

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, DECEMBER 3, 2018 TIME: 6:15PM

- 6:15 PM – PUBLIC DIALOGUE SESSION

- I. CALL TO ORDER

- II. ROLL CALL

- III. INVOCATION

- IV. PLEDGE OF ALLEGIANCE

- V. ACCEPTANCE OF MINUTES – SEPTEMBER 17, 2018 AND OCTOBER 1, 2018

- VI. PUBLIC DIALOGUE SUMMARY

- VII. PUBLIC HEARINGS & VOTES ON ORDINANCES AND/OR RESOLUTIONS

- A. Second reading amending Chapter 10 – Zoning Ordinance by deleting the existing Article 12 – Signs, and inserting it its place in a new Article 12 – Signs as presented in the Document Titled “Proposed Amendments to the Portsmouth Zoning Ordinance: Article 12 – Signs” dated September 25, 2018 (*Postponed second reading at the November 17, 2018 City Council meeting*)

- B. Third and final reading on Ordinance amending Chapter 7, Article I, Section 7.102 – Parking Meter Zones, Subsection A, Downtown High Occupancy Zone

- VIII. APPROVAL OF GRANTS/DONATIONS

(There are no Grants/Donations on the Agenda this evening)

- IX. CONSENT AGENDA

(ANTICIPATED ACTION - MOVE TO ADOPT CONSENT AGENDA)

(There are no Consent Agenda Items on the Agenda this evening)

- X. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Email Correspondence (***Sample motion – move to accept and place on file***)

- B. Letter from Joel Greer, Summit Indie Festival requesting permission to hold the Summit Indie Festival on Saturday, May 11, 2019 at the Book and Bar with low amplification (***Sample motion – move to refer to the City Manager with power***)

- C. Letter from Attorney Ciandella regarding Request of 290 Gosling Road, LLC for Zoning Change from Waterfront Industrial (WI) to Officer Research (OR) for property located at Gosling Road, Tax Map 213, Lot 1 (***Sample motion – move to refer to the Planning Board for report back***)

XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

City Manager's Items Which Require Action:

1. Presentation and Request for First Reading of Zoning Ordinance Amendments to Article 11 Off-Street Parking (Presentation to be made by Juliet Walker, Planning Director)
2. Presentation and Request for First Reading Re: Amendments to Article 2 (Administration and Enforcement) of Zoning Ordinance by Inserting a New Section 10.240 Regulating Requirements and Criteria for Granting of a Conditional Use Permit (Presentation to be made by Juliet Walker, Planning Director)
3. Request for Public Hearing Re: Use of Bond Premiums

City Manager's Informational Items:

1. Events Listing
2. Budget Award
3. Cable Franchise Agreement

B. MAYOR BLALOCK

1. Appointments to be Considered:
 - Corey Clark reappointment to the Planning Board
 - Dexter Legg reappointment to the Planning Board
 - Elizabeth Moreau reappointment to the Planning Board
 - Thomas Watson reappointment to the Trustees of Trust Funds
2. Appointments to be Voted:
 - Chase Hagaman reappointment to the Zoning Board of Adjustment
3. Resignation of Dr. Arthur Hilson from Police Commission
4. Discussion Re: Vacancy on the Police Commission

C. ASSISTANT MAYOR LAZENBY

1. Letter to the National Institute for Occupational Safety and Health regarding PFAS Health Study for Firefighters

D. COUNCILOR PEARSON

1. *Short Term Rentals

XII. MISCELLANEOUS/UNFINISHED BUSINESS

XIII. ADJOURNMENT

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

** Indicates verbal report*

INFORMATIONAL ITEM

1. Notification that the minutes of the Planning Board meeting of October 18, 2018 are available on the City's website

PUBLIC DIALOGUE

MUNICIPAL COMPLEX
DATE: MONDAY, SEPTEMBER 17, 2018

PORTSMOUTH, NH
TIME: 6:15PM

Public Dialogue Session

PRESENT: Mayor Blalock, Councilors Roberts, Pearson, Dwyer, Denton, Perkins and Becksted

The members of the public were asked to introduce themselves and begin discussing their concerns and/or questions related to their individual topics.

Esther Kennedy inquired as to what the upcoming meeting regarding the Post Office would look like and what kind of questions will be asked by the City Council. She addressed parking problems in the South End and the proposed parking plan. She indicated she will be presenting information tomorrow at the South End meeting.

Councilor Roberts said one month ago at the Parking and Traffic Safety meeting there was a list of the parking areas available for the South End.

City Manager Bohenko said the threshold is 75% and the one we heard from is the Mill Pond.

Councilor Dwyer would like to know where the information on the list of streets is located.

City Manager said we could have Parking Manager Fletcher attend the meeting tomorrow to discuss the areas. Ms. Kennedy said she would prefer to speak to her group before Parking Manager Fletcher presents anything.

Mayor Blalock asked if it would be a group of streets.

Public Works Director Rice said there is no problem and the neighborhood groups created a Subcommittee and brought forward what they would like to see. He said the streets have not been fully determined at this time.

Ms. Kennedy asked for the defined criteria. Public Works Director Rice said the last Parking and Traffic Safety Committee meeting minutes would have that information listed.

Councilor Roberts said the neighborhood would better define the area.

Public Works Director Rice said it listed the boundary areas, not the streets in newspaper.

Ms. Kennedy said they meet once a month and perhaps the next committee meeting someone from the city could attend.

City Manager Bohenko said he would email the information from Parking and Traffic Safety Committee to Ms. Kennedy tomorrow.

Councilor Dwyer would like this brought up at the City Council meeting and speak to the item.

City Manager Bohenko said we will define an area and go in and help facilitate the program.

Ms. Kennedy said we need to look at the process and maybe put the program in place for one street.

City Manager Bohenko said we want to open the new garage first and we will supply the information from Parking and Traffic Safety Committee.

Harold Whitehouse asked what can and cannot be done on neighborhood parking.

City Attorney Sullivan said there is no enabling legislation and reported that Concord and Keene have a parking program.

Councilor Perkins said we need a full process and we need to involve the neighborhood.

Ms. Kennedy would like to know what will happen on Wednesday regarding the Post Office.

Deputy City Manager Colbert Puff said that this is the Post Office meeting and we are just allowing space for them to have the meeting. She said the code of Federal regulations is outlined in their letter. She stated Redgate/Kane is trying to get them to stay on site however, the post office has been difficult to get information from.

Mayor Blalock said we want the post office to stay at its present location.

Ms. Kennedy said the Historic District Commission does not have the design.

Councilor Dwyer said because they have not made a decision on the location.

Deputy City Manager Colbert Puff said the plans show Historic District Commission under development and tomorrow the plans will show where the post office is right now

and she stated it is up to the post office to make the decision on where they want to be located.

City Manager Bohenko said we are trying to have neighborhood meetings here and make it clear.

Councilor Dwyer said people will see the process and the meeting can be televised.

Mr. Whitehouse said he is concerned about the scooters out in other states. He said there are hundreds of scooters in the bike corrals and we need to move swiftly on the proposed ordinance. He would like to have first and second reading and the public hearing held on the same night.

City Manager Bohenko said we are approaching this as a sidewalk obstruction and we will assign spots in the City where they can be placed. Mr. Whitehouse said that he would speak against the scooters because of our narrow streets and alley ways.

City Manager Bohenko said if scooters are left in unassigned areas we will collect them and they will be made available at the Public Works Department for pick up.

Councilor Roberts supports the sidewalk obstruction route for these.

City Manager Bohenko said obstructions would allow for more regulatory approach.

Ms. Kennedy spoke regarding the proposed increase in meter costs and said she is opposed to it. She said some businesses are having a hard time and these increases will hurt the businesses more.

Councilor Dwyer said we are extending where the high occupancy areas are located.

City Manager Bohenko said we have created a square area for where the high occupancy rates will be included. He said anything over 85% capacity would be a high occupancy area.

Ms. Kennedy said people are frustrated and the locals cannot go downtown and get the secret spot anymore.

City Manager Bohenko said we are following the parking principles by Nelson/Nygaard Parking Report.

Councilor Roberts said the private parking areas we need to have that changed from public parking. City Manager Bohenko said we will bring the private company in for a meeting and talk with them on changing the wording on their signs.

At 6:50 p.m., Mayor Blalock closed the Public Dialogue Session.

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, SEPTEMBER 17, 2018

PORTSMOUTH, NH
TIME: 6:15 PM

I. CALL TO ORDER

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

II. ROLL CALL

PRESENT: Mayor Blalock, Assistant Mayor Lazenby, Councilors Roberts, Pearson, Dwyer, Denton, Perkins and Becksted

ABSENT: Councilor Raynolds

III. INVOCATION

Mayor Blalock asked everyone to join in a moment of silent prayer.

IV. PLEDGE OF ALLEGIANCE

Ruth Griffin led in the Pledge of Allegiance to the Flag.

PROCLAMATION

1. DAUGHTERS OF THE AMERICAN REVOLUTION – CONSTITUTION WEEK

Mayor Blalock declared September 17th through September 23rd as Constitution Week. Barbara Pamboukes accepted the Proclamation with thanks and appreciation from Mayor Blalock and the City Council.

V. ACCEPTANCE OF MINUTES

There are no minutes on for acceptance for this meeting.

VI. PUBLIC DIALOGUE SUMMARY

Councilor Dwyer reported that the topics of the Public Dialogue were Esther Kennedy regarding the Post Office meeting and parking program for South End residents and Harold Whitehouse spoke regarding Neighborhood Parking and scooters.

VII. PUBLIC HEARINGS & VOTES ON ORDINANCES AND/OR RESOLUTIONS

A. Public Hearing – Resolution for Exemption for Wind-Power Energy System

RESOLUTION THAT ALLOWS THE CITY TO EXEMPT FROM TAXES, FOR PERSONS OWNING REAL PROPERTY EQUIPPED WITH A WIND-PWOERED ENERGY SYSTEM AS DEFINED IN RSA 72:65, AN AMOUNT EQUAL TO THE ASSESSED VALUE OF THE WIND-POWERED ENERGY SYSTEM

Mayor Blalock read the legal notice.

- **PRESENTATION**

Assessor Lentz stated she reviewed the statute that defines the exemption and the exemption would be based on the added value of the qualified energy system to the property easement.

- **CITY COUNCIL QUESTIONS**

Councilor Becksted said he knows two businesses that put the systems in and they did not work. He said he has never seen any from a residential stand point.

City Manager Bohenko said we could get answers on the systems.

Councilor Denton said we can't regulate the noise based on State Statute below what the public utilities allow.

Councilor Becksted asked if the Historic District Commission would be enforcing the wind power energy systems.

Councilor Denton said the Historic District Commission adopted guidelines and it addresses wind.

City Manager Bohenko said if we get an application we would need to determine things and look at the State law. He said this is an exemption for assessments.

Councilor Pearson said the regulations exist with or without the exemption.

- **PUBLIC HEARING SPEAKERS**

Mayor Blalock opened the public hearing and with no speakers, Mayor Blalock declared the public hearing closed.

- **ADDITIONAL COUNCIL QUESTIONS**

Councilor Denton moved to adopt the proposed Resolution, as presented. Seconded by Councilor Perkins.

Councilor Denton said that this does not hurt people and no one has one of these. He spoke to two companies and would look into that. He said the tower should be 50 feet high and there are costs involved in the investment.

Councilor Becksted said he does not support this based on the information and principles of this.

On a roll call vote 7-1, motion passed. Councilor Becksted voted opposed.

B. Public Hearing – Resolution for Tax Exemption for Woodheating Energy System

RESOLUTION RE: EXEMPTION FOR WOODHEATING ENERGY SYSTEM

Mayor Blalock read the legal notice.

- **PRESENTATION**

Assessor Lentz provided a brief presentation on the Woodheating Energy System and spoke to the definitions. She said it must be a central heating system.

Councilor Denton said he has been speaking to this and wood pellets.

Assessor Lentz said it would need to be a central wood pellet stove.

Councilor Becksted asked if we this would include natural gas systems.

Councilor Denton said solar wind and woodheating are the 3 exemptions allowed under state law.

- **PUBLIC HEARING SPEAKERS**

Mayor Blalock opened the public hearing and with no speakers, Mayor Blalock declared the public hearing closed.

Councilor Denton said he reviewed this resolution further and realized that it has aspects that he would not be able to support and spoke relative to biomass. He said it takes 50 years to replace the trees and therefore he would not support the Resolution.

Councilor Perkins moved to adopt the proposed Resolution, as presented. Seconded by Assistant Mayor Lazenby.

Councilor Perkins said biomass is beneficial to forest and there are high quality trees that grow. She wants to see more forests in place and wants them to be profitable.

City Manager Bohenko said the Environmental Protection Agency regulates and we would need to find out if we can regulate that.

Councilor Becksted said he is perplexed with us getting into utilities and would not support the resolution.

On a roll call vote 2-6, motion failed to pass. Assistant Mayor Lazenby and Councilor Perkins voted in favor. Councilors Roberts, Pearson, Dwyer, Denton, Becksted and Mayor Blalock voted opposed.

C. First reading of Ordinance amending Chapter 7, Article I, Section 7.102 – Parking Meter Zones, Subsection A, Downtown High Occupancy Zone

Parking Director Fletcher provided a presentation and stated this is based on the 2012 parking principles strategy 9 and 10. He said it looks at long and short term parking. He stated the current zone is an expansion and the goal is 80-85% occupancy and said we are above that goal on the streets. He spoke to types of parking and strategy pricing is part of the holistic approach.

Councilor Becksted said there is one area at 81%. Parking Director Fletcher said it is a small area near Scott Street and the bridge. He indicated data points are from 12 months on average.

Assistant Mayor Lazenby asked if the data speaks to residents. Parking Manager Fletcher said some are high occupancies but it does not apply clear data on this.

Mayor Blalock said mostly visitors and out of towners use spaces in the day time and after 8:00 p.m. it is the residents.

Councilor Becksted asked what the projected revenue increase would be. Parking Manager Fletcher reported \$140,000.00.

City Manager Bohenko said funds would go into the Parking Fund and it would be up to the City Council on how those funds would be spent. He said we have a significant impact on our tax rate from the Parking Fund. He said we will look at our debt service as well.

Councilor Denton moved to pass first reading and hold a public hearing and second reading at the October 1, 2018 City Council meeting, as presented. Seconded by Councilor Pearson.

Councilor Becksted said he would support the first reading but he is concerned for the residents to have to pay more money. He stated we have extended hours and now we are adding more streets. He stated we need to look after the residents.

Councilor Roberts said he supports this because of a pilot program in Boston that was held. He said it is more effective to do a zone rather than block by block. He stated we could do more and increase the resident discount to 50 cents. He said it should be publicized more and meter receipts could give a look at how things appear in the winter. He suggested charging less during the time of day and it would be more accurate.

Councilor Dwyer said she parks on all the streets allowed. She said we are doing this for residents and the idea is to create spaces and move along demand based pricing will free up spaces.

Councilor Perkins said that this is an evidenced based policy and is pleased we are making this move.

Councilor Becksted said the ordinance to move it along and justify it by increases the costs of the areas and he feels this should wait until the new garage is opened.

Councilor Dwyer said that this is not raising the rate it is extending the areas of high occupancy charging the zone.

Councilor Pearson said this is in response to the parking principles and policies we already passed.

Councilor Roberts moved to amend the motion to the Fee Committee to increase the fee for resident from 25 cents to 50 cents. Seconded by Assistant Mayor Lazenby.

Discussion followed and Councilor Roberts withdrew his motion to amend. Assistant Mayor Lazenby withdrew his second to the amendment motion.

Councilor Roberts moved that the Fee Committee consider increasing the discount parking rate for residents. Seconded by Assistant Mayor Lazenby and voted.

Main motion passed, as amended.

- D. First reading of Ordinance amending Chapter 10 – Zoning Ordinance – Creation of a Highway Noise Overlay District

Councilor Dwyer moved to pass first reading and hold a public hearing and second reading at the October 1, 2018 City Council meeting on the following zoning amendments related to the creation of a Highway Noise Overlay District:

- **Amendment to Zoning Map to add Highway Noise Overlay District as shown on the map titled “Proposed Highway Noise Overlay District”, dated July 17, 2018;**
- **Insert new Section 10.613.60 identifying the Highway Noise Overlay District on the Zoning map;**
- **Insert new Section 10.670 Highway Noise Overlay District;**
- **Amend Article 15 – Definitions, Section 10.1530 – Terms of General Applicability**

Councilor Denton thanked the staff for moving forward with this ordinance.

Mayor Blalock passed the gavel to Assistant Mayor Lazenby.

Mayor Blalock said he spoke to the Transportation Commission on getting noise barriers put in.

Assistant Mayor Lazenby returned the gavel to Mayor Blalock.

Councilor Roberts said this does not include Pease.

City Manager Bohenko said Pease would need to bring it forward to the Planning Board and it would need to be initiated through the Pease Development Authority.

Councilor Becksted said he hopes that is the last step and looks forward to seeing the barriers installed.

Planning Director Walker said it only applies to noise sensitive areas.

Motion passed.

- E. Third and final reading of Ordinance amending Chapter 9, Article VIII – Boarding or rooming Houses, Sections 9.801 – Section 9.805

Councilor Perkins moved to pass third and final reading on the proposed Ordinance, as presented. Seconded by Assistant Mayor Lazenby and voted.

VIII. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Grant from Stonyfield Farm, Inc. Re: Organic Land Management Pilot at Alumni Field

Councilor Perkins moved to approve and accept the grant from Stonyfield Farm, Inc., for an organic land management pilot program at Alumni Field, and further, to approve the request for permission for Stonyfield Farm to hold a field day event in October of this year to the City Manager with power. Seconded by Councilor Denton.

City Manager Bohenko said that this is following up on what residents would like to see. He said we will see how this effects Alumni field.

Motion passed.

IX. CONSENT AGENDA

Councilor Perkins removed Item IX. C. – Request for License to Install Projecting Sign for Kelly & Gary Cargin owner of Winter Worx LLC d/b/a The Wellington Room “Mondovino Wine Bar” for property located at 67 Bow Street from the Consent Agenda.

Councilor Perkins moved to adopt the remainder of the Consent Agenda. Seconded by Assistant Mayor Lazenby.

- A. Request for License to Install Projecting Sign from Bangor Savings Bank, owner of Bangor Savings Bank for property located at 8 Bow Street (*Anticipated action – move to approve the aforementioned Projecting Sign License as recommended by the Planning Director, and further, authorize the City Manager to execute the License Agreement for this request*)

Planning Director’s Stipulations:

- *The license shall be approved by the Legal Department as to content and form;*

- **Any removal or relocation of projecting sign, for any reason, shall be done at no cost to the City; and**
- **Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the projecting sign, for any reason shall be restored at no cost to the City and shall be subject to review and acceptance by the Department of Public Works**

- B. Request for License to Install Projecting Sign for Joy Curth and Christopher Scianna, owner of White Birch and Societe for property located at 129 Market Street Unit A (**Anticipated action – move to approve the aforementioned Projecting Sign License as recommended by the Planning Director, and further, authorize the City Manager to execute the License Agreement for this request**)

Planning Director's Stipulations:

- **The license shall be approved by the Legal Department as to content and form;**
- **Any removal or relocation of projecting sign, for any reason, shall be done at no cost to the City; and**
- **Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the projecting sign, for any reason shall be restored at no cost to the City and shall be subject to review and acceptance by the Department of Public Works**

- C. Request to License to Install Projecting Sign for Kelly & Gary Cargin owner of Winter Worx LLC d/b/a/ The Wellington Room "Mondovino Wine Bar" for property located at 67 Bow Street

Councilor Perkins moved to table request until the October 1, 2018 City Council meeting. Seconded by Assistant Mayor Lazenby and voted.

X. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Email Correspondence

Assistant Mayor Lazenby moved to accept and place on file. Seconded by Councilor Perkins and voted.

Councilor Pearson said some of the emails were about Prescott Park and the covered stage. She said we have approved \$400,000.00 for the stage.

City Manager Bohenko said he would like to meet with staff and report back at the October 1, 2018 City Council meeting.

Councilor Dwyer said the phasing of the project is not going to allow the stage to move up. She said the creation of the bowl does not take place until Stage 2 of the Master Plan.

City Manager Bohenko said he would provide a report back for October 1st.

XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

1. Request for First Reading Re: Shared Active Transportation

City Manager Bohenko said he would like to bring back the first reading at the October 1, 2018 City Council meeting.

Councilor Pearson moved to schedule a first reading of the proposed Ordinance at the October 1, 2018 City Council meeting. Seconded by Assistant Mayor Lazenby.

Councilor Roberts said he is pleased to look at this with a minimalist approach.

Motion passed.

2. Proposed Change of Date to FY20 Budget Work Sessions

City Manager Bohenko said he would like to amend the Work Session date from October 29th to November 1st and create a Work Session date for November 7th. He said the first work session Planning Director Walker will come into the meeting and speak to the growth in the City and then the Police Department will speak to their needs and look at staffing needs and drilling down on the solutions for their issues. He said we would bring proforma's on what departments have proposed in their budgets. He stated it would allow more information to the City Council.

Councilor Becksted moved to change the date of the Work Session on Monday, October 29, 2018 to Thursday, November 1, 2018 and establish a Work Session on Wednesday, November 7, 2018 at 6:30 p.m. Seconded by Councilor Perkins.

Councilor Becksted said he feels the public should be allowed to come in and speak. City Manager Bohenko said that would be later in the process in April and May.

Mayor Blalock passed the gavel to Assistant Mayor Lazenby.

Mayor Blalock said we will move everything up and establish the needs of the departments and the City Council would work on guidelines then we would have public input in April and May. He said comments may be made in the Public Comment Sessions or Public Dialogue Sessions.

Assistant Mayor Lazenby returned the gavel to Mayor Blalock.

Councilor Becksted said residents would like to speak at the beginning stages and he feels it is important for the public to weigh in now.

Councilor Perkins said this is great and supports this more collaborative approach. She would like this to be more of a Work Session and speak with departments. She said we will come up with a targeting number to be part of the process.

City Manager Bohenko said the first two Work Sessions would be looking at department needs. He said if we need to add another Work Session before the end of the year that is fine to.

Mayor Blalock said we need to come up with a number after we hear from the departments.

Councilor Dwyer said whether we set a target or not we need specific perimeters. She said she does not want to set up departments to dream what you want to have because we need a target range and helping departments to be efficient.

City Manager Bohenko said the Police Department speaks first and creating a uniform set of data on what they are basing their proposals on.

Motion passed.

3. Quitclaim Deed Re: Property located off of Lafayette Road known as Tax Map 296, Lot 2

City Attorney Sullivan reported that this is a land-locked parcel of land. He said in 1995 the City deeded the land to Ms. Herbert and now she no longer wants to own it and would like to give it back to the City. He stated in order to accomplish the request we want to refer the matter back to the Planning Board.

Councilor Dwyer moved to refer to the Planning Board for a recommendation to accept a quitclaim deed from Ms. Herbert for property located at Tax Map 296, Lot 2, land-locked property located off of Lafayette Road on the border of Greenland and Rye. Seconded by Councilor Roberts and voted.

4. Request for First Reading Re: Demolition Ordinance Amendments

City Attorney Sullivan said the Inspection Department wants the City Council to look at the Demolition Committee and the process followed in the current ordinance. He explained that currently demolition projects that receive a public hearing within the Historic District are exempt from the Demolition Ordinance. He stated this is primarily due to the fact that all abutters in the Historic District receive formal notice of the demolition as required under the Historic District Overlay in the Zoning Ordinance. He also indicated the ordinance currently requires the owner to post a sign on the property as well as publish a legal notice for similar demolition projects that are located outside the Historic District. He reported requiring additional public hearings when demolition has already been considered by the Planning Board or Board of Adjustment seems redundant, wasteful, and highly-ineffective. City Attorney Sullivan said it is more appropriate and equitable to both the owner and the abutters to limit the applicability of the Demolition Ordinance to demolition projects that have not been subject to a noticed public hearing before any of these boards or commissions. He stated currently the Ordinance contains a very broad definition of what constitutes demolition. He said an example is removal of a small deck, stairs, or even a single chimney could now be considered demolition under the Ordinance.

Councilor Perkins moved to schedule a first reading of the proposed Ordinance at the October 1, 2018 City Council meeting. Seconded by Assistant Mayor Lazenby and voted.

City Manager's Informational Items

2. Household Hazardous Waste Day

City Manager Bohenko announced that Household Hazardous Waste Day will be on October 20, 2018.

B. MAYOR BLALOCK

1. Appointment to be Considered:
 - Everett Eaton reappointment to the Economic Development Commission

The City Council considered the reappointment of Everett Eaton to the Economic Development Commission to be voted on at the October 1, 2018 City Council meeting.

2. Appointments to be Voted:
 - Thomas Watson reappointment to the Economic Development Commission
 - Jolanda Fannin reappointment to the Board of Library Trustees
 - Marsha Filion appointment to the Board of Library Trustees

Councilor Dwyer moved to reappoint Thomas Watson to the Economic Development Commission until October 1, 2022; reappoint Jolanda Fannin to the Board of Library Trustees until October 1, 2021 and appoint Marsha Filion to the Board of Library Trustees until October 1, 2021. Seconded by Assistant Mayor Lazenby and voted.

3. Resignation of Molly Bolster from the Historic District Commission

Assistant Mayor Lazenby moved to accept with regret the resignation of Molly Bolster. Seconded by Councilor Roberts and voted.

C. COUNCILOR DENTON

1. Stress & Resilience in Our Estuaries

Councilor Denton announced that it is National Estuaries Week. He reported that the Piscataqua Region Estuaries Partnership (PREP) will be holding an event on Stress & Resilience in Our Estuaries on Tuesday, October 9th at 7:00 p.m. at the Portsmouth Public Library in the Levenson Room and he will be the Master of Ceremonies. He also informed the Council the PREP will be presenting their 5 year report of the State of Our Estuaries on October 9th.

D. COUNCILOR PERKINS

1. Resolution Re: Housing at Pease International Tradeport

Councilor Perkins brought a sample Resolution with a request for a vote by the City Council in advance of the Pease Development Authority meeting on Thursday. She stated it is asking to form an exploratory group and look at legal restrictions and other areas for housing.

Councilor Becksted said that Mr. Mullen will be coming here to make a full presentation on the Pease Development Authority at the October 15, 2018 City Council meeting.

City Manager Bohenko said Mr. Mullen and staff will be here on October 15, 2018 with an overview of Pease. He said we might not want to discuss policy issues before the presentation is held.

Mayor Blalock passed the gavel to Assistant Mayor Lazenby.

Mayor Blalock said the resolution keeps housing at Pease in front of us and the Pease Development Authority. He said he does not feel we discuss policy issues at the October 15th City Council meeting but have the resolution adopted this evening.

Assistant Mayor Lazenby returned the gavel to Mayor Blalock.

Councilor Pearson would like to send Councilor Perkins with the backing of the City Council going into the Pease Development Authority meeting.

Councilor Dwyer said the vote should be to endorse the creation of a task force.

Councilor Perkins said she would be opened to Councilor Dwyer's suggestion and create something more informal.

Councilor Denton moved that the City Council support the Pease Development Authority forming a task force to further explore the feasibility of residential development on Pease. Seconded by Assistant Mayor Lazenby and voted.

XII. MISCELLANEOUS/UNFINISHED BUSINESS

Councilor Perkins stated when a City Councilor speaks at a Public Comment Session during meetings here at City Hall we are speaking as Councilors. Councilor Becksted said he speaks at many meetings and when he took the Oath of Office he spoke with City Attorney Sullivan and was told when speaking in this way at meetings that this is the mannerism to take. Mayor Blalock said we are always City Councilors when we speak and we represent our positions.

Assistant Mayor Lazenby announced that the tricyclist race has been postponed due to weather until next Tuesday on Pleasant Street at 2:30 p.m.

Councilor Perkins thanked Assistant Mayor Lazenby for all his work on this event.

XIII. ADJOURNMENT

At 8:30 p.m., Councilor Perkins moved to adjourn. Seconded by Assistant Mayor Lazenby 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, MMC, CMC, CNHMC
CITY CLERK

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, OCTOBER 1, 2018

PORTSMOUTH, NH
TIME: 7:00 PM

I. CALL TO ORDER

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

II. ROLL CALL

PRESENT: Assistant Mayor Lazenby, Councilors Roberts, Pearson, Dwyer, Denton, Perkins, Raynolds and Becksted

ABSENT: Mayor Blalock

III. INVOCATION

Assistant Mayor Lazenby asked everyone to join in a moment of silent prayer.

IV. PLEDGE OF ALLEGIANCE

Andrea Amico led in the Pledge of Allegiance to the Flag.

PRESENTATIONS

1. Testing for Pease Proposal to Study "Non Target" PFAS Compounds – Andrea Amico

Ms. Amico, Testing for Pease, provided a brief Presentation regarding the proposed study of "non-target" PFAS Compounds in the water. She reported that currently testing is done for 23 compounds however, she feels that there are more than 23 that have been identified in our water. She indicated that Dr. Higgins can test for the non-target PFAS. She announced Testing for Pease received a \$24,000.00 grant from Seacoast Women's Giving Circle to be used towards the "non-target" analysis.

Councilor Becksted asked if the \$24,000.00 is enough for the samplings to be done. Ms. Amico said no this will provide a partial picture for them.

2. Pease Water Treatment Update – Brian Goetz, Deputy Director of Public Works

Deputy Public Works Director Goetz provided an update on Pease Water Treatment. He spoke to the department moving forward with using resin. He discussed the Haven Well and that they are treating the aquafer when they are not pumping they will pump to a treatment system.

Deputy Director Goetz said that the Grafton facility system has carbon filters which have been in place for the last two years. He explained how water is delivered through the system. He stated that carbon and resin piloting is taking place. He said that resin provides a more efficient test. Deputy Director Goetz stated that there are efficient filtering and treatment options for the City. He indicated that they will be bidding on a system with resin filters and GAC filters. He stated resin requires a booster pump and a singular footprint. He said we hope to begin construction next spring and the project will take two years to construct.

Councilor Dwyer asked about the resin filters before the carbon. Deputy Director Goetz said it is like belts and suspenders, resin has a much bigger range of picking up compounds. Deputy Director Goetz said we are seeing if we can by-pass the carbons with resins.

Councilor Denton moved to accept the reimbursement to the City for up to \$14.3 million for the construction of the Resin-Activated Carbon Water Treatment System for the Pease Tradeport Water System, and further, authorize the City Manager to expend these funds. Seconded by Councilor Roberts.

City Manager Bohenko reported that we have been able to get back \$17 million from the Air Force that is not part of the rate payers.

Motion passed.

Councilor Denton moved to suspend the rules in order to take up Item XI. C.1. – Pease CAP Update. Seconded by Councilor Roberts and voted.

C. ASSISTANT MAYOR LAZENBY

1. Pease CAP Update

Assistant Mayor Lazenby reported that the ATSDR Proof of Concept Health Study will be taking place at Pease. He announced that this is the first of its kind study and work will begin in August or September of 2019. He spoke to the number of children and adults that will be tested. He indicated that the firefighters would not be able to participate in the study because they may have been exposed by other means.

Ms. Amico said she is disappointed that the firefighters will not be part of the testing. She said we have a firefighter on the Committee and there needs to be an appropriate spot for them to have their own study conducted.

Councilor Dwyer said the study would be to look at samples and long term health effects. Ms. Amico said they are only going to look at this one point in time with cross sectional study. She indicated currently the study will look at other areas such as cholesterol and thyroid issues.

Assistant Mayor Lazenby said a study will be done but not in Portsmouth but they will look at other sides and pull the data together to come up with an analysis.

City Manager Bohenko said we would work with Human Resources and the Fire Commission and go through meeting with the union, firefighters and the Human Resources Director.

V. ACCEPTANCE OF MINUTES – AUGUST 20, 2018

Councilor Perkins moved to approve and accept the City Council minutes of the August 20, 2018 meeting. Seconded by Councilor Denton and voted.

