenance.

*Water Closet:* Installation of 1.28 gallons per flush (GPF) water closet and flush valve in place of existing equipment that currently consumes 3.5+ GPF. These new fixtures and flush



valves will provide flushing performance that meets or exceeds ASME and ANSI performance standards for low-consumption toilets. These toilets are designed with large trapways which keep the waste moving and minimizes blockages.

*Tank Toilet:* Installation of 1.6 gallons per flush (GPF) tank toilets in place of existing equipment that currently consumes 3.5+ GPF. A typical toilet and flush valve retrofit includes:

- 1.28 GPF replacement with new retrofit kit or flushometer valves if needed
- New outlet seals and new toilet seats with stainless steel hardware
- Installation of new toilet floor flanges or repair to existing flanges
- No architectural patching or painting is included in the scope of work
- No repair to wall carriers are included in the scope of work

*Urinal:* Installation of 0.5 - 1.0 GPF flush valve (depending on urinal type). Urinals that receive this retrofit are currently consuming 1.5+ GPF. The new flush valves will reduce the schools' consumption in half and still provide ample water for flushing. A typical urinal flush valve retrofit or replacement includes:

- Installation of a new 1.0 GPF retrofit kit
- Installation of a new 1.0 GPF flushometer valve

## ECM 8 – Weatherization

### EXISTING CONDITIONS

The Roof to wall joint and several locations lacks insulation as shown in the photo below. EEI proposes to install foam insulation in these gap areas. Many of the building's exterior doors also has significant gaps and penetrations that will be improved with high grade weather stripping renovations.



### PROPOSED SCOPE OF WORK

- 2 Single Commercial Doors to be weather-stripped
- 2 Single Commercial Doors to be weather-stripped (sweeps only)
- 6 Double Commercial Doors to be weather-stripped
- 2 Double Commercial Doors to be weather-stripped (sweeps and astragals only)
- 18 Roof Top Ventilators to be opened, dampers lubed, perimeters sealed, 116 linear feet
- 996' Roof/Wall Joint and Soffit Joint to be sealed using 2-part closed cell fire rated foam
- 360 Square feet of 1" polyisocyanurate rigid insulation to be installed to interior gable end walls above drop tile ceiling in rooms 1,2,3,6,7,8, all seams to be sealed using 2-part closed cell fire rated foam

### ECM 9 - Computer Management System

EI proposes to install computer management software (CMS) that will enable computers to run when users need them and power down computers when they are inactive. This will prevent computers from using power by powering them down when users do not turn them off and they would otherwise remain on during times of no use. The CMS software can be installed on the main school server and can be pushed into every school PC via the WAN. The key features of this software include:

- Intelligent Configuration Settings
- Inactivity definitions can be based on multiple criteria
- Notify users before Power Save takes action
- Automatically save open documents, spreadsheets, presentations, and email drafts prior to powering down
- Option to logoff user prior to computer powering down
- Stay awake option allows users to temporarily disable CMS

#### *Calculations*

EI uses the following approach to determine savings for this specific measure:

Total Usage (kWh/Yr) = # of Computers x (Monitor Usage per unit + CPU Usage per unit),  
where:

$$\text{Monitor/CPU Usage} = \frac{(\text{Active Watts} \times \text{Hrs Computer On and Used}) + (\text{Standby Watts} \times \text{Hrs Computer on Standby}) + (\text{Passive Watts} \times \text{Hrs Computer Off})}{1000}$$





**ARBITT ENGINEERING, INC.**  
 Civil Engineers & Land Surveyors  
 1000 Main Street, Suite 200  
 Portsmouth, N.H. 03801-1019  
 Tel: (603) 438-1000  
 Fax: (603) 438-1001

**NOTES:**

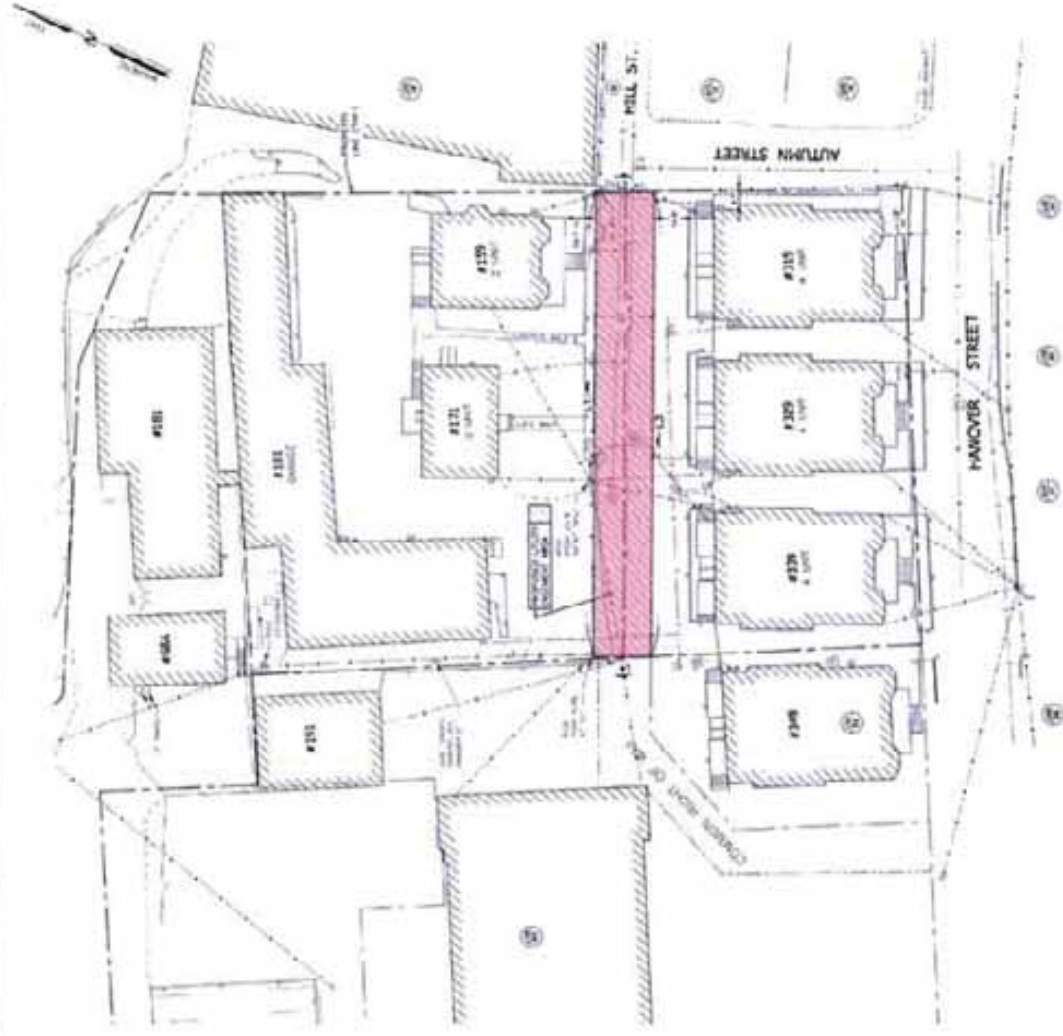
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**LOT LINE RELOCATION  
 159-181 HILL STREET &  
 317-339 HANOVER STREET  
 PORTSMOUTH, N.H.**



SCALE: 1" = 20'  
 JANUARY 2014

EASEMENT PLAN  
 C2



LOCATION MAP  
 SCALE: 1" = 200'

**EASEMENT LENGTH TABLE**

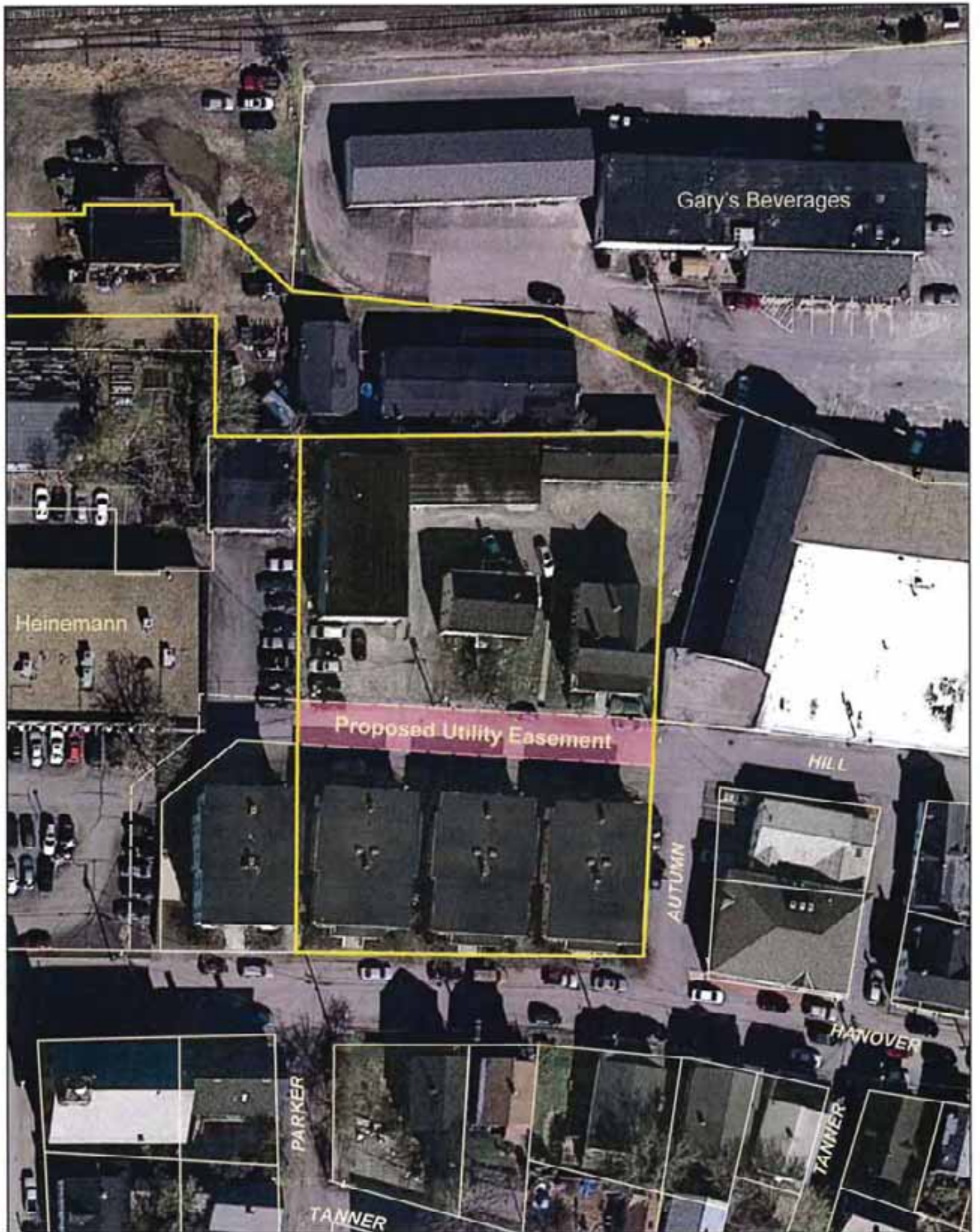
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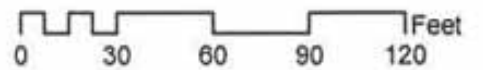
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APPROVED BY THE PORTSMOUTH PLANNING BOARD

DATE



159-181 Hill Street &  
317-339 Hanover Street







March 10, 2014

John P. Bohenko  
Portsmouth City Manager  
Municipal Complex  
1 Jenkins Avenue  
Portsmouth, NH 03801

**Re: Request for License to Encroach in Public Areas**

Dear City Manager Bohenko:

On behalf of Ten State Street, LLC, I am writing this letter to respectfully request the issuance of a License to Encroach on public property for a limited period of time during the construction of a building at 10 State Street. Attached to this letter, please find a plan showing the three areas of requested encroachment, as well as a recent photo showing the general area.