VI. PUBLIC COMMENT SESSION

Marc Stettner thanked the City Council for their work and spoke to the Fee Committee which he understands they review fees that effect everyone. He said there are only two members and would like the City Council to look at the Committee and have a resident serve. He said specific group of stake holders should be part of the Committee.

Esther Kennedy said she is concern with small businesses that can't join the Chamber of Commerce. She said there are concerns of what is happening downtown and losing some of the small businesses and would like to see the City Council support these small businesses.

Paige Trace spoke to the neighborhood parking meeting for the parking program. She said she is a board member of Friends of the South End (FOSE) and it seems that the letter put out to the neighborhood said the perimeters for the piloting designs, results from the on line parking survey and FOSE Steering Committee. She stated that there is no Steering Committee of FOSE and said this is misinformation to the neighborhood. She stated the parking program is important to the South End.

City Manager Bohenko said he moved the meeting from 6:00 p.m. to 6:30 p.m. and will get information out to the residents. He said input will be discussed tomorrow and he would report back to Ms. Trace.

Councilor Perkins said this coming meeting will be held to get feedback from the neighborhood and that 75 signatures would need to be gathered from the neighborhood.

City Manager Bohenko said that the matter would be brought back to the City Council before it is put in place. He encouraged residents to come to the meeting and hear about the program.

Councilor Reynolds asked if because the meetings are held here, the meetings will be recorded. City Manager Bohenko said yes.

Councilor Roberts said the meeting with neighborhood groups can speak on guidelines and then come back to the City Council for authorization. City Manager Bohenko said yes.

Councilor Dwyer said two different kinds of pilots may be put in place. City Manager Bohenko said that is possible as some areas become challenging. He said we will keep them similar and we will get 75% of residents that want the program.

Councilor Becksted said we have been holding meetings and that has been ongoing and the findings will be brought forward by all meetings.

Councilor Roberts said we don't want to hash out fine details by the City Council we are going to Parking and Traffic Safety Committee for that. City Manager Bohenko said we will have Parking and Traffic Safety Committee look at both recommendations.

Councilor Perkins said she supports that and what would bring it back to the City Council after signatures or before that. City Manager Bohenko said before the signatures with perimeters and it needs to be outlined program.

Councilor Pearson said Plan NH will have conferences on October 18, 2018 & October 19, 2018 in Keene, NH and she will attend the conference and provide report back on findings regarding small businesses.

VII. PUBLIC HEARINGS & VOTES ON ORDINANCES AND/OR RESOLUTIONS

A. Public Hearing – Parking Ordinance – Downtown High Occupancy Zone

ORDINANCE AMENDING CHAPTER 7, ARTICLE 1, SECTION 7.102 –
PARKING METER ZONES, SUBSECTION A, DOWNTOWN HIGH
OCCUPANCY ZONE

• PRESENTATION

Parking Director Fletcher provided a brief presentation on the proposed ordinance. He spoke to parking management strategies which is different from long term parking and short term parking. He said the City Council adopted the parking principles for a step in the right direction. He stated we need to increase the zone to a larger area.

City Manager Bohenko said there are two maps that have been provided. He asked Parking Director Fletcher to explain the maps. Parking Director Fletcher spoke regarding the capacity of areas and data points being above 100%. He indicated that parking spaces can be filled more quickly. He reported on various data points.

City Manager Bohenko said we did not report on over 100% and wanted to make sure it was clear and that we follow the principles developed and there is a need to look at these on an ongoing basis.

- **CITY COUNCIL QUESTIONS**

Councilor Roberts said he is in favor of the general principles. He said he would like the averages calibrated on State Street by walking down the street to look at the real occupancy.

Councilor Becksted said that there is construction going on in some of these areas. He said there are construction projects taking place on over 10 streets. He asked if we were acting too early on this.

Parking Director Fletcher said there was a study done years ago by John Burke and it shows what is taking place currently. He said some data points maybe a little low.

Councilor Becksted spoke to the process and cost of purchasing a bag for the meters by construction companies. He said we should wait before creating the zones until the new garage is opened. He said we need to see what will happen with the opening of the garage.

- **PUBLIC HEARING SPEAKERS**

Assistant Mayor Lazenby read the legal notice, declared the public hearing open and called for speakers.

Marc Stettner said raising the rates will not do anything at all. He said people coming into the downtown will park where they can park closest to their destination. He said he feels that this ordinance should be tabled and look at the creation of an ad-hoc committee to look at this matter.

Esther Kennedy said she is concerned for the winter and you should consider instituting this into 4 areas June through September at one rate, September through January at a second rate and so on. She said businesses are concerned with raising the rates. She said you are keeping locals out of the downtown and there needs to be a plan.

Paige Trace said she understands increasing the zones, you will have changes from people moving their cars. She said it is more about the timing of going after the revenues now. She stated many people are parking on Hancock Street because it is free parking. She said we should wait for the new garage to open.

Beth Danilowski said she does not want to see the parking rate increase. She said it is not feasible to park in the garage. She suggested providing parking incentives.

Marc Stettner discussed parking zone rates in Portland, Maine, Boston and Newburyport, Massachusetts and said we are outside the price ranges.

Roy Hesel said if you want to make revenue increase have the Police Department stop giving warnings and issue tickets for speeding.

With no further speakers, Assistant Mayor Lazenby closed the public hearing.

- **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

Councilor Becksted said he would like to postpone this until April, 2019.

City Manager Bohenko said you can't put that motion on the floor and we would need to hold another public hearing.

Councilor Dwyer said you could make a time when this becomes effective. She said the Chamber of Commerce goal is small businesses and creation of parking spaces for parking principles for a larger plan. She said we are trying to ensure there is turnover of parking near the stores.

Councilor Denton said an alternate is to make an amendment that would be seasonal. He said parking shall be at the rate of \$2.00 that the City could further restrict during the year.

City Manager Bohenko said we spent a great deal of time putting a plan in place in 2013 and everyone accepted that plan. He stated we used private lots to help with capacity. He stated we follow the parking principles and we need to put this into perspective and going on a seasonal basis could be confusing for people. He said we could take additional revenue and put it towards residents for a reduction that use the new application. City Manager Bohenko said it is more about behavior than revenue. He stated when tickets are issued by the Police Department all the revenue goes to the State and not the City.

Councilor Pearson said she is the Chamber of Commerce Liaison and has seen many parking presentations and what we learned is we are busy all four seasons. She suggested looking at rate for parking demands by creating dynamic pricing.

City Manager Bohenko said we could look into that but it could be confusing to people. He said we should revisit the principles and refer back to the report.

Councilor Raynolds said he is interested in looking at seasonal pricing and Councilor Pearson's suggestion of dynamic pricing. He said time of use rates should be looked and technology is enabling us to take advantage of them. He would support postponing second reading and looking at ways and different concepts for seasonal and dynamic pricing.

Councilor Becksted move to postpone second reading until the first City Council meeting of April, 2019 and keep the public hearing open for additional speakers on the matter. Seconded by Councilor Raynolds.

Councilor Perkins said she would not support the motion. She said we need to drive usage of the garage and this is a data driven matter.

Councilor Dwyer said that this will not have anything to do with the garage. She said people will parking near the business they want to go to. She said we could look at dynamic pricing. She spoke to the parking kiosk, we know demand base pricing is working in the City. She indicated she would support delaying to look at those issues.

Councilor Roberts said dynamic pricing should be done Sunday through Thursday. He would like Parking Director Fletcher to calculate data to create a formula.

Councilor Pearson said she is not in favor of postponing until April. She said she supports flexibility and not having static pricing.

City Manager Bohenko said we could come back with dynamic pricing and look at the app we want to put in place. We would need a schedule together and allow residents to get an app and not be effective as much as increasing for dynamic pricing.

Councilor Dwyer would like to split the pricing from the high occupancy streets and amend to define a high occupancy zone.

City Manager Bohenko said he would like to report back to the City Council.

Councilor Becksted said October 15th we have a meeting that is full. He said we have holidays coming up and he would like to give staff time to come back with a plan. He said we could run numbers with the garage up and running and that we need to stop right now and pick it up in September.

Councilor Denton moved to postpone until the meeting on November 19th. No second to the motion.

City Manager said he would like to postpone until November 19th.

Councilor Becksted said we need to start the data collection on the garage. Councilor Becksted withdrew his motion and Councilor Raynolds his second to the motion.

Councilor Becksted moved to postpone second reading and reopen the public hearing at the November 19, 2018 City Council meeting. Seconded by Councilor Denton and voted.

B. Public Hearing – Zoning Ordinance – Highway Noise Overlay District

ORDINANCE AMENDING CHAPTER 10 – ZONING ORDINANCE – CREATION OF A HIGHWAY NOISE OVERLAY DISTRICT:

- AMENDMENT TO ZONING MAP TO ADD HIGHWAY NOISE OVERLAY DISTRICT AS SHOWN ON THE MAP TITLED “PROPOSED HIGHWAY NOISE OVERLAY DISTRICT”, DATED JULY 17, 2018;
- INSERT NEW SECTION 10.613.60 IDENTIFYING THE HIGHWAY NOISE OVERLAY DISTRICT ON THE ZONING MAP
- INSERT NEW SECTION 10.670 HIGHWAY NOISE OVERLAY DISTRICT;
- AMEND ARTICLE 15 – DEFINITIONS, SECTION 10.1530 – TERMS OF GENERAL APPLICABILITY

- **PRESENTATION**

Assistant Mayor Lazenby read the legal notice.

Planning Director Walker stated a Highway Noise Overlay District would help the City get mitigation awards that are near a highway. She said this is about the NHDOT federal funding and the program Type One is for highways that are going to be built and Type Two is for highways already built. She said we are trying to minimize highway traffic noise. She indicated we started on this to have local mandate controls that deal with highway noise. She spoke to the applicability of the ordinance, noise sensitive issues only. Planning Director Walker said the standards are any new uses in the categories would need to comply with noise reduction areas and it would be when traffic is loudest. She said if noise uses expand, residents would need to apply for a conditional use permit and show to the Planning Board they meet the requirements. She indicated they included an addition to the two family residences.

- **CITY COUNCIL QUESTIONS**

There were no questions of the Council.

- **PUBLIC HEARING SPEAKERS**

With no speakers, Assistant Mayor Lazenby declared the public hearing closed.

- **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

Councilor Perkins moved to pass second reading and schedule third and final reading at the October 15, 2018 City Council meeting on the following zoning amendments related to the creation of a High Noise Overlay District:

- *Amendment to Zoning Map to Add Highway Noise Overlay District as shown on the map titled "Proposed Highway Noise Overlay District", dated July 17, 2018;*
- *Insert new Section 10.613.60 identifying the Highway Noise Overlay District on the Zoning Map;*
- *Insert new Section 10.670 Highway Noise Overlay District;*
- *Amend Article 15 – Definitions, Section 10.1530 – Terms of General Applicability)*

Seconded by Councilor Denton.

Councilor Becksted said he is in favor of this ordinance and that he has worked with residents on this matter.

Assistant Mayor Lazenby passed the gavel to Councilor Roberts.

Assistant Mayor Lazenby said this is a long time coming for this ordinance and there is some light at the end of the tunnel. He said we need to adopt the ordinance.

Councilor Roberts returned the gavel to Assistant Mayor Lazenby.

Councilor Roberts said he agrees with comments by Assistant Mayor Lazenby. He said living next to the highway is loud.

Councilor Dwyer said that this is a step towards acting on what is a longer process.

Motion passed.

At 9:10 p.m., Assistant Mayor Lazenby called for a brief recess. At 9:20 p.m., Assistant Mayor Lazenby called the meeting back to order.

- C. First reading of Ordinance amending Chapter 7, Article XIX, Section 7.1901 – 7.1905 – Shared Active Transportation

City Manager Bohenko said we are trying to move ahead and get ahead of this issue. He said electric scooters are becoming an issue in some communities and we want to keep this simple and get the objections down.

City Attorney Sullivan said a small staff committee looked at this matter and looked at other ordinances, specifically in Seattle where they are regulated. He stated NH is not a home rule state and we are looking at issues where people are leaving these scooters all over the sidewalks. He said he is recommending the City Council grant a license and anyone that does not comply they must remove their scooter in two hours or they would be picked up by the Public Works Department.

City Manager Bohenko said we may need the legislature to act on this matter.

Councilor Denton moved to pass first reading and schedule a second reading and public hearing of the proposed Ordinance at the October 15, 2018 City Council meeting. Seconded by Councilor Perkins.

Councilor Raynolds thanked the City Manager and City Attorney for acting on this matter. He said we need to point out that this business is coming to the City and we need to encourage companies to create designated parking areas or corrals.

Councilor Pearson asked if there is feasibility putting scooter corrals near Zagster.

City Manager Bohenko said we want to look at companies that are franchised in the City to deal with and it is way to control but might need legislation. He stated we would try to keep them in certain areas.

Motion passed.

- D. First reading of Ordinance amending Chapter 14, Article II, Section 14.2 – Demolition Ordinance

City Attorney Sullivan said during the Pinehurst Road matter the Planning Department and Inspection Department came forward with amendments to the Demolition Ordinance. He indicated the issue of signage has been clarified. He further stated that action has been taken by the Demolition Committee has been clarified and reduces burden on property owners.

Councilor Dwyer said the changes are reasonable and the ordinance in some form needs to do more to give definition to historic architectural and community value. She said there is too much ambiguity and feels there needs to be more of a look at it. Councilor Dwyer said we will see more concerns raised in the future. She said maybe the Planning Board should look at it or the Committee that was formed could look at the tearing down of a home that is a strong structure that is not falling down.

Councilor Becksted said that this is the first and only time the Demolition Committee has been initiated.

City Attorney Sullivan spoke to property on National Gypsum which led to the first ordinance to slow demolition down.

Councilor Raynolds moved to pass first reading and schedule a second reading and public hearing of the proposed Ordinance at the October 15, 2018 City Council meeting. Seconded by Councilor Roberts.

Councilor Raynolds said he shares Councilor Dwyer's concerns about the great ambiguity in the ordinance and if the ordinance would be used in the future in ways we are not envisioning.

Councilor Dwyer said she would like the Planning Board to provide some further clarification to definitions and out building being addressed for those not in the Historic District Commission.

Councilor Roberts said we could pass this and have it looked at later.

City Manager Bohenko said lets have staff take a look at this matter.

Motion passed.

VIII. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Moose License Plate Conservation Grant

Councilor Pearson moved to accept and approve the Moose License Plate Conservation Grant, as presented. Seconded by Councilor Roberts and voted.

- B. Acceptance of Department of Homeland Security Prospective Grant Award to the Portsmouth Police Department - \$69,638.00

City Manager Bohenko said the Police Department would like to table this matter until the October 15th City Council meeting.

Councilor Pearson moved to table item until the October 15, 2018 City Council meeting. Seconded by Councilor Dwyer and voted.

IX. CONSENT AGENDA

- A. Letter from Laurie Mantegari, Scarecrows of the Port, requesting permission to place scarecrows in designated locations throughout the Portsmouth Downtown Area on Thursday, October 11th through Saturday, November 3rd (***Anticipated action – move to refer to the City Manager with power***)

- B. Letter from Carolyn Adams, American Volkssport Association, requesting permission to hold a walk starting at Little Harbour School on Sunday, June 9, 2019 (***Anticipated action – move to refer to the City Manager with power***)
- C. Letter from Brittany Adelhardt requesting permission to hold the Walk for Freedom on Saturday, October 20th (***Anticipated action – move to refer to the City Manager with power***)

Councilor Becksted moved to adopt the Consent Agenda. Seconded by Councilor Perkins and voted.

X. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Email Correspondence

Councilor Perkins moved to accept and place on file. Seconded by Councilor Pearson and voted.

- B. Letter from Eleanor Bird regarding the Post Office remaining in its current location

Councilor Reynolds moved to accept and place the letter on file. Seconded by Councilor Perkins and voted.

- C. Letter from Shane Morin requesting to host the Annual Music and Poetry After Houses at Vaughan Mall on Friday, October 12th from 7:00 p.m. to 9:30 p.m. as well as the use of electrical outlets and a small PA/Sound system

Councilor Dwyer moved to refer to the City Manager with power. Seconded by Councilor Denton and voted.

- D. Letter from Susan Denenberg regarding polling hours
- E. Letter from Brian Wazlaw regarding polling hours

Councilor Denton moved to accept and place the letters on file. Seconded by Councilor Roberts and voted.

XI. RERPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

1. License Request Re: 77 Daniel Street

City Manager Bohenko said the license request is being recommended by staff.

Councilor Raynolds moved to authorize the City Manager to negotiate and enter into a license with Tom Hammer Construction, LLC. Seconded by Councilor Perkins and voted.

2. Request for First Reading of Amendments to Sign Ordinance

City Manager Bohenko said Planning Director Walker has reviewed the Sign Ordinance and recommends for first reading at the October 15, 2018 City Council meeting and make the suggested amendments outlined in her memorandum dated September 25, 2018.

Councilor Perkins moved to schedule a first reading for October 15, 2018 City Council meeting to amend the Zoning Ordinance by deleting the existing Article 12 – Signs and inserting in its place a new Article 12 – Signs as presented in the document titled “Proposed Amendments to the Portsmouth Zoning Ordinance: Article 12 – Signs”, dated September 25, 2018. Seconded by Councilor Raynolds and voted.

3. Sidewalk Easement Re: 439 Hanover Street

Councilor Perkins moved to accept a sidewalk easement from the Wirth’s across property located at 439 Hanover Street. Seconded by Councilor Dwyer and voted.

4. Water Services Access Easement Re: 50 Lovell Street

City Manager Bohenko advised the City Council that the property sold to DECM, LLC.

Councilor Dwyer moved that the City Manager be authorized to negotiate, execute, deliver and record the deeds regarding 50 Lovell Street. Seconded by Councilor Roberts and voted.

5. Temporary Construction License Re: 46-64 Maplewood Avenue

City Manager Bohenko said site review approval was given and a temporary construction license needs to be issued.

Councilor Perkins moved that the City Manager be authorized to execute and accept the temporary construction license regarding 46-64 Maplewood Avenue. Seconded by Councilor Roberts and voted.

6. Report Back Re: Polling Hours and Request to Establish Polling Hours for the November 6, 2018 State General Election

City Clerk Barnaby reviewed her report regarding the polling hours with the City Council.

Councilor Becksted moved to establish the polling hours for the November 6, 2018 State General Election from 8:00 a.m. to 7:00 p.m. Seconded by Councilor Roberts and voted.

City Manager's Informational Items

2. Report Back Re: Accessory Dwelling Units and Garden Cottage Approvals

Councilor Roberts said there have been 12 units approved and would like the Planning Board and Planning Department to look at ways to be less burdensome.

Planning Director Walker said we have seen an active use of this and it is substantial financial investment for property owners. She said nothing has been seen as delays for permitting the property owner gets approval and then does not move forward. She said there are no added layers to the process and spoke to the process for a conditional use permit.

Councilor Roberts said October 2nd at PS21 there will be a seminar on Accessory Dwelling Units.

Councilor Becksted said the conditional use permit is a useful process and allows time to match things.

Councilor Perkins said Councilor Roberts and she were discussing this matter and it feels like careful thought went into it but we don't have enough data points.

Councilor Roberts said we need to make a plan to loosen the condition in the future and let's plan to review in 6-9 months to make it less burdensome.

3. Letter Re: Relocation of the U.S. Post Office in Downtown Portsmouth

Councilor Dwyer said the McIntyre Public Committee was looking at changes following the Historic District Commission meeting on designs. She said the Committee provided testimony about public interest and process to stay in the area. The committee will meet again soon. She read a draft letter from the McIntyre Public Process Steering Committee.

Councilor Dwyer said she feels that the City Council should send a letter and make a point of what the Committee is saying and what the City Council response might be. She asked does the City Council want to do a letter and the key points have the letter drafted and send in after the next meeting.

City Manager Bohenko said we can use the template and work on a letter to be brought back at the next City Council meeting.

Assistant Mayor Lazenby said having a letter is a good direction.

Councilor Roberts would like the direction be clear and what the post office wants and to specify their wants.

Assistant Mayor Lazenby said he would like the City Manager to comment on decision on Coakley Landfill Group. City Manager Bohenko said he is less inclined to do an appeal and not move forward but it is up to the Coakley Landfill Group leaders. He said during the process we released 80% of documents under the right-to-know law. He said we have 18 volumes of materials and we need to see what the Group feels.

Councilor Reynolds said he is happy to hear we would not recommend appealing. He said it is up to the Coakley Landfill Group. He said the City and the City Attorney have always done the right thing. He said we need to find a way to modify the operation of the Coakley Landfill Group so that it can function and overcome obstacles.

Councilor Denton asked if our testing will continue. City Manager Bohenko said it would continue to function.

City Attorney Sullivan reported we released 99% of the documents under the Coakley Landfill. He reported on the make-up of the Coakley Landfill Group and its operations. He said a number of steps could be taken in court that is not an appeal.

B. MAYOR BLALOCK

1. Appointment to be Considered:
 - Katelyn Kwoka reappointment to the Economic Development Commission

The City Council considered the reappointment of Katelyn Kwoka to the Economic Development Commission to be voted on at the October 15, 2018 City Council meeting.

2. Appointment to be Voted:
 - Everett Eaton reappointment to the Economic Development Commission

Councilor Raynolds moved to reappoint Everett Eaton to the Economic Development Commission until October 1, 2022. Seconded by Councilor Dwyer and voted.

D. COUNCILOR ROBERTS

1. Parking and Traffic Safety Committee Action Sheet and Minutes of the September 6, 2018 meeting

Councilor Roberts moved to accept and approve the action sheet and minutes of the September 6, 2018 Parking and Traffic Safety Committee meeting. Seconded by Councilor Raynolds and voted.

E. COUNCILOR DENTON

1. International Energy Conservation Code

Councilor Denton moved for a report back on the City's preferred method of adopting a more recent International Energy Conservation Code and declaring a more restricted Climate Zone. Seconded by Councilor Pearson.

Councilor Denton spoke to the exemption for renewal energy and said every three years a new set of codes come out and he would like to see us upgrade our codes. He spoke to changes to the code by adopting the 2012.

Councilor Dwyer said legislation is being filed for municipalities to move forward on their own and if we have the ability to do this. She said that Assistant City Attorney Ferrini could assist us with this matter.


Motion passed.

XII. MISCELLANEOUS/UNFINISHED BUSINESS

Assistant Mayor Lazenby said the Coakley Landfill will be holding a Round Table on Wednesday from 9:00 a.m. to 4:00 p.m. and would like staff to attend the meeting.

XIII. ADJOURNMENT

At 10:40 p.m., Councilor Pearson moved to adjourn. Seconded by Councilor Perkins 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, MMC, CMC, CNHMC
CITY CLERK



MEMORANDUM

TO: JOHN P. BOHENKO, CITY MANAGER
FROM: JULIET T.H. WALKER, PLANNING DIRECTOR *JTW*
SUBJECT: ZONING ORDINANCE AMENDMENTS TO ARTICLE 12 SIGNS
DATE: 11/27/2018

Recommended Actions

Vote to amend the proposed amendments to Article 12 of the Zoning Ordinance by revising Section 10.1222.70 pertaining to the regulation of flags and by inserting definitions for “flags” and “flagpoles” to Section 10.1290 as presented in the document titled “Proposed Amendments to the Portsmouth Zoning Ordinance: Article 12 – Signs”, dated November 27, 2018.

Vote to pass second reading and schedule third reading for December 17, 2018 of the amendments to the Zoning Ordinance to delete the existing Article 12 – Signs and insert in its place a new Article 12 – Signs as presented in the document titled “Proposed Amendments to the Portsmouth Zoning Ordinance: Article 12 – Signs”, dated November 27, 2018.

Background

The amendments are being proposed primarily to bring the City’s sign regulations into compliance with legal requirements for content neutrality. In the case *Reed et al. v. Town of Gilbert, Arizona, et al. (2015)*, the U.S. Supreme Court ruled that regulations that categorize signs based on the type of information they convey and then apply different standards to each category are content-based regulations of speech and are not allowed under the First Amendment protections of the United States Constitution. Additional changes include updating the regulations regarding prohibited signs and temporary signs, clarifying sign area, and other housekeeping amendments.

The Planning Board conducted a public hearing on this proposed zoning amendment at its August 16, 2018 meeting and voted to recommend approval to the City Council with amendments at the September 17, 2018 meeting.

City Council Review

The City Council voted to pass First Reading at the October 15, 2018 meeting and schedule Second Reading and Public Hearing for November 19, 2018. After the public hearing on the 19th, Councilors discussed potential revisions to the proposed amendments regarding regulations of flags and the time period for election signs. The Council voted to continue Second Reading to the December 3, 2018 meeting in order to have staff report back with potential revisions to the proposed amendments.

Flags

The current amendment adds a new section under the Section 10.1222 -- Signs Not Requiring a Permit relating to flags. As proposed, the following would be permitted without a sign permit and would not be included in the calculation for aggregate signage on a lot:

10.1222.70 Flags of the United States, the State of New Hampshire or the City of Portsmouth that have been officially adopted by law or ordinance, limited in number and size as follows:

10.1222.71 Each lot may have up to 3 flags (free-standing or attached to a building) that are up to 24 sq. ft. in area (per flag) in Sign Districts 1, 2 and 3, and up to 60 sq. ft. in Sign Districts 4, 5 and 6.

10.1222.72 In addition to the above, each dwelling unit or condominium unit on a lot may have up to one flag not exceeding 6 sq. ft. in area attached to the dwelling unit or condominium unit.

As proposed, this amendment is much less restrictive than the current ordinance, which specifically prohibits all "banners, pennants or flags" (see current Section 10.1223.30). The reason for having a provision *allowing flags* is to provide a specific exception to this blanket prohibition. The Council should understand that we are already regulating flags – by prohibiting them – and that the proposed provision represents a loosening up of the ordinance. If we keep the existing 10.1223.30 and do not explicitly permit any flags, then technically flags are not allowed on private property (zoning does not regulate public property).

The Planning Department would recommend keeping the proposed amendment allowing flags, but would suggest being more flexible by removing the part of the provision that refers to officially adopted flags. The result would be that any lot in a residential district could have up to three flags with any message. We would also propose clarifying the distinction between flags and other types of non-rigid signs (such as ground-mounted banners) by specifying where flags can be located on a property or building.

We would also recommend that the allowable flag area be 12 sq. ft. (per flag) in residential districts, not 24 sq. ft. as currently proposed. The revised Section 10.1222.70 would read as follows:

10.1222.70 Flags that are either (a) attached to a building or to a pole projecting no more than 6 feet from a building or (b) mounted on a flagpole. These shall be limited in number and size as follows:

10.1222.71 Each lot may have up to 3 flags that are up to 12 sq. ft. in area (per flag) in Sign District 1, up to 24 sq. ft. in Sign Districts 2 and 3, and up to 60 sq. ft. in Sign Districts 4, 5 and 6.

10.1222.72 In addition to the above, each dwelling unit or condominium unit on a lot may have up to one flag not exceeding 6 sq. ft. in area attached to the dwelling unit or condominium unit.

In addition, we would recommend adding a definition of a flagpole (including a maximum height) and a definition for flag to Section 10.1290 Sign Definitions as follows:

Flagpole: *A permanent, free-standing structure or a structure attached to a building and used for the sole purpose of displaying flags. A free-standing flagpole shall not exceed the maximum building height allowed in the zoning district in which it is located.*

Flag: *A piece of durable fabric or other flexible material containing distinctive colors, patterns, standards, words, or emblems which hangs loose from a staff or pole or is attached directly to a building.*

Election Signs

Based on input from the City Council regarding the proposed duration for freestanding signs to be posted on private property during elections, we recommend extending the period to 120 days (or 4 months) before and 14 days after an election.

Proposed Zoning Ordinance Amendments
Article 12 – Signs
November 27, 2018

ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That the Ordinances of the City of Portsmouth, Chapter 10 — Zoning Ordinance, be amended by deleting the existing Article 12 – Signs, and inserting in its place a new Article 12 – Signs as presented in the document titled “Proposed Amendments to the Portsmouth Zoning Ordinance: Article 12 – Signs”, dated November 27, 2018.

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:

Jack Blalock, Mayor

ADOPTED BY COUNCIL:

Kelli L. Barnaby, City Clerk

1 Proposed Amendments to Portsmouth Zoning Ordinance
2 Article 12: Signs
3 November 27, 2018
4

5 **Article 12 Signs**
6

- 7 **Section 10.1210 Purpose and Intent**
8 **Section 10.1220 General Sign Regulations**
9 **Section 10.1230 Sign Districts**
10 **Section 10.1240 Permitted Sign Types**
11 **Section 10.1250 Sign Dimensional Standards**
12 **Section 10.1260 Sign Illumination**
13 **Section 10.1270 Additional Sign Regulations**
14 **Section 10.1280 Nonconforming Signs**
15 **Section 10.1290 Sign Definitions**
16

17 **Section 10.1210 Purpose and Intent**

- 18 10.1211 The purpose of this Article is to regulate the type, number, location, size
19 and illumination of signs on private property in order to maintain and
20 enhance the character of the city’s commercial districts and residential
21 neighborhoods and to protect the public from hazardous and distracting
22 displays.
23
- 24 10.1212 This Article is intended to permit signs only as accessory uses to a
25 permitted use on the same lot and not as principal uses on a lot. When a
26 principal commercial use or activity is not open to the public or has been
27 abandoned, all allowed accessory signs shall be removed regardless of
28 their content.
29
- 30 10.1213 This Article is not intended to regulate the content of signs except as
31 follows:
32
- 33 10.1213.10 When a sign is allowed because it is necessary to identify a
34 building address or for safe access to or egress from the lot,
35 only that relevant message may be presented.
36
- 37 10.1213.20 A sign that advertises a product or service not available on
38 the lot (an “off-premise sign”) is not permitted. However,
39 when a sign is permitted as accessory to a commercial use,
40 the sign may contain a noncommercial message instead of a
41 commercial message.
42

1 Section 10.1220 General Sign Regulations

2 10.1221 Sign Permits

- 3
- 4 10.1221.10 No sign shall be erected without a sign permit issued by the Code
5 Official except in accordance with the provisions of this Ordinance or a
6 decision by the Board of Adjustment.
7
- 8 10.1221.20 No sign permit will be issued for any premises on which there is an
9 outstanding violation of any part of this Ordinance.
- 10
- 11 10.1221.30 In the Historic District, a sign that violates any requirement of this Article,
12 including the design standards set forth in Section 10.1274, shall require a
13 Certificate of Appropriateness from the Historic District Commission
14 (HDC) under Section 10.630, in addition to the sign permit issued by the
15 Code Official.
16
- 17 10.1221.40 Any sign located within a public right of way, including a projecting sign
18 that extends over the public right of way, requires City Council approval
19 and license in accordance with Chapter 8 of the municipal code.
20

21 10.1222 Signs Not Requiring A Permit

22 The following signs are permitted without a sign permit and shall not be included in the
23 calculation for aggregate signage on a lot:

- 24
- 25
- 26 10.1222.10 Signs required, or deemed necessary for the public welfare and safety, by a
27 municipal, state or federal agency, such as traffic control devices
28
- 29 10.1222.20 Signs with a sign area up to 4 square feet containing only content of a
30 general directive or informational nature such as the following:
31
- 32 (a) Identifying a building address or unit number;
 - 33 (b) Directing or guiding to entrances, exits or parking areas;
 - 34 (c) Identifying handicapped parking, no parking, or loading areas;
 - 35 (d) Identifying or directing to a public service facility or accommodation;
 - 36 (e) Identifying an official inspection station;
 - 37 (f) Notices concerning restrictions on access to private property (e.g., no
38 trespassing, no hunting, etc.).
39
- 40 12.1222.21 All such signs shall be located so as not to create a traffic
41 safety hazard or to block line of sight from a motor vehicle.
42
- 43 12.1222.22 A freestanding sign under this provision shall comply with
44 the height standards for freestanding signs in Section
45 10.1223.33.
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12.1222.23 A sign pertaining to public parking in a private parking lot that has been authorized under a permit from the Department of Public Works is exempt regardless of sign area.

10.1222.30 One building identification sign per lot, composed of either (a) unpainted letters carved into, embedded in or embossed on the material of the building wall above the first story with a sign area up to 12 square feet; or (b) a metal plaque affixed to the building wall no more than 5 feet above ground level, with a sign area up to 4 square feet. Such signs are typically used to provide historical information about the building such as the name of the building or the date of its construction.

10.1222.40 Miscellaneous signs mounted on a wall, window or door at a building entrance, provided that (a) there shall be only one group of such signs per entrance; (b) each group of such signs shall not exceed 4 square feet in area (measured as a single sign in accordance with Section 10.1252) and shall be placed within 3 feet of the entrance; (c) no individual sign in the sign group shall exceed one square foot in area; and (d) no letter, character, image or graphic shall be more than 2 inches in height. The intent of this provision is to allow for the provision of information that is not intended to be read from more than 3 feet from the sign, including but not limited to restaurant menus, credit card stickers, hours of operation, owner and contact information, etc.

10.1222.50 Internal signs.

10.1222.60 Illuminated signs more than 3 feet behind any window or opening through which they might be visible from private or public right of way.

10.1222.70 Flags that are either (a) attached to a building or to a pole projecting no more than 6 feet from a building or (b) mounted on a flagpole. These shall be limited in number and size as follows:

10.1222.71 Each lot may have up to 3 flags (free-standing or attached to a building) that are up to 12 sq. ft. in area (per flag) in Sign District 1, up to 24 sq. ft. in Sign Districts 2 and 3, and up to 60 sq. ft. in Sign Districts 4, 5 and 6.

10.1222.72 In addition to the above, each dwelling unit or condominium unit on a lot may have up to one flag not exceeding 6 sq. ft. in area attached to the dwelling unit or condominium unit.

10.1222.80 Signs on registered motor vehicles that are used in the ordinary conduct of a business, but not including signs on vehicles that are parked on, or in view of, a street when the vehicle is not actively being used in the conduct of business.

1 10.1222.90 Low wattage or low voltage temporary decorative lighting and displays
2 used for holidays, festivals and special events, provided they do not pose a
3 safety or nuisance problem due to light trespass or glare.
4

5 10.1223 Temporary Signs 6

7 10.1223.10 The following temporary signs are allowed without a sign permit and
8 shall not be included in the calculation for aggregate signage on a lot:
9

10 10.1223.11 One temporary sign placed on a lot while the lot (or a
11 dwelling unit or commercial unit on the lot) is being
12 offered for sale or lease by a real estate agent or through
13 advertising in a local newspaper of general circulation, and
14 for a period of 14 days following the date on which a
15 contract of sale or lease has been executed.
16

17 10.1223.12 Temporary signs placed on a lot that is under active
18 development, to be removed within 14 days after issuance of
19 the first certificate of occupancy.
20

21 10.1223.13 Temporary signs placed on a lot for a period of 120 days
22 prior to, and 14 days after, an election involving candidates
23 for a federal, state or local office that represents the district
24 in which the lot is located.
25

26 10.1223.20 The following temporary signs are allowed with the issuance of a sign
27 permit:
28

29 10.1223.21 One temporary sign placed on a lot for more than 90 days
30 while the lot (or a dwelling unit or commercial unit on the
31 lot) is being offered for sale or lease.
32

33 10.1223.22 Temporary signs placed on a lot that is under active
34 development for more than 14 days after issuance of the first
35 certificate of occupancy, but not to exceed 60 days after the
36 issuance of said certificate.
37

38 10.1223.30 The following provisions apply to all temporary signs whether requiring
39 a sign permit or allowed without a permit:
40

41 10.1223.31 The maximum sign area of a temporary sign allowed by
42 this section shall be as follows:
43

44 Sign District 1 or 2	6 sq. ft.
45 Sign District 3	16 sq. ft.
46 Sign District 4, 5 or 6	32 sq. ft.

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10.1223.32 The maximum height of a temporary freestanding sign shall be as follows:

Sign District 1, 2 or 3	4 ft.
Sign District 4, 5 or 6	12 ft.

10.1223.33 A temporary freestanding sign shall comply with the required setback for the applicable sign district as set forth in Section 10.1253. In Sign District 1 a temporary freestanding sign shall be set back at least 7 feet from any lot line.

10.1223.35 Temporary signs shall not be illuminated in any way.

10.1223.36 A property owner may not accept a fee for posting or maintaining a temporary sign allowed by this Section 10.1223, and any sign that is posted or maintained in violation of this provision is not authorized.

10.1223.40 Special Event Signs

In addition to other permanent and temporary signs allowed by this Article, one sign may be placed on a lot immediately preceding and during a special event on that lot, subject to the following conditions:

10.1223.41 A sign permit for the special event sign shall be obtained from the Code Official. Only one permit for a special event sign shall be issued for a lot in any 3-month period.

10.1223.42 A lot may have one special event sign for one consecutive 7-day period every 3 months, for a maximum of 4 special event signs per year. If a special event sign permit is not used in one quarter it shall not be carried over to the next quarter.

10.1223.43 The special event sign shall not be limited to size or location, but shall not be placed in such a manner as to create a traffic safety problem.

10.1223.44 The special event sign shall be removed at the end of the event.

10.1224 Signs Prohibited in All Districts

The following signs are prohibited in all sign districts:

10.1224.10 Animated signs.

10.1224.20 Signs that move or flash, or give the appearance of such motion (for example, by means of traveling lights). Beacons, rotating and flashing

lights are prohibited except where such lighting devices are deemed necessary for the public safety and welfare by federal, state or municipal authorities.

10.1224.30 Banners, pennants or flags (except as permitted by Section 10.1222.70) which are signs under the definition of “sign” herein.

10.1224.40 Balloons or other inflated devices displayed more than one day per month.

10.1224.50 Mobile signs.

10.1224.60 Signs mounted, attached or painted on vehicles, trailers or boats, except as permitted by Section 10.1222.90.

10.1224.70 Any sign emitting sound.

10.1224.80 Any sign projected via illumination on the exterior of any structure, or on or above a surface such as a driveway, sidewalk or street, regardless of the technology used to project the sign. This prohibition shall not apply where the structure or surface on which the sign is projected is within the same lot as the principal use to which the sign is accessory.

10.1224.90 Any sign advertising a product or service not provided on the lot on which the sign is located (“off-premise sign”).

10.1225 Maintenance of Signs

10.1225.10 All signs and sign structures shall be properly maintained and kept in a neat and proper state of maintenance and appearance.

10.1225.20 Any sign of any type and located within any district which is found by the Code Official to be in a state of disrepair, illegible or dangerous, shall be repaired or removed.

10.1225.30 Upon failure to comply with an order to repair or remove a sign within thirty days, the Code Official is authorized to cause removal of the sign at the expense of the owner of the property on which the sign is located.

Section 10.1230 Sign Districts

10.1231 The City is hereby divided into sign districts for the purpose of establishing standards for the number, type, size, location and illumination of signs.

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These sign districts are overlay districts. A property shall be subject to the regulations of both the sign district and the underlying zoning district.

10.1232 Unless otherwise specified by ordinance, the sign districts shall correspond to underlying zoning districts as follows:

Sign Districts	Underlying Zoning Districts
Sign District 1	All Rural and Residential Districts Natural Resource Protection
Sign District 2	Mixed Residential Office Mixed Residential Business Waterfront Business Character District 4-L1 Character District 4-L2
Sign District 3	Character District 4-W Character District 4 Character District 5
Sign District 4	Business Office Research
Sign District 5	General Business Gateway Neighborhood Mixed-Use Corridor Gateway Neighborhood Mixed-Use Center
Sign District 6	Industrial Waterfront Industrial Airport Districts

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10.1233 In order to address the characteristics of a specific area or its surroundings, an area may be changed to a different sign district than specified in Section 10.1232 following the same procedures as for a change in the underlying zoning district. (For example, a portion of the General Business district may be changed from Sign District 5 to Sign District 2 in order to protect an adjacent neighborhood from excessive light.)

10.1234 Any sign not specifically allowed in a sign district is not permitted.

1 **Section 10.1240 Permitted Sign Types**

2 10.1241 The types of signs permitted in each sign district shall be as set forth in
 3 the following table, except as otherwise provided herein.

4 **Table of Permitted Sign Types**

	Sign District					
	1	2	3	4	5	6
Freestanding sign	N	P	P	P	P	P
Wall sign	P	P	P	P	P	P
Projecting sign	P	P	P	P	P	P
Parapet sign	N	N	N	N	P	P
Roof sign	N	N	N	N	P	P
Awning sign	N	P	P	P	P	P
Marquee sign	N	P	P	P	P	P
Canopy sign	N	N	N	P	P	P
Changeable or animated signs						
Animated sign	N	N	N	N	N	N
Changeable sign	N	P	P	P	P	P

P = Permitted N = Prohibited

5
 6 10.1242 Each side of a building facing a street may have one parapet sign (if
 7 permitted by Section 10.1241) or one wall sign above the ground floor.

8
 9 10.1243 Only one freestanding sign shall be permitted per lot, except that a lot
 10 with more than one driveway may have one freestanding sign at the
 11 site's primary driveway and one smaller freestanding sign at each
 12 additional driveway complying with the area and height standards in
 13 Section 10.1251.30.

14
 15 **Section 10.1250 Sign Dimensional Standards**

16 **10.1251 Sign Area**

17
 18 10.1251.10 The maximum aggregate sign area shall be as follows:

	Sign District					
	1	2	3	4	5	6
Per linear foot of building frontage per establishment	0.5	1.0	2.0	1.5	1.5	2.0

10.1251.20 The maximum sign area for individual signs shall be as follows:

	Sign District					
	1	2	3	4	5	6
Freestanding sign	n/a	20	20	100	100	150
Wall sign	4	16	40	200	200	100
Projecting sign						
Ground floor use	2	16	12	16	16	16
Upper-floor use	n/a	0	8	8	8	8
Parapet sign	n/a	n/a	n/a	n/a	100	150
Roof sign	n/a	n/a	n/a	n/a	200	100
Awning sign	n/a	16	20	20	20	20
Marquee sign	n/a	16	20	20	20	20
Canopy sign	n/a	n/a	n/a	20	20	20

All dimensions in square feet

n/a = not applicable (sign type not permitted)

n.r = no requirement

10.1251.30 When a lot has more than one freestanding sign, the freestanding sign at the site's primary driveway shall comply with the maximum sign area specified in Section 10.1251.20 and the maximum sign height specified in Section 10.1253.10; and the freestanding signs at other driveways shall comply with the following standards:

Sign District	On same street as primary driveway		On different street from primary driveway	
	Maximum Sign Area	Maximum Sign Height	Maximum Sign Area	Maximum Sign Height
2	10 sq. ft.	5 ft.	10 sq. ft.	5 ft.
3	10 sq. ft.	5 ft.	20 sq. ft.	5 ft.
4	20 sq. ft.	12 ft.	40 sq. ft.	12 ft.
5	40 sq. ft.	12 ft.	75 sq. ft.	15 ft.
6	40 sq. ft.	12 ft.	75 sq. ft.	15 ft.

10.1251.40 A sign projected via illumination on the exterior of a structure, or on or above a surface such as a driveway, sidewalk or street, shall comply with the sign area requirements for a wall sign.

10.1252 Measurement of Sign Area

10.1252.10 Sign area shall be measured in one of the following ways, at the applicant's discretion:

- (a) the area that can be enclosed by one polygon with no more than eight sides; or
- (b) the area that can be enclosed by a circle, oval, triangle or rectangle, or any two such shapes.

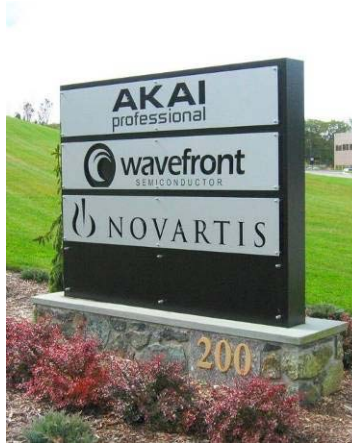
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10.1252.20 The sign area of a freestanding sign shall include all structural supports whether or not they contribute through shape, color or otherwise to the sign's message, except as follows:

10.1252.21 The base of a monument sign, up to one foot above the ground, shall not be included in the computation of sign area provided that such base is not illuminated in any way.



Height of base is less than one foot – Not included in sign area



Height of base is one foot – Not included in sign area



Height of base is greater than one foot – Included in sign area

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10.1252.22 The vertical supports of a pole sign shall not be included in the computation of sign area, provided that (1) the total width of all such supports is less than one-third of the width of the sign, and (2) the supports are not illuminated in any way.



Total width of supports is less than 1/3 of the width of the sign – Not included in sign area



Total width of supports is greater than 1/3 of the width of the sign – Included in sign area



Width of support is greater than 1/3 of the width of the sign – Included in sign area



Width of support is approximately 1/3 of the width of the sign

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- 10.1252.30 For a sign that is painted or engraved on, or otherwise applied directly to, a building or other structure, the sign area shall include any background of a different color, material or appearance from the remainder of the wall or structure, and shall include all related text, images and graphics.
- 10.1252.40 The sign area of a canopy sign shall include all text and symbols, whether or not illuminated, and all illuminated areas; but shall not include non-illuminated areas that are distinguished from the background only by color stripes.
- 10.1252.50 The sign area of a projecting sign shall not include the area of supporting brackets with no text, images or graphics.
- 10.1252.60 Where a sign has two faces that are parallel or where the interior angle formed by the faces is 45 degrees or less, only one display space shall be measured in computing total sign area.
- 10.1252.70 The sign area of a spherical, free-form, sculptural or otherwise non-planar sign shall be equal to 75 percent of the areas of the 4 vertical sides of the smallest rectangular box that will encompass the sign.
- 10.1252.80 Decorative lighting on a building or structure, including neon and other accent lighting, and any illuminated building panel, shall be considered a wall sign for the purposes of this section, and shall be counted as part of the aggregate sign area allowed.

1 10.1253 Sign Height and Setback

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3 10.1253.10 The maximum and minimum heights and minimum setbacks for signs in
4 each sign district shall be as set forth in the following table, except as
5 otherwise provided herein.

6 **Table of Sign Height and Setback Requirements**

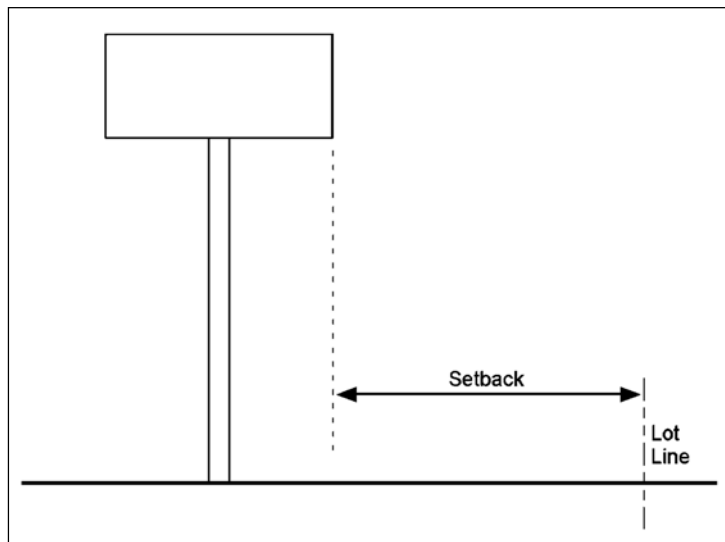
	Sign District					
	1	2	3	4	5	6
Projecting sign						
Minimum clearance (ground to bottom of sign)	7	7	7	7	7	7
Freestanding sign						
Minimum setback from lot line	n/a	5	5	20	10	20
Maximum height (ground to top of sign)	n/a	7	12	20	20	20

7 All dimensions in feet n/a = not applicable (sign type not permitted)

8
9 10.1253.20 Where a driveway intersects with a street, no sign shall be erected or
10 maintained between the heights of 2.5 feet and 10 feet above the edge of
11 pavement grades within the area bounded by (a) the side lines of the
12 driveway and street and (b) lines joining points along said side lines 20
13 feet from the point of intersection.

14
15 10.1253.30 The height of a freestanding sign shall be measured with respect to the
16 elevation of the centerline of the adjacent public right-of-way.

17
18 10.1253.40 The setback of a sign from a lot line shall be measured as the shortest
19 horizontal distance from the lot line to the any part of the sign, whether or
20 not such part of the sign is at ground level.



10.1253.50 A projecting sign shall project no closer than 1 foot to the edge of the vehicular travel way, if any.

Section 10.1260 Sign Illumination

10.1261 Types of Illumination

10.1261.10 Signs may only be illuminated as set forth in the following table, except as otherwise provided herein.

Table of Sign Illumination Requirements

	Sign District					
	1	2	3	4	5	6
External illumination	N	P	P	P	P	P
Halo lettering	N	P	P	P	P	P
Internal illumination						
Freestanding sign	N	P	N	P	P	P
Wall sign	N	P	P	P	P	P
Projecting sign	N	N	N	N	N	N
Parapet sign	n/a	N	N	N	P	P
Roof sign	n/a	N	N	N	P	P
Awning sign	n/a	N	P	N	P	P
Marquee sign	n/a	N	P	N	P	N
Canopy sign	n/a	n/a	n/a	P	P	P
Direct illumination	N	N	P	P	P	P

P = Permitted N = Prohibited n/a = not applicable (sign type not permitted)

10.1261.20 Temporary signs shall not be illuminated.

10.1261.30 Signs in the Historic District shall be illuminated only by external illumination, notwithstanding anything to the contrary in Section 10.1261.

10.1262 Hours of Illumination

Signs shall not be illuminated between 11:00 p.m. and 6:00 a.m., except that signs may be illuminated during the operation of a use or activity that is open to customers or the public, and for not more than one hour after the activity ceases.

10.1263 Illumination Standards

10.1263.10 A light source for external illumination of a sign shall be mounted and shielded so that said light source is not visible three feet above grade at the lot line and so that the lighting is confined to the area of the sign.

10.1263.20 A light source for internal illumination of a sign constructed of translucent materials and wholly illuminated from within shall not require shielding.

- 1 10.1263.30 A sign or its illuminator shall not by reason of its location, shape or color
2 interfere with pedestrian or vehicular traffic or be confused with or obstruct
3 the view or effectiveness of any official traffic signal or traffic marking.
4
- 5 10.1263.40 Illuminance of the sign face shall not exceed the following standards:
6
- 7 10.1263.41 External illumination: 50 foot-candles as measured on the
8 sign face.
9
- 10 10.1263.42 Internal illumination: 5,000 nits (candelas per square
11 meter) during daylight hours, and 500 nits between dusk and
12 dawn, as measured at the sign's face.
13
- 14 10.1263.43 Direct illumination: 5,000 nits during daylight hours, and
15 500 nits between dusk and dawn, as measured at the sign's
16 face.
17
- 18 10.1263.50 Light sources shall utilize energy efficient fixtures to the greatest extent
19 practicable. Light fixtures including bulbs or tubes used for sign
20 illumination shall be selected and positioned to achieve the desired
21 brightness of the sign with the minimum possible wattage, while ensuring
22 compliance with all applicable requirements of this Ordinance.
23
- 24 10.1263.60 A sign using direct illumination shall consist only of letters, numbers
25 and other common typographical characters, all of which shall be in no
26 more than three colors against a dark background, and the total illuminated
27 area shall not exceed 30 percent of the total area of the sign.
28

29 Section 10.1270 Additional Sign Regulations

30 10.1271 Signs on More Than One Façade of a Building

- 31 10.1271.10 A use in a building with more than one exterior wall facing a street may
32 have signs on each such wall.
33
- 34 10.1271.20 An establishment with a public entrance on a side of the building not
35 facing a street may have signs on that side as well as on the street-facing
36 wall(s).
37
- 38 10.1271.30 Regardless of the location of signs, the maximum sign area per
39 establishment shall be based only on the building frontage as defined in
40 Section 10.1290.
41

42 10.1272 Roof Signs

- 43 10.1272.10 A roof sign shall be parallel to the main façade of the building on which it
44 is mounted,
45
46
47

1 10.1272.20 A roof sign on a pitched, hip, gambrel or mansard roof shall not extend
2 above the elevation midway between the level of the eaves and the highest
3 point of the roof. A roof sign is not permitted on a flat roof.
4

5 10.1272.30 The maximum height of a roof sign shall not exceed the lesser of 36
6 inches or 25% of the vertical height of the roof.
7

8 10.1273 Marquee Signs 9

10 10.1273.10 All text, images and other graphics on a marquee sign shall be displayed
11 on the outside vertical faces of the marquee, and shall be no more than 1.5
12 feet tall.
13

14 10.1273.20 The sign area of a marquee sign shall be included in the maximum
15 aggregate sign area allowed for the lot.
16

17 10.1274 Relation of Sign to Building Façade in the Historic District 18

19 In the Historic District, a wall sign or projecting sign should align with some
20 horizontal element on the façade. For example, the top of the sign may align with the top
21 of the window, the bottom of the sign may align with the bottom of the window, the
22 bottom of sign may align with the top of the lintel, etc.
23

24 10.1275 Interim Signs 25

26 An interim sign may be erected while awaiting arrival of a permanent sign for which a
27 sign permit has been issued. -The interim sign shall conform to the same dimensional
28 and other requirements as the approved permanent sign and shall be allowed only until
29 the permanent sign is installed or for 60 days, whichever is the shorter period of time. A
30 sign permit for an interim sign must be obtained from the Code Official.
31

32 Section 10.1280 Nonconforming Signs

33 10.1281 A nonconforming sign or sign structure shall be brought into
34 conformity with this Ordinance if it is altered, reconstructed, replaced, or
35 relocated. For the purpose of this provision, the alteration of a sign or sign
36 structure includes any change in size, shape, materials or technology. A
37 change in text or graphics is not an alteration or replacement for purposes
38 of this subsection.
39

40 10.1282 Nonconforming signs must be maintained in good condition.
41 Maintenance required by this Subsection shall include replacing or
42 repairing of worn or damaged parts of a sign or sign structure in order to
43 return it to its original state, and is not a change or modification prohibited
44 by Subsection 10.1281.
45

46 10.1283 A nonconforming sign shall be removed, made conforming, or replaced
47 with a conforming sign if 50 percent or more of the nonconforming sign

1 is blown down, destroyed, or for any reason or by any means taken down,
2 altered, or removed.

3
4 10.1284 A nonconforming sign shall be removed if the use of the
5 nonconforming sign, or the property on which it is located, has ceased,
6 become vacant, or been unoccupied for a continuous period of 8 months or
7 more. An intent to abandon is not required as the basis for removal under
8 this section.
9

10 Section 10.1290 Sign Definitions

11 Aggregate sign area
12 See under sign area.

13
14 Animated sign
15 A sign that uses movement or a change of lighting to depict action or create a
16 special effect or scene. See also changeable sign.

17
18 Awning
19 A cloth, plastic or other nonstructural covering that either is permanently
20 attached to a building or can be raised or retracted to a position against the
21 building when not in use.

22
23 Awning sign
24 A sign that is painted on or otherwise applied or attached to an awning. An
25 internally illuminated awning shall be considered an awning sign whether or
26 not it contains any text or graphics.

27
28 Banner sign or banner
29 A sign that consists of text or other graphic elements on a non-rigid material
30 either enclosed or not enclosed in a rigid frame and secured or mounted to allow
31 motion caused by the atmosphere. See also temporary sign.

32
33 Building frontage
34 The maximum horizontal width of the ground floor of a building that
35 approximately parallels and faces a public street or right of way.
36 (a) Where an individual occupant's main entrance faces a driveway or parking
37 lot, the width of the occupant's ground floor space facing the occupant's
38 entrance shall be considered that occupant's separate and distinct building
39 frontage.
40 (b) Where two or more uses occupy the ground floor of a building, the portion
41 of the building frontage occupied by each use will be that use's separate
42 and distinct building frontage for the purpose of calculating allowed sign
43 area.
44 (c) A corner lot or through lot shall be considered to have a separate and
45 distinct building frontage on each street.
46 (d) When a building is not parallel to the street, or has a front wall that is
47 angled or curved, the building frontage shall include any portion of the
48 front wall that is oriented at an angle of 30 degrees or less from the front lot
49 line.

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Canopy
A freestanding structure constructed of rigid materials, providing protective cover over an outside service area.

Canopy sign
A sign attached to, affixed to or otherwise mounted on a canopy.

Changeable sign
A sign or portion thereof with characters, letters or symbols that can be changed, whether electronically or manually without altering the face or surface of the sign. A sign on which the message changes more than once per day shall be regulated as an animated sign. A sign on which the only changes are mechanical or electronic indication of time or temperature is not considered a changeable or animated sign.

Direct illumination
Illumination of a sign by light emitted directly from a lamp, luminary or reflector, and not diffused through translucent materials or reflected or projected from an external source. Examples include, but are not limited to, signs using luminous gas-filled tubes (e.g., neon) or light-emitting diodes (LED). (See also external illumination, externally illuminated sign, internal illumination, internally illuminated sign.)

External illumination
Illumination of a sign by a source of light not contained within, or on the surface of, the sign itself. (See also direct illumination, externally illuminated sign, internal illumination, internally illuminated sign.)

Externally illuminated sign
A sign that is illuminated by a light source that is not contained within, or on the surface of, the sign itself

Flag
A piece of durable fabric or other flexible material containing distinctive colors, patterns, standards, words, or emblems which hangs loose from a staff or pole or is attached directly to a building.

Flagpole
A permanent, free-standing structure or a structure attached to a building and used for the sole purpose of displaying flags. A free-standing flagpole shall not exceed the maximum building height allowed in the zoning district in which it is located.

Freestanding sign
A sign that is permanently erected in a fixed location and supported by 1 or more columns, upright poles or braces extended from the ground or from an object on the ground, or that is erected on the ground, where no part of the sign is attached to any part of a building, structure, or other sign. Examples include, but are not limited to, monument signs and pole signs.

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Halo lettering.

An externally illuminated sign in which light sources are placed out of direct view behind opaque sign elements (letters or graphics), creating a glow around the sign elements.

Halo Lettering



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Internal sign

A sign that is not intended to be viewed from outside the property, and that is located so as not to be visible from any street or from any adjacent lot. Examples include, but are not limited to, signs in the interior areas of shopping centers, non-illuminated signs inside a building and more than 3 feet inside any window or door, and signs located completely within a building and not visible from outside the building.

16
17

Internal illumination

Illumination of a sign by light that is diffused through a translucent material from a source within the sign. (See also direct illumination, external illumination, externally illuminated sign, internally illuminated sign.)

21
22

Internally illuminated sign

A sign that is illuminated by light from a source within the sign through a translucent material. (See also direct illumination, external illumination, externally illuminated sign, internal illumination, halo lettering.)

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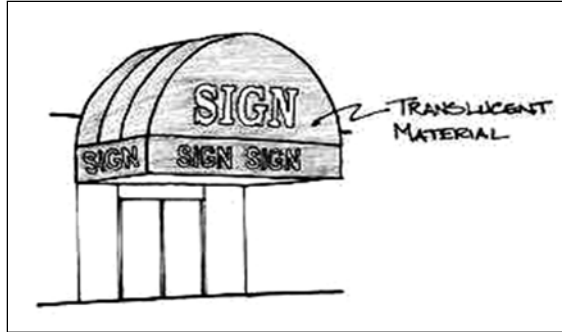
Examples of internally illuminated signs include:

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29

(a) Internally illuminated translucent sign, which may have opaque surfaces with translucent letters or translucent surfaces with opaque letters. An opaque surface with translucent letters is preferred to a translucent surface with opaque lettering.

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34

(b) Internally illuminated awning signs.



(c) Internally illuminated channel letters.



Marquee

A structure other than a roof that is attached to, supported by and projecting from a building, and that provides shelter for pedestrians.

Marquee sign

A wall sign that is mounted on or attached to a marquee.

Mobile sign

A sign on a trailer or other wheeled apparatus, whether or not self-propelled, that is not permanently affixed to the ground. (See also: temporary sign.)

Monument sign

A freestanding sign constructed of a solid material and mounted on a solid base that is placed directly on the ground.

Nit

A unit of luminance, equal to one candela per square meter.

Parapet

An extension of a vertical building wall above the line of the structural roof.

Parapet sign

A wall sign attached to the face of a parapet.

Pennant sign or pennant

See banner sign.

Parapet sign

A sign attached to a parapet wall, with its face parallel to the plane of the parapet wall and extending no more than 18 inches from such wall.

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- Pole sign
A freestanding sign that is permanently supported in a fixed location by a structure of poles, uprights or braces from the ground and not supported by a building or base structure.
- Projecting sign
A sign attached to and projecting from the wall of a building with the face of the sign at an interior angle of more than 45 degrees to the building wall to which it is attached.
- Roof sign
A sign that is located:
 - (a) above the level of the eaves on pitched or gambrel roofs;
 - (b) above the roof deck of a building with a flat roof; or
 - (c) above the top of the vertical wall of a building with a mansard roof.
- Sign
Any symbol, design or device used to identify or advertise any place, business, product, activity, service, person, idea or statement. Any representation that is illuminated and consisting wholly or in part, of text, images or graphics shall be considered a sign. Signs need not include text, and may consist of stripes, spots, or other recognizable designs, shapes or colors. Displays comprising of merchandise, figurines, mannequins, decorations and other similar articles, arranged inside a building and visible outside of a window, shall not be considered a sign.
- Sign area
The total surface area of a sign display, including all text, images and graphics, and any distinctive surface, board, frame or shape on or within which the text, images and graphics are displayed.
- Aggregate sign area
The total sign area of all signs on a lot or building, as indicated by the context, excluding the area of freestanding signs allowed by Article 12.
- Sign band
A painted stripe or otherwise distinct scheme which indicates the establishment's logo by use of certain colors or patterns.
- Temporary sign
A sign, other than a mobile sign, that is not permanently affixed to a building or structure or permanently mounted in the ground, and that pertains to an activity or event of limited duration. (See also mobile sign.)

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Wall sign

A sign attached to, erected against or hanging from the wall of a building, with the face in a parallel plane to the plane of the building wall, and extending no more than 18 inches from such wall. A wall sign may also be inside of a building if it is illuminated and visible through the window from a private of public right of way.

Article 12 – Signs
Comparison of Proposed Amendments with Existing Ordinance
November 27, 2018

Article 12 Signs

Section 10.1210	Purpose and Intent
Section 10.1220	General Sign Regulations
Section 10.1230	Sign Districts
Section 10.1240	Permitted Sign Types
Section 10.1250	Sign Dimensional Standards
Section 10.1260	Sign Illumination
Section 10.1270	Additional Sign Regulations
Section 10.1280	Nonconforming Signs
Section 10.1290	Sign Definitions

Section 10.1210 Purpose and Intent

10.1211 The purpose of this Article is to regulate the type, number, location, size and illumination of signs on private property in order to maintain and enhance the character of the city’s commercial districts and residential neighborhoods and to protect the public from hazardous and distracting displays.

10.1212 This Article is intended to permit signs only as accessory uses to a permitted use on the same lot and not as principal uses on a lot. When a principal commercial use or activity is not open to the public or has been abandoned, all allowed accessory signs shall be removed regardless of their content.

10.1213 This Article is not intended to regulate the content of signs except as follows:

10.1213.10 When a sign is allowed because it is necessary to identify a building address or for safe access to or egress from the lot, only that relevant message may be presented.

10.1213.20 A sign that advertises a product or service not available on the lot (an “off-premise sign”) is not permitted. However, when a sign is permitted as accessory to a commercial use, the sign may contain a noncommercial message instead of a commercial message.

1 Section 10.1220 General Sign Regulations

2 10.1221 Sign Permits

3
4 10.1221.10 No sign shall be erected without a sign permit issued by the Code
5 Official except in accordance with the provisions of this Ordinance or a
6 decision by the Board of Adjustment.