As discussed with the City Staff, the City is in receipt of certain funds previously committed by Ten State Street, LLC that would be applied to the cost of improvements requested by the City Staff in conjunction with this License request.

Sincerely,

A handwritten signature in black ink, appearing to read "Dana Adams", written over a horizontal line.

Dana Adams, PE  
Director of Operations

Enclosure













## Event Listing by Date

Starting Date: 3/ 3/2014  
Ending Date: 12/31/2014

Start End	Type Description	Location	Requestor	Vote Date
3/15/2014 3/15/2014	ROAD RACE Jill McFarland is the contact for this event. Telephone contact number: 501-9029 or jmcfarland90@hotmail.com This event begins on Peirce Island and ends on Marcy Street in front of Mumbo Restaurant. This is the Clover Run 5k.	Strawbery Banke	St. Patrick School	8/ 5/2013
3/31/2014 3/31/2014	ROAD RACE Donald Allison is the contact for this event. This event begins at the Portsmouth High School. His number: 617-835-2378	Starts at Portsmouth High School	Eastern States 20 Mile	10/21/2013
4/12/2014 4/12/2014	WALK Kim Blanchard is the contact for this event. She can be reached at 836-4758. This event begins at 10:00 a.m.	Little Harbour School	National Multiple Sclerosis So	11/18/2013
5/ 4/2014 5/ 4/2014	BIKE TOUR Christina O'Grady is the contact for this event. This event begins and ends at Redhook Brewery. This race has three different routes and length.	Begins and ends at Redhook Brewery	American Lung Association	12/16/2013
5/ 4/2014 5/ 4/2014	FESTIVAL Barbara Massar is the contact for this event. This event begins at Noon to 4:00 p.m. Street closure - Pleasant Street - State Street to Market Square No Parking on Market Street-Bow Street to Isle of Shoals Steamship Company entrance.	Downtown	Pro Portsmouth - Children's Da	9/ 3/2013
5/ 4/2014 5/ 4/2014	WALK Richard B. Wagner, Executive Director is the contact for this event. This event is from 10:00 a.m. to 5:00 p.m. The walk will begin at 2:00 p.m. and end around 5:00 p.m. in the lower parking lot of Portsmouth Municipal Complex.	Portsmouth Municipal Complex - Lower Lot	AIDS Response Seacoast	2/ 3/2014
5/10/2014 5/10/2014	ROAD RACE Allison Brownell, Race Co-Chair is one of the contacts for this race. Her cell number is 845-430-9351 The race begins at 8:30 a.m.	Marcy Street	Susan G. Komen New Hampshire R.	8/19/2013
5/17/2014 5/18/2014	BIKE TOUR Contact: Kelly Sicard, Director of Special Events and Volunteers	Will begin and end at Pease Tradeport includes Mem	Breathe New Hampshire	12/16/2013
5/17/2014 5/17/2014	RACE Pack & Boots 5K Community Road Race Series Contact: Doug Bates, Portsmouth Chamber - President@portsmouthchamber.org		Easter Seals Veteran's Count	11/18/2013
5/25/2014 5/25/2014	RACE Contact: Jeanine Sylvester, Proprietor, Runner's Alley, LLC (603) 430-1212. This is a 5K start and finish at Redhook Brewery.	Pease	Runner's Alley/Redhook Brewery	1/21/2014
6/ 7/2014 6/ 7/2014	ROAD RACE Jennifer Hubbell, Executive Director is the contact for this event. She can be reached at (603) 512-2799 The road race would being at 9:00 a.m.	Pease Tradeport	Girls on the Run New Hampshire	2/ 3/2014

## Event Listing by Date

Starting Date: 3/ 3/2014

Ending Date: 12/31/2014

Start End	Type Description	Location	Requestor	Vote Date
6/ 8/2014 6/ 8/2014	BIKE TOUR Mary M. Condella, is the organizer of this event. This event begins and ends at Little Harbour School. Reigstration is from 7:30 to 8:00 a.m. Start time of the ride is 8:30 a.m.	Little Harbour School	Seacoast Ride for PKD	2/ 3/2014
6/ 8/2014 6/ 8/2014	RACE 5K to Keep Kids Safe Community Road Race Series Contact: Christiana Amesquita (603) 437-4107 or Cristiana@sassnh.org	Pease Tradeport	Sexual Assault Support Service	11/18/2013
6/14/2014 6/14/2014	FAIR This is the 37th Annual Market Square Day from 4:00 a.m. to 6:00 p.m. Barbara Massar is the contact for this event.	Market Square	Pro Portsmouth	9/ 3/2013
6/14/2014 6/14/2014	ROAD RACE This is the 37th Annual 10K Road Race. The race begins at 9:00 a.m. in Market Square.	Market Square	Pro Portsmouth	9/ 3/2013
6/21/2014 6/21/2014	RACE Alyssa Salmon is the contact on this event. She can be reached at 430-1140 ex. 14 The event is from 3:00 p.m. to 6:00 p.m. Rain date of June 22, 2014.	Pleasant Street	Big Brother Big Sister	9/ 3/2013
6/28/2014 6/28/2014	MUSIC This is Summer in the Street event. It begins at 5:00 p.m. to 9:30 p.m. Street closurers - Pleasant Street - Porter Street to Market Square.	Market Square	Pro Portsmouth	9/ 3/2013
7/ 5/2014 7/ 5/2014	MUSIC This is Summer in the Street event. This event is from 5:00 p.m. to 9:30 p.m. Street Closurers - Pleasant Street - Porter Street to Market Square.	Market Square	Pro Portsmouth	9/ 3/2013
7/12/2014 7/12/2014	MUSIC This is a Summer in the Street event. The event is from 5:00 p.m. to 9:30 p.m. Street Closures - Pleasant Street - Porter Street to Market Square	Market Square	Pro Portsmouth	9/ 3/2013
7/19/2014 7/19/2014	ART EXH Katharine A. Muth, Executive Director is the contact for this event. The rain date of this event is Saturday, July 26, 2014.	Various Locations	NH Art Association	2/18/2014
7/19/2014 7/19/2014	MUSIC This is the Summer in the Street event. This event is from 5:00 p.m. to 9:30 p.m. Street Closures - Pleasant Street - Porter Street to Market Square	Market Square	Pro Portsmouth	9/ 3/2013
7/26/2014 7/26/2014	MUSIC This is the Summer in the Street event. This event is from 5:00 to 9:30 p.m. Street Closures - Pleasant Street - Porter Street to Market Square	Market Square	Pro Portsmouth	9/ 3/2013

## Event Listing by Date

Starting Date: 3/ 3/2014

Ending Date: 12/31/2014

Start End	Type Description	Location	Requestor	Vote Date
8/ 2/2014 8/ 2/2014	MUSIC This is a Summer in the Street event. The event is from 5:00 p.m. to 9:30 p.m. Street closures - Pleasant Street - Porter Street to Market Square	Market Square	Pro Portsmouth	9/ 3/2013
8/23/2014 8/23/2014	ROAD RACE Thunder Chicken Community Road Race Series  Contact: Justin Finn		Portsmouth Rotary Club	11/18/2013
9/ 7/2014 9/ 7/2014	BIKE TOUR Contact: Thomas Martin, Race Director	Downtown Portsmouth	Portsmouth Criterium	12/16/2013
9/13/2014 9/13/2014	ROAD RACE Celebrate Pink Community Road Race Series  Contact: Wendy McCoolle		My Breast Cancer Support	11/18/2013
9/20/2014 9/20/2014	ROAD RACE Pease Tradeport Holly Davis and Melissa Mikulski are the contacts for this event. hdavis@bottomline.com or mmikulski@bottomline.com This event is being held at Pease.		Bottomline Technologies	2/18/2014
9/27/2014 9/27/2014	ROAD RACE Karen Butz Webb is the contact for this event. She can be reached at projectsafetyassociation@gmail.com. This race begins and ends at Portsmouth High School at 8:30 a.m.	Portsmouth High School	Project Safety Association	11/18/2013
9/28/2014 9/28/2014	WALK Becky Coliandris, Development Officer is the contact for this event. This event begins and ends at Strawberry Banke. Walk site opens at 8:30 a.m., the walk kicks off at 10:00 a.m.	Strawbery Banke	Alzheimer's Association	1/21/2014
10/11/2014 10/11/2014	RACE Contacts: Catherine Edison, Community Child Care Center (603) 422-8223 Ben Anderson and Hannah Comeau, Prescott Park Arts Festival (603) 436-2848 or hannah@prescottpark.org  Community Road Race Series		Prescott PAF/Community Child C	11/18/2013
11/27/2014 11/27/2014	ROAD RACE Contact: Matt Junkin		Seacoast Rotary Club	11/18/2013





# CITY OF PORTSMOUTH

Municipal Complex  
1 Junkins Avenue  
Portsmouth, New Hampshire 03801  
(603) 431-2000

## CITY COUNCIL PUBLIC INPUT SESSION

### WATER/SEWER RATE STUDY

**DATE:** WEDNESDAY, MARCH 19, 2014  
**LOCATION:** CITY HALL – EILEEN DONDERO FOLEY COUNCIL CHAMBERS  
**TIME:** 6:30 PM

## AGENDA

Call to Order – Robert J. Lister, Mayor

Introduction – John Bohenko, City Manager

Presentation by Municipal Financial Services Group – David Hyder, Consultant; Judie Belanger, Finance Director; and Brian Goetz, Deputy Public Works Director

IV. Open Public Input Session – Robert J. Lister, Mayor

V. Adjournment

KELLI L. BARNABY, CMC/CNHMC  
CITY CLERK

**NOTICE TO MEMBERS OF THE PUBLIC WHO ARE HEARING IMPAIRED:** If you require assistance, contact Dianna Fogarty, Human Resources Director, at 603-610-7270, one week before the meeting to make arrangements.