7
8 10.1221.20 No sign permit will be issued for any premises on which there is an
9 outstanding violation of any part of this Ordinance.

10
11 10.1221.30 In the Historic District, a sign that violates any requirement of this Article,
12 including the design standards set forth in Section 10.1274, shall require a
13 Certificate of Appropriateness from the Historic District Commission
14 (HDC) under Section 10.630, in addition to the sign permit issued by the
15 Code Official.

16
17 10.1221.40 Any sign located within a public right of way, including a projecting sign
18 that extends over the public right of way, requires City Council approval
19 and license in accordance with Chapter 8 of the municipal code.
20

21 10.1222 Signs Not Requiring A Permit

22
23 The following signs are permitted without a sign permit and shall not be included in the
24 calculation for aggregate signage on a lot:

25
26 10.1222.10 Signs required, or deemed necessary for the public welfare and safety, by a
27 municipal, state or federal agency, such as traffic control devices ~~and~~
28 ~~directional signs.~~

29
30 10.1222.20 ~~Directional signs or information signs~~ Signs with a sign area up to 4
31 square feet containing only content of a general directive or informational
32 nature such as the following:

- 33
34 (a) Identifying a building address or unit number;
35 (b) Directing or guiding to entrances, exits or parking areas;
36 (c) Identifying handicapped parking, no parking, or loading areas;
37 (d) Identifying or directing to a public service facility or accommodation;
38 (e) Identifying an official inspection station;
39 (f) Notices concerning restrictions on access to private property (e.g., no
40 trespassing, no hunting, etc.).

41
42 12.1222.21 All such signs shall be located so as not to create a traffic
43 safety hazard or to block line of sight from a motor vehicle.

44
45 12.1222.22 A freestanding sign under this provision shall comply with
46 the height standards for freestanding signs in Section
47 10.1223.33.
48

1 12.1222.23 A ~~directional or information~~ sign pertaining to public
2 parking in a private parking lot that has been authorized
3 under a permit from the Department of Public Works is
4 exempt regardless of sign area.
5

6 10.1222.30 ~~A building marker~~ One building identification sign per lot, composed of
7 either (a) unpainted letters carved into, embedded in or embossed on ~~a the~~
8 material of the building wall above the first story with a sign area up to
9 12 square feet; or (b) a metal plaque affixed to the building wall no more
10 than 5 feet above ground level, with a sign area up to 4 square feet. Such
11 signs are typically used to provide historical information about the
12 building such as the name of the building or the date of its construction.
13

14 10.1222.40 Miscellaneous ~~business~~ signs mounted on a wall, window or door at a
15 building entrance, provided that (a) there shall be only one group of
16 ~~miscellaneous business such~~ signs per entrance; (b) each group of such
17 signs shall not exceed 4 square feet in area (measured as a single sign in
18 accordance with Section 10.1252) and shall be placed within 3 feet of the
19 entrance; (c) no individual sign in the sign group shall exceed one square
20 foot in area; and (d) no letter, character, image or graphic shall be more
21 than 2 inches in height. The intent of this provision is to allow for the
22 provision of ~~common business~~ information that is not intended to be read
23 from more than 3 feet from the sign, such as including but not limited to
24 restaurant menus, credit card stickers, hours of operation, owner and
25 contact information, etc.
26

27 10.1222.50 Internal signs.
28

29 10.1222.60 Illuminated signs more than 3 feet behind any window or opening through
30 which they might be visible from private or public right of way.
31

32 ~~10.1222.70 Signs for historical associations and historical monuments up to 8 square~~
33 ~~feet per lot.~~
34

35 ~~10.1222.80 Temporary signs as follows:~~
36

37 ~~10.1222.81 Real estate signs providing information concerning the~~
38 ~~availability of the property for sale or for lease, up to 8~~
39 ~~square feet in residential districts and 32 square feet in all~~
40 ~~other districts.~~
41

42 ~~10.1222.82 Site development signs up to 16 square feet per sign in~~
43 ~~residential districts and 32 square feet per sign in all other~~
44 ~~districts.~~
45

46 10.1222.70 Flags that are either (a) attached to a building or to a pole projecting no
47 more than 6 feet from a building or (b) mounted on a flagpole. These shall
48 be limited in number and size as follows:
49

1 10.1222.71 Each lot may have up to 3 flags (free-standing or attached to
2 a building) that are up to 12 sq. ft. in area (per flag) in Sign
3 District 1,- up to 24 sq. ft. in Sign Districts 2 and 3, and up to
4 60 sq. ft. in Sign Districts 4, 5 and 6.

5
6 10.1222.72 In addition to the above, each dwelling unit or
7 condominium unit on a lot may have up to one flag not
8 exceeding 6 sq. ft. in area attached to the dwelling unit or
9 condominium unit.

10
11 10.1222.980 Signs on registered motor vehicles that are used in the ordinary conduct of
12 a business, but not including signs on vehicles that are parked on, or in
13 view of, a street when the vehicle is not actively being used in the conduct
14 of business.

15
16 10.1222.90 Low wattage or low voltage temporary decorative lighting and displays
17 used for holidays, festivals and special events, provided they do not pose a
18 safety or nuisance problem due to light trespass or glare.

19 20 10.1223 Temporary Signs

21
22 10.1223.10 The following temporary signs are allowed without a sign permit and
23 shall not be included in the calculation for aggregate signage on a lot:

24
25 10.1223.11 One temporary sign placed on a lot while the lot (or a
26 dwelling unit or commercial unit on the lot) is being
27 offered for sale or lease by a real estate agent or through
28 advertising in a local newspaper of general circulation, and
29 for a period of 14 days following the date on which a
30 contract of sale or lease has been executed.

31
32 10.1223.12 Temporary signs placed on a lot that is under active
33 development, to be removed within 14 days after issuance of
34 the first certificate of occupancy.

35
36 10.1223.13 Temporary signs placed on a lot for a period of 120 days
37 prior to, and 14 days after, an election involving candidates
38 for a federal, state or local office that represents the district
39 in which the lot is located.

40
41 10.1223.20 The following temporary signs are allowed with the issuance of a sign
42 permit:

43
44 10.1223.21 One temporary sign placed on a lot for more than 90 days
45 while the lot (or a dwelling unit or commercial unit on the
46 lot) is being offered for sale or lease.

47
48 10.1223.22 Temporary signs placed on a lot that is under active
49 development for more than 14 days after issuance of the first

1 certificate of occupancy, but not to exceed 60 days after the
2 issuance of said certificate.

3
4 10.1223.30 The following provisions apply to all temporary signs whether requiring
5 a sign permit or allowed without a permit:

6
7 10.1223.31 The maximum sign area of a temporary sign allowed by
8 this section shall be as follows:

<u>Sign District 1 or 2</u>	<u>6 sq. ft.</u>
<u>Sign District 3</u>	<u>16 sq. ft.</u>
<u>Sign District 4, 5 or 6</u>	<u>32 sq. ft.</u>

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14 10.1223.32 The maximum height of a temporary freestanding sign
15 shall be as follows:

<u>Sign District 1, 2 or 3</u>	<u>4 ft.</u>
<u>Sign District 4, 5 or 6</u>	<u>12 ft.</u>

16
17
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19
20 10.1223.33 A temporary freestanding sign shall comply with the
21 required setback for the applicable sign district as set forth
22 in Section 10.1253. In Sign District 1 a temporary
23 freestanding sign shall be set back at least 7 feet from any
24 lot line.

25
26 10.1223.35 Temporary signs shall not be illuminated in any way.

27
28 10.1223.36 A property owner may not accept a fee for posting or
29 maintaining a temporary sign allowed by this Section
30 10.1223, and any sign that is posted or maintained in
31 violation of this provision is not authorized.

32
33 10.1223.40 Special Event Signs

34
35 ~~Special event sign permits shall be issued. In addition to other permanent~~
36 ~~and temporary signs allowed by this Article, one sign may be placed on a~~
37 ~~lot immediately preceding and during a special event on that lot, subject to~~
38 ~~provided that all the following conditions are met:~~

39
40 10.1223.41 A sign permit ~~for the special event sign~~ shall be obtained
41 ~~for the special event sign~~ from the Code Official. Only one
42 permit for a special event sign shall be issued for a lot in any
43 3-month period.

44
45 10.1223.42 A lot may have one ~~special event~~ sign for one consecutive
46 7-day period every 3 months, for a maximum of 4 ~~special~~
47 ~~event~~ signs per year. If a ~~special event~~ sign ~~permit~~ is not
48 used in one quarter it shall not be carried over to the next
49 quarter.

1 10.1223.43 The special event sign shall not be limited to size or
2 location, but shall not be placed in such a manner as to create
3 a traffic safety problem.
4

5 10.1223.44 The special event sign shall be removed at the end of the
6 event.
7

8 10.1223.4 Signs Prohibited in All Districts

9
10 The following signs are prohibited in all sign districts:

11
12 10.1223.4.10 Animated signs.

13
14 10.1223.4.20 Signs that move or flash, or give the appearance of such motion (for
15 example, by means of traveling lights). Beacons, rotating and flashing
16 lights are prohibited except where such lighting devices are deemed
17 necessary for the public safety and welfare by federal, state or municipal
18 authorities.

19
20 10.1223.4.30 Banners, pennants or flags (except as permitted by Section 10.1222.70)
21 which are signs under the definition of “sign” herein, ~~except as~~
22 ~~temporary signs allowed under Section 10.1275.~~

23
24 10.1223.4.40 Balloons or other inflated devices displayed more than one day per month.

25
26 10.1223.4.50 Mobile signs.

27
28 10.1223.4.60 Signs mounted, attached or painted on vehicles, trailers or boats, except as
29 permitted by Section 10.1222.90.

30
31 10.1223.4.70 Any sign emitting sound.

32
33 10.1224.80 Any sign projected via illumination on the exterior of any structure, or
34 on or above a surface such as a driveway, sidewalk or street, regardless
35 of the technology used to project the sign. This prohibition shall not apply
36 where the structure or surface on which the sign is projected is within the
37 same lot as the principal use to which the sign is accessory.

38
39 10.1224.90 Any sign advertising a product or service not provided on the lot on which
40 the sign is located (“off-premise sign”).

41 10.1224.5 Maintenance of Signs

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43
44 10.1224.5.10 All signs and sign structures shall be properly maintained and kept in a
45 neat and proper state of maintenance and appearance.

46
47 10.1224.5.20 Any sign of any type and located within any district which is found by the
48 Code Official to be in a state of disrepair, illegible or ~~are considered~~
49 dangerous, shall be repaired or removed.
50

1 10.122~~4~~⁵.30 Upon failure to comply with an order to repair or remove a sign within
2 thirty days, the Code Official is authorized to cause removal of the sign at
3 the expense of the owner of the property on which the sign is located.
4

5 **Section 10.1230 Sign Districts**

6 10.1231 The City is hereby divided into sign districts for the purpose of establishing
7 standards for the number, type, size, location and illumination of signs.
8 These sign districts are overlay districts. A property shall be subject to
9 the regulations of both the sign district and the underlying zoning district.
10

11 10.1232 Unless otherwise specified by ordinance, the sign districts shall correspond
12 to underlying zoning districts as follows:
13

Sign Districts	Underlying Zoning Districts
Sign District 1	All Rural and Residential Districts Municipal Natural Resource Protection
Sign District 2	Mixed Residential Office Mixed Residential Business Waterfront Business Character District 4-L1 Character District 4-L2
Sign District 3	Character District 4-W Character District 4 Character District 5
Sign District 4	Business Office Research
Sign District 5	General Business Gateway <u>Neighborhood Mixed-Use Corridor</u> <u>Gateway Neighborhood Mixed-Use Center</u>
Sign District 6	Industrial Waterfront Industrial Airport Districts

14
15
16 10.1233 In order to address the characteristics of a specific area or its surroundings,
17 an area may be changed to a different sign district than specified in Section
18 10.1232 following the same procedures as for a change in the underlying
19 zoning district. (For example, a portion of the General Business district
20 may be changed from Sign District 5 to Sign District 2 in order to protect
21 an adjacent neighborhood from excessive light.)
22

23 10.1234 Any sign not specifically allowed in a sign district is not permitted.
24

1 Section 10.1240 Permitted Sign Types

2 10.1241 The types of signs permitted in each sign district shall be as set forth in
 3 the following table, except as otherwise provided herein.

4 Table of Permitted Sign Types

	Sign District					
	1	2	3	4	5	6
Freestanding sign	N	P	P	P	P	P
Wall sign	P	P	P	P	P	P
Projecting sign	P	P	P	P	P	P
Parapet sign	N	N	N	N	P	P
Roof sign	N	N	N	N	P	P
Awning sign	N	P	P	P	P	P
Marquee sign	N	P	P	P	P	P
Canopy sign	N	N	N	P	P	P
Changeable or animated signs						
Animated sign	N	N	N	N	N	N
Changeable sign	N	P	P	P	P	P

P = Permitted N = Prohibited

5
 6 10.1242 ~~Each side of a building facing a street may have one parapet sign (if~~
 7 ~~permitted by Section 10.1241); or one wall sign above the first ground~~
 8 ~~floor, may be allowed for each street façade, provided that the use is~~
 9 ~~primarily above the first floor. The parapet sign or wall sign shall not be~~
 10 ~~placed on a floor higher than the highest floor occupied by the applicable~~
 11 ~~use.~~

12
 13 10.1243 Only one freestanding sign shall be permitted per lot, except that a
 14 ~~shopping center lot with more than one driveway~~ may have one
 15 freestanding sign at the site's primary driveway and one smaller
 16 freestanding sign at each additional driveway ~~not on the same street~~
 17 complying with the area and height standards in Section 10.1251.30.

18
 19 Section 10.1250 Sign Dimensional Standards

20 10.1251 Sign Area

21
 22 10.1251.10 The maximum aggregate sign area shall be as follows:

	Sign District					
	1	2	3	4	5	6
Per linear foot of building frontage per establishment	0.5	1.0	2.0	1.5	1.5	2.0

10.1251.20 The maximum sign area for individual signs shall be as follows:

	Sign District					
	1	2	3	4	5	6
Freestanding sign	n/a	20	20	100	100	150
Wall sign	4	16	40	200	200	100
Projecting sign						
Ground floor use	2	16	12	16	16	16
Upper-floor use	n/a	0	8	8	8	8
Parapet sign	n/a	n/a	n/a	n/a	100	150
Roof sign	n/a	n/a	n/a	n/a	200	100
Awning sign	n/a	16	20	20	20	20
Marquee sign	n/a	16	20	20	20	20
Canopy sign	n/a	n/a	n/a	20	20	20

All dimensions in square feet

n/a = not applicable (sign type not permitted)
n.r = no requirement

10.1251.30 When a ~~shopping center lot~~ has more than one freestanding sign, the freestanding sign at the site's primary driveway shall comply with the maximum sign area specified in Section 10.1251.20 and the maximum sign height specified in Section 10.1253.10; and the ~~other~~ freestanding signs at other driveways shall not exceed 75 square feet in area. comply with the following standards:

Sign District	On same street as primary driveway		On different street from primary driveway	
	Maximum Sign Area	Maximum Sign Height	Maximum Sign Area	Maximum Sign Height
<u>2</u>	<u>10 sq. ft.</u>	<u>5 ft.</u>	<u>10 sq. ft.</u>	<u>5 ft.</u>
<u>3</u>	<u>10 sq. ft.</u>	<u>5 ft.</u>	<u>20 sq. ft.</u>	<u>5 ft.</u>
<u>4</u>	<u>20 sq. ft.</u>	<u>12 ft.</u>	<u>40 sq. ft.</u>	<u>12 ft.</u>
<u>5</u>	<u>40 sq. ft.</u>	<u>12 ft.</u>	<u>75 sq. ft.</u>	<u>15 ft.</u>
<u>6</u>	<u>40 sq. ft.</u>	<u>12 ft.</u>	<u>75 sq. ft.</u>	<u>15 ft.</u>

10.1251.40 A sign projected via illumination on the exterior of a structure, or on or above a surface such as a driveway, sidewalk or street, shall comply with the sign area requirements for a wall sign.

10.1252 Measurement of Sign Area

10.1252.10 Sign area shall be measured in one of the following ways, at the applicant's discretion:

- (a) the area that can be enclosed by one polygon with no more than eight sides; or
- (b) the area that can be enclosed by a circle, oval, triangle or rectangle, or any two such shapes.

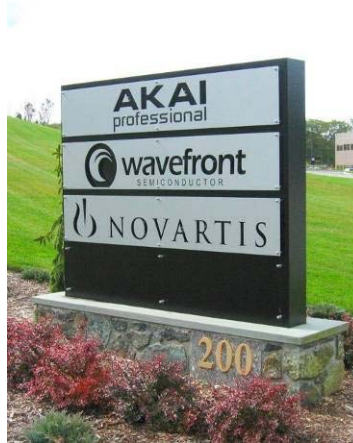
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10.1252.20 The sign area of a freestanding sign shall include all structural supports whether or not they contribute through shape, color or otherwise to the sign's message, except as follows:

10.1252.21 The base of a monument sign, up to one foot above the ground, shall not be included in the computation of sign area provided that such base is not illuminated in any way ~~and contains no information other than the street number.~~



Height of base is less than one foot – Not included in sign area



Height of base is one foot – Not included in sign area



Height of base is greater than one foot – Included in sign area

10.1252.22 The vertical supports of a pole sign shall not be included in the computation of sign area, provided that (1) the total width of all such supports is less than one-third of the width of the sign, and (2) the supports are not illuminated in any way.

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Total width of supports is less than 1/3 of the width of the sign – Not included in sign area



Total width of supports is greater than 1/3 of the width of the sign – Included in sign area



Width of support is greater than 1/3 of the width of the sign – Included in sign area



Width of support is approximately 1/3 of the width of the sign

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- 10.1252.30 For a sign that is painted or engraved on, or otherwise applied directly to, a building or other structure, the sign area shall include any background of a different color, material or appearance from the remainder of the wall or structure, and shall include all related text, images and graphics.
- 10.1252.40 The sign area of a canopy sign shall include all text and symbols, whether or not illuminated, and all illuminated areas; but shall not include non-illuminated areas that are distinguished from the background only by color stripes.
- 10.1252.50 The sign area of a projecting sign shall not include the area of supporting brackets with no text, images or graphics.
- 10.1252.60 Where a sign has two faces that are parallel or where the interior angle formed by the faces is 45 degrees or less, only one display space shall be measured in computing total sign area.
- 10.1252.70 The sign area of a spherical, free-form, sculptural or otherwise non-planar sign shall be equal to 75 percent of the areas of the 4 vertical sides of the smallest rectangular box that will encompass the sign.
- 10.1252.80 Decorative lighting on a building or structure, including neon and other accent lighting, and any illuminated building panel, shall be considered a wall sign for the purposes of this section, and shall be counted as part of the aggregate sign area allowed.

1 10.1253 Sign Height and Setback

2
3 10.1253.10 The maximum and minimum heights and minimum setbacks for signs in
4 each sign district shall be as set forth in the following table, except as
5 otherwise provided herein.
6

Table of Sign Height and Setback Requirements

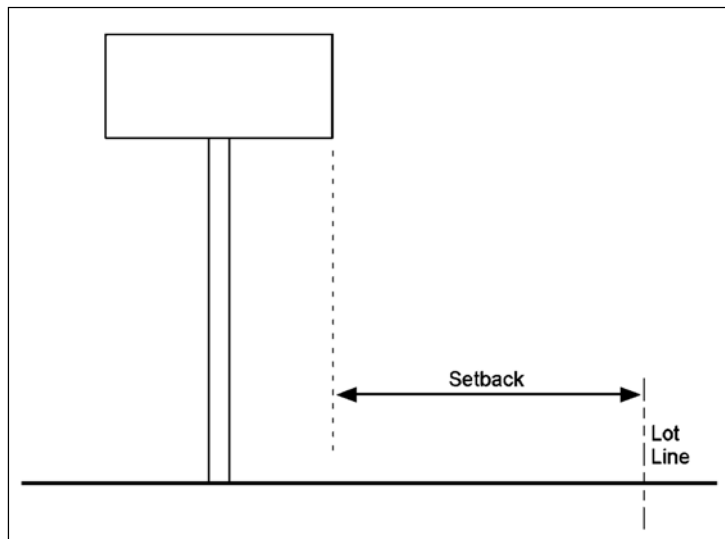
	Sign District					
	1	2	3	4	5	6
Projecting sign						
Minimum clearance (ground to bottom of sign)	7	7	7	7	7	7
Freestanding sign						
Minimum setback from lot line	5 n/a	5	5	20	10	20
Maximum height (ground to top of sign)	7 n/a	7	12	20	20	20
Temporary freestanding sign	4	4	8	12	12	20

7 All dimensions in feet n/a = not applicable (sign type not permitted)

8
9 10.1253.20 Where a driveway intersects with a street, no sign shall be erected or
10 maintained between the heights of 2.5 feet and 10 feet above the edge of
11 pavement grades within the area bounded by (a) the side lines of the
12 driveway and street and (b) lines joining points along said side lines 20
13 feet from the point of intersection.
14

15 10.1253.30 The height of a freestanding sign shall be measured with respect to the
16 elevation of the centerline of the adjacent public right-of-way.
17

18 10.1253.40 The setback of a sign from a lot line shall be measured as the shortest
19 horizontal distance from the lot line to the any part of the sign, whether or
20 not such part of the sign is at ground level.
21



1 10.1253.50 A projecting sign shall project no closer than 1 foot to the edge of the
2 vehicular travel way, if any.
3

4 Section 10.1260 Sign Illumination

5 10.1261 Types of Illumination

6
7 10.1261.10 Signs may only be illuminated as set forth in the following table, except as
8 otherwise provided herein.
9

Table of Sign Illumination Requirements

	Sign District					
	1	2	3	4	5	6
External illumination	N	P	P	P	P	P
Halo lettering	N	P	P	P	P	P
Internal illumination						
Freestanding sign	N	P	N	P	P	P
Wall sign	N	P	P	P	P	P
Projecting sign	N	N	N	N	N	N
Parapet sign	n/a	N	N	N	P	P
Roof sign	n/a	N	N	N	P	P
Awning sign	n/a	N	P	N	P	P
Marquee sign	n/a	N	P	N	P	N
Canopy sign	n/a	n/a	n/a	P	P	P
Direct illumination	N	N	P	P	P	P

10 P = Permitted N = Prohibited n/a = not applicable (sign type not permitted)

11
12 10.1261.20 Temporary signs shall not be illuminated.

13
14 10.1261.30 Signs in the Historic District shall be illuminated only by external
15 illumination, notwithstanding anything to the contrary in Section 10.1261.
16

17 10.1262 Hours of Illumination

18
19 Signs shall not be illuminated between 11:00 p.m. and 6:00 a.m., except that signs may
20 be illuminated during the operation of a use or activity that is open to customers or the
21 public, and for not more than one hour after the activity ceases.
22

23 10.1263 Illumination Standards

24
25 10.1263.10 A light source for external illumination of a sign shall be mounted and
26 shielded so that said light source is not visible three feet above grade at the
27 lot line and so that the lighting is confined to the area of the sign.
28

29 10.1263.20 A light source for internal illumination of a sign constructed of trans-
30 lucent materials and wholly illuminated from within shall not require
31 shielding.
32

- 1 10.1263.30 A sign or its illuminator shall not by reason of its location, shape or color
2 interfere with pedestrian or vehicular traffic or be confused with or obstruct
3 the view or effectiveness of any official traffic signal or traffic marking.
4
- 5 10.1263.40 Illuminance of the sign face shall not exceed the following standards:
6
- 7 10.1263.41 External illumination: 50 foot-candles as measured on the
8 sign face.
9
- 10 10.1263.42 Internal illumination: 5,000 nits (candelas per square
11 meter) during daylight hours, and 500 nits between dusk and
12 dawn, as measured at the sign's face.
13
- 14 10.1263.43 Direct illumination: 5,000 nits during daylight hours, and
15 500 nits between dusk and dawn, as measured at the sign's
16 face.
17
- 18 10.1263.50 Light sources shall utilize energy efficient fixtures to the greatest extent
19 practicable. Light fixtures including bulbs or tubes used for sign
20 illumination shall be selected and positioned to achieve the desired
21 brightness of the sign with the minimum possible wattage, while ensuring
22 compliance with all applicable requirements of this Ordinance.
23
- 24 10.1263.60 A sign using direct illumination shall consist only of letters, numbers
25 and other common typographical characters, all of which shall be in no
26 more than three colors against a dark background, and the total illuminated
27 area shall not exceed 30 percent of the total area of the sign.
28

29 Section 10.1270 Additional Sign Regulations

30 10.1271 Signs on More Than One Façade of a Building

- 31
- 32 10.1271.10 A use in a building with more than one exterior wall facing a street may
33 have signs on each such wall, ~~up to the maximum sign area per linear~~
34 ~~foot of building frontage per establishment.~~
- 35
- 36 10.1271.20 ~~A store~~ An establishment with a public entrance on a side of the building
37 not facing a street may have signs on that side as well as on the street-
38 facing wall(s), ~~up to the maximum sign area per business.~~
- 39
- 40 10.1271.30 Regardless of the location of signs, the maximum sign area per
41 establishment shall be based only on the building frontage as defined in
42 Section 10.1290.
- 43
- 44 ~~10.1271.30 A non-illuminated sign that is not visible from a public right of way, such~~
45 ~~as drive-through menu signs and car wash menus, shall not be counted in~~
46 ~~the maximum aggregate sign area for the business or lot.~~
47

1 10.1272 Roof Signs

- 2
- 3 10.1272.10 A roof sign shall be parallel to the main façade of the building on which it
- 4 is mounted,
- 5
- 6 10.1272.20 A roof sign on a pitched, hip, gambrel or mansard roof shall not extend
- 7 above the elevation midway between the level of the eaves and the highest
- 8 point of the roof. A roof sign is not permitted on a flat roof.
- 9
- 10 10.1272.30 The maximum height of a roof sign shall not exceed the lesser of 36
- 11 inches or 25% of the vertical height of the roof.
- 12

13 10.1273 Marquee Signs

- 14
- 15 10.1273.10 All text, images and other graphics on a marquee sign shall be displayed
- 16 on the outside vertical faces of the marquee, and shall be no more than 1.5
- 17 feet tall.
- 18
- 19 10.1273.20 The sign area of a marquee sign shall be included in the maximum
- 20 aggregate sign area allowed for ~~said property~~the lot.
- 21

22 10.1274 Relation of Sign to Building Façade in the Historic District

23

24 In the Historic District, a ~~hanging-wall sign~~ or projecting sign should align with some

25 horizontal element on the façade. For example, the top of the sign may align with the top

26 of the window, the bottom of the sign may align with the bottom of the window, the

27 bottom of sign may align with the top of the lintel, etc.

28

29 ~~10.1275 Temporary Signs~~

30

31 ~~10.1275.10~~ New BusinessInterim Signs

32

33 An ~~temporary new business interim~~ sign may be erected while awaiting arrival of a

34 permanent sign for which a sign permit has been issued. ~~A new business~~The interim

35 sign shall conform to the same dimensional and other requirements as the approved

36 permanent sign and shall be allowed only until the permanent sign is installed or for 60

37 days, whichever is the shorter period of time. A sign permit ~~must be obtained~~ for an new

38 ~~business interim~~ sign must be obtained from the Code Official.

39

40 Section 10.1280 Nonconforming Signs

- 41 10.1281 A nonconforming sign or sign structure shall be brought into
- 42 conformity with this Ordinance if it is altered, reconstructed, replaced, or
- 43 relocated. For the purpose of this provision, the alteration of a sign or sign
- 44 structure includes any change in size, shape, materials or technology. A
- 45 change in text or graphics is not an alteration or replacement for purposes
- 46 of this subsection.
- 47

1 10.1282 Nonconforming signs must be maintained in good condition.
2 Maintenance required by this Subsection shall include replacing or
3 repairing of worn or damaged parts of a sign or sign structure in order to
4 return it to its original state, and is not a change or modification prohibited
5 by Subsection 10.1281.
6

7 10.1283 A nonconforming sign shall be removed, made conforming, or replaced
8 with a conforming sign ~~in either of the following situations:~~if
9

10 ~~(a)~~ 50 percent or more of the nonconforming sign is blown down, destroyed,
11 or for any reason or by any means taken down, altered, or removed.
12

13 10.1284 ~~A nonconforming sign shall be removed if (b)~~—The use of the
14 nonconforming sign, or the property on which it is located, has ceased,
15 become vacant, or been unoccupied for a continuous period of 8 months or
16 more. An intent to abandon is not required as the basis for removal under
17 this section.
18

19 Section 10.1290 Sign Definitions

20 Aggregate sign area
21 See under sign area.
22

23 Animated sign
24 A sign that uses movement or a change of lighting to depict action or create a
25 special effect or scene. See also changeable sign.
26

27 Awning
28 A cloth, plastic or other nonstructural covering that either is permanently
29 attached to a building or can be raised or retracted to a position against the
30 building when not in use.
31

32 Awning sign
33 A sign that is painted on or otherwise applied or attached to an awning. An
34 internally illuminated awning shall be considered an awning sign whether or
35 not it contains any text or graphics.
36

37 Banner sign or banner
38 A sign that consists of text or other graphic elements on a non-rigid material
39 either enclosed or not enclosed in a rigid frame and secured or mounted to allow
40 motion caused by the atmosphere. See also temporary sign.
41

42 Building frontage
43 The maximum horizontal width of the ground floor of a building that
44 approximately parallels and faces a public street or right of way.
45 (a) Where an individual occupant's main entrance faces a driveway or parking
46 lot, the width of the occupant's ground floor space facing the occupant's
47 entrance shall be considered that occupant's separate and distinct building
48 frontage.

- 1 (b) Where two or more uses occupy the ground floor of a building, the portion
2 of the building frontage occupied by each use will be that use's separate
3 and distinct building frontage for the purpose of calculating allowed sign
4 area.
5 (c) A corner lot or through lot shall be considered to have a separate and
6 distinct building frontage on each street.
7 (d) When a building is not parallel to the street, or has a front wall that is
8 angled or curved, the building frontage shall include any portion of the
9 front wall that is oriented at an angle of 30 degrees or less from the front lot
10 line.

11
12 ~~Building marker sign~~

13 ~~A sign indicating the name of a building, the date of its construction, and/or~~
14 ~~incidental information about its history. One per site, maximum area of 2 square~~
15 ~~feet, not included in the maximum sign area.~~

16
17 Canopy

18 A freestanding structure constructed of rigid materials, providing protective
19 cover over an outside service area.

20
21 Canopy sign

22 A sign attached to, affixed to or otherwise mounted on a canopy.

23
24 Changeable sign

25 A sign or portion thereof with characters, letters or symbols that can be changed,
26 whether electronically or manually without altering the face or surface of the
27 sign. A sign on which the message changes more than once per day shall be
28 regulated as an animated sign. A sign on which the only changes are
29 mechanical or electronic indication of time or temperature is not considered a
30 changeable or animated sign.

31
32 Direct illumination

33 Illumination of a sign by light emitted directly from a lamp, luminary or
34 reflector, and not diffused through translucent materials or reflected or projected
35 from an external source. Examples include, but are not limited to, signs using
36 luminous gas-filled tubes (e.g., neon) or light-emitting diodes (LED). (See also
37 external illumination, externally illuminated sign, internal illumination,
38 internally illuminated sign.)

39
40 ~~Directional sign~~

41 ~~A sign directing or guiding vehicles or people to entrances, exits or parking.~~

42
43 ~~Directory sign~~

44 ~~A sign that lists businesses in a multi-tenant building, office park, or industrial~~
45 ~~park.~~

46
47 External illumination

48 Illumination of a sign by a source of light not contained within, or on the surface
49 of, the sign itself. (See also direct illumination, externally illuminated sign,
50 internal illumination, internally illuminated sign.)