**CITY OF PORTSMOUTH  
LEGAL DEPARTMENT  
MEMORANDUM**

DATE: March 12, 2014  
TO: JOHN P. BOHENKO, CITY MANAGER  
FROM: ROBERT P. SULLIVAN, CITY ATTORNEY  
RE: PORTWALK

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This memorandum will respond to your request for a brief explanation of the current land use regulatory issues at the Portwalk development site bounded by Hanover Street, Maplewood Avenue, Deer Street and Portwalk Place (the "Project"). It is my understanding that the memorandum is for dissemination for informational purposes to the Mayor and City Council on the March 17, 2014 agenda.

On or about February 25, 2014, the City Legal Department was made aware that Pro Con, Inc., Hanover Apartments, LLC and Parade Office, LLC (the "Developers") were proceeding with construction work on the project in apparent violation of the exterior façade approved by the Historic District Commission as well as the site plan approved by the Planning Board. Pro Con is the design/build contractor, Hanover Apartments and Parade Office are the owners. The construction items at issue included the installation of perhaps of thirty (30) unapproved windows, a change in the "banding" the exterior on the building from granite to fiberglass, a change in the appearance of an exterior wall and utility installation in contradiction to the approved site plan. There was also an issue concerning whether a restaurant at the Project would require a grease trap.

On Friday, February 28, 2014, the Developers were summoned to City Hall to discuss this situation with representatives of the City's Planning and Inspection Departments, the Deputy City Manager and myself. After lengthy and contentious discussion the Developers, jointly and severally agreed to take the following actions to address Historic District and Planning issues:

- The Developers agreed to appear before the Portsmouth Historic District Commission on the evening of March 5, 2014 requesting approval from the HDC for each and every variation from the previously approved HDC plans for the Project. The HDC remains in the process of reviewing the items which the Developers have submitted for approval. If new variations are identified, they will be submitted to the HDC for approval by the April submission date.
- No later than March 17, 2014 the Developers agree to submit a revised site plan certified by its engineer to include each and every variation from the approved site plan for the project, which revised site plan shall be placed on the next Planning Board agenda.



- o The Developers agreed to comply with whatever final decision might be reached by the HDC and the Planning Board with regard to those items under their respective jurisdictions, expeditiously and without delay.
- o Developers agreed to waive any right of appeal from the final decision of either the HDC or the Planning Board.
- o The grease trap required by the Public Works Department of the City of Portsmouth to serve a restaurant to be located in the Project shall be designed and constructed by the Developers to the standards required by the Public Works Department.

All of the foregoing is in the form of a written letter agreement signed by Mark Stebbins as Chairman and CEO of Pro Con , Inc. and Jeff Johnston on behalf of Hanover Apartments, LLC; Parade Office, LLC and Cathartes Private Investments. That obligation has been secured by a bond issued by the Travelers Casualty and Surety Company of America as surety to Pro Con in the amount of \$500,000.00 to ensure compliance with whatever determinations are made by the HDC and the Planning Board. Please note that the \$500,000.00 is in addition to the \$2,050,000.00 bond held by the City to secure compliance with the site review agreement approved by the Planning Board.

The foregoing agreement was considered by the City officials involved in the meeting on February 28, 2014 to be the resolution of the outstanding issues which would most efficiently accomplish the City's goal of ensuring compliance by the Developers with their land use regulatory obligations to the City. We continue to believe that the Developers' agreement to perform the foregoing actions remains the course of action which is most beneficial to the City. Please note that the Developers have specifically obligated themselves to do whatever the HDC and the Planning Board instruct them to do, **without any appeal**, and they have bonded that obligation (emphasis added).

Please note further that no certificate of occupancy for the completed building will be issued until it has been determined by the City that the site and the structure are in compliance with all building permit obligations, including land use regulatory approvals.

cc: David Allen, Deputy City Manager  
Rick Taintor, Planning Director  
Rick Hopley, Chief Building Inspector  
Peter J. Loughlin, Esq.  
Jeff Johnston  
Mark Stebbins





received  
3/11/14

# CITY OF PORTSMOUTH, N.H. BOARDS AND COMMISSIONS

## APPOINTMENT APPLICATION

Instructions: Please print or type and complete all information.  
Please submit resume' along with this application.

Committee: Citizens Advisory Committee Initial applicant

Name: Judith P. Bunnell Telephone: 431-6714 (603)  
Cell # 812-7469 (603)

Could you be contacted at work? YES  NO  If so, telephone # \_\_\_\_\_

Street address: 534 Colonial Drive, Ports. NH 03801

Mailing address (if different): \_\_\_\_\_

Email address (for clerk's office communication): judy.bunnell@comcast.net

How long have you been a resident of Portsmouth? 50 years

Occupational background:  
Tenant Services officer - Meals on  
wheels Manager, Senior Center  
Director, Consultant to Portsmouth  
Housing Authority, Senior Social  
Services Coordinator.

Please list experience you have in respect to this Board/Commission:  
Have written grants + Received  
funds from CDBG - attended  
Many of the Advisory Committees  
Meetings - Very aware of what  
they do and stand for -

OVER  
➔

Have you contacted the chair of the Board/Commission to determine the time commitment involved? YES/NO

Would you be able to commit to attending all meetings? YES/NO

Reasons for wishing to serve: To perform my civic duty - help advocate for various programs for all ages, particularly Senior citizens and to be involved in my city -

Please list any organizations, groups, or other committees you are involved in:

NH Delegate to National Institute of Senior Centers, member of National Council on Aging - Mayor's Blue Ribbon Com for finding a Senior Center Sub-committee member of Recreation Board -

Please list two character references not related to you or city staff members:

(Portsmouth references preferred)

- (work) 1) Craig Welch, PNA Ex. Director - 436-4310  
Name, address, telephone number South St. Portsmouth -
- 2) Nancy Emerson 442 Wslington St. 431-3838  
Name, address, telephone number Portsmouth

BY SUBMITTING THIS APPLICATION YOU UNDERSTAND THAT:

1. This application is for consideration and does not mean you will necessarily be appointed to this Board/Commission; and
2. The Mayor will review your application, may contact you, check your references, and determine any potential conflict of interests; and
3. This application may be forwarded to the City Council for consideration at the Mayor's discretion; and
4. If this application is forwarded to the City Council, they may consider the application and vote on it at the next scheduled meeting.
5. Application will be kept on file for one year from date of receipt.

Signature: Judith P. Bunnell Date: 3/11/2014

If you do not receive the appointment you are requesting, would you be interested in serving on another board or commission? Yes \_\_\_ No ✓ not @ this time -

Please submit application to the City Clerks Office, 1 Junkins Avenue, Portsmouth, NH 03801

CITY OF PORTSMOUTH, N.H.  
BOARDS AND COMMISSIONS



APPOINTMENT APPLICATION

Instructions: Please print or type and complete all information  
Please submit resume' along with this application

Committee: Conservation Commission Renewing applicant

Name: Steve J Miller Telephone: 433-1160

Could you be contacted at work? YES/NO - If so, telephone # 294-0146

Street address: 38 Thornton Street

Mailing address (if different): \_\_\_\_\_

Email address (for clerk's office communication): SJM 544 @ comcast.net

How long have you been a resident of Portsmouth? 22 years

Occupational background:

Environmental Education

Science Trainer

\_\_\_\_\_

\_\_\_\_\_

Would you be able to commit to attending all meetings?  YES/NO

Reasons for wishing to continue serving: \_\_\_\_\_

To continue to serve Portsmouth.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_





Please list any organizations, groups, or other committees you are involved in:

See Attached  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please list two character references not related to you or city staff members:  
(Portsmouth references preferred)

1) Allice Stone 595 Fw Huntland 475-1011  
Name, address, telephone number

2) Peter Britz Newburyport 431-2000  
Name, address, telephone number

BY SUBMITTING THIS APPLICATION YOU UNDERSTAND THAT:

1. This reappointment application is for consideration and does not mean you will necessarily be reappointed to this Board/Commission; and
2. The Mayor will review your application, may contact you, check your references, and determine any potential conflict of interests; and
3. This application may be forwarded to the City Council for consideration at the Mayor's discretion; and
4. If this application is forwarded to the City Council, they may consider the application and vote on it at the next scheduled meeting.
5. Application will be kept on file for one year from date of receipt.

Signature: [Signature] Date: March 10, 2014

CITY CLERK INFORMATION ONLY:

New Term Expiration Date: 4-1-2017

Annual Number of Meetings: 10 Number of Meetings Absent: Ø  
2013

Date of Original Appointment: 11-17-2003

Please submit application to: City Clerk's Office, 1 Junkins Avenue, Portsmouth, NH 03801

STEVEN JOSEPH MILLER  
Coastal Training Program Coordinator  
89 Depot Road  
Greenland, NH 03840  
[Steve.Miller@wildlife.nh.gov](mailto:Steve.Miller@wildlife.nh.gov)

SJH 44 E Comcast. Not home

## EDUCATION

**Master of Environmental Studies.** Yale School of Forestry and Environmental Studies, 1986. Wildlife and Ecosystem Studies. Project title, "A Comparison of Small Mammals Captured by Barn Owls (*Tyto alba*) and Live-trapped in a Grassland in Lake Nakuru National Park, Kenya."

**Bachelor of Science.** Ohio State University, 1977. Zoology. Undergraduate Research Scholarship, "Social Behavior of Thirteen-lined Ground Squirrel (*Citellus tridecemlineatus*)."

## PROFESSIONAL EXPERIENCE

**Coastal Training Program Coordinator, 2002 to present.** Great Bay National Estuarine Research Reserve, Stratham, NH. Established the Coastal Training Program at GBNERR completing all NOAA requirements, including market analysis of available training resources, decision maker needs assessment, and strategic plan. The mission of the CTP is to advance informed decision making by transferring technical information and training to target audiences through a comprehensive program. Current responsibilities include implementing the CTP strategic plan, which involves continued development and implementation of mechanisms to provide science-based resources and information to decision makers, coastal land managers, and other target audiences. In 2008 the CTP held 28 training events for 735 participants.

**Vice President of Interpretation, 1992-2002.** Seacoast Science Center, Rye, NH.

**Instructor, 1999-2001.** College of Lifelong Learning, Portsmouth, NH.

**Instructor, 1996, 1998, and 1999.** New Hampshire College, Portsmouth, NH.

**Instructor and Dive Master, 1994-2001.** Cornell University's Shoals Marine Lab, Maine.

**Scientific Diving Officer, 1990-1992.** Smithsonian Tropical Research Institute, Panama.

**Lab Manager and Scientific Diving Officer, 1986-1990.** Catalina Marine Science Center, Catalina Island, California.

**Teaching Assistant, 1986.** Yale University, Connecticut and Puerto Rico. Ecology.

**Instructor, 1984.** School for Field Studies, U.S. Virgin Islands.

**Director, 1981-1983.** Forfar Field Station, Andros Island, Bahamas.

**Teaching Assistant, 1981-1984.** Cornell University's Shoals Marine Lab, Maine. **Natural**

**History Interpreter, 1977-1978.** Forfar Field Station, Andros Island, Bahamas.

**Field Research Assistant, 1975-1980.** Ohio State University.

## RELATED PROFESSIONAL ACTIVITIES

**Member, Hodgson Brook Advisory Board, 2005 to present.**

**Vice President, Advocates for the North Mill Pond, 2004 to present.**

**Portsmouth Conservation Commission 2002 – present.** Chair 2006 – present.

**Member, Portsmouth Pierce Island Committee, 2000-2002.**

**Member, Mayor's Blue Ribbon Committee for the Great Bog, 1999-2001.**



CITY OF PORTSMOUTH, N.H.  
BOARDS AND COMMISSIONS

APPOINTMENT APPLICATION

Instructions: Please print or type and complete all information  
Please submit resume' along with this application

Committee: Conservation Commission **Renewing applicant**

Name: Elissa Hill Stone Telephone: 603-475-1011

Could you be contacted at work?  YES/NO - If so, telephone # 603-433-1935

Street address: 595 FW Hartford Drive

Mailing address (if different): \_\_\_\_\_

Email address (for clerk's office communication): estone@stonehillenvironmental.com

How long have you been a resident of Portsmouth? since 1996

Occupational background:

Owner and manager of StoneHill Environmental Inc  
600 State St, Suite 2, Portsmouth. Company founder 1989  
Environmental consultant including wetland delineation  
and assess. Prior NJ Dept Env Protection since 1979

Would you be able to commit to attending all meetings?  YES/NO

Reasons for wishing to continue serving: Every application poses

new site specific concerns - so these are very interesting

for me and slightly different than my usual business

day-to-day concerns. There have been several applications

where I have been able to contribute technical review

specific to my background that has been different

from other commissioners in soil science + haz subst situations.

OVER  
→



Please list any organizations, groups, or other committees you are involved in:

Soil Science Society of Northern New England  
" " " Southern " "  
National Assoc of Environmental Professionals  
Soil Science Society of America  
American Society of Agronomy (farming)

Please list two character references not related to you or city staff members:  
(Portsmouth references preferred)

1) Steve Miller 38 Thornton St 433-1160  
Name, address, telephone number

2) Mary Ann Blandhard 34 Hanisom Ave 436-7008 CC vice chair  
Name, address, telephone number

BY SUBMITTING THIS APPLICATION YOU UNDERSTAND THAT:

1. This reappointment application is for consideration and does not mean you will necessarily be reappointed to this Board/Commission; and
2. The Mayor will review your application, may contact you, check your references, and determine any potential conflict of interests; and
3. This application may be forwarded to the City Council for consideration at the Mayor's discretion; and
4. If this application is forwarded to the City Council, they may consider the application and vote on it at the next scheduled meeting.
5. Application will be kept on file for one year from date of receipt.

Signature: Elisabeth Date: 3-1-2014

CITY CLERK INFORMATION ONLY:

New Term Expiration Date: 04-01-17  
Annual Number of Meetings: 10 Number of Meetings Absent: 0  
<sub>2013</sub>  
Date of Original Appointment: 5-16-2011

Please submit application to: City Clerk's Office, 1 Junkins Avenue, Portsmouth, NH 03801

CITY OF PORTSMOUTH, N.H.  
BOARDS AND COMMISSIONS

APPOINTMENT APPLICATION

Instructions: Please print or type and complete all information  
Please submit resume' along with this application

Committee: Conservation Commission Renewing applicant

Name: Allison Tanner Telephone: 603-431-4147

Could you be contacted at work?  YES/ NO - If so, telephone # 207-985-5323

Street address: 380 Greenleaf Ave

Mailing address (if different): \_\_\_\_\_

Email address (for clerk's office communication): inventivetechnologies@comcast.net

How long have you been a resident of Portsmouth? 35 years

Occupational background:

1997 - Present: Corning Incorporated 2 Alfred Rd Ferrisburgh Ne 04043  
Employed as a Product Development Scientist  
Previous: Portsmouth Regional Hospital  
Registered Nurse/Maternal-Child Health

Would you be able to commit to attending all meetings?  YES/ NO

Reasons for wishing to continue serving: Continuing to serve on the  
Conservation Commission is my way of giving  
back to the community in which I live & to  
support my desire to maintain the quality  
of life we have in Portsmouth, for all residents.

OVER  
➔



Please list any organizations, groups, or other committees you are involved in:

PHS track official  
New England Day Lily Society  
Riverly Hill/Greatway Ave Neighborhood Assoc.

Please list two character references not related to you or city staff members:  
(Portsmouth references preferred)

- 1) Susan Chamberlin 390 Greenleaf Ave. 431-5984  
Name, address, telephone number
- 2) Jean Provencher 174 Parsons Rd. Rye, NH 436-8299  
Name, address, telephone number

BY SUBMITTING THIS APPLICATION YOU UNDERSTAND THAT:

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- 5. Application will be kept on file for one year from date of receipt.

Signature: Alexander Tucker Date: 3/8/14

**CITY CLERK INFORMATION ONLY:**

New Term Expiration Date: 4-1-2017  
Annual Number of Meetings: 10 Number of Meetings Absent: 0  
Date of Original Appointment: 1-15-1990

Please submit application to: City Clerk's Office, 1 Junkins Avenue, Portsmouth, NH 03801





CITY OF PORTSMOUTH, N.H.  
BOARDS AND COMMISSIONS

APPOINTMENT APPLICATION

Instructions: Please print or type and complete all information  
Please submit resume' along with this application

Committee: Portsmouth Housing Authority **Renewing applicant**

Name: Amy Schwartz Telephone: 603-502-4124

Could you be contacted at work?  YES  NO - If so, telephone # 603-862-5099

Street address: 55 Sunset Rd, Portsmouth NH 03801

Mailing address (if different): \_\_\_\_\_

Email address (for clerk's office communication): amy.schwartz@unh.edu

How long have you been a resident of Portsmouth? 15 years

Occupational background:

academic & research administration - UNH  
health care, health policy

Would you be able to commit to attending all meetings?  YES  NO

Reasons for wishing to continue serving: \_\_\_\_\_

I enjoy being involved in my  
community and feel strongly about  
providing services for low income and  
disabled citizens

Please list any organizations, groups, or other committees you are involved in:

Trustee, Foundation for Seacoast Health

Please list two character references not related to you or city staff members:  
(Portsmouth references preferred)

1) Craig Welch - 246 Middle Rd. 817-9739  
Name, address, telephone number

2) Jennifer Matthes - 69 Sunset Rd. 498-8343  
Name, address, telephone number

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Signature:  Date: 3/5/14

CITY CLERK INFORMATION ONLY:

New Term Expiration Date: 09/01/2019

Annual Number of Meetings: 13 Number of Meetings Absent: 1  
2013

Date of Original Appointment: 9/20/2010

Please submit application to: City Clerk's Office, 1 Junkins Avenue, Portsmouth, NH 03801

CITY OF PORTSMOUTH, N.H.  
BOARDS AND COMMISSIONS

APPOINTMENT APPLICATION

Instructions: Please print or type and complete all information  
Please submit resume' along with this application



Committee: Pease Island Committee **Renewing applicant**

Name: Stephen G Philp Telephone: 603-436-2328

Could you be contacted at work? YES/NO - If so, telephone # 603-964-6560  
EXT 6013

Street address: 39 SPRING ST. PORTSMOUTH, NH 03811

Mailing address (if different): \_\_\_\_\_

Email address (for clerk's office communication): sgphilp@comcast.net

How long have you been a resident of Portsmouth? 33 yrs.

Occupational background:

Computer Systems Mgr.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Would you be able to commit to attending all meetings? YES/NO

Reasons for wishing to continue serving: I visit Pease Island  
almost every day. I feel that it  
is a special Portsmouth resource and  
I would like to see it remain safe,  
clean & an all-season recreational  
area.





Please list any organizations, groups, or other committees you are involved in:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please list two character references not related to you or city staff members:  
(Portsmouth references preferred)

- 1) Robert Gallo 91 Spring St Portsmouth 603 433-2754  
Name, address, telephone number
- 2) Richard Smith C.R.E.A Hanover St  
Name, address, telephone number Portsmouth

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Signature: [Handwritten Signature] Date: 2/1/2014

**CITY CLERK INFORMATION ONLY:**

New Term Expiration Date: 12-31-15  
 Annual Number of Meetings: 6 Number of Meetings Absent: 0  
 Date of Original Appointment: 4-19-2010

Please submit application to: City Clerk's Office, 1 Junkins Avenue, Portsmouth, NH 03801

CITY OF PORTSMOUTH, N.H.  
BOARDS AND COMMISSIONS

APPOINTMENT APPLICATION

Instructions: Please print or type and complete all information  
Please submit resume' along with this application

Committee: Peirce Island **Renewing applicant**

Name: John Simon Telephone: 603-205-5474

Could you be contacted at work?  YES/NO - If so, telephone # 603-205-5474

Street address: 21 Humphreys Court

Mailing address (if different): PO Box 1090

Email address (for clerk's office communication): john@wordpraxis.com

How long have you been a resident of Portsmouth? 20+ years

Occupational background:

Writer, editor

Would you be able to commit to attending all meetings?  YES/NO

Reasons for wishing to continue serving: Committed to continue working

for preservation and enhancement of Peirce Island including

exploring and documenting its history

Please list any organizations, groups, or other committees you are involved in:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please list two character references not related to you or city staff members:  
(Portsmouth references preferred)

1) Melissa McLeod 67 Ridges Court 603-433-6646  
Name, address, telephone number

2) Laura Fanning 43 Humphreys Court 603-205-3340  
Name, address, telephone number

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Signature:  Date: MARCH 3, 2014

CITY CLERK INFORMATION ONLY:

New Term Expiration Date: 12/31/2015  
Annual Number of Meetings: 6 Number of Meetings Absent: 1  
Date of Original Appointment: <sup>2013</sup> 3/1/2010

Please submit application to: City Clerk's Office, 1 Junkins Avenue, Portsmouth, NH 03801



CITY OF PORTSMOUTH, N.H.  
BOARDS AND COMMISSIONS

APPOINTMENT APPLICATION

Instructions: Please print or type and complete all information  
Please submit resume' along with this application

Committee: Recreation Board Renewing applicant

Name: Jackie Cali-Pitts Telephone: 603-431-7657 <sup>00-512</sup><sub>0-188</sub>

Could you be contacted at work? YES/NO - If so, telephone # no (Retired)

Street address: 40 Bedford Way Apt 112

Mailing address (if different): \_\_\_\_\_

Email address (for clerk's office communication): Cali0917@AOL.com

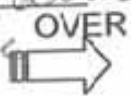
How long have you been a resident of Portsmouth? <sup>no</sup> 40 years

Occupational background:

Retired Verizon  
Former Mgr. AT&T Svcs. National Passport  
Center

Would you be able to commit to attending all meetings? YES/NO yes

Reasons for wishing to continue serving: I have served on  
the board since the days of Joe Tate, I  
believe recreation has come a long way in  
the city, but still has a way to go. I  
was there when Rusty Wilson came aboard  
and would like to be there when he  
leaves.