1
2 Externally illuminated sign

3 A sign that is illuminated by a light source that is not contained within, or on the
4 surface of, the sign itself

5
6 Flag

7 A piece of durable fabric or other flexible material containing distinctive colors,
8 patterns, standards, words, or emblems which hangs loose from a staff or pole or
9 is attached directly to a building.

10
11 Flagpole

12 A permanent, free-standing structure or a structure attached to a building and
13 used for the sole purpose of displaying flags. A free-standing flagpole shall not
14 exceed the maximum building height allowed in the zoning district in which it is
15 located.

16
17 Freestanding sign

18 A sign that is permanently erected in a fixed location and supported by 1 or more
19 columns, upright poles or braces extended from the ground or from an object on
20 the ground, or that is erected on the ground, where no part of the sign is attached
21 to any part of a building, structure, or other sign. Examples include, but are not
22 limited to, monument signs and pole signs.

23
24 Halo lettering.

25 An externally illuminated sign in which light sources are placed out of direct
26 view behind opaque sign elements (letters or graphics), creating a glow around
27 the sign elements.

28 **Halo Lettering**



29
30
31 Information sign

32 A sign that does not exceed 4 square feet of sign area and includes only
33 information of a general directive or informational nature such as the following:

- 34 (a) Handicapped parking, no parking, loading area;
35 (b) To give direction to a public service facility or accommodation; an official
36 inspection station;
37 (c) Building address or unit number;
38 (d) No trespassing, no hunting, etc.
39

1 Internal sign

2 A sign that is not intended to be viewed from outside the property, and that is
3 located so as not to be visible from any street or from any adjacent lot.
4 Examples include, but are not limited to, signs in the interior areas of shopping
5 centers, ~~and~~ non-illuminated signs inside a building and more than 3 feet inside
6 any window or door, and signs located completely within a building and not
7 visible from outside the building.

8
9 Internal illumination

10 Illumination of a sign by light that is diffused through a translucent material
11 from a source within the sign. (See also direct illumination, external
12 illumination, externally illuminated sign, internally illuminated sign.)

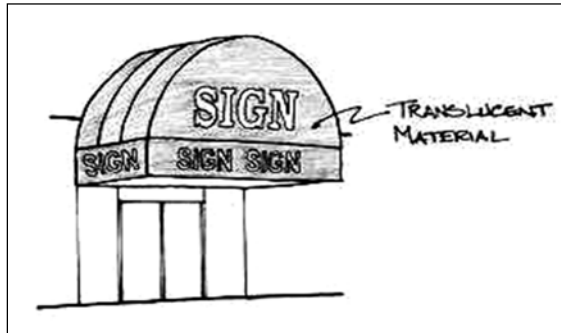
13
14 Internally illuminated sign

15 A sign that is illuminated by light from a source within the sign through a
16 translucent material. (See also direct illumination, external illumination,
17 externally illuminated sign, internal illumination, halo lettering.)

18
19 Examples of internally illuminated signs include:

20
21 (a) Internally illuminated translucent sign, which may have opaque surfaces
22 with translucent letters or translucent surfaces with opaque letters. An opaque
23 surface with translucent letters is preferred to a translucent surface with
24 opaque lettering.

25
26 (b) Internally illuminated awning signs.



27
28
29 (c) Internally illuminated channel letters.



30
31
32 Marquee

33 A structure other than a roof that is attached to, supported by and projecting
34 from a building, and that provides shelter for pedestrians.

35
36 Marquee sign

37 A wall sign that is mounted on or attached to a marquee.

1
2 Mobile sign

3 A sign on a trailer or other wheeled apparatus, whether or not self-propelled, that
4 is not permanently affixed to the ground. (See also: temporary sign.)
5

6 Monument sign

7 A freestanding sign constructed of a solid material and mounted on a solid base
8 that is placed directly on the ground.
9

10 ~~New business sign~~

11 ~~A temporary sign that is erected or installed while awaiting installation of a~~
12 ~~permanent sign for which a sign permit has been issued.~~
13

14 Nit

15 A unit of luminance, equal to one candela per square meter.
16

17 Parapet

18 An extension of a vertical building wall above the line of the structural roof.
19

20 Parapet sign

21 A wall sign attached to the face of a parapet.
22

23 Pennant sign or pennant

24 See banner sign.
25

26 Parapet sign

27 A sign attached to a parapet wall, with its face parallel to the plane of the
28 parapet wall and extending no more than 18 inches from such wall.
29

30 Pole sign

31 A freestanding sign that is permanently supported in a fixed location by a
32 structure of poles, uprights or braces from the ground and not supported by a
33 building or base structure.
34

35 Projecting sign

36 A sign attached to and projecting from the wall of a building with the face of the
37 sign at an interior angle of more than 45 degrees to the building wall to which it
38 is attached.
39

40 ~~Real estate sign~~

41 ~~A temporary sign that advertises the availability of the property for sale or~~
42 ~~lease.~~
43

44 Roof sign

45 A sign that is located:

46 (a) above the level of the eaves on pitched or gambrel roofs;

47 (b) above the roof deck of a building with a flat roof; or

48 (c) above the top of the vertical wall of a building with a mansard roof.
49

1 Sign

2 Any symbol, design or device used to identify or advertise any place, business,
3 product, activity, service, person, idea or statement. Any representation that is
4 illuminated and consisting wholly or in part, of text, images or graphics shall be
5 considered a sign. Signs need not include text, and may consist of stripes, spots,
6 or other recognizable designs, shapes or colors. Displays comprising of
7 merchandise, figurines, mannequins, decorations and other similar articles,
8 arranged inside a building and visible outside of a window, shall not be
9 considered a sign.

10 Sign area

11 The total surface area of a sign display, including all text, images and graphics,
12 and any distinctive surface, board, frame or shape on or within which the text,
13 images and graphics are displayed.

14 Aggregate sign area

15 The total sign area of all signs on a lot or building, as indicated by the
16 context, excluding the area of freestanding signs allowed by Article
17 12.

18 Sign band

19 A painted stripe or otherwise distinct scheme which indicates the
20 establishment's logo by use of certain colors or patterns.

21 ~~Site development sign~~

22 ~~A temporary sign that identifies a development which is under construction~~
23 ~~and/or the owners, architects, contractors, real estate agents and lenders involved~~
24 ~~with the development; and that may include sales and leasing information.~~

25 ~~Special event sign~~

26 ~~A temporary sign limited to one consecutive 7 day period every 3 months, for a~~
27 ~~total of 4 events per year. If a sign is not used in a quarter it shall not be carried~~
28 ~~over to the next quarter.~~

29 Temporary sign

30 A sign, other than a mobile sign, that is not permanently affixed to a building
31 or structure or permanently mounted in the ground, and that pertains to an
32 activity or event of limited duration. ~~Examples of temporary signs include, but~~
33 ~~are not limited to, new business sign, site development sign, and special~~
34 ~~event sign. A temporary sign, when permitted, shall not be included in the~~
35 ~~calculation of aggregate sign area on a lot.~~ (See also mobile sign.)

36 Wall sign

37 A sign attached to, erected against or hanging from the wall of a building, with
38 the face in a parallel plane to the plane of the building wall, and extending no
39 more than 18 inches from such wall. A wall sign may also be inside of a
40 building if it is illuminated and visible through the window from a private of
41 public right of way.
42
43
44
45
46
47
48
49

ORDINANCE #
THE CITY OF PORTSMOUTH ORDAINS

That Chapter 7, Article I, Section 7.1 – PARKING METERS of the Ordinances of the City of Portsmouth be amended as follows (deletions from existing language **stricken**; additions to existing language **bolded**; remaining language unchanged from existing):

Section 7.102 PARKING METER ZONES

All of those streets, parts of streets and off-street parking lots, the time for parking upon which is limited by any ordinance of the City of Portsmouth, and any such areas, the time for parking upon which may at any time hereafter be limited by any ordinance of the City or any amendment thereto are designated as parking meter zones. Parking in parking meter zones shall be for a maximum time permitted of parking of three (3) consecutive hours, unless otherwise established by ordinance. The rate for such parking shall be:

A. DOWNTOWN HIGH OCCUPANCY ZONE:

Parking shall be at the rate of two dollars (\$2.00) per hour in the following areas. Parking for verified Portsmouth residents using an approved personal meter device, as defined in Section 7.101, shall be at a rate of **\$0.50** less than this rate. Proof of residency shall be determined using standards established by the Portsmouth Revenue Administrator.

1. Daniel Street, starting at Chapel Street through to Market Square
2. Bow Street, starting at Chapel Street through to Market Street
3. Congress Street, starting at Market Square through to Chestnut Street
4. Pleasant Street, starting from Court Street through to Market Square
5. Market Street, starting from Moffatt-Ladd House through to Market Square
6. Deer Street, starting at Market Street through to Maplewood Avenue
7. Fleet Street, starting at Hanover Street through to State Street
8. Hanover Lot, at intersection with Market Street
9. Penhallow Street, starting at State Street through to Bow Street
10. Chapel Street, starting at Daniel Street through to State Street
- 11. Hanover Street from Maplewood Avenue to Market Street**
- 12. Portwalk Place from Deer Street to Hanover Street**
- 13. High Street from Deer Street to Hanover Street**
- 14. Bow Street from Chapel Street to Daniel Street**
- 15. Daniel Street from Chapel Street to Bow Street**
- 16. State Street from Marcy Street to Middle Street**
- 17. Washington Street from State Street to Court Street**
- 18. Ladd Street Lot at Hanover Garage**

- B. Parking in all other parking meter zones shall be at the rate of one dollar fifty cents (\$1.50) per hour. **Parking for verified Portsmouth residents using an approved personal meter device, as defined in Section 7.101, shall be at a rate of \$0.50 less than this rate. Proof of residency shall be determined using standards established by the Portsmouth Revenue Administrator.**

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.

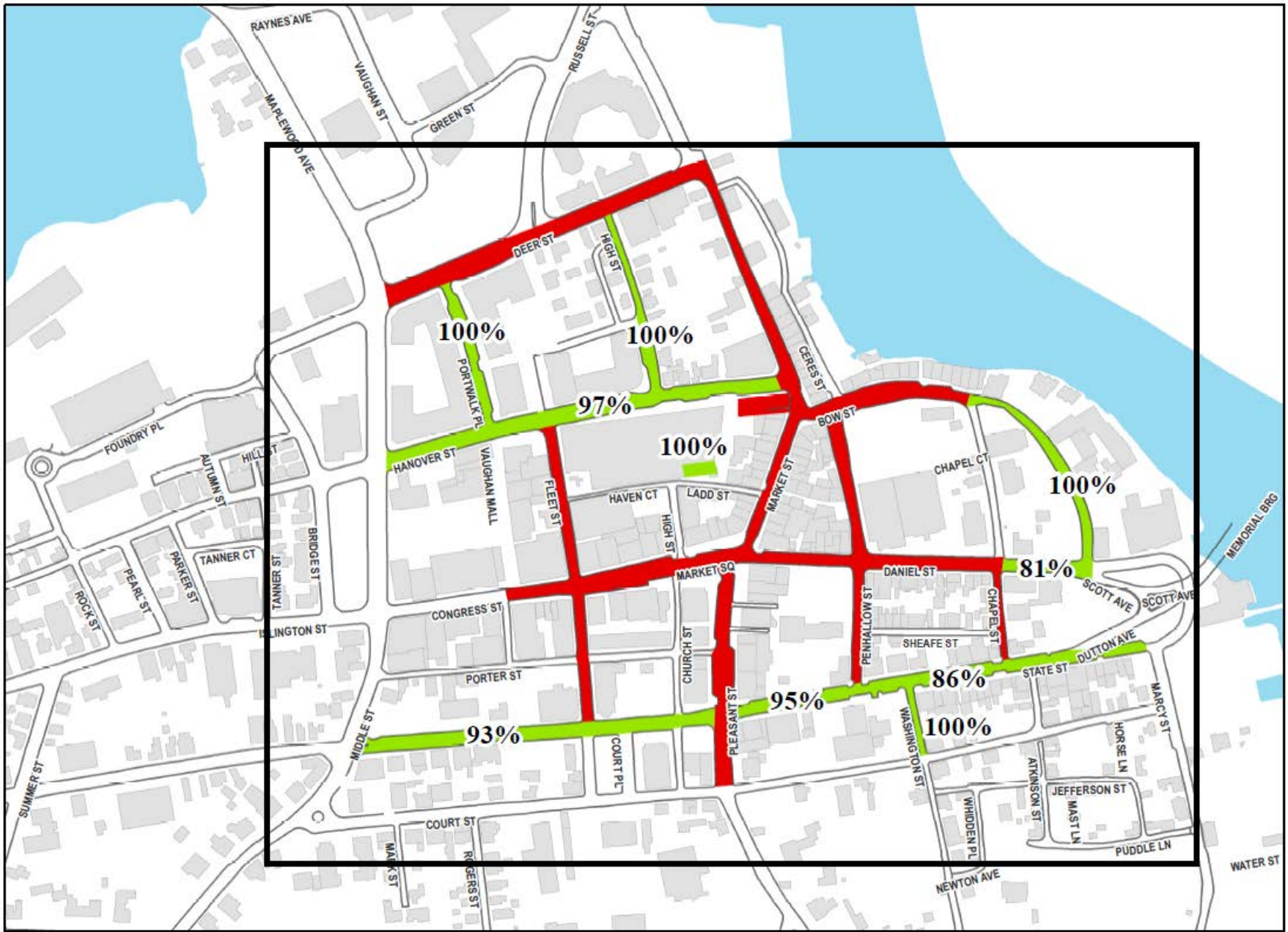
This ordinance shall take effect February 15, 2019.

APPROVED:

Jack Blalock, Mayor

ADOPTED BY COUNCIL:

Kelli L. Barnaby, City Clerk



**CITY OF PORTSMOUTH
DOWNTOWN PROPOSED HIGH OCCUPANCY METER ZONE**

Legend

- High Occupancy Zone
- Proposed High Occupancy Zone



CITY COUNCIL E-MAILS

November 20 – November 29, 2018 (9:00 a.m.)

DECEMBER 3, 2018 CITY COUNCIL MEETING

Updated 12/03/2018 through 2:00 p.m.

New content begins Page 4

Below is the result of your feedback form. It was submitted by Dixie Tarbell (dixiemcleantarbell@gmail.com) on Monday, November 26, 2018 at 15:33:14

address: 25 Driftwood Lane

comments: I like the Foundry garage's lighting. To me, it adds to the city's night time charisma. Looks majestically artistic. Increases safety, too.

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Jonathan Morse (jonathan@tripleseat.com) on Monday, November 26, 2018 at 15:48:52

address: 89 Sparhawk St Portsmouth

comments: The lighting on the new garage is too bright. I live across from the garage and the lights at night are so bright that it illuminates the inside my house. I understand that lights are necessary for safety and I am not asking to remove the lights, I am asking to find the balance between safety and brightness. Maybe put up a "screen" so the lights are not so bright. Or perhaps have the lights pointed in such a way that they do not overwhelm the surrounding area. I am not a light expert and I do not know the light pollution laws of Portsmouth but I cannot imagine that the brightness of the garage is within the guidelines and rules set by the city.

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Brian Slovenski (Bslov2@gmail.com) on Monday, November 26, 2018 at 17:22:40

address: 175 Grant Ave

comments: Great job! I can't imagine what you all have to deal with on a daily basis. All I know is that Portsmouth is a vibrant city that everyone cares about and wants to be a part of... Thanks to all of you! This also why people get so emotional about all these issues...because they care so much. Keep up the good work and thanks for all of your underappreciated hard work!

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Jason Boucher (Boucher.Jason@gmail.com) on Monday, November 26, 2018 at 19:55:18

address: 65 Wibird St

comments: Please do not change the lighting at the new parking garage as it makes it safe at night. No need to Dom the lights -- it's part of city life. Thanks!

includeInRecords: on

Below is the result of your feedback form. It was submitted by Beverly James (bajames@unh.edu) on Tuesday, November 27, 2018 at 07:23:42

address: 74 Wibird St.

comments: Dear Council Members,

I'd like to add my voice to those strongly supporting the reconfiguration of Middle Street to accommodate bikes. I do occasionally bike downtown from my home on Wibird Street, but my main reason for favoring measures that promote biking is concern for the environment.. The bike lane is a small step, but each of us needs to do what we can to move from a reliance on fossil fuels to alternative forms of energy if the planet is to weather the coming crises.

An unexpected, welcome side benefit of the bike lane is the slower and more orderly flow of traffic down Middle Street.

I respectfully urge the Council to give the public time to grow accustomed to the changes before contemplating any major revisions. In the long run, the bike lane is sure to have positive results for the health and safety of us all.

Sincerely, Beverly James

includeInRecords: on

Engage: Submit

Below is the result of your feedback form. It was submitted by Paula Bedard (pbedard1@comcast.net) on Tuesday, November 27, 2018 at 07:59:05

address: 36 Shirley Park Road, Goffstown, NH

comments: I would like to provide feedback on the new bike lane design on Middle Street in Portsmouth. I rode this bike lane for the first time during the PedalPaloosa event on Nov 4th. Since I am not from the area, I am not familiar with the streets in that area. (a tourist) I found the bike lane design to be extremely helpful in allowing me to easily understand the safest location for me to be riding on this wind-y, busy, and variable width roadway. At some points, the road seems narrow, with cars parked on either side. In other locations, the roadway is quite wide, and without the bike lane design (bollards, paint) it can be difficult for bicyclists to make the decision about specifically where in the road they should place themselves for ideal safety. Because this area is unfamiliar to me, and on a Sunday, there was a fair amount of traffic, including other bicyclists and cars pulling in and out of sidestreets, and occasional pedestrians crossing the roadway or getting out of cars. I was also trying to figure out how to get to Market Street, reading street signs etc. Staying in the clearly defined bike lane made things easier for me to figure out. It was one less thing to worry about. I knew I was in the safest location for bike riding. Riding in the bike lane was an extremely positive experience for me as a tourist.

includeInRecords: on

Below is the result of your feedback form. It was submitted by Rhonda Stacy-Coyle (Rscoyle@yahoo.com) on Tuesday, November 27, 2018 at 10:46:30

address: 36 Richards Ave

comments: The new parking garage has lights that are way too bright ! Please dim the lights and have lights that turn on with motion then having them constantly on all night!

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Beth jefferson (Bethpjefferson@gmail.com) on Tuesday, November 27, 2018 at 15:38:33

address: 111 sparhawk street portsmouth nh

comments: I live across the North Mill pond and now have to experience the site of the expansive new garage. I no longer have a view of the church. Instead a massive cement structure that is unreasonably brightly lit. The light pollution is overwhelming!
I don't recall seeing images of this eyesore feom our neighborhood's perspective as part of the planning process nor any indication of the god-awful lighting. I urge you to consider what an ugly distracton this is for all of us nearby and in direct view of the full length of the building. Reducing the brilliance of the lighting would help.

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Jon Wyckoff (Jonmwyckoff@gmail.com) on Wednesday, November 28, 2018 at 08:35:26

address: 135 Sparhawk st

comments: As a member of the HDC,I have looked at many projects and frequently lighting comes up. We are very aware of the cities support of the dark sky initiative and also the color ratings of newer led fixtures and bulbs. The 5000 k rating on led's are especially egregious and should only be used in hospitals,manufacturing, or other applications where pinpoint vision is necessary. I believe that a mistake was made in selecting and locating these fixtures. The impact they are having on all the citizens on the millpond is significant. In particular,the tall street lamps on a the top deck and an outside light by the back tower door should be looked at immediately!! All of the other fixtures could be rebulbed with warmer and less wattage leds. This is more important than you believe and any one who wants to visit my home at 5:00 is welcome. Please call my cell at 235 9224 and I'll put the kettle on. Jon Wyckoff

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Joe Famularo (famularoj@gmail.com) on Wednesday, November 28, 2018 at 19:33:49

address: 141 Mill Pond Way Unit 3, Portsmouth, NH 03801

comments: Regarding the extremely bright lights in the new parking garage...

The question has been asked, "Who is being affected by this lighting?" Pretty much everyone who lives on the North Mill Pond. Our shades now have to be drawn at night in our bedroom for the room to be dark enough to sleep. The light from the parking garage now lights up the whole Mill Pond. You know, if I placed lights in my back yard that illuminated the pond like those in the garage, the city would be on my throat like a pit bull on a piece of meat to shut them off. Well, it is time for the city to correct the lighting and stop destroying our North Mill Pond neighborhood!

includeInRecords: on

Engage: Submit

New Content Begins:

Below is the result of your feedback form. It was submitted by Zelita Morgan (Zelita.morgan@gmail.com) on Monday, December 3, 2018 at 02:24:21

address: 39 Richards Avenue

comments: Good morning, Councilors

Could you provide an update on the City Manager's succession planning?

Thanks,
Zelita

includeInRecords: on

Engage: Submit

Hi,

I am the founder of Summit Indie Festival that is being held on Saturday May 11, 2019 at Book and Bar in Portsmouth NH. I wanted to see if we could have some low amplification out on the book and Bar between hours of 3 p.m. and 8 p.m. Maybe just one amplifier that's not too loud. I feel this would really add to the city's atmosphere on that day. Also we are very careful on who we have play in terms of language Etc. 100% of the proceeds go to a nonprofit in Lawrence Mass Called Team Summit. The community of Portsmouth New Hampshire has been so involved with the festival and I look forward to Growing With the overall art scene in Portsmouth.

Below are some links that you may find interesting and will give you a good idea of the festival in general.

Four of the bands we had as headliners last year were Gretchen and The Pickpockets, Troll 2, Young Frontier and Damn Tall Buildings. Each of these bands was featured in the online magazine Red Line Roots, below are links to each of the articles - these will give you an idea of each of the bands and how they fit into the vision of the festival.

Festival Location - Book n Bar - <http://www.bookandbar.com/>

Red Line Roots - Troll 2 - <http://www.redlineroots.com/2018/03/summit-indie-fest-featured-artist-troll-2/>

Red Line Roots - Young Frontier - <http://www.redlineroots.com/2018/04/summit-indie-fest-feature-artists-young-frontier/>

Red Line Roots - Damn Tall Buildings - <http://www.redlineroots.com/2018/04/summit-indie-fest-featured-artist-damn-tall-buildings/>

Red Line Roots - Gretchen and The Pickpockets
- <http://www.redlineroots.com/2018/03/summit-indie-fest-featured-artist-gretchen-pickpockets/>

Instagram - https://www.instagram.com/indie_music_fest/

Our Website is in the process of being updated for 2019. There are pics on there linked to our Facebook

Website - <http://summitindiefest.com/>

Please let me know if you would like any other information. I look forward to talking with you soon. Thank you for your time, I appreciate it.

Best
Joel Greer

Cell - 978-204-1282



CELEBRATING OVER 30 YEARS OF SERVICE TO OUR CLIENTS

ROBERT D. CIANDELLA
LIZABETH M. MACDONALD
JOHN J. RATIGAN
DENISE A. POULOS
ROBERT M. DELOSTER
CHRISTOPHER L. BOLDT
SHARON CUDDY SOMERS
DOUGLAS M. MANSFIELD
KATHERINE B. MILLER
CHRISTOPHER T. HILSON
HEIDI J. BARRETT-KITCHEN
JUSTIN L. PASAY
ERIC A. MAHER
AMELIA G. SRETER
AUSTIN M. MIKOLATTIES
BRENDAN A. O'DONNELL

RECEIVED

NOV 28 2018

CITY MANAGER
PORTSMOUTH, NH

SENIOR COUNSEL
MICHAEL J. DONAHUE

RETIRED
CHARLES F. TUCKER
NICHOLAS R. AESCHLEMAN

November 28, 2018

VIA HAND DELIVERY

Honorable Jack Blalock, Mayor
City of Portsmouth
Portsmouth City Council
1 Junkins Avenue
Portsmouth, NH 03801

Re: Request of 290 Gosling Road, LLC for Zoning Change from Waterfront Industrial (WI) to Office Research (OR) for property located at Gosling Road, Tax Map 213, Lot 1

Dear Mayor Blalock and City Councilors:

I write on behalf of 290 Gosling Road, LLC seeking rezoning of the parcel referenced above from the Waterfront Industrial District to the Office Research District. We ask that the City Council refer this request to the Planning Board.

We look forward to presenting the merits supporting our request to the Planning Board. Notwithstanding, to inform the City Council of the location of the parcel which is the subject of our request, we have attached a portion of the City of Portsmouth Zoning Map which depicts the property and the zoning districts implicated by our request. In addition, we have attached a topographical plan for the parcel and relevant portions of the tax maps of the City.

DONAHUE, TUCKER & CIANDELLA, PLLC
16 Windsor Lane, P.O. Box 630, Exeter, NH 03833-4924
111 Maplewood Avenue, Suite D, Portsmouth, NH 03801
Towle House, Unit 2, 164 NH Route 25, Meredith, NH 03253
83 Clinton Street, Concord, NH 03301

Honorable Jack Blalock, Mayor
Portsmouth City Council
Page Two
November 28, 2018

Thank you for your attention. Once again, we look forward to presenting the merits supporting our request at the Planning Board and to completing the established City process governing rezoning before the City Council following review and action by the Planning Board.

Yours truly,

DONAHUE TUCKER & CIANDELLA, PLLC



Robert D. Ciandella
rciandella@DTCLawyers.com

RDC:lmh
Enclosures

cc: John Bohenko, City Manager
Robert P. Sullivan, City Attorney
Juliet T.H. Walker, AICP Planning Director
290 Gosling Road, LLC
Patrick Crimmins, P.E.
Justin L. Pasay, Esquire

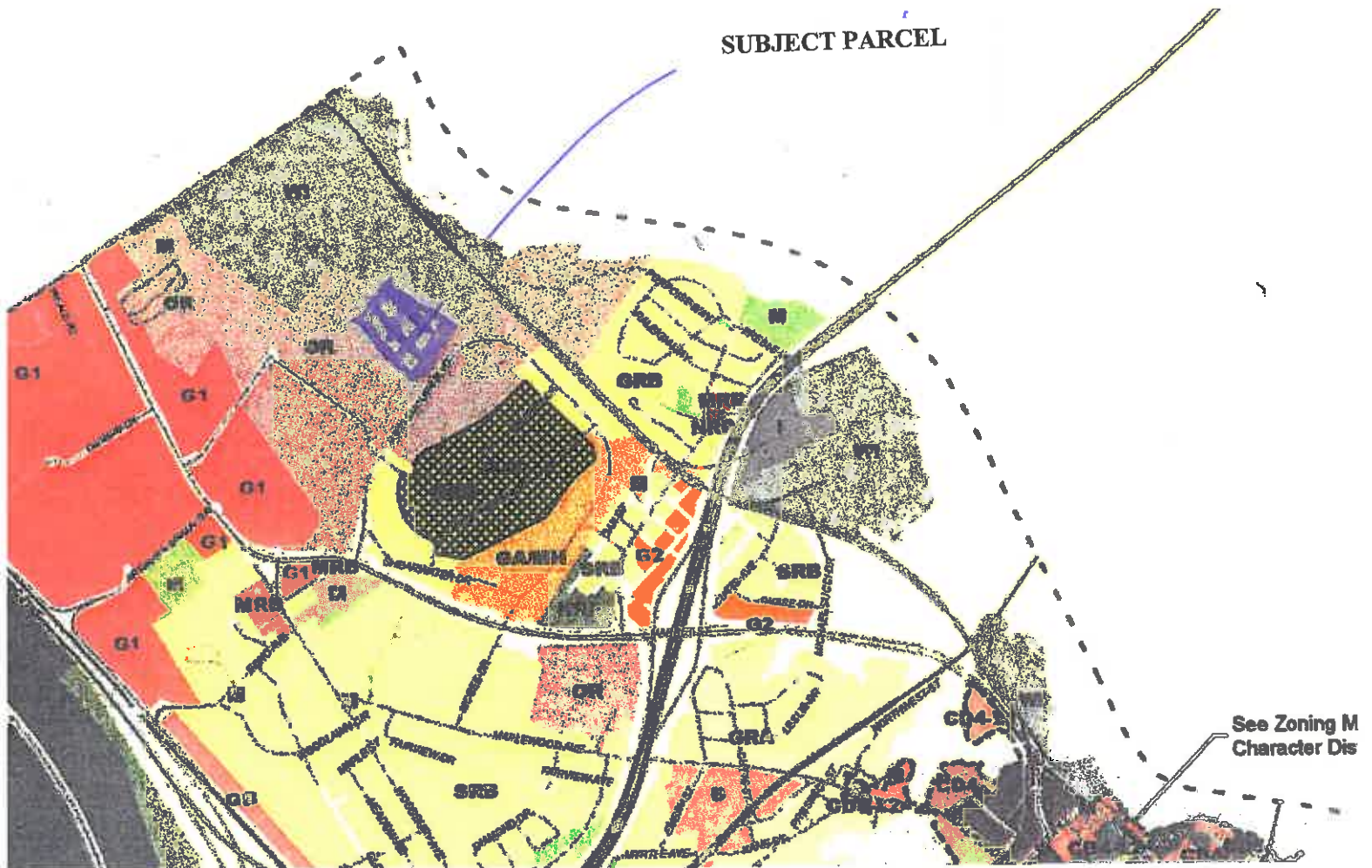
S:\RM-RZ\RW Norfolk LLC\Sprague Parcel\2018 11 27 COP letter re rezoning.docx

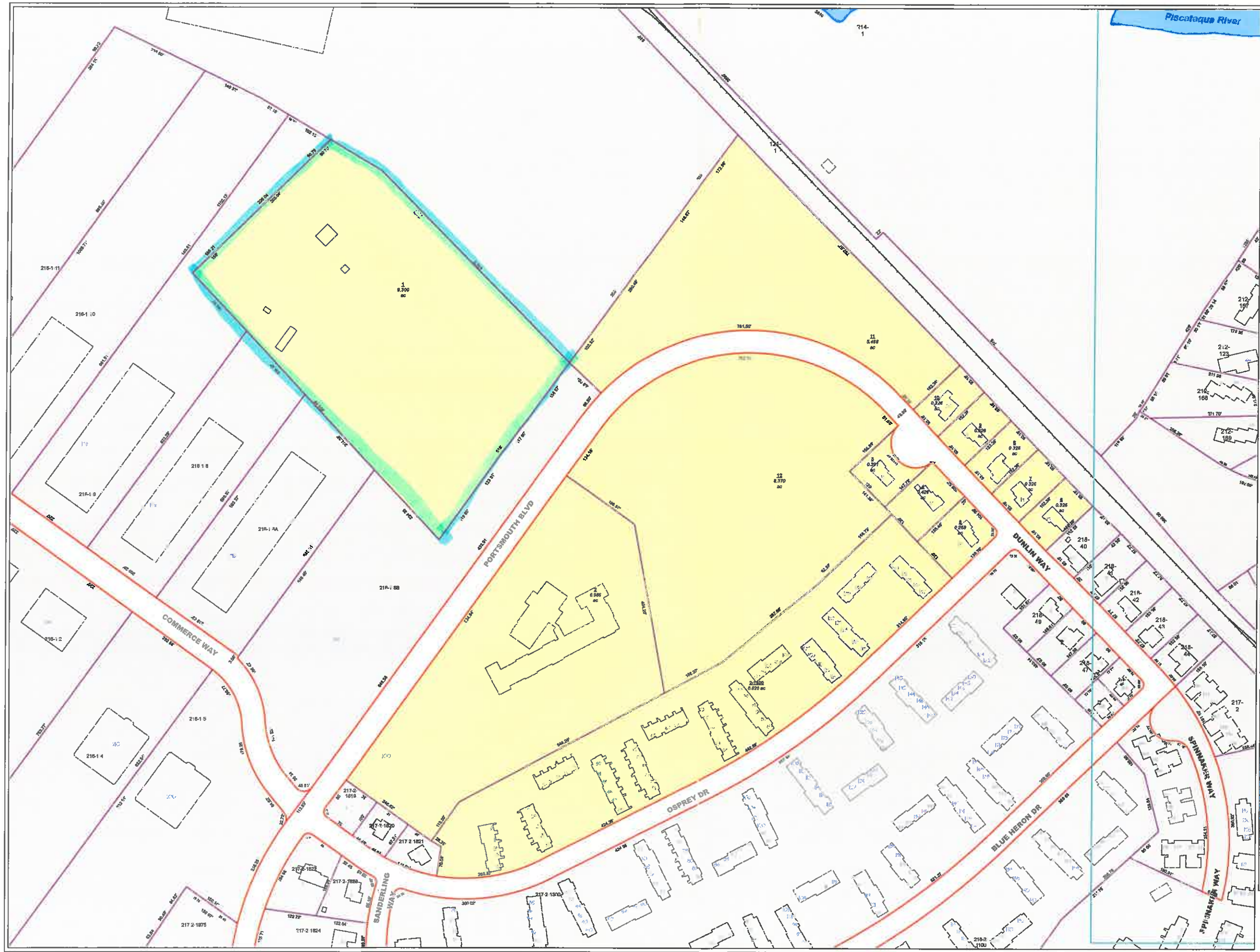
ZONING MAP EXCERPT

City of Portsmouth 2

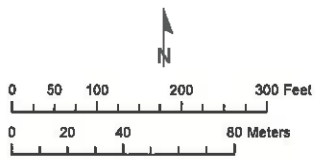
Sheet 1 of 2

SUBJECT PARCEL

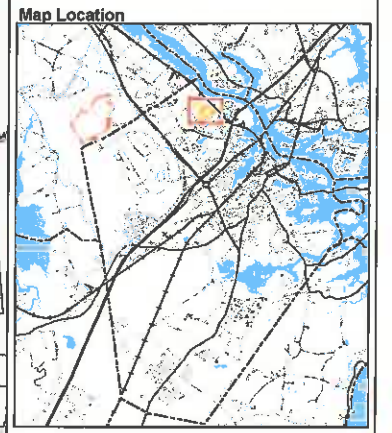
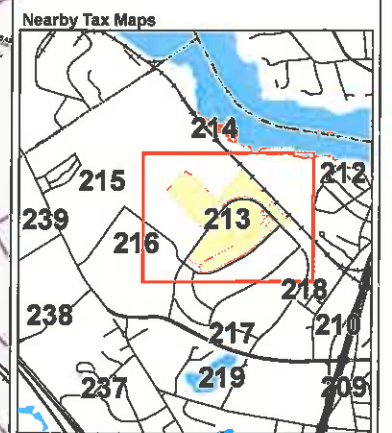




- Partial Legend**
 See the cover sheet for the complete legend.
- 7-5A Lot or lot-unit number
 - 2.56 ac Parcel area in acres (ac) or square feet (sf)
 - 25 Address number
 - 233-137 Parcel number from a neighboring map
 - 88 Parcel line dimension
 - SIMS AVE Street name
 - Parcel/Parcel boundary
 - Parcel/ROW boundary
 - Water boundary
 - Structure (1984 data)
 - Parcel covered by this map
 - Parcel from a neighboring map (see other map for current status)



This map is for assessment purposes only. It is not intended for legal description or conveyance. Parcels are mapped as of April 1. Building footprints are 2006 data and may not represent current structures. Streets appearing on this map may be paper (unbuilt) streets. Lot numbers take precedence over address numbers. Address numbers shown on this map may not represent posted or legal addresses.



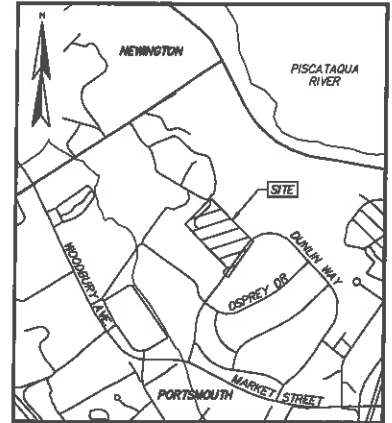
Portsmouth, New Hampshire
 2017
Tax Map 213

NOTES:

- REFERENCE: TAX MAP 213, LOT 1
- FIELD SURVEY PERFORMED BY E.J.S. & T.M.M. DURING NOVEMBER 2017 USING A TRIMBLE S6 TOTAL STATION WITH A TRIMBLE TSC3 DATA COLLECTOR AND A TRIMBLE DMI DIGITAL AUTO LEVEL. TRAVERSE ADJUSTMENT BASED ON LEAST SQUARE ANALYSIS.
- JURISDICTIONAL WETLANDS DELINEATED BY GOVE ENVIRONMENTAL SERVICES, INC. DURING OCTOBER 2017 IN ACCORDANCE TO THE CORPS OF ENGINEERS WETLAND DELINEATION MANUAL AND THE REGIONAL SUPPLEMENT TO THE CORPS OF ENGINEERS WETLAND DELINEATION MANUAL, NORTHEAST REGION, VERSION 2.0, JANUARY 2012, US ARMY CORPS OF ENGINEERS.
- HORIZONTAL DATUM BASED ON NEW HAMPSHIRE STATE PLANE (2800) NAD83(2011) DERIVED FROM REDUNDANT GPS OBSERVATIONS UTILIZING THE KEYNET GPS VRS NETWORK.
- VERTICAL DATUM IS BASED ON NHDOT DISK 331-0150 WITH A PUBLISHED ELEVATION OF 93.27'.
- PROPER FIELD PROCEDURES WERE FOLLOWED IN ORDER TO GENERATE CONTOURS AT 2' INTERVALS. ANY MODIFICATION OF THIS INTERVAL WILL DIMINISH THE INTEGRITY OF THE DATA, AND DOUCET SURVEY, INC. WILL NOT BE RESPONSIBLE FOR ANY SUCH ALTERATION PERFORMED BY THE USER.
- UNDERGROUND UTILITIES SHOWN HEREON ARE BASED ON OBSERVABLE PHYSICAL EVIDENCE AND PAINT MARKS FOUND ON-SITE.
- THE ACCURACY OF MEASURED UTILITY INVERTS AND PIPE SIZES/TYPES IS SUBJECT TO NUMEROUS FIELD CONDITIONS, INCLUDING: THE ABILITY TO MAKE VISUAL OBSERVATIONS, DIRECT ACCESS TO THE VARIOUS ELEMENTS, MANHOLE CONFIGURATION, ETC.
- ALL ELECTRIC, GAS, TEL. WATER, SEWER AND DRAIN SERVICES ARE SHOWN IN SCHEMATIC FASHION. THEIR LOCATIONS ARE NOT PRECISE OR NECESSARILY ACCURATE. NO WORK WHATSOEVER SHALL BE UNDERTAKEN ON THIS SITE USING THIS PLAN TO LOCATE THE ABOVE SERVICES. CONSULT WITH THE PROPER AUTHORITIES CONCERNED WITH THE SUBJECT SERVICE LOCATIONS FOR INFORMATION REGARDING SUCH. CALL DIG-SAFE AT 1-888-DIG-SAFE.

DRAINAGE STRUCTURES	
CB 1709 RIM ELEV.=56.5' (A) 15" HDPE INV.=52.6' (B) 8" HDPE INV.=52.5' (C) 12" HDPE INV.=52.3'	CB 2122 RIM ELEV.=70.8' (A) 4" PVC INV.=69.6' SUMP=69.6'
CB 2055 RIM ELEV.=68.2' NOT OPENED	CB 2124 RIM ELEV.=70.8' SUMP=69.3'
CB 2112 RIM ELEV.=70.8' SUMP=69.7	CB 2132 RIM ELEV.=70.8' SUMP=69.3'
	CB 2181 RIM ELEV.=89.9' NOT OPENED

SEWER STRUCTURES	
SMH 1743 RIM ELEV.=61.2' (A) 6" CLAY INV.=56.6' (B) 6" CLAY INV.=56.6' (C) 8" PVC INV.=56.6' (2294) 10" DIP INV.=56.2'	
SMH 2294 RIM ELEV.=52' (1743) 8" CLAY INV.=48' (2583) 8" CLAY INV.=45.8'	
SMH 2583 RIM ELEV.=47.6' (2294) 8" CLAY INV.=41.3' (A) 12" DIP INV.=41.2'	



LEGEND

- APPROXIMATE LOT LINE
- APPROXIMATE ABUTTERS LOT LINE
- STONE WALL
- REMNANT STONE WALL
- TEMPORARY CONSTRUCTION FENCE
- CHAIN LINK FENCE
- OVERHEAD WIRE
- SEWER LINE
- DRAIN LINE
- GAS LINE
- WATER LINE
- UNDERGROUND ELECTRIC LINE
- MAJOR CONTOUR LINE
- MINOR CONTOUR LINE
- TREE LINE
- EDGE OF WETLAND
- EDGE OF WATER
- CONCRETE
- UTILITY POLE & GUY WIRE
- UTILITY POLE W/ LIGHT
- SIGN
- SIGN (TWO POSTS)
- BOUND FOUND
- DRILL HOLE FOUND
- IRON PIPE/ROD FOUND
- POST
- BOLLARD
- VALVE
- CATCH BASIN
- TELEPHONE MANHOLE
- SEWER MANHOLE
- WETLAND AREA
- CONIFEROUS TREE
- MONITORING WELL
- TYP. GRANITE
- CONC.
- BND. FND.
- I.P.F.
- EP
- VCC
- SGC
- BOUND FOUND
- DRILL HOLE FOUND
- IRON PIPE FOUND
- EDGE OF PAVEMENT
- VERTICAL GRANITE CURB
- SLOPED GRANITE CURB

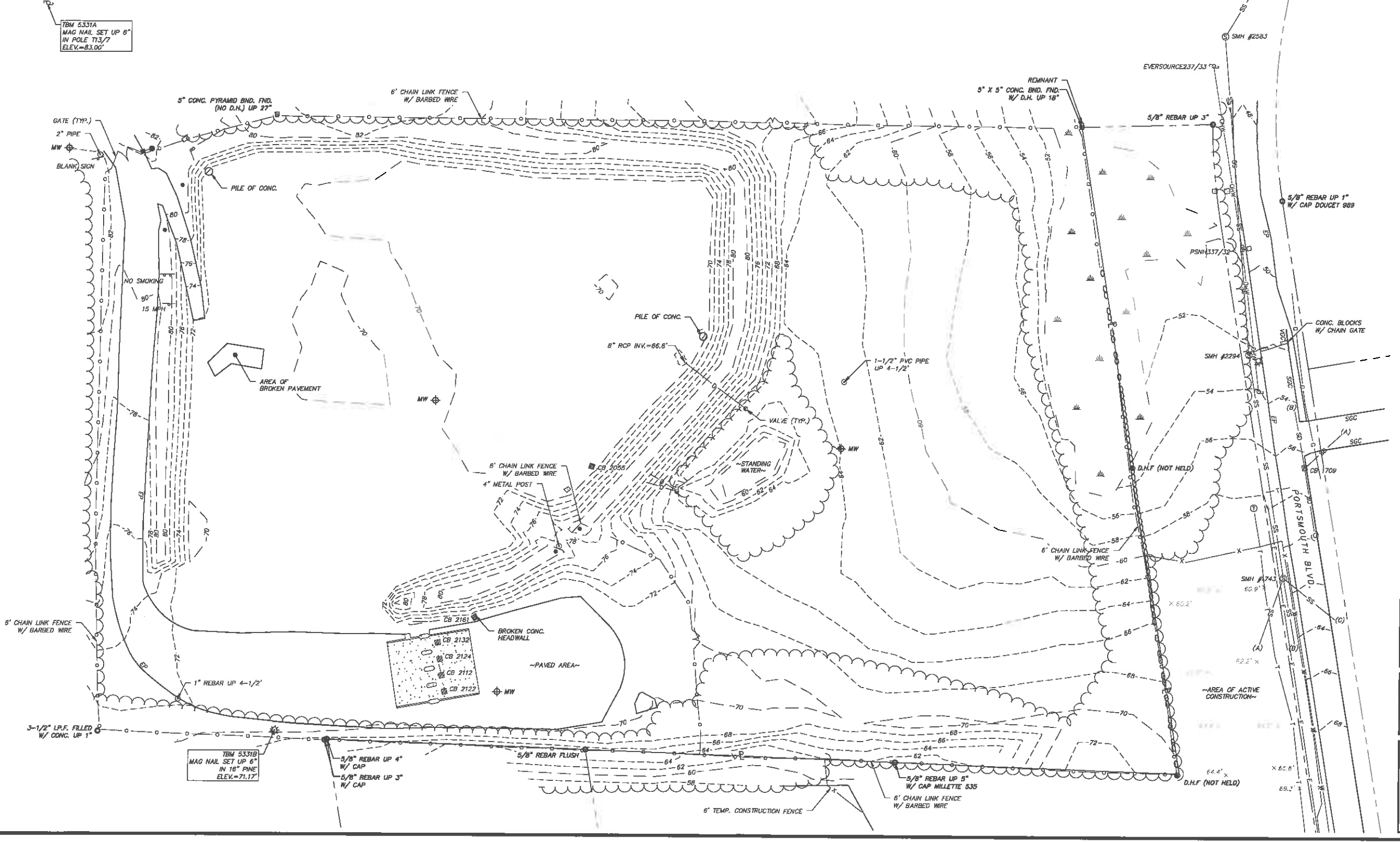


TOPOGRAPHIC PLAN
FOR
TIGHE & BOND
OF
TAX MAP 213 LOT 1
PORTSMOUTH BLVD.
PORTSMOUTH, NEW HAMPSHIRE

NO.	DATE	DESCRIPTION	BY

DRAWN BY:	W.D.C.	DATE:	NOVEMBER 17, 2017
CHECKED BY:	J.F.K.	DRAWING NO.:	5331A
JOB NO.:	5331	SHEET	1 OF 1


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http://www.doucetsurvey.com



FILE: P:\PROJECTS\5331A\5331A.dwg
 PLOT: 11-17-17.dwg
 LAYOUT: 11-17-17.dwg
 PLOTTED: 11-17-17
 PLOTTER: HP DesignJet T1100e

**CITY OF PORTSMOUTH
PORTSMOUTH, NH 03801**

Office of the City Manager

Date: November 29, 2018
To: Honorable Mayor Jack Blalock and City Council Members
From: John P. Bohenko, City Manager 
Re: City Manager's Comments on December 3, 2018 City Council Agenda

- ***6:15 p.m. – Public Dialogue Session***

Public Hearings & Votes on Ordinances and/or Resolutions:

1. **Second Reading of Amendments to Chapter 10 — Zoning Ordinance, be amended by deleting the existing Article 12 – Signs, and inserting in its place a new Article 12 – Signs as presented in the document titled “Proposed Amendments to the Portsmouth Zoning Ordinance: Article 12 – Signs”, dated September 25, 2018 (Postponed Second Reading at the November 19, 2018 City Council Meeting).** As you will recall, the City Council voted to pass first reading at the October 15, 2018 meeting and schedule second reading and public hearing for November 19, 2018 for the aforementioned proposed Amendments to Chapter 10 — Zoning Ordinance (see attached). After the November 19th public hearing, City Council members discussed potential revisions to the proposed amendments regarding regulations of flags and the time period for election signs. The Council voted to continue second reading to the December 3, 2018 meeting in order to have staff report back with potential revisions to the proposed amendments. Attached is a memorandum November 27, 2018 from Planning Director Juliet Walker regarding this matter.

The amendments are being proposed primarily to bring the City's sign regulations into compliance with legal requirements for content neutrality. In the case *Reed et al. v. Town of Gilbert, Arizona, et al. (2015)*, the U.S. Supreme Court ruled that regulations that categorize signs based on the type of information they convey and then apply different standards to each category are content-based regulations of speech and are not allowed

under the First Amendment protections of the United States Constitution. Additional changes include updating the regulations regarding prohibited signs and temporary signs, clarifying sign area, and other housekeeping amendments.

The Planning Board conducted a public hearing on this proposed zoning amendment at its August 16, 2018 meeting and voted to recommend approval to the City Council with amendments at the September 17, 2018 meeting.

I recommend the City Council move the following motions:

Vote to amend the proposed amendments to Article 12 of the Zoning Ordinance by revising Section 10.1222.70 pertaining to the regulation of flags and by inserting definitions for “flags” and “flagpoles” to Section 10.1290 as presented in the document titled “Proposed Amendments to the Portsmouth Zoning Ordinance: Article 12 – Signs”, dated November 27, 2018.

Vote to pass second reading and schedule third reading for December 17, 2018 of the amendments to the Zoning Ordinance to delete the existing Article 12 – Signs and insert in its place a new Article 12 – Signs as presented in the document titled “Proposed Amendments to the Portsmouth Zoning Ordinance: Article 12 – Signs”, dated November 27, 2018.

2. **Third and Final Reading Re: Chapter 7, Section 7.102 Parking Meter Zones, Subsection A, Downtown High Occupancy Zone.** At the of November 19, 2018 City Council meeting, the Council voted to pass second reading amending the [attached proposed Ordinance amending Chapter 7, Section 7.102 Parking Meter Zones, Subsection A, Downtown High Occupancy Zone](#), to make it effective February 15, 2019.

The average occupancy on the streets recommended for inclusion under the definition of High Occupancy presently sit at well over 100% collectively, where 80-85% is the industry standard recognized as “optimal.” Additionally, expanding the High Occupancy Zones coincides with the 2012 Parking Principles objective to ‘Price and manage more desirable on-street parking spaces to favor users who are highly motivated to use them...’ City staff have revised Chapter 7, Section 7.102 PARKING METER ZONES, Subsection A, DOWNTOWN HIGH OCCUPANCY ZONE to include the proposed streets – [see attached proposed Ordinance](#).

I recommend the City Council move to pass third and final reading of the proposed Ordinance, as amended at the November 19, 2018 City Council meeting.

City Manager’s Items Which Require Action:

1. **Presentation and Request for First Reading Re: Zoning Ordinance Amendments to Article 11 Off-Street Parking.** [Attached is a proposed Zoning Ordinance amending Chapter 10 – Zoning Ordinance, Article 11 – Site Development Standards, Section 10.1110](#)

– Off-Street Parking. Planning Director Juliet Walker will make a presentation at the December 3, 2018 meeting as requested by the City Council.

As explained to the City Council at the November 19th meeting, the amendments are being proposed to clarify the off-street parking requirements in the zoning ordinance. Specifically, additional criteria is being proposed for the granting of a conditional use permit by the Planning Board for providing less than the minimum number of off-street parking spaces required or for exceeding the maximum of off-street parking spaces allowed. Three housekeeping amendments are also proposed.

The Planning Board conducted a public hearing on this proposed zoning amendment at its October 18, 2018 meeting and voted to recommend approval to the City Council with amendments at that time.

I recommend the City Council move to schedule a first reading for the January 7, 2019 City Council meeting to amend the Article 11 – Site Development Standards, Section 10.1110 – Off-Street Parking as presented in the document titled “Proposed Off-Street Parking Amendments” dated October 18, 2018.

2. **Presentation and Request for First Reading Re: Amendments to Article 2 (Administration and Enforcement) of the Zoning Ordinance by Inserting a New Section 10.240 Regulating Requirements and Criteria for Granting of a Conditional Use Permit.** The *attached proposed amendment* would insert a new section into the Zoning Ordinance defining approval criteria and conditions of approval for the granting of non-wetland conditional use permits by the Planning Board. NH RSA 674:21 states that communities that use conditional use permits shall adopt standards to guide the granting of the conditional use permits. Presently, a number of land uses as well as flexible zoning provisions in the City’s Zoning Ordinance require the granting of a conditional use permit by the Planning Board, but the Ordinance lacks consistency in terms of the standards of approval for granting of these. Adding this section to the Ordinance would be consistent with state laws and would also assist with administration of these permits by the Planning Board and City staff.

The Planning Board conducted public hearings on this proposed zoning amendment at its October 18, 2018 and November 19, 2018 meetings and voted to recommend approval to the City Council as revised.

A presentation on this item will be made by the Planning Director at the December 3, 2018 City Council meeting.

Vote to schedule a first reading for the January 7, 2018 City Council meeting to amend the Portsmouth Zoning Ordinance, Article 2 – Administration and Enforcement, by inserting a new Section 10.240 as presented on the document titled “Proposed Amendments to the Portsmouth Zoning Ordinance: Section 10.240 – Conditional Use Permits”, dated November 19, 2018.

3. **Request to Establish Public Hearing Re: Use of Bond Premium.** The City of Portsmouth currently holds the highest bond rating available from Standard and Poor’s rating agency (AAA).

The City issued bonds in June 2017 and June 2018; \$5,650,000 and \$19,650,000 respectively for a total of \$25.3 million. The proceeds of the bonds financed certain General Fund, Water and Sewer capital projects. As a result of the City’s “AAA” bond rating and market conditions at the time of the bond issue, the City received \$2,374,081.11 in bond premiums in addition to the \$25.3 million in principal.

A premium is the amount by which the purchase price of a bond is greater than its par value. Under certain market conditions, in order to enhance the marketability of the bonds, bond underwriters will structure their bids with bond premiums. In this case, the City of Portsmouth received True Interest Cost (TIC) rates of 2.24% (2017) and 2.69% (2018) and total bond premiums of \$2,374,081.11. Under Federal Tax Law and State Statutes, the City is restricted on how to appropriate and use these funds.

RSA 33:3-states that any premium received shall not be used to increase the amount to be spent for the purpose for which the loan was originally incurred. Therefore, the City cannot use this money to increase the costs of the projects set forth for the \$31.773 Million bond issuance. However, the RSA states “*a city by a vote of 2/3 of the City Council may authorize the expenditure for the premiums received for any purpose or purposes for which bonds or serial notes may be issued for an equal or longer period of time.*”

The bond premium of \$2,374,081.11 has been allocated respectively as follows (see attached proposed Resolutions):

- General Fund - \$1,286,114.28;
- Water Fund - \$382,689.43;
- Sewer Fund - \$705,277.40

In accordance with State Statute, I recommend that the City Council authorize appropriations of \$2,374,081.11 from bond premiums for capital projects as follows:

General Fund Project:

- Municipal Complex Improvements - \$1,286,114.28

Water Fund Project:

- Annual Water Line Replacement - \$382,689.43

Sewer Fund Project:

- Annual Sewer Line Replacement - \$705,277.40

As these projects have a useful life that exceeds the original bond issue from which the premiums were received, and would be eligible for bonding under the Municipal Finance Act, it is in the best interest of the City to utilize the premium of \$2,374,081.11 to fund costs associated with General Fund, Water Fund and Sewer Fund projects.

I recommend the City Council schedule a public hearing for the December 17, 2018 City Council meeting.

Informational Items:

1. **Events Listing.** For your information, [attached is a copy of the updated Events Listing showing events from this date forward through 2018](#). In addition, this can be found on the City's website.
2. **Press Release Re: Budget Award.** [Attached is a news release](#) announcing the Government Finance Officers Association of the United States and Canada (GFOA) has awarded the City the Distinguished Budget Presentation Award for the Fiscal Year 2019 budget document.
3. **Cable Franchise Agreement.** At the City Council meeting of October 15, 2018, the City Council agreed to extend the City's current Cable Television Franchise Agreement with Comcast from October 31, 2018 to December 31, 2018 to allow the Cable Commission additional time to continue its negotiations with Comcast for a new Franchise Agreement. The Cable Commission met most recently on Tuesday, November 27, 2018, to review the latest response from Comcast on a proposed Cable Television Renewal Franchise agreement. The Cable Commission is not yet satisfied with Comcast's response. Consequently, at the City Council meeting of December 17, 2018, I will be prepared to provide an update on the franchise renewal negotiations and will request an additional two-month extension of the existing agreement to February 28, 2019 to allow Comcast to continue to lawfully serve Portsmouth customers while the parties work to close the remaining gap.

Comcast's internal legal review process is not always able to respond as quickly as the City would prefer, however, the Commission sees no detriment to Portsmouth customers in this slight delay in completing negotiations in that the City does not have the authority to regulate rates or programming.

**Proposed Off-Street Parking Amendments
October 18, 2018**

ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That the Ordinances of the City of Portsmouth, Chapter 10 – Zoning Ordinance, Article 11 – Site Development Standards, Section 10.1110 – Off-Street Parking, be amended as follows:

A. Delete existing Section 10.1112.52.

B. Insert a new Section 10.1112.14 as follows:

10.1112.14 The Planning Board may grant a conditional use permit to allow a building or use to provide less than the minimum number of off-street parking spaces required by Section 10.1112.30, Section 10.1112.61 or Section 10.1115.20, as applicable, or to exceed the maximum number of off-street parking spaces allowed by Section 10.1112.51.

10.1112.141 An application for a conditional use permit under this section shall include a parking demand analysis demonstrating that the proposed number of off-street parking spaces is sufficient for the proposed use.

10.1112.142 An application for a conditional use permit under this section shall identify permanent measures to reduce parking demand, including but not limited to provision of rideshare or bikeshare services servicing the property.

10.1112.143 The Planning Board may grant a conditional use permit only if it finds that the number of off-street parking spaces required or allowed by the permit will be adequate and appropriate for the proposed use of the property. In making this determination, the Board may accept, modify or reject the findings of the applicant's parking demand analysis.

10.1112.144 At its discretion, the Planning Board may require more off-street parking spaces than the minimum number requested by the applicant, or may allow fewer spaces than the maximum number requested by the applicant.

C. Amend Section 10.1112.21 as follows (deletions from existing language stricken; additions to existing language bolded; remaining language unchanged from existing):

The number of required off-street parking spaces shall be the sum of the requirements for the various individual uses on a lot computed separately, ~~except that a development designed as a shopping center shall comply with the specific requirements of Section 10.1112.30 for said use.~~

D. Amend Section 10.1112.323 as follows (deletions from existing language stricken; additions to existing language bolded; remaining language unchanged from existing):

Where the table indicates that the minimum required number of off street parking spaces shall be based on a parking demand analysis, the applicant shall submit such analysis for review by the Planning Board ~~through the Site Plan Review process.~~ Where the table indicates that a parking demand analysis is an alternative to a specified ratio, the applicant may submit such analysis to justify a ratio different from that listed in the table. In either case, the Planning Board may approve the number of parking spaces proposed by the analysis, or may approve a greater or lesser minimum number of parking spaces based on its review.

E. Amend Section 10.1115.21 as follows (deletions from existing language stricken; additions to existing language bolded; remaining language unchanged from existing):

The following requirements shall apply in the Downtown Overlay District in lieu of the requirements in Section 10.1112.30:

Use	Required Parking Spaces
Residential use (dwelling)	1.3 space per dwelling unit Same as Section 10.1112.30
Hotel or motel	0.75 space per guest room, plus 1 space per 25 sf of conference or banquet facilities
Other nonresidential use	No requirement

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:

Jack Blalock, Mayor

ADOPTED BY COUNCIL:

Kelli L. Barnaby, City Clerk

**Proposed Amendments to the Zoning Ordinance
Article 2: Administration and Enforcement
November 19, 2018**

ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That the Ordinances of the City of Portsmouth, Chapter 10 — Zoning Ordinance, Article 2 – Administration and Enforcement, be amended by inserting a new Section 10.240 as presented on the document titled “Proposed Amendments to the Portsmouth Zoning Ordinance: Section 10.240 – Conditional Use Permits”, dated November 19, 2018.

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:

Jack Blalock, Mayor

ADOPTED BY COUNCIL:

Kelli L. Barnaby, City Clerk

Proposed Amendments to the Portsmouth Zoning Ordinance
Section 10.240 – Conditional Use Permits
November 19, 2018

10.240 Conditional Use Permits

10.241 General

10.241.10 A conditional use is a use of land or buildings within a zoning district that may be authorized by this Ordinance subject to additional requirements. A conditional use permit allows the Planning Board or other such Board or person as may have jurisdiction to consider uses which may be desirable or appropriate in particular cases, but which are not allowed as a matter of right within a zoning district.

10.241.20 This Ordinance authorizes the following general types of conditional use permits:

10.241.21 Conditional use approval is required for any use designated “CU” in Section 10.440 – Table of Uses.

10.241.22 Conditional use approval is required for most uses, activities and alterations in a wetland or wetland buffer (Article 10, Section 10.1010 – Wetlands Protection).

10.241.23 Conditional use approval may be granted to allow flexibility of site or building design where specifically authorized by the Ordinance but not listed in Section 10.440. These include the following provisions:

(a) Character Districts (Article 5A)

- Increase in allowed building footprint subject to specified development standards;
- Provision of required community space on a different lot than the development;
- Crediting or assignment of excess community space in an Incentive Overlay District.

(b) Gateway Districts (Article 5B)

- More than 24 dwelling units in a building;
- More than one principal building or building type on a development site;
- Increased housing density, building height, or footprint.

(c) Off-Street Parking (Article 11)

- Less than the minimum number of required spaces or more than the maximum number of allowed spaces;
- Shared parking.

10.241.30 No structure, building or use requiring a conditional use permit under this Ordinance shall be used, constructed, altered or expanded unless the required conditional use permit

has been granted by the Planning Board or other such Board or person as may have jurisdiction.

- 10.241.40 A structure, building or use authorized by a conditional use permit may not be added to, enlarged, expanded or moved to another part of the lot without securing a new conditional use permit.

10.242 Basis for Approval

- 10.242.10 The Planning Board or other such Board or person as may have jurisdiction may grant a conditional use permit if the application is found to be in compliance with the general approval criteria in Section 10.243 or, if applicable, the specific standards or criteria as set forth in this Ordinance for the particular use or activity. The Planning Board or other such Board or person as may have jurisdiction shall make findings of fact, based on the evidence presented by the applicant, City staff, and the public, respecting whether the conditional use is or is not in compliance with the approval criteria of Section 10.243.
- 10.242.20 The applicant shall provide, through the introduction of sufficient evidence, through testimony, or otherwise, that the proposed use, development, or activity, if completed as proposed, will satisfy the general and specific requirements as contained in the Ordinance.

10.243 Approval Criteria

- 10.243.10 A conditional use permit shall be granted only if the Planning Board or other such Board or person as may have jurisdiction determines that the proposal conforms to all applicable conditional use permit criteria, as set forth below or in other sections of this Ordinance.
- 10.243.20 Conditional uses designated in Section 10.440 – Table of Uses, as well as other conditional uses for which no specific criteria are set forth in the Ordinance, shall comply with all of the following criteria:
- 10.243.21 The design of proposed structures, their height and scale in relation to the site’s surroundings, the nature and intensity of the proposed use or activity, and the layout and design of the site will be compatible with adjacent and nearby properties, buildings and uses, will complement or enhance the character of surrounding development, and will encourage the appropriate and orderly development and use of land and buildings in the surrounding area.
 - 10.243.22 All necessary public and private utility infrastructure and services will be available and adequate to serve the proposed use.
 - 10.243.23 The site and surrounding streets will have adequate vehicular and pedestrian infrastructure to serve the proposed use consistent with the City’s Master Plan.
 - 10.243.24 The proposed structures, uses, or activities will not have significant adverse impacts on abutting and surrounding properties on account of traffic,

noise, odors, vibrations, dust, fumes, hours of operation, and exterior lighting and glare.

10.243.25 The proposed structures and uses will not have significant adverse impacts on natural or scenic resources surrounding the site, including wetlands, floodplains, and significant wildlife habitat.

10.243.26 The proposed use will not cause or contribute to a significant decline in property values of adjacent properties.

10.243.30 Where specific standards or criteria are set forth in this Ordinance for the particular use permitted by conditional use permit, those standards and criteria shall apply in lieu of the general standards in Section 10.243.20.