Please list any organizations, groups, or other committees you are involved in:

I believe that a strong recreational program ought to be available to all members of the Comm from very young to very old and I have had the privilege of seeing that take fruition. This is a subject I have learned from experts over the years. I have not had a

Please list two character references not related to you or city staff members:  
(Portsmouth references preferred)

1) Rose Cronk  
Name, address, telephone number

formal resume over years -  
BA/ UWA BB ~~certified~~ note done  
Monsieur - two certificate postcard  
education & counseling

Hendry Rd 436-9304

2) Nancy Clayburgh  
Name, address, telephone number

Laura Santelako

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Signature: \_\_\_\_\_

Date: \_\_\_\_\_

3/1/14

CITY CLERK INFORMATION ONLY:

New Term Expiration Date: 4-1-2017

Annual Number of Meetings: 4 Number of Meetings Absent: 0

2013

Date of Original Appointment: 12/10/1989

Please submit application to: City Clerk's Office, 1 Junkins Avenue, Portsmouth, NH 03801



H Bedford Way #112  
110 Ledgewood Drive • Portsmouth, NH 03801 • (603) 431-7657/Cell (603) 512-5788 • cali0917@aol.com

**Jacqueline A. Pitts**

**PROFILE**

Results-oriented, quality driven **Customer Service Professional** offering extensive and diversified knowledge, experience, and success. Pioneered strategic and tactical solutions to enhance customer service, bottom-line performance, quality, and profitability within a fast paced, growth oriented environment. Highly organized and detail oriented individual with optimum planning and time management skills. Successful working under pressure and stress and consistently meeting goals and objectives. Demonstrated ability to facilitate change both as a Manager and as an individual contributor through well-developed communication, interpersonal, and listening skills. Focused on company growth and profitability while increasing client loyalty, as well as employee motivation. Proven decision making and problem/issue resolution skills. Consistently established and maintained customer rapport with a wide range of staff. Ability to learn and integrate new information and procedures easily. Proficient with Microsoft Office software.

**Areas of Expertise Include:**

- \* Communication and Interpersonal skills
- \* Research and Analysis
- \* Public Speaking/Presentations
- \* Problem Identification and Resolution
- \* Team Development and Training
- \* Public Relations/Customer Rapport

**EXPERIENCE**

AT&T Technical Solutions - Dover, NH 1996-2009  
**CUSTOMER SERVICE SUPERVISOR (2000-2009)**

Compiled statistics relating to; work volume, customer service requests, and complaints, using computer data input by employees. Monitored service calls to observe employee's demeanor, technical accuracy, ensuring adherence to company's policies and procedures. Supervised employees in a fast paced call center responsible for nationwide incoming calls. Handled training modules concerning federal regulations (including new citizenship and passport regulations). Monitored and dealt with creative programs pertaining to attendance issues in a non-union and union environment. Scheduled work hours and resolved conflicts. Conducted semi-annual and annual performance reviews; developed goal plans for staff for quality improvement. Interviewed and hired staff. Trained new supervisors on company procedures and personnel management skills.

- *Implemented team approach and held weekly staff meetings to increase quality.*
- *Created and implemented internal Help Desk.*
- *Instrumental in condensing rules and regulations into easily interpreted format for customer service*
- *Team won center-wide recognition of excellence.*

AT&T Technical Services/Stanley Associates (National Passport Information Services) - Dover, NH  
**CUSTOMER SERVICE REPRESENTATIVE (1996-2000)**

Worked on demanding and difficult situations and consistently brought unique crises to satisfactory conclusions. Ensured smooth and efficient daily operations, utilizing superlative problem solving and decision making skills.

- *20+ years background with national telecommunication systems including Verizon and AT&T.*
- *Designed, wrote, and produced in-house help desk procedure for AT&T Passport Information Center.*
- *Audited and implemented streamlined payroll distribution system for over 700 employees.*
- *Worked on multiple software systems including Deltek Payroll System.*

**EDUCATION/SPECIALIZED TRAINING**

University of New Hampshire, Durham, NH - Bachelor of Arts Degree/Social Services

Notre Dame College - Manchester, NH - Certificate in Pastoral Ministry Education *+32 Master*

Microsoft Word, Excel, and PowerPoint software Course

**Communications Seminar**

**COMMUNITY**

**Recipient:** New Hampshire Citizens Alliance Award and Martin Luther King Award

**Volunteer:** Special Olympics, Pro Portsmouth, Strawberry Banke, Portsmouth Maritime Commission and the Portsmouth Recreation Board (current member and past Chair).

Active in local and state politics (served on the Portsmouth School Board).

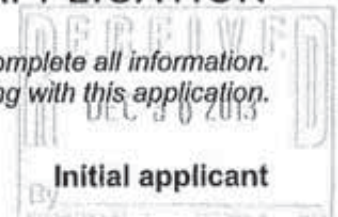




# CITY OF PORTSMOUTH, N.H. BOARDS AND COMMISSIONS

## APPOINTMENT APPLICATION

Instructions: Please print or type and complete all information.  
Please submit resume' along with this application.



Committee: Recreation Dept.

Name: Jason Boucher Telephone (603) 436-1195

Could you be contacted at work?  YES  NO If so, telephone # (603) 397-9688 (mobile)

Street address: 65 WIBIRD STREET

Mailing address (if different): \_\_\_\_\_

Email address (for clerk's office communication): boucher.jason@gmail.com

How long have you been a resident of Portsmouth? 1998 (1991 graduate of PHS)

Occupational background:

Communications and Marketing at University of New Hampshire  
I'm in charge of all social media and a former  
play by play announcer for UNH Wildcat hockey.

Please list experience you have in respect to this Board/Commission:

I'm involved at the local level, passionate about  
sports and recreation. I love soccer and played  
several seasons at Seacoast United as well as  
pick-up soccer at various fields around the City of  
Portsmouth. Former president of Seacoast-Social.org

and former music director at WUNH and WSQA  
make me qualified, as I have experience  
working in groups and working with the public.

6/27/2012



Have you contacted the chair of the Board/Commission to determine the time commitment involved? YES (NO) / I spoke with Todd Henley, but know others involved with city council and boards.

Would you be able to commit to attending all meetings? (YES)/NO

Reasons for wishing to serve: I grew up here. Born in Portsmouth, grow up in Greenland, graduated from PHS in 1991. I live here and love Portsmouth. I want to help the Recreation Dept. by being a part of a board that helps provide a place for our city's children, teens, and adults exercise and to make sure our facilities are adequate and kept up to date.

Please list any organizations, groups, or other committees you are involved in:

Seacoast Social.org - Social Media Advocacy group on the Seacoast.

Portsmouth Breakfast Club - volunteer breakfast gatherings at The Wicks each Wednesday morning

Please list two character references not related to you or city staff members:  
(Portsmouth references preferred)

- 1) Bridget Finnegan, Cedar Point Rd. Durham, NH 03824 (603) 953-3446  
Name, address, telephone number
- 2) Jeff Valliere, 7931 Birchtree Ct. Springfield, VA 22152 (202) 441-2894  
Name, address, telephone number

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5. Application will be kept on file for one year from date of receipt.

Signature: [Signature] Date: 12/28/13

If you do not receive the appointment you are requesting, would you be interested in serving on another board or commission? Yes X No     

Please submit application to the City Clerks Office, 1 Jenkins Avenue, Portsmouth, NH 03801  
6/27/2012





# CITY OF PORTSMOUTH, N.H. BOARDS AND COMMISSIONS

## APPOINTMENT APPLICATION

*Instructions: Please print or type and complete all information.  
Please submit resume' along with this application.*

Committee: RECREATION Initial applicant

Name: KATHRYN R LYNCH Telephone: 431-5287

Could you be contacted at work? YES/NO If so, telephone # NA

Street address: 3 BOYAN PLACE PORTSMOUTH NH 03801

Mailing address (if different): \_\_\_\_\_

Email address (for clerk's office communication): kathrynlynch@hotmail.com

How long have you been a resident of Portsmouth? 30 yrs

Occupational background: RN

1973 - present various staff RN roles in hospitals & medical offices

1979-1981 Instructor LSU Medical Center School of Nursing

1981-1983; 1990-2000 Assistant Professor UNH Dept of Nursing

2000-2002; 2004 Lecturer (PT) MGH Institute of Health Professions Dept of Nursing

Please list experience you have in respect to this Board/Commission:

1996 → present : various leadership positions with Portsmouth Little

League including president 1997-2001 ; 2002 → present



Have you contacted the chair of the Board/Commission to determine the time commitment involved? YES/NO

Would you be able to commit to attending all meetings? YES/NO

Reasons for wishing to serve: strong interest and concern for providing recreation resources and activities to our community to maintain health and promote wellness

Please list any organizations, groups, or other committees you are involved in:

PORTSMOUTH LITTLE LEAGUE

Please list two character references not related to you or city staff members:  
(Portsmouth references preferred)

1) Tom and Vicki Decker 182 Richards Avenue, Portsmouth NH 603-433-4048  
Name, address, telephone number

2) Nancy Clayburgh - 405 FW Hainford Dr Portsmouth NH 603-436-6525  
Name, address, telephone number

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Signature: Kathy H Date: 2/27/14

If you do not receive the appointment you are requesting, would you be interested in serving on another board or commission? Yes \_\_\_ No \_\_\_ Possibly

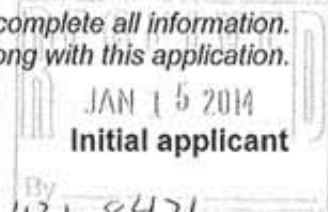
Please submit application to the City Clerks Office, 1 Junkins Avenue, Portsmouth, NH 03801



# CITY OF PORTSMOUTH, N.H. BOARDS AND COMMISSIONS

## APPOINTMENT APPLICATION

Instructions: Please print or type and complete all information.  
Please submit resume' along with this application.



Committee: Board of Library Trustees

Name: R. Bruce Boley Telephone: 603-431-8471

Could you be contacted at work? YES/NO If so, telephone# 603-431-8471

Street address: 88 Newcastle Avenue

Mailing address (if different): \_\_\_\_\_

Email address (for clerk's office communication): b.boleym@hsph.harvard.edu

How long have you been a resident of Portsmouth? About 45 years

Occupational background:

Portsmouth School Dept, special Education Director  
Harvard School of Public Health Research Administrator  
Kuwait - Dasman Institute: project manager, cohort study

Please list experience you have in respect to this Board/Commission:

I am a longtime user of the Library from its days  
on Islington St. to the current new building. I have  
appreciated the skilled help that is available. I think  
it has a good collection for the size of our city.





Have you contacted the chair of the Board/Commission to determine the time commitment involved? YES/NO

Would you be able to commit to attending all meetings? YES/NO

Reasons for wishing to serve: I am semi-retired, I do most of my work from my home office with rare business trips abroad. Most meetings are via video conference or in Boston, SO, I am available most of the time. I really appreciate the city's efforts to provide this very good library & wish to support it.

Please list any organizations, groups, or other committees you are involved in:

I am not involved in any local organization at this time

Please list two character references not related to you or city staff members:  
(Portsmouth references preferred)

1) Margaret Evans, One Lookout Lane, Portsmouth, NH, 603-433-3218  
Name, address, telephone number

2) Tom Bolko, Newcastle Avenue, Portsmouth, NH  
Name, address, telephone number

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Signature:  Date: 1-14-2014

If you do not receive the appointment you are requesting, would you be interested in serving on another board or commission? Yes      No     

Please submit application to the City Clerks Office, 1 Junkins Avenue, Portsmouth, NH 03801

6/27/2012





DEC 17 2013

# CITY OF PORTSMOUTH, N.H. BOARDS AND COMMISSIONS

## APPOINTMENT APPLICATION

Instructions: Please print or type and complete all information.  
Please submit resume along with this application.

Committee: LIBRARY Initial applicant

Name: JACK JAMISON Telephone: 431-6313

Could you be contacted at work? YES/NO If so, telephone# RETIRED 431-6313

Street address: 7 FREEDOM CIR #21

Mailing address (if different): \_\_\_\_\_

Email address (for clerk's office communication): JJJINK@COMCAST.NET

How long have you been a resident of Portsmouth? 9 1/2 YEARS (JULY 2004)

Occupational background:

IBM

US PUBLIC HEALTH SERVICE

HOMEWORK

DATA GENERAL - DIRECTOR SOFTWARE DEVELOPMENT

COMPUTER CONSULTANT (INDEPENDENT)

Please list experience you have in respect to this Board/Commission:

COMPUTER SOFTWARE EXECUTIVE

LIBRARY CONSUMER AND ADVOCATE

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

OVER

Have you contacted the chair of the Board/Commission to determine the time commitment involved? YES  NO

Would you be able to commit to attending all meetings? YES  NO

Reasons for wishing to serve: I LOVE MY LIBRARY, I USE IT CONTINUOUSLY,  
AND I WANT TO BE AN ACTIVE SUPPORTER OF IT.

Please list any organizations, groups, or other committees you are involved in:

FAMILIES FIRST BOARD OF DIRECTORS, VOLUNTEER - CHILDCARE  
PRESENT PARK BIRTH FESTIVAL BOARD OF ADVISORS  
MAYOR'S BLUE BIRD SENIOR <sup>COMMUNITY</sup> CENTER

Please list two character references not related to you or city staff members:  
(Portsmouth references preferred)

1) HELEN TART FAMILIES FIRST

Name, address, telephone number

422-8208 x120

2) KARIN BARN DOLLAR  
120 RIDGETO COURT PORTSMOUTH

Name, address, telephone number

255-431-8341

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Signature: [Signature]

Date: 12/7/2013

If you do not receive the appointment you are requesting, would you be interested in serving on another board or commission? Yes  No

Please submit application to the City Clerks Office, 1 Junkins Avenue, Portsmouth, NH 03801

6/27/2012



## **John J. (Jack) Jamison Substitute Resume**

I have been retired since 2002 and my resume went to the dump with an old computer here is a synopsis of my education and work history.

### **Education**

NJ Institute of Technology 1961 BSME  
Xavier University Graduate work in Mathematics  
Northeastern University Graduate work in Management

### **Professional**

**IBM, Newark Branch Office in NJ**

System Engineer. I provided technical support for Engineering Firms in Northern New Jersey and for NJ Institute of Technology

**US Public Health Service, Taft Sanitary Engineering Center in Cincinnati**

I received a direct Commission in the USPHS, one of our 7 uniformed services. I worked primarily as a programmer and as a statistician.

**Honeywell, Computer Division Headquarters in Wellesley Hill, MA**

Initially I was a programmer and systems analyst developing manufacturing applications. Then I managed that group and finally was a manager of managers for 6 industry groups.

**Data General Corporation, Corporate Headquarters in Westborough, MA**

I was Director of Software Development responsible for Operating Systems, Word Processing, and Accounting Application Software Development and Technical Writing and Publishing for that software.

**JJJ Corporation, Alton, NH**

I was an independent computer consultant. My major client was General Electric in Somersworth, NH. I successfully completed a number of major engagements often multi-year projects. I co-authored 2 patents involving the automated testing of electric meter firmware.



## **Volunteering**

### **Framingham United**

Girls Soccer Coach intramural and traveling teams

### **First Parish UU Church, Framingham, MA**

Taught Our Bodies Ourselves A Human Sexuality Course for young teens

### **Alton, NH Public Library**

Story Time

### **Children's Museum**

Entertained Kids at exhibits

### **Families First**

Childcare

Grandparents Class

Facilitator Grandparents Group

Board of Directors, Executive Committee

### **Prescott Park Arts Festival**

Board of Directors, Executive Committee

### **Portsmouth Listens**

Facilitator -Middle School

### **Hospice**

Patient volunteer

### **Mayor's Blue Ribbon Senior Committee**

Develop recommendations for a Senior Center

March 12, 2014

To the Portsmouth City Council,

I have asked the following item be placed on the City Council Agenda for Monday, March 17th:

**Creating A Fee Penalty Guideline For Violations Of Land Use Board Approvals**

While watching the meeting of the Historic District Commission of Wednesday, March 5th, I was surprised to learn that perhaps there are no current ordinances that provide a penalty for violations of land use board approvals.

Fortunately for the people of Portsmouth, the violations of Portwalk from the original permissions granted were caught. But the "**I Forgot, I'm Sorry Syndrome**" should not be accepted as an excuse for such violations -- whether intentional, or not.

I would like to ask for clarification of what statutory authority the City of Portsmouth does indeed have, in addition to forcing a developer or builder to revert back to what had been formally granted.

In this case, the dilemma seems to be that if there are some things that were done without approval, the HDC might well "grant" approval now -- after the fact. That alone sets a dangerous precedent.

Putting the issue of Portwalk aside, in the future, if developers or builders want to make changes after plans have been approved, all they have to do is unilaterally make their change -- and if by chance they are "caught," they just have to plead their case that their change was better than plans originally approved. Then all is forgiven?

I recently reviewed the very first report of the Citywide Neighborhood Committee presented on February 6, 1995 co-written by then City Councilor Evelyn Sirrell and myself, along with resident Ginny Weeks. In the "Conclusion" we observed that one of the major problems was with enforcement of zoning laws. The **Portwalk Incident** highlights that.

On page 31 concerning RECOMMENDATIONS we wrote: "***Zoning Enforcement seems to be a low priority with Administrative staff. Strengthen procedure and clarify staff responsibilities regarding enforcement. Empower staff to follow through with enforcement policy.***"

That was written 19 years ago, and I'm sure our administrative staff does much greater oversight now. But maybe we need to do even better, and a stronger ordinance is needed. If our land use boards are to have any real influence over building Portsmouth's future, they need to have the tools to enforce their decisions. At the very least, a builder or developer should not be given the easy way out when violations have been discovered.

I propose that we ask our City Attorney and staff to come up with a fee penalty guideline that can be used for violations of land use board approvals. I also ask that we ask our City Attorney and staff to pursue a fine for the violations of Portwalk in the most recent instance.

Otherwise, this matter becomes just another example of someone casually going through a STOP sign without really stopping: you get away with it if you don't hit anything and no one notices.

Thank You,

Jim Splaine - City Councilor



March 12, 2014

To: Portsmouth City Council

I have asked that the following be placed on the City Council Agenda for Monday, March 17th:

### **Status Of Abandoned Or Derelict Buildings**

My intent is to ask our good City Attorney and City Manager what our current approach is toward buildings throughout the city that appear to be either abandoned, or in disrepair -- especially business properties, but long-vacant houses as well.

During my Neighborhood Walks, I have been made aware and seen a number of situations of apparently virtually abandoned buildings. To be specific about a few, there is an old former store off Sherburne Road, two homes in Pannaway Manor, a home on Woodlawn Circle, an old store front on a corner on Hanover Street, and an old former gasoline station on Islington Street. There certainly are other examples.

Perhaps in some cases a phone call from city staff could result in either some clarification of abandonment, or an encouragement to make the property more presentable. Perhaps in other cases the city needs to take action to be sure that there is compliance with safety and environmental concerns.

But even if basic safety and environmental matters are met and the property is boarded up and utilities are turned off, the actual impact on the neighborhood should be a consideration since the general ambience is affected, as well as nearby property values likely reduced.

I'm not sure of the depth of what the city should do, either under our own ordinances or state statutes -- but I do know that residents of several neighborhoods which I have visited are concerned about inaction, and about the impact on their neighborhoods.

Relating to this, I also would like an update of our ordinances concerning abandoned vehicles, especially those which remain in locations even on private property which have not been registered for a long period of time.

In one Neighborhood Walk, I was shown two locations in the Pannaway Manor area. It seems that there should be some clarification, and enforcement, of procedures regarding abandoned vehicles -- which affect not only a neighborhood, but also may have environmental and liability impact as well.

Thank You,

Jim Splaine - City Councilor



March 5, 2014

VIA *E-MAIL* (jdt@mind.net)

Councilor Esther Kennedy  
Councilor Jack Thorsen  
City of Portsmouth, NH

**Re: Legal Questions regarding Financial Disclosures**

Dear Ms. Kennedy and Mr. Thorsen,

It was a pleasure meeting with you both last week. I write as you have requested to confirm our conversation and to provide some language that may helpful if the Council considers amending the City Administrative Code in the ways we discussed.

**1. Preemption/Enabling Legislation**

First, there was concern about whether the City had authority to require financial disclosures, and if any state or federal law preempted the City from requiring financial disclosures from City elected and appointed officials and employees. I noted that RSA 31:39-a (regarding conflict of interest ordinances which may require disclosure of financial interests for specified officers and employees) and RSA 49-C:33, I(c) (permitting city charter provisions to address conflicts of interest in ways at least as stringent as state law) provide the City with the authority necessary to require such disclosures. I also noted that I was unaware of any state or federal statute that would prohibit such a requirement.