10.244 Conditions of Approval

Conditional use permits may be granted subject to appropriate conditions, including but not limited to the following:

10.244.10 Front, side and rear yards in excess of the minimum requirements of this Ordinance;

10.244.20 Landscaping and/or screening of the premises from the street or adjacent property in excess of the minimum requirements of this Ordinance;

10.244.30 Modification of the exterior features, buildings or other structures;

10.244.40 Limitations on the size of buildings and other structures more stringent than the minimum or maximum requirements of this Ordinance;

10.244.50 Off-street parking and loading spaces in excess of the minimum requirements of this Ordinance;

10.244.60 Regulation of the number, size, lighting of signs more stringent than the requirements of the Ordinance; and

10.244.70 Other performance standards as may relate to the standards and criteria for approval.

10.245 Certain Representations Deemed Conditions

Representations made at public hearings or materials submitted to the Board by an applicant for a conditional use permit concerning features of proposed buildings, structures, parking or uses shall be deemed conditions upon such conditional use permit.

10.246 Expiration and Abandonment of Approvals

- 10.246.10 A conditional use permit shall expire unless a building permit is obtained within a period of one year from the date granted, unless otherwise stated in the conditions of approval. The Board may, for good cause shown, extend such period by as much as one year if such extension is requested and acted upon prior to the expiration date. No other extensions may be requested.
- 10.246.20 Failure to use a property for a use authorized by a conditional use permit for a period exceeding eight months shall result in the termination of the conditional use permit.

10.247 Repetitive Application

If an application for a conditional use permit is denied by the Planning Board or other such Board or person as may have jurisdiction, no application for a conditional use permit for the same or similar use may be made for one year from the date of said denial, unless the applicant demonstrates to the satisfaction of the Board that the circumstances have altered and that further consideration of the application is warranted. In such an event, the resubmitted application shall follow the same procedures as the original and shall be treated as a new application.

**CITY OF PORTSMOUTH, NEW HAMPSHIRE
GENERAL FUND SUPPLEMENTAL APPROPRIATION
TWO THOUSAND EIGHTEEN**

RESOLUTION # **A RESOLUTION APPROPRIATING FROM BOND PREMIUM THE SUM OF ONE MILLION TWO HUNDRED EIGHTY-SIX THOUSAND ONE HUNDRED FOURTEEN DOLLARS AND TWENTY-EIGHT CENTS (\$1,286,114.28) TO BE APPLIED TO MUNICIPAL COMPLEX IMPROVEMENTS.**

RESOLVED: **BY THE CITY COUNCIL OF THE CITY OF PORTSMOUTH, NEW HAMPSHIRE ASSEMBLED AS FOLLOWS:**

THAT, bond premium in the amount of **One Million Two Hundred Eighty-Six Thousand One Hundred Fourteen Dollars and Twenty-Eight Cents (\$1,286,114.28)** be and hereby is appropriated to be applied to Municipal Complex Improvements, and such sum representing the amount of **One Million Two Hundred Eighty-Six Thousand One Hundred Fourteen Dollars and Twenty-Eight Cents (\$1,286,114.28)** be appropriated from bond premium the City received from the sale of previously issued General Obligation bonds (after payment of underwriter's discount) that is allocable to the municipal complex improvements.

THAT, the expected useful life of the project is determined to be at least 20 years.

THAT, this resolution shall take effect upon its passage.

APPROVED BY:

JACK BLALOCK, MAYOR

ADOPTED BY CITY COUNCIL

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

SECTION 7.14-AMENDMENTS TO BUDGET AFTER ADOPTION

No appropriation shall be made for any purpose not included in the annual budget as adopted unless voted by a two-thirds (2/3) majority of the Council after a public hearing held to discuss said appropriation. The Council shall, by resolution, designate the source of any money so appropriated.

**CITY OF PORTSMOUTH, NEW HAMPSHIRE
WATER FUND SUPPLEMENTAL APPROPRIATION
TWO THOUSAND EIGHTEEN**

RESOLUTION #

A RESOLUTION APPROPRIATING FROM BOND PREMIUM THE SUM OF THREE HUNDRED EIGHTY-TWO THOUSAND SIX HUNDRED EIGHTY-NINE DOLLARS AND FORTY-THREE CENTS (\$382,689.43) TO BE APPLIED TO ANNUAL WATER LINE REPLACEMENT.

RESOLVED:

BY THE CITY COUNCIL OF THE CITY OF PORTSMOUTH, NEW HAMPSHIRE ASSEMBLED AS FOLLOWS:

THAT, bond premium in the amount of **Three Hundred Eighty-Two Thousand Six Hundred Eighty-Nine Dollars and Forty-Three Cents (\$382,689.43)** be and hereby is appropriated to be applied to Annual Water Line Replacement, and such sum representing the amount of **Three Hundred Eighty-Two Thousand Six Hundred Eighty-Nine Dollars and Forty-Three Cents (\$382,689.43)** be appropriated from bond premium the City received from the sale of previously issued General Obligation bonds (after payment of underwriter's discount) that is allocable to the water fund capital improvement projects.

THAT, the expected useful life of the project is determined to be at least 20 years.

THAT, this resolution shall take effect upon its passage.

APPROVED BY:

JACK BLALOCK, MAYOR

ADOPTED BY CITY COUNCIL

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

SECTION 7.14-AMENDMENTS TO BUDGET AFTER ADOPTION

No appropriation shall be made for any purpose not included in the annual budget as adopted unless voted by a two-thirds (2/3) majority of the Council after a public hearing held to discuss said appropriation. The Council shall, by resolution, designate the source of any money so appropriated.

**CITY OF PORTSMOUTH, NEW HAMPSHIRE
SEWER FUND SUPPLEMENTAL APPROPRIATION
TWO THOUSAND EIGHTEEN**

RESOLUTION # **A RESOLUTION APPROPRIATING FROM BOND PREMIUM THE SUM OF SEVEN HUNDRED FIVE THOUSAND TWO HUNDRED SEVENTY-SEVEN DOLLARS AND FORTY CENTS (\$705,277.40) TO BE APPLIED TO ANNUAL SEWER LINE REPLACEMENT.**

RESOLVED: **BY THE CITY COUNCIL OF THE CITY OF PORTSMOUTH, NEW HAMPSHIRE ASSEMBLED AS FOLLOWS:**

THAT, bond premium in the amount of **Seven Hundred Five Thousand Two Hundred Seventy-Seven Dollars and Forty Cents (\$705,277.40)** be and hereby is appropriated to be applied to Annual Sewer Line Replacement, and such sum representing the amount of **Seven Hundred Five Thousand Two Hundred Seventy-Seven Dollars and Forty Cents (\$705,277.40)** be appropriated from bond premium the City received from the sale of previously issued General Obligation bonds (after payment of underwriter's discount) that is allocable to the sewer fund capital improvement projects.

THAT, the expected useful life of the project is determined to be at least 20 years.

THAT, this resolution shall take effect upon its passage.

APPROVED BY:

JACK BLALOCK, MAYOR

ADOPTED BY CITY COUNCIL

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

SECTION 7.14-AMENDMENTS TO BUDGET AFTER ADOPTION

No appropriation shall be made for any purpose not included in the annual budget as adopted unless voted by a two-thirds (2/3) majority of the Council after a public hearing held to discuss said appropriation. The Council shall, by resolution, designate the source of any money so appropriated.

Portsmouth CM-OFFICE, City of Portsmouth - Community Events

Sun Dec 9, 2018

10am - 11am Jingle Bell Run/Walk for Arthritis

Where: Little Harbour School

Description:

- <https://www.arthritis.org/new-hampshire/> - Contact: Thomas Bringle, Director of Development (603) 460-4213 or tbringle@arthritis.org - Registration opens at 9:00 a.m. and race start time is 10:00 a.m.

Mon Dec 31, 2018

4pm - 12am First Night Portsmouth 2019

Where: Market Square

Description: Contact: Barbara Massar, Executive Director

Sat Apr 13, 2019

9:30am - 11:30am New Castle 10K

Where: Starts and finishes at Great Island Common New Castle

Description:

- <https://www.newcastlenh10k.com/> - Contact: Nick Diana (603) 498-8539 or nick@newcastlenh10k.com

Sun May 5, 2019

8:30am - 9:30am American Lung - Cycle the Seacoast

Where: Cisco Brewers Portsmouth

Description:

This event will be held at Cisco Brewers (formerly Redhook) Portsmouth. The first rider will leave Cisco Brewers at 7:00 a.m. and the last rider will be in around 3:30 p.m. Contact is Melissa Walden, Associate of Development.

12pm - 4pm Children's Day - Pro Portsmouth

Where: Market Square

Description: Contact: Barbara Massar, Executive Director

Sat Jun 8, 2019

9am - 4pm Market Square Day Festival & 10K Road Race - Pro Portsmouth

Where: Market Square

Description:

Contact: Barbara Massar, Executive Director - Event: 9:00 a.m. to 4:00 p.m. - Street closures - downtown streets from 4:00 a.m. to 6:00 p.m. - Race course 9:00 a.m. roving closures.

Portsmouth CM-OFFICE, City of Portsmouth - Community Events

Sat Jun 29, 2019

5pm - 9:30pm Summer in the Streets - Pro Portsmouth

Where: Pleasant Street, Porter Street to Market Square

Description:

Contact: Barbara Massar, Executive Director - Street Closures: (4:00 p.m. set up to 9:30 p.m. clean up) Pleasant Street - Porter Street to Market Square.

Sat Jul 6, 2019

5pm - 9:30pm Summer in the Streets - Pro Portsmouth

Where: Pleasant Street, Porter Street to Market Square

Description:

Contact: Barbara Massar, Executive Director - Street Closures: (4:00 p.m. set up to 9:30 p.m. clean up) Pleasant Street - Porter Street to Market Square.

Sat Jul 13, 2019

5pm - 9:30pm Summer in the Streets - Pro Portsmouth

Where: Pleasant Street, Porter Street to Market Square

Description:

Contact: Barbara Massar, Executive Director - Street Closures: (4:00 p.m. set up to 9:30 p.m. clean up) Pleasant Street - Porter Street to Market Square.

Sat Jul 20, 2019

5pm - 9:30pm Summer in the Streets - Pro Portsmouth

Where: Pleasant Street, Porter Street to Market Square

Description:

Contact: Barbara Massar, Executive Director - Street Closures: (4:00 p.m. set up to 9:30 p.m. clean up) Pleasant Street - Porter Street to Market Square.

Sat Jul 27, 2019

5pm - 9:30pm Summer in the Streets - Pro Portsmouth

Where: Pleasant Street, Porter Street to Market Square

Description:

Contact: Barbara Massar, Executive Director - Street Closures: (4:00 p.m. set up to 9:30 p.m. clean up) Pleasant Street - Porter Street to Market Square.

CITY OF PORTSMOUTH



City Budget Receives Prestigious National Award

November 27, 2018

FOR MORE INFORMATION:

Judie Belanger, Finance Director, 610-7223

PORTSMOUTH – The Government Finance Officers Association of the United States and Canada (GFOA) has awarded the City of Portsmouth for the thirteenth consecutive year, the Distinguished Budget Presentation Award for the Fiscal Year 2019 budget document, City Manager John Bohenko has announced.

“While we always aim to consistently meet the best standards of governmental budgeting established by the GFOA, the maintenance of this recognition each year reflects the commitment by the City Council and staff to continuously improve how we convey this information to the public,” said Bohenko. “Each year brings a different and challenging climate to not only compile the budget but convert it into a helpful, valuable resource.”

GFOA is a major professional association servicing more than 18,000 government finance professionals throughout North America. The GFOA’s Distinguished Budget Presentation Awards Program, established in 1984, recognizes exemplary budget documentation by state, provincial and local governments, as well as public universities and colleges.

Director of Finance and Administration Judie Belanger said that in order to receive the budget award, the City had to satisfy nationally-recognized guidelines for effective budget presentation. Each year Portsmouth aims to increase the ease of use and understanding of the City’s annual budget, creating a document that serves as a policy document, a financial plan, an operations guide, and a communications device.

###



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: Planning Board

Name: Corey Clark Telephone: 603-724-5964

Could you be contacted at work? YES/NO - If so, telephone #603-724-5964

Street address: 152 Essex Avenue, Portsmouth, NH, 03801

Mailing address (if different): _____

Email address (for clerk's office communication): clarkcj7@gmail.com

How long have you been a resident of Portsmouth? 8.5 years including 7 years as homeowner

Occupational background:

Civil/geotechnical engineer with NH Professional Engineer license. Currently I am the Chief Engineer for the Engineering and Construction Section of the NHDES Dam Bureau. I am responsible for all major rehabilitation and reconstruction projects at 270 State of New Hampshire owned dams. Responsibilities include managing contracts, preparing budgets, reviewing and assisting with designs and engineering plans and managing ongoing reconstruction projects. These duties require me to supervise an engineering and surveying staff along with a nine member full time construction crew.

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

Reasons for wishing to continue serving: During the past year and a half I have thoroughly enjoyed serving on the Planning Board. This time has greatly increased my understanding of Portsmouth and my appreciation for why this is such a wonderful place. Being a part of the development process has made me appreciate the challenges that all projects in the city face and the time and effort developers, city staff and residents put in to overcome those challenges. My wife, three young children and I appreciate all that Portsmouth has to offer to us and I feel that by continuing to serve on the Planning Board I will help increase what Portsmouth has to offer, to not only us, but to all its community members.



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

Active member of Association of State Dam Safety Officials.

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

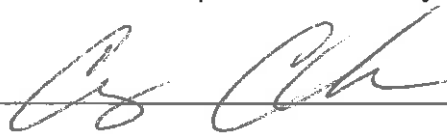
1) Bill Dooley, 140 Essex Avenue, Portsmouth, NH, 03801, 603-502-5950
Name, address, telephone number

2) Trip Bannister, 28 Deerborn St, Apt. B, Portsmouth, NH, 03801, 978-697-7041
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: _____



Date: _____

11/19/2018

CITY CLERK INFORMATION ONLY:

New Term Expiration Date: 12/31/2021

Annual Number of Meetings: 19 (2017) Number of Meetings Absent: 2

Date of Original Appointment: March 20, 2017

Please submit application to: City Clerk's Office, 1 Junkins Avenue, Portsmouth, NH 03801

Corey J. Clark

152 Essex Avenue, Portsmouth, NH 03801
603-724-5964 clarkcj7@gmail.com

PROFESSIONAL LICENSURE:

Professional Civil Engineer, New Hampshire License Number 14105, May 2013
Geotechnical Engineering Focus

EDUCATION:

Master of Science in Civil Engineering, May 2010

University of New Hampshire, Durham, New Hampshire

GPA: 3.93

Thesis: *Correlating the Stiffness of Base/Subbase Roadway Materials from Laboratory and Nonintrusive Field Testing Methods*

Bachelor of Science in Civil Engineering, May 2007

University of Maine, Orono, Maine

GPA: 3.59 Magna Cum Laude

Capstone Project: *Murphy Dam Spillway Relocation Design Project*

EXPERIENCE:

New Hampshire Department of Environmental Services Dam Bureau, Concord, NH

Chief Engineering and Construction Engineer, June 2018 to Present

- Supervise and manage the Engineering Construction section in the NHDES Water Division's Dam Bureau.
- Responsibilities include the management of engineering staff, construction crews, contractors, property managers and surveyors in the long-term planning, budgeting, engineering evaluation, design and construction required to reconstruct and repair over 270 State-owned dams
- Manage and administer contracts with contractors and engineering consultants related to reconstruction and repair of State-owned dams and dam facilities
- Develop recommendations, cost estimates and priorities for dam repair and reconstruction based on engineering standards, data obtained from field inspections and historical records
- Develop biannual budgets for the State-wide Dam Maintenance Program based on State-wide priorities and available funding, then track program spending relative to ensure adherence with these budgets

New Hampshire Department of Environmental Services Dam Bureau, Concord, NH

Dam Safety Engineer, April 2015 to June 2018

- Conducted field inspections of high, significant and low hazard dams to evaluate conditions, identify deficiencies, assess ongoing operations and recommend corrective measures with dam owners
- Reviewed engineering plans, design studies, specifications, dam failure analysis, and other technical documents developed for construction, rehabilitation and removal of dams and specified improvements and changes needed to ensure that engineering solutions are consistent with regulatory requirements
- Inspected completed rehabilitation and construction projects to ensure compliance with statutes and regulations, approved plans and permit conditions
- Reviewed Emergency Action Plans for significant and high hazard dams for regulatory compliance

S.W. Cole Engineering, Inc., Somersworth, NH

Geotechnical Engineer, March 2012 to March 2015

- Developed proposals and budgets for geotechnical engineering services, coordinated and managed geotechnical evaluation programs using various drilling techniques and in-situ testing methods and prepared geotechnical engineering reports and design memorandums
- Coordinated and managed ASTM Phase I Environmental Site Assessments, Phase II Environmental Site Assessments and Groundwater Quality Assessments

Sanborn Head, and Associates, Inc., Concord, NH and Westford, MA

Project Engineer, June 2010 to March 2012

- Worked on a wide variety of geotechnical evaluation projects including managing a settlement and pore pressure monitoring program at a landfill facility

PUBLICATIONS:

Melton, J. S., Clark, C. J., and Regis, P. T., "Feasibility Study on Building-Derived Concrete Debris for Use in Highway Construction," *Journal of ASTM International*, Volume 9, Issue 2. (February, 2012).

PERSONAL:

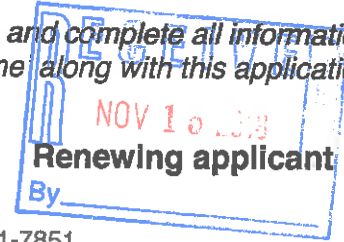
City of Portsmouth, New Hampshire Planning Board, Alternate Member, March 2017 to Present



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: Planning Board

Name: Dexter Legg Telephone: 603-431-7851

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

Street address: 4 Moebus Terrace, Portsmouth NH

Mailing address (if different): _____

Email address (for clerk's office communication): dexter.legg@gmail.com

How long have you been a resident of Portsmouth? 37 years

Occupational background:

Liberty Mutual Insurance Group, 1977-2016 (retired)

Senior Vice President, Corporate Secretary and Chief of Staff to CEO: 2000-2016

Vice President, various positions: elected 1995

Various management positions: 1977-1995

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

Reasons for wishing to continue serving: _____

I want to continue contributing to Portsmouth in a volunteer role, and specifically to continue facilitating an effective and efficient process for stakeholder input and careful deliberation by the planning board



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

School Board, 2008 -2015; Vice Chair, 2014-15

Joint Building Committee, Portsmouth Middle School project; Co-Chair

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

1) Chris Dwyer 600 Broad St Portsmouth 603-436-5247
Name, address, telephone number

2) Chris Mansfield PO Box 86 Dedham MA 617-357-9500
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: Debra Kelly Date: 11/7/2018

CITY CLERK INFORMATION ONLY:

New Term Expiration Date: 12/31/2021

Annual Number of Meetings: 19 (2017) Number of Meetings Absent: 1

Date of Original Appointment: 12/21/15 eff. 1/1/16

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: Planning Board

Name: Elizabeth A. Moreau Telephone: 603-591-3453 cell

Could you be contacted at work? YES NO - If so, telephone # 603-232-4241

Street address: 81 Langdon Street Portsmouth NH 03801

Mailing address (if different): 4 Greenleaf Woods Drive, Unit 302 Portsmouth NH 03801

Email address (for clerk's office communication): bmoreau@greatoak-ne.com

How long have you been a resident of Portsmouth? 18 years

Occupational background:

I am a residential real estate attorney in NH and Maine. I own Great Oak Title Services
located in Portsmouth NH. I have been working in this field for 14 years.

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

Reasons for wishing to continue serving: _____

I would like to continue the work I have done in the past and see through some projects
that are up coming to the board. I would like to think the six years I have previously
served allow me to bring to a somewhat younger board the history of prior decisions.

I hope to be able to continue being a gatekeeper of Portsmouth development.



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

As a business owner, I am a member of the Portsmouth Collaborative of Greater Portsmouth and Seacoast Board of Realtors and two other networking groups, Port City Professionals and Provisors. I am also a founding member of the Pamela Ziadeh Memorial Scholarship Fund that raises money to give to Thomas Aquinas and Portsmouth High School Students who are active in their communities and going to extend their education beyond high school.

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

1) Jim Mills, Realtor with RE/Max Shoreline, 100 Market Street, Suite 200 Portsmouth NH 03801
cell 603-682-0999 email jim@talk2jim.com
Name, address, telephone number

2) Karen Wimer, Loan Officer with HarborOne Mortgage, 170 Commerce Way, Unit 102B, Portsmouth NH 03801
cell 603-498-7904 email kwimer@harborone.com
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:  Date: 10/22/18

CITY CLERK INFORMATION ONLY:

New Term Expiration Date: 12/31/2021

Annual Number of Meetings: 19 (2017) Number of Meetings Absent: 3

Date of Original Appointment: 1/7/2013

Please submit application to: City Clerk's Office, 1 Junkins Avenue, Portsmouth, NH 03801

LICENSED

Member of the New Hampshire Bar
Member of the Real Property Section of the NH Bar
Member of the U.S. District Court – District of NH
Member of the Maine Bar

Juris Doctor – 8/01-5/05,

New England School of Law, Boston, MA

Dean's List Fall 2002, Spring 2003, Fall 2003, Spring 2004, Fall 2004, Spring 2005

New England Scholar Award 2004-2005

Member of Phi Delta Phi

Bachelor of Science in Computer Information Systems, w/Minor in Marketing – 1/98-1/01

University of Southern New Hampshire, Portsmouth, NH – Graduated Magna Cum Laude

Member of Delta Mu Delta, National Honors Society in Business Administration

LEGAL EXPERIENCE

Attorney – 11/09 - present

Great Oak Title Services, LLC– Portsmouth, NH

Purchased Company on May 9, 2012

Title Company performing Residential Title Services

- Manage all files and day to day operations of Title Company including but not limited to do all title searches, information gathering and process and close of all purchase and refinance for conventional, FHA and VA loans.

Attorney – 11/05 – 11/09

Paralegal/Closer – 8/05-10/05

Wilkinson Law Offices, P.C.– Portsmouth, NH

A law firm specializing in Real Estate, Business Law and Estate Planning

- Lender document review and issue attorney opinion
- Escrow Officer IOLTA account Management
- Title search and title clearing
- Buyer, seller and lender representation
- Refinance and Purchase Pre-Closing and Post closing processing
- Post closing title policy writing

Paralegal/Closer – 6/04-7/05

Geoffrey B. Ginn & Associates, P.C. – Portsmouth, NH

A real estate transactional law firm

- Post closing title policy writer, discharge tracking, title clearing
- NH Notary Public Refinance and Purchase closer
- Refinance and Purchase Pre-Closing processing
- HUD preparation

Member: Seacoast Board of Realtors • Member, Portsmouth Planning Board • Member the Chamber Collaborative of Portsmouth • Member, Provisors • Member, Port City Professionals • Board of Director, Pamela Ziadeh Memorial Scholarship Fund

LICENSED

Member of the New Hampshire Bar
Member of the Real Property Section of the NH Bar
Member of the U.S. District Court – District of NH
Member of the Maine Bar

Juris Doctor – 8/01-5/05,

New England School of Law, Boston, MA

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- Refinance and Purchase Pre-Closing and Post closing processing
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- HUD preparation

Member: Seacoast Board of Realtors • Member, Portsmouth Planning Board • Member the Chamber Collaborative of Portsmouth • Member, Provisors • Member, Port City Professionals • Board of Director, Pamela Ziadeh Memorial Scholarship Fund



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: Trustees of Trust Funds

Name: Thomas R. Watson Telephone: 603-770-6108

Could you be contacted at work? YES/NO - If so, telephone# 603-433-3317

Street address: 200 New Castle Avenue, Portsmouth, NH 03801

Mailing address (if different): PO Box 1106, Portsmouth, NH 03802-1106

Email address (for clerk's office communication): twatson@dwmlaw.com

How long have you been a resident of Portsmouth? 1983 - 1994; 1998 - present

Occupational background:

I have practiced law in the City of Portsmouth since 1979, shortly after graduating from law school. See attached curriculum vitae for listing of firms.

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

Reasons for wishing to continue serving: I feel privileged to have served as a Trustee of Trust Funds for the City of Portsmouth since January 2012, and would much appreciate the opportunity to continue that service for another term.



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

Portsmouth Economic Development Commission;

New Hampshire Association for Justice (Member, Board of Governors);

American Association for Justice (Member, Board of Governors);

Strawbery Banke Museum (Member/ National Council)

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

1) James G. Noucas, Jr., 64 Thatcher Road, Portsmouth, NH 03801 - 603.436.8378
Name, address, telephone number

2) Dana S. Levenson, 6 Currier's Cove, Portsmouth, NH 03801 - 603.498.9261
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: _____

Date: _____

CITY CLERK INFORMATION ONLY:

New Term Expiration Date: 01/01/2022

Annual Number of Meetings: 11 Number of Meetings Absent: 0

Date of Original Appointment: 12/19/2011

Please submit application to: City Clerk's Office, 1 Junkins Avenue, Portsmouth, NH 03801

Thomas R. Watson
200 Newcastle Avenue
P.O. Box 1106
Portsmouth, NH 03802-1106
603-770-6100
603-433-3317 (office)
603-433-5384 (fax)
twatson@dwmlaw.com

Education:

University of New Hampshire, Durham, New Hampshire; BA Political Science, *cum laude*, 1973
University of New Hampshire School of Law (formerly Franklin Pierce Law Center), Concord,
New Hampshire; JD 1978

Bar Admissions:

Admitted to the Bar of New Hampshire (1978) U.S. District Court, District of New Hampshire
(1978), U.S. Court of Appeals, First Circuit (1978), State of Maine (1982), U.S. District Court,
District of Maine (1982), U.S. Supreme Court (1986)

Professional Experience:

Currently a shareholder and director of Drummond Woodsum & MacMahon, P.A., Portsmouth and
Manchester, New Hampshire and Portland, Maine with practice concentration in the areas of civil
litigation, including commercial, personal injury and domestic litigation; general corporate and real
estate.

Previously formed partnership (Tybursky & Watson) in the practice of law in Portsmouth, New
Hampshire in 1979; expanded to Tybursky, Watson & Harman in 1987; merged to become Taylor,
Keane, Blanchard, Lyons, Tybursky & Watson, P.A., later Taylor, Keane, Blanchard, Lyons &
Watson, P.A. in 1988; formed Watson, Lyons & Bosen, P.A. (later Watson & Bosen, P.A., then
Watson & Lemire, P.A.) in 1994; merged firm with Wiggin & Nourie, P.A. in 2005; shareholder at
Wiggin & Nourie, P.A. from 2005-2012; joined Drummond Woodsum & MacMahon in 2012.

Professional Involvement:

New Hampshire Association for Justice
President 1995-1996
Member, Board of Governors, 1989-Present;

American Association for Justice
Member, Board of Governors, 2006-Present
State Delegate, 1996-2006; Chair 1998-1999

New Hampshire Bar Association
Member, Board of Governors, 1985-1990

New Hampshire Bar Foundation
Board of Directors, 1987-1990

Community Involvement:

University of New Hampshire School of Law
Member, Board of Trustees, 2010-2013

Portsmouth Athenaeum
President, 2012-2014
Member, Board of Directors, 2010-2016;
Proprietor, 1991-Present

Strawbery Banke Museum
Chair, Board of Trustees, 2002-2004
Member, Board of Trustees, 2000-2006,
Member, National Council, 2008-Present

Greater Portsmouth Chamber of Commerce
Chair, Board of Directors, 1990-1992
Member, Board of Directors 1988-1992;

Portsmouth Historical Society
President, 1995-1997
Member, Board of Trustees, 1994-1999

Leadership New Hampshire
Associate, Class of 1993-1994

Franklin Pierce Law Center Alumni Association
President, 1985-1986; Member, Alumni Council, 1990-1992

Treaty of Portsmouth Anniversary Committee
Member, 2002-2006

New Hampshire Main Street Center
Board of Directors, 1998-2002

New Hampshire Small Business Development Center
Member, Board of Advisors, "Project Self-Start" Entrepreneurship Training
Program, 1993 - 1995

Ballet New England
Advisory Board, 1996-2004

Greater Seacoast Economic Summit
Treasurer and Member of the Executive Committee 1990-1991

Public Service:

City of Portsmouth Trustees of the Trust Funds
Trustee, 2012 – Present

City of Portsmouth Economic Development Commission
Member, 2018 - Present

City of Portsmouth Prescott Park Policy Advisory Committee
Member and Chair, 2017

City of Portsmouth Blue Ribbon Committee on Prescott Park Master Plan
Member, 2016 - 2017

City of Portsmouth Planning Board
Member, 1992 - 1994

City of Portsmouth Historic District Commission
Member, 1992

New Hampshire Constitutional Convention
Delegate, 1974

Recognition:

Voted 1995 "Portsmouth Citizen of the Year" by the Greater Portsmouth
Chamber of Commerce

Elected a New Hampshire Bar Fellow in 1993 by New Hampshire Bar Foundation

Received President's Award from New Hampshire Association for Justice in 1993, 1997, 2007 and
2016 in appreciation of outstanding service to the Association

Received 1997 Outstanding State Delegate award from the American Association for Justice for
dedicated and outstanding service

Received Weideman-Wysocki Citation of Excellence in 1999, 2000, 2002 and 2010 from American
Association for Justice

Received Granite State Advocate Award from the New Hampshire Association for Justice
in 2000 for dedication to the civil justice system

Received Board of Governor's Award from New Hampshire Association for Justice in 2006
in appreciation of long term service to and support of the Association

Received inaugural Professionalism Award from the Rockingham County Bar Association
in 2001

Recognized in 2011 through 2015 *Benchmark Plaintiff Guide* as local litigation star in commercial litigation and personal injury litigation.

Received President's Award for distinguished service from New Hampshire Bar Association as a member of the Special Committee on Rules of Civil Procedure in 1989.

Received 2013 E. Donald Dufresne Award for outstanding professionalism from the New Hampshire Bar Association

Inducted into the "Loyal Order of the Rock" in 2015 by the Rockingham County Bar Association in recognition of longstanding dedication to clients, colleagues and community



Board of Police Commissioners
of the
City of Portsmouth, N.H.

received
11/28/18

November 27, 2018

The Honorable Jack Blalock, Mayor
CITY OF PORTSMOUTH
1 Junkins Avenue
Portsmouth, NH 03801

RE: Commissioner Resignation

Dear Mayor Blalock:

At his request, I am writing to inform you that due to circumstances beyond his control, Rev. Dr. Arthur Hilson has had to resign his office as a Portsmouth Police Commissioner, effective immediately.

To the degree that I am able, I will answer any further questions you may have.

Very truly yours,
PORTSMOUTH POLICE COMMISSION

Joseph J. Onosko, Chair

JJO:kml

**CITY OF PORTSMOUTH
LEGAL DEPARTMENT
MEMORANDUM**

DATE: November 26, 2018
TO: JOHN P. BOHENKO, CITY MANAGER
FROM: ROBERT P. SULLIVAN, CITY ATTORNEY
RE: VACANCY ON THE POLICE COMMISSION



This will respond to your request for the procedure to be followed in filling a vacancy on the Police Commission at the present time.

The question has generated a significant amount of writing in the past. Please see my lengthy prior memoranda to you dated August 24, 2015 and January 9, 2018. The complexity of the writing was generated by a variance between the actual wording of the City Charter and a procedure recommended by the Office of the Attorney General at the request of the Secretary of State contained in a letter of August 7, 2015. Briefly, the issue is whether a vacancy on the Police Commission is filled by the next runner up candidate from the last Police Commission election as required by the Charter or rather by appointment of the City Council as directed by the Attorney General.

At the present time, however, there is no issue because there is no runner up from the last municipal election for Police Commission. That election occurred on November 7, 2017. At that time the candidates were James Splaine, Joe Onosko and Arthur Hilson (write-in). Since all three (3) of those individuals are currently on the Police Commission if a vacancy should occur then none of them would be available to assume the vacant position.


Therefore, the remaining option is the one suggested by the Office of the Attorney General that, "when a vacancy occurs on an elected police commission the vacancy is filled by appointment of the municipality's governing body until the next regular municipal election, RSA 105-C:3 (l)."

CITY OF PORTSMOUTH

LEGAL DEPARTMENT

MEMORANDUM

DATE: August 24, 2015
TO: JOHN P. BOHENKO, CITY MANAGER
FROM: ROBERT P. SULLIVAN, CITY ATTORNEY
RE: CHARTER INTERPRETATION SUBSEQUENT TO SECRETARY OF STATE VERBAL INSTRUCTION ON AUGUST 10, 2015



This memorandum is written to assist members of the municipal government and the public in interpreting the City Charter subsequent to Secretary of State William Gardner's verbal directive of July 29, 2015 (communicated to the City via the Portsmouth Herald), regarding the process for filing vacancies on the Police Commission. The verbal directive was reduced to writing on August 10, 2015 by the Secretary. That communication included a letter dated August 7, 2015 from his counsel (copy attached).

The instruction from the Office of Secretary of State to disregard that provision in Charter Amendment E adopted by the voters on November 6, 2001 came to the City in an unorthodox manner. Apparently, Elizabeth Dinan, a newspaper reporter, contacted the Secretary directly and in conversation he indicated to her that he felt the relevant portion of the City Charter was in violation of state law. At that point no contact or request for input had been made by anyone in state government with anyone in City government. Upon reading the Secretary's opinion in the newspaper, I called his office and spoke with him. He contacted the Attorney General's office. This lead to the directive attached to this memorandum.

Under the unorthodox process described in the previous paragraph, the breadth of the Secretary's pronouncement is not clear. A narrow view would be that he has overruled the Charter process for filing a vacancy because the process to fill a Police Commission vacancy Charter Amendment E is not consistent with RSA 105-C, the statute relied upon by the Secretary's directive. A broader reading would be that the Secretary has overruled Charter Amendment E completely as it was not adopted in accordance with RSA 105-C, but rather was adopted under RSA 49:B. This would have the effect of eliminating the Police Commission entirely. A third possibility is that the Secretary has ruled that the City must now follow the provisions of RSA 105-C in its entirety even though on its face it applies to towns, notwithstanding that Portsmouth is a City. This alternative would create a different commission than the one we have now.

The differences between the type of police commission created by Charter Amendment E for the City and the type of police commission created under RSA 105-C for towns are nearly universal. They include the term of office for commissioners and, most importantly, the duties and powers of commissioners. A Charter Amendment E police commission, for example exercises both administrative and policymaking authority over the Police Department. An RSA 105-C police commission does not appear to have either of those powers, at least not expressly. Nor does RSA 105-C detail the relationship between the police department and the remainder of the municipal government such as described in detail under Charter Amendment E. Therefore, lack of clarity on the question of what type of police commission we now have in the City of Portsmouth creates a serious problem for the governance of the City.

A complete copy of Charter Amendment E as well as RSA 105-C are attached to illustrate the difference between the two.

It is my belief that the paramount policy consideration for the City should be to as fully as possible, and to the greatest extent allowed by law, implement the will of the voters of the City in adopting Charter Amendment E. However, it is advisable to avoid either inviting or initiating litigation with the State. Under that analysis we should give the Secretary's instruction a narrow view so that it relates only to the process of filling vacancies on the Police Commission. It has been confirmed by e-mail dated August 21, 2015 from Attorney LaBonte of the Office of the Attorney General that the Secretary's direction was limited to answering that question. In all other respects, Charter Amendment E should be treated as valid and effective for defining a form of government for the City of Portsmouth unless or until either further directives are received from the Secretary or the matter is resolved by a Court of competent jurisdiction.

With regard to the term to be served by the member of the Police Commission appointed by the City Council to fill the vacancy created by the resignation of Commissioner Gerald Howe, Attorney LaBonte indicates that the Secretary of State has advised that the City look to RSA 669:61 (III) for guidance (copy attached). That statute is characterized by the State to require that any vacancy which occurs prior to the beginning of the filing of the period for a "town election" should be filled by the election immediately subsequent to the filing period. Therefore, in the current situation the appointment of a Commissioner by the City Council would run until the election which occurs on November 3, 2015, at which time two (2) Police Commissioners would then be elected. One of which is the position already scheduled to be on the ballot. The second would be to fill the remainder of the term created by the resignation of Commissioner Howe. In this manner, among other benefits, the staggering of commission terms required by the City Charter would be maintained:

A synthesis of all of the foregoing is that:

1. As soon as possible the City Council should appoint a member of the Police Commission to serve until the election on November 3, 2015.

2. At the election of November 3, 2015 there should be two (2) Police Commission positions on the ballot. The first for a full term of four (4) years and a second to fill the remainder of Commissioner Howe's term of two (2) years.
3. The commissioner elected for the two year term may be sworn into office immediately following the Canvass of the Vote and serve the remaining two (2) years of Gerald Howe's term.
4. The commissioner elected for the four (4) year term of office would take office on January 1, 2016.

Pending either further instruction from the Secretary of State or the result of any judicial determinations which might be made regarding the situation described in this memorandum, I am requesting the City Clerk annotate all available copies of the City Charter by footnoting the sentence in Charter Amendment E which reads, "In the event that a vacancy should occur on the Board, then the next runner-up candidate established at the last, most recent Board election, shall assume the balance of the vacated term." The footnote should read, "By letter dated August 7, 2015 addressed to Secretary of State William Gardner from Assistant Attorney General Stephen G. LaBonte given as a directive to the City by the Secretary it is written, 'When a vacancy occurs on an elected police commission the vacancy is filled by appointment of the municipality's governing body until the next regular municipal election. RSA 105-C:3, (1)'".

A copy of this memorandum is being provided to the Secretary of State and Attorney Stephen G. LaBonte. Their input on the issues discussed herein would be of major value and it is invited.

attachment

cc: William Gardner, Secretary of State
Stephen G. LaBonte, Esq.

h:\rps\police\memo to cm re-sos directive on filling vacancies on pc

CITY OF PORTSMOUTH

LEGAL DEPARTMENT

MEMORANDUM

DATE: January 9, 2018
TO: JOHN P. BOHENKO, CITY MANAGER
FROM: ROBERT P. SULLIVAN, CITY ATTORNEY
RE: VACANCY ON THE POLICE COMMISSION



The recent resignation of Joseph Plaia from the Portsmouth Police Commission raises a conflict of law issue with regard to the method by which the vacancy on the Commission is to be filled. The conflict is between a process dictated by the City Charter and a different process perhaps outlined under state law. This conflict is not new. It arose in 2015 and was resolved by the City in a manner which produced an appointment to the Police Commission but left open the question of what law properly applies. This memorandum will as succinctly as possible describe the issue, the actions taken in the past by the City and the decision which needs to be made at the present time by the City Council.

THE ISSUE

Amendment E of the City Charter (attached) describes the composition and operation of the Police Department, including the Police Commission. In pertinent part, Amendment E reads, "In the event that a vacancy should appear on the Board, then the next runner-up candidate established of the last, most recent Board election, shall assume the balance of the vacated term". Under the straightforward application of that Charter provision Reverend Arthur Hilson would automatically assume the position vacated by Joseph Plaia for the balance of Mr. Plaia's vacated term. Reverend Hilson was the runner-up at the election of November 7, 2017 receiving 858 votes.

In contrast to the foregoing provision from the Municipal Charter, by letter dated August 7, 2015 addressed to Secretary of State William Gardner, Assistant Attorney General Stephen LaBonte opined that, "when a vacancy occurs on an elected police commission the vacancy is filled by appointment of the municipality's governing body until the next regular municipal election, RSA 105-C:3 (l)." Attorney LaBonte's letter as well as a copy of RSA 105-C are attached hereto.

Also attached hereto is a copy of a memorandum from this office dated August 24, 2015 providing an overview of the conflict of law issue and some of the serious complications which it interjects into the operation of municipal government. These complications include essentially the elimination of the current Police Commission as approved by the City's electorate. That memo also describes the resolution of the issue in 2015. That resolution was that the City Council acquiesced to the opinion from the Office of the Attorney General and made the appointment to fill the vacancy on the Police Commission. However, this action was taken, "to avoid either inviting or initiating litigation with the State" and not because the City choose to abandon any provision of its municipal charter. Rather, from that time to the present the City Clerk has annotated all copies of the City Charter by footnoting the sentence in Charter Amendment E which reads that vacancies on the Board of Police Commissioners should be filled by, "the next runner-up candidate". The footnote reads,

By letter dated August 7, 2015 addressed to Secretary of State William Gardner from Assistant Attorney General Stephen G. LaBonte given as a directive to the City by the Secretary it is written, "when a vacancy occurs on an elected police commission the vacancy is filled by appointment of the municipality's governing body until the next regular municipal election, RSA 105-C:3(l).

The purpose of including the footnote in copies of the Municipal Charter which also contain the language which would fill a vacancy on the Police Commission by appointment of the next runner-up is to highlight the unresolved issue of law.

Opinions issued by attorneys for the City, the State or private parties might and do vary in good faith on this legally complex issue. A definitive resolution can only be achieved by resort to litigation between the City, the State and any other interested parties (for example, Reverend Arthur Hilson). In 2015 a decision was made that it would not be in the best interest of the City to conduct or invite that litigation at that time.

PRESENT CHOICES BEFORE THE CITY COUNCIL

Because it is a major policy decision for the City to determine whether to follow the provisions of the Municipal Charter as written or to disregard the Charter and follow the opinion of the Attorney General's Office, the matter is one which should be resolved by the City Council, the City's policymaking body.

Option #1:

The City Council may determine to follow the provisions in the Municipal Charter under which Reverend Arthur Hilson would automatically accede to fill the position created by the resignation by Joseph Plaia. In this case the City Clerk would swear in Reverend Hilson. A court challenge might then arise, initiated by either the State of New Hampshire or any other person who feels that Reverend Hilson is not entitled to the position as a matter of law.

Option #2:

As in 2015 the City Council could determine to acquiesce to the position advanced by the Office of the Attorney General and disregarding the Municipal Charter in favor of following the provisions of RSA 105-C:3. Under this option the City Council would fill the vacancy on the Police Commission by appointing an individual to serve until the next regular municipal election.

CONCLUSION

Based on all of the foregoing as well as a review of file materials it would now appear appropriate for the issue as described herein to be placed before the City Council so that the Council may either endorse the appointment of Reverend Arthur Hilson to the Police Commission in accordance with the provisions of the City Charter, itself appoint whatever individual the Council believes would best serve the City in that position, or emulate the action of the 2015 Council by making an appointment simply to avoid possible litigation with the State but without waiving or litigating Charter Amendment E at the present time..

As noted above, there is no question that the opinion from the Office of the Attorney General, with which I respectfully disagree, has been rendered in good faith. That opinion might or might not be upheld by the Court if subjected to litigation. A copy of this memorandum is being provided to the Attorney General.

attachments

cc: Gordon J. MacDonald, Attorney General

h:\rps\city manager\memo re-police commission vacancy

AMENDMENT E - POLICE DEPARTMENT (POLICE COMMISSION)

GENERALLY

Notwithstanding any other provisions of the Revised Charter, the following department of City government shall be separately identified as Charter Department, and shall be administered in accordance with the provisions of this Article.

POLICE DEPARTMENT (POLICE COMMISSION)

The policy-making body for the Police Department in the City of Portsmouth shall be a Police Commission. The Police Commission shall consist of three persons to be elected in accordance with the following.

APPOINTMENT/ELECTION TERMS

Should an elected Police Commission be approved on November 5, 1991, the Mayor of the City of Portsmouth shall appoint the first board of three Commissioners who shall assume office commencing on January 1, 1992 through January 1, 1994. In order to establish a legal and proper cycle of election in accordance with New Hampshire law, hereinafter, the first elected Board of Police Commissioners shall be elected in November, 1993 as follows:

The two candidates receiving the highest and second highest number of votes shall assume terms of four years. The candidate receiving the third highest number of votes shall assume a term of two years.

Thereinafter, each Commissioner shall be elected for a term of four years. All Police Commissioners elected from 1993 and onwards shall be elected at large and without party affiliation and may be elected for more than one term of office. In the event that a vacancy should occur on the Board, then the next runner-up candidate established out of the last, most recent Board election, shall assume the balance of the vacated term. In the event that the list of candidates from the last election available to fill vacancies becomes depleted, then the Mayor shall appoint any necessary Commissioners.¹

ELIGIBILITY

Any person presently residing within the City of Portsmouth for not less than two years shall be deemed eligible to seek election to the Board of Commissioners.

REMOVAL

Any member of the Police Commission may be removed from office for just cause by a two-thirds vote of the City Council following a public hearing.

INCOMPATIBLE OFFICES

No member of the Police Commission shall serve on the Commission while receiving compensation from or holding any other public office within the City of Portsmouth.

QUORUM (VOTES)

All questions put before the Police Commission shall be decided by a single majority vote of the Commission. At least three members of the Commission shall be present at any meeting to constitute a quorum.

¹ By letter dated August 7, 2015 addressed to Secretary of State William Gardner from Assistant Attorney General Stephen G. LaBonte given as a directive to the City by the Secretary it is written, "When a vacancy occurs on an elected police commission the vacancy is filled by appointment of the municipality's governing body until the next regular municipal election. RSA 105-C:3,(I)".

POWERS

The Police Commission shall appoint such permanent patrol officers, sergeants, captains, commanders, and police chief, as they deem necessary. The Commission shall have authority to consider and act upon any complaint and/or employee grievance(s) brought to it through such procedures. Where the Commission determines there to be sufficient cause, the Commission may, after a hearing consistent with the requirements of due process, discipline or remove any employee of the Police Department against whom such a complaint has been brought. Appeals from such decisions shall be heard pursuant to such grievance procedures as shall be established by the Commissioners or as prescribed in respective collective bargaining agreements. The commission shall assume all administrative responsibilities, which would otherwise be vested in the City Manager under this charter relating to the administration of the Department. Such power to include, but not limited to, the following:

- A. Determine the number, location and type of facilities and installations, subject to the approval of the City Council
- B. To determine the size of the work force and increase or decrease it's size, subject to the approval of the City Council

ORGANIZATION

The Police Commission shall, beginning January 1992, convene meeting annually in the month of January for organizational purposes. The Commission shall choose one of its members to serve as chairperson. The Commission shall choose one of its members to serve as clerk. No one member may simultaneously serve as chairperson and clerk. (AMENDED BY REFERENDUM VOTE NOVEMBER 6, 2001).

RULES AND REGULATIONS

The Commission shall make such rules and regulations for their own proceedings and the administration of the Police Department, as they deem advisable.

COMPENSATION

The Police Commissioners shall receive such compensation as the City Council may from time to time determine.

ANNUAL BUDGET

The Police Commission shall, beginning in January of 1992 (and annually thereafter), hold a public hearing prior to the finalization of its budgetary considerations so as to discover the will of the people with respect to such matters. The Commission shall then submit its annual budget request to the City Council in accordance with the remaining provisions of this Charter. The salaries and benefits of all officers and employees of the Police Department shall be considered by the Commission through timely discussion with the recognized bargaining units of said officers and employees. The Commission shall utilize such negotiator as shall be provided by this Charter, or in the absence of a Charter provision, by the City Council. The Commissioners shall then recommend the agreed upon settlement to the City Council for final approval or denial. Should it be denied, the Commission would then be required to enter into further discussion with the recognized bargaining units until such time as a settlement is reached and ultimately ratified by the City Council. The chairperson of the Commission, or his/her designees, shall report at least semi-annually to the City Council on the state of the Police Department and its operation. Such reports shall include a summary of the Department's budget, workforce, equipment, promotions, retirements and other related matters. The Commission, in its discretion, may allow the police chief to submit a letter to the Council as part of any such report. (AMENDED BY REFERENDUM VOTE NOVEMBER 6, 2001). (ADOPTED BY REFERENDUM VOTE NOVEMBER 5, 1991)

ATTORNEY GENERAL
DEPARTMENT OF JUSTICE

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

JOSEPH A. FOSTER
ATTORNEY GENERAL



ANN M. RICE
DEPUTY ATTORNEY GENERAL

August 7, 2015

Hon. William M. Gardner
Secretary of State
State House, Room 204
107 North Main Street
Concord, N.H. 03301

Re: Police Commission Vacancy

Dear Mr. Secretary:

You have requested that I opine as to the proper mechanism for which a municipality operating under a city form of government may fill vacancies within its police commission.

Under the New Hampshire Constitution, the Legislature has plenary control over municipalities. *City of Manchester School Dist. v. City of Manchester*, 150 N.H. 664, 666 (2004). As such, municipalities have only the powers delegated to them by the State. *Id.* Prior to 1913 local police commissions were established through special legislation where the commissioners would be appointed by the governor and council. 13-15 N.H.P. § 502. In 1913, the Legislature adopted legislation unifying the laws relating to police commissions in the cities of Manchester, Nashua, Portsmouth, Laconia, Somersworth, Dover, Berlin and the Town of Exeter. *Id.*

In 1981, the Legislature granted the authority to establish police commissions to the remaining municipalities with the passage of RSA Chapter 105-C. *See* 1981 N.H. Laws 277:1. RSA 105-C:1 provides that "[a]ny town which adopts [RSA Chapter 105-C] may establish a police commission, consisting of 3 commissioners, who shall have been residents of the town for at least 3 years immediately preceding the date of their election or appointment." Although the RSA 105-C:1 specifies towns, RSA 44:2, expands the statute's application to cities.¹

¹ RSA 44:2 Provisions Applicable. – All provisions of statutes, now made or hereafter enacted relating to towns, shall be understood to apply to cities; and all provisions relating to the selectmen and town clerks of towns shall be construed to apply to the mayor and aldermen and clerks of cities, respectively, unless a different intention appears.

Source. GS 40:2. GL 44:2. PS 46:2. PL 50:2. RL 62:2.

Police commissioners are chosen by either the plurality at the municipal election or by appointment of the governor with consent of the council. RSA 105-C:2, (II). As set by RSA 105-C:3, (I), police commissioners typically hold office for a term of 3 years, however, the Legislature has authorized municipalities operating under a city form of government to set the term of office for city officials. RSA 44:11 ("all ward and city officers who are chosen by the people shall hold their respective offices for the term and from the day fixed by law or ordinance"). When a vacancy occurs on an elected police commission the vacancy is filled by appointment of the municipality's governing body until the next regular municipal election. RSA 105-C:3, (I). A vacancy occurring on an appointed police commission is filled by appointment of the governor, with the approval of the council, for the duration of the unexpired term.

If you have any further questions regarding this matter, please do not hesitate to contact me.

Sincerely,



Stephen G. LaBonte
Assistant Attorney General
Civil Bureau
(603) 271-3658
Fax: (603) 223-6296

TITLE VII

SHERIFFS, CONSTABLES, AND POLICE OFFICERS

CHAPTER 105-C

POLICE COMMISSIONS

Section 105-C:1

105-C:1 Establishment Authority. – Any town which adopts this chapter may establish a police commission, consisting of 3 commissioners, who shall have been residents of the town for at least 3 years immediately preceding the date of their election or appointment.

Source. 1981, 277:1, eff. June 16, 1981.

Section 105-C:2

105-C:2 Referendum. – The following questions shall be submitted to the voters of a town on the regular ballot for the election of town officers if a petition is presented to the selectmen in accordance with RSA 39:3 requesting the same:

I. "Shall the government of the police department of the town of _____ be entrusted to a police commission?"

II. "If so, shall such police commissioners be chosen by:

(a) Popular election at town election; or

(b) Appointment of the governor with consent of the council?"

Source. 1981, 277:1, eff. June 16, 1981.

Section 105-C:3

105-C:3 Establishment. –

I. If a majority of those voting in a town in any town election answer the question posed in RSA 105-C:2, I in the affirmative and select the method of establishment set out in RSA 105-C:2, II(a), the voters of such town shall, at the next succeeding annual town election, elect such a police commission. The term of office of each such commissioner shall be for 3 years, except that of the first commission elected under this chapter in any town, one member shall be elected to serve a term of one year and one member shall be elected to serve a term of 2 years. Any vacancy occurring on the commission shall be filled by appointment of the board of selectmen until the next regular annual town meeting.

II. If a majority of those voting in a town in any town election answer the question posed in RSA 105-C:2, I in the affirmative and select the method of establishment set out in RSA 105-C:2, II(b), the governor, with the consent of the council, shall promptly appoint such a commission. The term of office of each such commissioner shall be for 3 years, except that of the first commission appointed under this chapter in any town, one member shall be appointed to serve a term of one year and one member shall be appointed to serve a term of 2 years. Any vacancy occurring on the commission shall be filled by appointment of the governor, with the approval of the council, for the duration of the unexpired term.

III. No person holding office as a selectman, treasurer, collector of taxes, auditor, highway agent, or head of a police department shall be elected or appointed as a police commissioner under this section.

Source. 1981, 277:1, eff. June 16, 1981.

Section 105-C:4

105-C:4 Duties; Powers. – It shall be the duty of the police commissioners to appoint such police personnel, including police officers, staff, constables and superior officers, as they deem necessary and to fix such persons' compensation. The commissioners shall make and enforce all rules necessary for the operation of the police force in the manner most beneficial to the public interest. The commissioners may at any time remove police personnel for just cause and after a hearing satisfying the requirements of due process, which cause shall be specified in an order of removal except that special police officers appointed and designated as such shall serve at the pleasure of the commission and may be removed for other than just cause.

Source. 1981, 277:1, eff. June 16, 1981.

Section 105-C:5

105-C:5 Prohibition; Police in Office. – After the election and qualification of the police commissioners under this chapter, no chief of police, police officers, constables or superior officers shall be appointed in any town adopting this chapter except as provided in this chapter. Any chief of police, police officer, constable, or superior officer in office on the date the commission has been duly established, shall be deemed to have been appointed by the commission, subject to the terms and conditions of his original appointment.

Source. 1981, 277:1, eff. June 16, 1981.

Section 105-C:6

105-C:6 Compensation. – Police commissioners shall serve without compensation but shall be reimbursed for all actual expenses incurred in the discharge of official duties.

Source. 1981, 277:1, eff. June 16, 1981.


Section 105-C:7

105-C:7 Option to Rescind Action. – Any town which has voted to establish a police commission under this chapter may rescind such action by submission of an article in the town warrant as provided in RSA 39:3.

Source. 1981, 277:1, eff. June 16, 1981.

CITY OF PORTSMOUTH
LEGAL DEPARTMENT
MEMORANDUM

DATE: August 24, 2015
TO: JOHN P. BOHENKO, CITY MANAGER
FROM: ROBERT P. SULLIVAN, CITY ATTORNEY
RE: CHARTER INTERPRETATION SUBSEQUENT TO SECRETARY OF STATE VERBAL INSTRUCTION ON AUGUST 10, 2015



This memorandum is written to assist members of the municipal government and the public in interpreting the City Charter subsequent to Secretary of State Willem Gardner's verbal directive of July 29, 2015 (communicated to the City via the Portsmouth Herald), regarding the process for filing vacancies on the Police Commission. The verbal directive was reduced to writing on August 10, 2015 by the Secretary. That communication included a letter dated August 7, 2015 from his counsel (copy attached).

The instruction from the Office of Secretary of State to disregard that provision in Charter Amendment E adopted by the voters on November 6, 2001 came to the City in an unorthodox manner. Apparently, Elizabeth Dinan, a newspaper reporter, contacted the Secretary directly and in conversation he indicated to her that he felt the relevant portion of the City Charter was in violation of state law. At that point no contact or request for input had been made by anyone in state government with anyone in City government. Upon reading the Secretary's opinion in the newspaper, I called his office and spoke with him. He contacted the Attorney General's office. This led to the directive attached to this memorandum.

Under the unorthodox process described in the previous paragraph, the breadth of the Secretary's pronouncement is not clear. A narrow view would be that he has overruled the Charter process for filing a vacancy because the process to fill a Police Commission vacancy Charter Amendment E is not consistent with RSA 105-C, the statute relied upon by the Secretary's directive. A broader reading would be that the Secretary has overruled Charter Amendment E completely as it was not adopted in accordance with RSA 105-C, but rather was adopted under RSA 49:B. This would have the effect of eliminating the Police Commission entirely. A third possibility is that the Secretary has ruled that the City must now follow the provisions of RSA 106-C in its entirety even though on its face it applies to towns, notwithstanding that Portsmouth is a City. This alternative would create a different commission than the one we have now.

The differences between the type of police commission created by Charter Amendment E for the City and the type of police commission created under RSA 105-C for towns are nearly universal. They include the term of office for commissioners and, most importantly, the duties and powers of commissioners. A Charter Amendment E police commission, for example exercises both administrative and policymaking authority over the Police Department. An RSA 105-C police commission does not appear to have either of those powers, at least not expressly. Nor does RSA 105-C detail the relationship between the police department and the remainder of the municipal government such as described in detail under Charter Amendment E. Therefore, lack of clarity on the question of what type of police commission we now have in the City of Portsmouth creates a serious problem for the governance of the City.

A complete copy of Charter Amendment E as well as RSA 105-C are attached to illustrate the difference between the two.

It is my belief that the paramount policy consideration for the City should be to as fully as possible, and to the greatest extent allowed by law, implement the will of the voters of the City in adopting Charter Amendment E. However, it is advisable to avoid either inviting or initiating litigation with the State. Under that analysis we should give the Secretary's instruction a narrow view so that it relates only to the process of filling vacancies on the Police Commission. It has been confirmed by e-mail dated August 21, 2015 from Attorney LaBonte of the Office of the Attorney General that the Secretary's direction was limited to answering that question. In all other respects, Charter Amendment E should be treated as valid and effective for defining a form of government for the City of Portsmouth unless or until either further directives are received from the Secretary or the matter is resolved by a Court of competent jurisdiction.

With regard to the term to be served by the member of the Police Commission appointed by the City Council to fill the vacancy created by the resignation of Commissioner Gerald Howe, Attorney LaBonte indicates that the Secretary of State has advised that the City look to RSA 669:31 (III) for guidance (copy attached). That statute is characterized by the State to require that any vacancy which occurs prior to the beginning of the filing of the period for a "town election" should be filled by the election immediately subsequent to the filing period. Therefore, in the current situation the appointment of a Commissioner by the City Council would run until the election which occurs on November 3, 2015, at which time two (2) Police Commissioners would then be elected. One of which is the position already scheduled to be on the ballot. The second would be to fill the remainder of the term created by the resignation of Commissioner Howe. In this manner, among other benefits, the staggering of commission terms required by the City Charter would be maintained:

A synthesis of all of the foregoing is that:

1. As soon as possible the City Council should appoint a member of the Police Commission to serve until the election on November 3, 2015.

2. At the election of November 3, 2015 there should be two (2) Police Commission positions on the ballot. The first for a full term of four (4) years and a second to fill the remainder of Commissioner Howe's term of two (2) years.
3. The commissioner elected for the two year term may be sworn into office immediately following the Canvass of the Vote and serve the remaining two (2) years of Gerald Howe's term.
4. The commissioner elected for the four (4) year term of office would take office on January 1, 2016.

Pending either further instruction from the Secretary of State or the result of any judicial determinations which might be made regarding the situation described in this memorandum, I am requesting the City Clerk annotate all available copies of the City Charter by footnoting the sentence in Charter Amendment E which reads, "In the event that a vacancy should occur on the Board, then the next runner-up candidate established at the last, most recent Board election, shall assume the balance of the vacated term." The footnote should read, "By letter dated August 7, 2015 addressed to Secretary of State William Gardner from Assistant Attorney General Stephen G. LaBonte given as a directive to the City by the Secretary it is written, 'When a vacancy occurs on an elected police commission the vacancy is filled by appointment of the municipality's governing body until the next regular municipal election. RSA 105-C:3, (1)'".

A copy of this memorandum is being provided to the Secretary of State and Attorney Stephen G. LaBonte. Their input on the issues discussed herein would be of major value and it is invited.

attachment

cc: William Gardner, Secretary of State
Stephen G. LaBonte, Esq.

TITLE LXIII ELECTIONS

CHAPTER 669 TOWN ELECTIONS

Filling of Vacancies

Section 669:61

669:61 Vacancies in Town Offices. –

I. Whenever a vacancy as defined in RSA 652:12 occurs in any elective town office or whenever a town neglects or refuses to fill an elective town office, said vacancy shall be filled by the action of that body or person authorized by law to appoint or elect such officer for a term ending upon the election and qualification of his successor, unless otherwise provided. Unless otherwise provided, at said next annual town election, the voters of the town shall then elect an officer for the full term provided by law or the balance of an unexpired term provided by law, as the case may be. If a town then refuses or neglects to fill said office, a vacancy shall be deemed again to exist.

II. Nothing in this section shall be deemed to empower a town to find that a vacancy exists, in the case of a contested election or recount, until the rendering of a final judgment by a court of competent jurisdiction or by the ballot law commission as to such contested election in accordance with RSA 652:12, V, or until the recount has been concluded.

III. For the purposes of paragraph I, and with respect to those offices elected by official, non-partisan ballot, the term "next annual town election" shall mean the next annual town election for which the nomination filing period, as set forth in RSA 669:19, begins subsequent to the occurrence of the vacancy. Any vacancy which occurs between the beginning of the filing period and the town election shall not be filled by official ballot until the annual town election the following year.

IV. The legislative body of a town may adopt or rescind the optional procedure in this paragraph for filling vacancies in elective town offices. If the authorized person or body does not make an appointment to fill the vacancy pursuant to paragraph I within 45 days after at least one legally-qualified person has applied in writing for such appointment, then upon the filing of a petition with the selectmen signed by the number of voters required under RSA 39:3 for the warning of a special town meeting, presented not less than 90 days before the next annual town meeting, the selectmen shall call a special election to fill the vacancy. The special election shall be subject to the provisions of RSA 39:3 and other applicable provisions governing town elections. The person elected at the special election shall serve for a term ending upon the election and qualification of his or her successor. Unless otherwise provided, at the next annual town election, the voters of the town shall elect an officer for the full term provided by law or the balance of an unexpired term provided by law, as the case may be. If the town then refuses or neglects to fill the office, a vacancy shall be deemed again to exist.

Source. 1979, 410:1. 1981, 520:4. 1994, 112:2. 2008, 267:1, eff. Aug. 25, 2008.

Dr. John Howard
Director, National Institute for Occupational Safety and Health
Patriots Plaza 1
395 E Street, SW, Suite 9200
Washington, DC 20201

December 3, 2018

Dear Dr. Howard,

We are requesting the National Institute of Occupational Safety and Health (NIOSH) conduct research on the risks and health outcomes linked to occupational exposure to PFAS by firefighters. While our primary concern is that the research include firefighters in Portsmouth, NH, other firefighters across the nation with similar occupational exposure to PFAS also deserve to understand these health effects and risks.

In 2014 the City of Portsmouth discovered Per- and Polyfluoroalkyl Substances (PFAS) in the Haven Well which for years had been the primary source of water to the Pease Tradeport in Portsmouth. Fire Station #3 of the City of Portsmouth is located on the Pease Tradeport. Since that time there has been vigorous community dialogue that led to the Agency for Toxic Substances and Disease Registry (ATSDR) to embark on a study designed to establish the health risks associated with the exposure to the drinking water from the Haven Well. Community and municipal members from our city, including firefighters, have served on the Pease Community Assistance Panel (CAP) where they recently learned that the ATSDR is excluding firefighters from the health study.

The ATSDR indicated that in addition to drinking, cooking and bathing with this contaminated water, our firefighters have additional occupational exposures to various classes of PFAS through firefighting equipment and suppression agents. The ATSDR study at Pease Tradeport is focused on effects of exposure to the contaminated water from the well and therefore could not accept testing data from subjects with other PFAS exposure.

Based on epidemiological literature that currently exists, the ATSDR concluded there is limited or no information to determine whether a causal association exists between exposure to PFAS, PFOS or PFHxS and most cancers or other adult diseases. The ATSDR recommended that the required additional research related to occupational exposures, such as with firefighters, should be spearheaded by NIOSH.

On behalf of Portsmouth firefighters, who we value as employees, residents and members of our community, we urge you to act on this with urgency.

Sincerely,

cc. Senator Shaheen, Senator Hassan, Pease CAP