In addition, both NH law and court opinions set forth clear and strong requirements regarding conflicts of interest. Whether mentioned in a charter or not, all officials and employees of every municipality must comply with the general principles regarding conflicts of interest. A person has a disqualifying conflict of interest in a matter when he has a "direct personal and pecuniary [financial] interest in the outcome" of a matter before him or her. That interest must be "immediate, definite and capable of demonstration; not remote, uncertain contingent or speculative." *Atherton v. Concord*, 109 N.H. 164 (1968). The reasons for this rule are obvious: a person cannot serve two masters at once. The public interest must not be jeopardized by the acts of a public official who has a personal financial interest which is, or may be, in conflict with the public interest. Thus, there is no doubt that conflicts of interest are regulated in City government whether or not the Charter or Administrative Code say anything about them. It is simply not optional.

Finally, we all agreed that financial disclosures are an important part of the larger issue of transparency. Everyone who is elected, appointed or hired to perform services for the City is doing the public's work, spending the public's money, and affecting the public interest. Citizens need to know what the government is doing and have confidence that their City officials and employees are acting in the public interest, without conflicts or bias caused by personal or financial interests. That is the purpose from which the rest of our discussion flowed, and that is what I have kept in mind when drafting the language you requested.

## **2. Requirements of Charter Amendment C**

We then turned our attention to Charter Amendment C, adopted 11/3/1987. It states the following:

"The City Council shall establish a Conflict of Interest Ordinance for City Departments, including police and school boards and commissions, no later than sixty (60) days after passage of this provision. The ordinance will contain as a minimum, but is not limited to:

- A. Mandatory financial disclosure by all police, school, municipal officials, whether appointed or elected, of current personal sources of income and all capital assets including, but not limited to, stock and real estate holdings and interests, in a sworn statement before the City Clerk at least biannually or before assuming office.
- B. Mandatory review boards and procedures to determine violation of the ordinance.
- C. Mandatory penalties for violations of the ordinance.
- D. Comprehensive definitions of such violations, and procedures to be used in reporting, investigating, and correcting the results of violations."

The concern you expressed was that City's Administrative Code did not adequately carry out the requirements set forth in Amendment C. In particular, Articles VIII and IX address ethics, conflicts of interest and mandatory disclosures, but it was not clear whether they really accomplish the goal intended by Amendment C.

Attached to this letter please find the memo I shared with you at our meeting. It sets forth the requirements of Amendment C and my observation of exactly what Articles VIII and IX require. It also lists a variety of terms which are either not defined or are used inconsistently among Amendment C and the two Articles. Those definition issues seem to have led to quite a bit of confusion about which officials and employees are required to make certain disclosures, and whether as a whole the Articles are doing enough to carry out Amendment C's requirements. We concluded that they are not. It is not clear how that happened but we agreed it was entirely possible that the definitions and terms used in the Administrative Code and the Charter were in line in the past but that over time one or both have changed so that they no longer agree.



From a big picture perspective, we noted it would make sense to (1) fix what can be fixed in the Administrative Code now, (2) if the Council decides it is necessary, begin the Charter amendment procedure to make changes to Amendment C and/or any other part of the Charter, and (3) if the Charter is amended, make further changes to the Administrative Code to conform to the changes in the Charter.

### **3. Potential Amendments to Administrative Code Articles VIII and IX**

The heart of the issue was the use in Amendment C of the term "City Departments." The disclosure requirements are supposed to apply to "City Departments", which is a term never used or defined in the Charter or the Administrative Code. It is modified by "including police and school boards and commissions," but it is not clear whether that means "including and ONLY including" or "including but not limited to." If read broadly, the disclosure requirements in the Administrative Code should apply to all departments of the City, including but not limited to police and school officials, elected or appointed. If read narrowly, it should apply only to police and school board and officials.

You asked me how a court might look at this issue. I explained that, as a general matter of law, New Hampshire courts faced with an undefined term usually begin with the assumption that the word should be understood according to the "plain and ordinary meaning" used. Courts would also look at the term in the context of the entire document (contract, charter, ordinance, statute, etc.) and assume the intent was for all of the sections to work together. Courts do not ordinarily ascribe a meaning to an undefined term which makes no sense in light of the other sections of the document, or which leads to an absurd result. If a document is ambiguous and intent is difficult to determine, a court will look to the intent of the drafters at the time it was written. (In this case, that would mean looking back to see what was intended in 1987 when Amendment C was adopted, which I understand is something you plan to do.)

Turning back to the documents, Amendment C mandates that the Council adopt an ordinance that requires financial disclosure by all "City Departments, including police and school boards and officials whether appointed or elected...." These disclosures must include "current personal sources of all income and all capital assets, including, but not limited to, stock and real estate holdings and interests...."

However, while Article VIII applies to "officers" and "employees" fairly broadly, it is not clear if it applies to the same intended group under Amendment C. In addition, Article VIII requires only disclosures of interest in legislation, investments creating a conflict of interest with legislation, and incompatible employment. It does not require the specific financial disclosures that are mandated by Amendment C.

Article IX is somewhat the opposite. It seems only to apply to the City Councilors and School Board members, rather than the larger group required by Amendment C, but it does require financial disclosures along the lines of those listed in Amendment C.

In other words, one Article does some of what is required, the other Article does a different piece of what is required, but together they don't seem to accomplish all of what is required by the Charter (or needed on a practical level) and there is some confusion. We discussed merging them into one article but you both felt keeping them separate made more sense. My understanding is that the issue of ethics in general for the Council is somewhat different than the issue of financial disclosures, and you prefer to keep those separate for ease of understanding. This brought us to the second idea, which is to keep the articles separate but amend each of them to add things that are missing and remove unnecessary items. This is the option with which you asked me to go forward to draft some language.

#### **4. Specific Instructions for Amending Language**

The language attached was written under the guidance you provided, including:

- A. Assume that Amendment C's reference to "City Departments" and "municipal officials" is intended to be interpreted broadly.
- B. Specifically, assume that Amendment C is intended to include not only the Charter Departments as defined in the Charter, but also the departments listed in Article I, boards as listed in Article III, commissions and authorities as listed in Article VI, and other municipal officials and employees whose position with the City require transparency regarding personal and financial conflicts of interest to maintain the public's confidence in the integrity of City government.
- C. In Article VIII, add to the definition of "officers" people who are voting members of boards, commissions and authorities as listed in Articles III and IV, as well as other officials including the City Manager.
- D. In Article IX, add to the disclosure of "sources of income" the income and assets of spouses, and add a disclosure requirement regarding public, private or civic board memberships in organizations with a relationship to the city and leadership positions in organizations with a connection to the City. You did not ask me to broaden the scope of the definition of "Municipal Official" in this section to include all those included in Article VIII, so I have not done that, but I have added the City Manager as you requested.

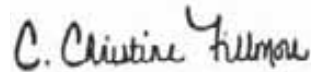
City of Portsmouth  
March 5, 2014  
Page 5 of 5

E. Although we agreed that Amendment C uses broad language regarding the disclosures required, we also agreed that it makes sense only to require disclosures which are related to City property, City businesses, and other City-specific situations rather than broad financial disclosures of every stock held and every business interest having no connection with the City. Amendments as we discussed will not bring Article IX into total compliance with Amendment C, you believed it was closer to the actual intent of Amendment C.

F. Please note as well that the section on “Disclosures of Confidential Information” was duplicative of the next section regarding Investments, and did not actually address confidential information. I have added suggested language that may be helpful as a starting point if this was the original intent of that section.

I hope this information is helpful. Please do not hesitate to contact me at any time should you have further questions or concerns.

Regards,



C. Christine Fillmore  
Staff Attorney  
NH Municipal Association  
25 Triangle Park Drive  
Concord, NH 03301  
1-800-852-3358 ext. 3408  
[legalinquiries@nhmunicipal.org](mailto:legalinquiries@nhmunicipal.org)



Meeting w/Councilors Jack Thorsen and Esther Kennedy

Portsmouth City Charter/Administrative Code Review  
Disclosure of Interests

February 26, 2014

**Charter Amendment C –**

1. Requires Conflict of Interest Ordinance for “City Departments” including police and school boards
2. Requires mandatory financial disclosures by all “police, school, municipal officials whether appointed or elected”
3. Disclosures of current personal sources of income and all capital assets including but not limited to stock and real estate holdings and interests, at least biannually or before holding office

**Administrative Code – two sections addressing the issue**

Article VIII – Ethics

1. Applies to “Officers” in §1.801(A) which include police commission and school board as required by Charter Amd. C. Also applies to others defined as “officers” which includes
  - a. City Councilors
  - b. School board members
  - c. Police Commission members
  - d. Fire Commission members
  - e. Members of every land use regulatory board, meaning Board of Adjustment, Planning Board, Historic District Commission, Conservation Commission, Technical Advisory Committee, Traffic Safety Committee, Building Code Board of Appeals, Recreation Board, Planning and Development Council and Economic Development Commission
  - f. Every department head as that term is used in the Administrative Code
  - g. Chief of Police
  - h. Fire Chief
  - i. Superintendent of School
  - j. Trustees of Trust Funds
  - k. Housing Authority members
2. Requires disclosures of:
  - a. Interest in legislation
  - b. Investments creating a conflict
  - c. Incompatible employment

Article IX – COI/Mandatory Financial Disclosure

1. Applies to “Municipal Officials” in §1.901(B) meaning
  - a. City Councilors
  - b. School Board members

2. Requires Financial Disclosure Statement by all Municipal Officials annually
  - a. Financial disclosures include sources of annual income and capital assets of at least \$5,000 including stocks, bonds or other business interests in any business entity with connection to City, as well as all real estate and interest in real estate in City.

### **Issues between Charter Amendment C and Administrative Code**

1. “*City Departments*” as used in Amendment C is not defined anywhere in Charter or Admin. Code
2. Charter defines “*Charter Departments*” to include Police Department, Fire Department and School
3. Amendment C applies to “*municipal officials*” which is never defined in Charter or Code
4. Admin Code §1.102 lists departments and organization of them, but does not define them as “City Departments.”
5. Admin Code Art III refers to “boards” but doesn’t call them City Departments or Charter Departments
6. Admin Code Art IV refers to “commissions and authorities” but doesn’t call them City Departments or Charter Departments
7. Admin Code does, however, refer to “Charter Departments,” but not in the financial disclosure sections
8. Admin Code Art. VIII applies to “*department heads*” as referred to in Admin Code, but there is no definition of “department head” in the Code.

### **Issues to Consider**

1. City Departments – what was meant by this in Charter Amd. C?
2. Municipal Officials – what was meant by this in Charter Amd C?
3. Article VIII and IX could be combined or more clearly defined, because Article VIII does not go as far as required by Charter Amendment C. Article IX of Code applies only to City Council and School, but second requirement of Amendment C is for disclosures by all police school and “municipal officials”. This seems to mean a broader group, perhaps as defined in Article VIII as “officers.”

Suggested Amendments to Article VIII: Code of Ethics

**Section 1.801: Definitions**

For purposes of this Article, the following terms shall be defined in the following manner:

- A. Officer: The term "Officer" shall be defined to include every member of the City Council, School Board, Police Commission, Fire Commission, each member of every ~~Board listed in Article III of this Administrative Code, each member of every Commission and Authority listed in Article IV of this Administrative Code, every department administrator of all departments listed in Section 1.102 of this~~ Administrative Code, ~~the City Manager,~~ Chief of Police, Fire Chief, Superintendent of Schools, ~~and~~ the Trustees of the Trust Funds.
- B. Employee: The term "Employee" shall include all employees of the City including ~~but not limited to~~ the Police, School and Fire Departments whose salary is paid in whole or in part from the City Treasury.
- C. Governing Body: The term "Governing Body" shall mean the City Council, School Board, Police Commission, and Fire Commission.
- D. Official Duties: The term "Official Duties" shall mean the following:
  - 1. In the case of members of the City Council, School Board, Fire Commission, Police Commission and the City Manager, those duties and responsibilities set forth in the City Charter, ~~this Administrative Code,~~ and/or established by State law.
  - 2. In the case of members of ~~any Board under Article III of this Administrative Code and members of any Commission or Authority under Article IV of this Administrative Code~~ and the Trustees of the Trust Funds, those duties and responsibilities set forth in the legislation that established each board and/or outlines the duties and responsibilities of each board, ~~the City Charter and this Administrative Code.~~
  - 3. In the case of the Chief of Police, the Superintendent of School, the Fire Chief, and all ~~E~~mployees, those duties and responsibilities set forth in the respective job description for each party or ~~E~~mployee.

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- Deleted:** land use regulatory board, i.e., the Board of Adjustment, Planning Board, Historic District Commission, Conservation Commission, Technical Advisory Committee, Traffic Safety Committee, Building Code Board of Appeals, Recreation Board, Planning and Development Council, and Economic Development Commission
- Deleted:** every department head as that term is used in the
- Deleted:** and members of the Housing Authority

**Section 1.802: Conflicts of Interest**

- A. No Officer or ~~E~~mployee shall engage in any business or transaction or shall have a financial or other private interest, direct or indirect, which is in conflict with the proper discharge of his/her ~~O~~fficial ~~D~~uties.
- B. Representing Private Interests before City Agencies: No Officer or ~~E~~mployee shall appear in behalf of private interests before any ~~G~~overning ~~B~~ody or ~~B~~oard, ~~C~~ommission or ~~A~~uthority of which the ~~O~~fficer or ~~E~~mployee is a member or ~~for which~~ membership is subject to approval by the ~~O~~fficer or ~~E~~mployee.

Officers and ~~E~~mployees, however, may appear without compensation in behalf of constituents or in the performance of public or civic obligations. This section shall not prohibit appearances

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upon matters only incidentally requiring official action which do not develop into a substantial part of the individual's Official Duties, provided that the retainer is not for the purpose of appearing before the Governing Body, Board, Commission or Authority.

- C. Representing Private Interests Before Courts: No officer or Employee shall represent private interests in any action or proceeding against the interests of the Board, Commission, Authority or Governing Body of which the Officer or Employee is a member, or for which membership is subject to approval by the Officer or Employee in any litigation to which the City is a party.
- D. Disclosures of Interest in Litigation: A Councilor who has a direct or indirect financial or other private interest in any proposed legislation shall publicly disclose, on the official records of the Council, the nature and extent of such interest.
- E. Disclosures by Officer or Employee of Interest in Legislation: An Officer or Employee who has a direct or indirect financial interest or other private interest in any legislation, and who participates in in discussion before or gives official opinion to the Council, shall publicly disclose on the official record the nature and extent of such interest.
- F. Gifts and Favors: No officer or Employee shall accept any gift, over \$100.00, whether in the form of service, loan, thing or promise, or any other form, from any person, firm or corporation which to his/her knowledge is interested directly or indirectly in any manner whatsoever, in business dealings with the City. This provision shall not apply to campaign contributions of \$100.00 or less.
- G. Disclosures of Confidential Information: No Officer or Employee shall divulge to the public any information which that Officer or Employee learned by virtue of his/her official position, or in the course of his/her Official Duties, if: (1) A public body properly voted to withhold that information from the public by a vote of 2/3, as required by RSA 91-A:3, III, and if divulgence of such information would constitute an invasion of privacy, or would adversely affect the reputation of some person other than a member of the public body or would render proposed municipal action ineffective; or (2) The Employee or Officer knew or reasonably should have known that the information was exempt from disclosure pursuant to RSA 91-A:5, and that its divulgence would constitute an invasion of privacy, or would adversely affect the reputation of some person other than a member of the public body or agency, or would render proposed municipal action ineffective.
- H. Investments in Conflict with Official Duties: Any Officer or Employee who holds any direct or indirect investment in any financial, business, commercial or other private entity which creates a conflict with his/her Official Duties shall publicly disclose on the official record the nature and extent of such interest.
- I. Incompatible Employment: No Officer or Employee shall engage in or accept private employment or render or seek services or goods for private interests when such employment or service creates a conflict with his/her Official Duties.

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**General note:** Although substantively Sections 1.804 and 1.805 do not seem to need any revision based upon our discussion, any official terms (Employee, Official, Official Duties, etc.) should be capitalized to avoid confusion.

Suggested Amendments to Article IX: Conflict of Interest/Mandatory Financial Disclosure

**Section 1.901: City Council and School Board Disclosures**

- A. Preliminary: This ordinance is adopted by the City of Portsmouth in compliance with the mandate contained in the Charter Amendment entitled "CONFLICT OF INTEREST," which was adopted by referendum vote of the City of Portsmouth on November 3, 1987. This ordinance may be referred to as the Mandatory Disclosure Ordinance.
  
- B. Definition: For purposes of this Article only, the following terms shall be defined in the following manner:

Municipal Official: For the purpose of mandatory financial disclosure, the term "Municipal Official" shall be defined to include City Council, City Manager, and School Board members.

Income: The term "income" shall be defined as a gain of recurrent benefit usually measured in money that derives from capital, labor or investment.

Capital Assets: The term "capital assets" shall be defined to include all corporate stocks or bonds or any other business interest in any business entity which maintains a business location in the City of Portsmouth, owns property in the City of Portsmouth, transacts substantial business in the City of Portsmouth, or transacts business with the City of Portsmouth. The term "capital assets" shall also be defined to include all real estate holdings and interest in real estate located in the City of Portsmouth.

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Financial Disclosure Statement: The term "Financial Disclosure Statement" shall mean a written statement, given under oath, listing an individual's and his/her spouse' primary source of annual income and capital assets. However, in no instance shall disclosure be mandated of capital assets whose value at the time of disclosure is below Five Thousand (\$5,000) dollars nor shall the value of any source of income or the value of any capital asset be required for disclosure.

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Affiliation Disclosure Statement: The term "Affiliation Disclosure Statement" shall mean a written statement, given under oath, listing an individual's board or leadership position (paid or unpaid) with every public, private, professional or civic organization (whether or not for profit) which maintains a business location in the City of Portsmouth, owns property in the City of Portsmouth, transacts substantial business in the City of Portsmouth, or transacts business with the City of Portsmouth.

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- C. Obligation of all Municipal Officials: From and after June 30, 1988, all Municipal Officials will maintain an updated Financial Disclosure Statement and an updated Affiliation Disclosure Statement at the Office of the City Clerk. Each statement shall be updated annually as of June 30<sup>th</sup>. Forms shall be prepared by the City Clerk and made available to all municipal officials for this purpose, substantially the same as the forms attached.

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D. Determining Violations: For violation and enforcement purposes, complaints alleging violations of the Mandatory Disclosure Ordinance shall be administered in accordance with the process and penalties available under the Municipal Code of Ethics, Reference Chapter 1, Article VIII.

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E. Public Records: Financial Disclosure Statements and Affiliation Disclosure Statements shall be public records. (Amended 6/4/2007).

F. Return of Records: Financial Disclosure Statements and Affiliation Disclosure Statements shall be returned to the public official six (6) months after leaving office.

(Adopted In Its Entirety 3/21/88, Amended 3/28/88)

**Sample Financial Disclosure Statement**

The undersigned Municipal Official of the City of Portsmouth discloses the following sources (both mine and those of my spouse) of Income and Capital Assets as defined in Section 1.901(B) of the Administrative Code of the City of Portsmouth:

Primary Source of Income:

Capital Assets:

\_\_\_\_\_  
Municipal Official

Date: \_\_\_\_\_

\_\_\_\_\_  
Please Print Name

STATE OF NEW HAMPSHIRE  
COUNTY OF ROCKINGHAM

The foregoing instrument was acknowledged before me this \_\_\_\_\_ (date) by  
\_\_\_\_\_ (name of person acknowledged).

\_\_\_\_\_  
Notary Public

Print Name: \_\_\_\_\_

My commission expires:



**Sample Affiliation Disclosure Statement**

The undersigned Municipal Official of the City of Portsmouth discloses the following board or leadership positions (paid or unpaid) with every organization as required in Section 1.901(B) of the Administrative Code of the City of Portsmouth:

Organization:

Position with Organization:

\_\_\_\_\_  
Municipal Official

Date: \_\_\_\_\_

\_\_\_\_\_  
Please Print Name

STATE OF NEW HAMPSHIRE  
COUNTY OF ROCKINGHAM

The foregoing instrument was acknowledged before me this \_\_\_\_\_ (date) by  
\_\_\_\_\_ (name of person acknowledged).

\_\_\_\_\_  
Notary Public

Print Name: \_\_\_\_\_

My commission expires:

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## MEMORANDUM

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**TO:** John Bohenko, City Manager  
**FROM:** Mary E. Koepenick, Planning Department  
**SUBJECT:** Board of Adjustment Minutes  
**DATE:** February 28, 2014

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The approved Minutes of the following Board of Adjustment meetings are now available for review on the City's website:

November 20, 2012

February 19, 2013

March 26, 2013



## MEMORANDUM

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**TO:** John P. Bohenko, *City Manager*  
**FROM:** Liz Good, *Planning Department*  
**SUBJECT:** *Historic District Commission Minutes*  
**DATE:** *March 12, 2014*

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Please be advised that the approved minutes from the July 10, 2013 Historic District Commission meeting are now available on the City's website for your review.

## MEMORANDUM

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**TO:** John P. Bohenko, *City Manager*  
**FROM:** Liz Good, *Planning Department*  
**SUBJECT:** *Historic District Commission Minutes*  
**DATE:** *March 12, 2014*

---

Please be advised that the approved minutes from the July 17, 2013 Historic District Commission meeting are now available on the City's website for your review.

## MEMORANDUM

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**TO:** John P. Bohenko, City Manager  
**FROM:** Liz Good, Planning Department  
**SUBJECT:** Historic District Commission Minutes  
**DATE:** March 12, 2014

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Please be advised that the approved minutes from the August 14, 2013 Historic District Commission meeting are now available on the City's website for your review.