

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, OCTOBER 7, 2019 TIME: 6:15PM

- **6:15PM – PUBLIC DIALOGUE SESSION**

- I. **WORK SESSION** *(There is no Work Session this evening)*

- II. **CALL TO ORDER [7:00 p.m. or thereafter]**

- III. **ROLL CALL**

- IV. **INVOCATION**

- V. **PLEDGE OF ALLEGIANCE**

- VI. **ACCEPTANCE OF MINUTES – SEPTEMBER 3, 2019**

- VII. **RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS**

- VIII. **PUBLIC DIALOGUE SUMMARY**

- IX. **PUBLIC HEARING AND VOTE ON ORDINANCE AND/OR RESOLUTION**

- Public Hearing**

- A. Public Hearing regarding KENO within the City of Portsmouth

- **PRESENTATION**
 - **CITY COUNCIL QUESTIONS**
 - **PUBLIC HEARING SPEAKERS**
 - **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

- B. Third and Final Reading of Ordinance amending Chapter 3, Article IX – Distribution of Single-Use Disposables

- X. **MAYOR BLALOCK**

- 1. Appointment to be Considered:

- Jessica Blasko as a Regular member of the Conservation Commission

- 2. Appointment of Brian Goetz to the Drinking Water Commission

- 3. Resignation of Nathalie Morison from the Conservation Commission, effective immediately

- XI. **CITY COUNCIL MEMBERS**

- A. COUNCILOR PEARSON**

- 1. Contact Information

B. COUNCILOR DWYER

1. *Update Re: Transition for the 400th

C. COUNCILOR DENTON

1. Distribution of Single Use Disposables Policy
2. *Variances to allow dogs on a restaurant's patio or deck

D. COUNCILOR PERKINS

1. Pease International Tradeport – Strategic Planning Process

E. COUNCILOR RAYNOLDS

1. *Request for Analysis and Report Back on Middle Street Bike Lane

XII. APPROVAL OF GRANTS/DONATIONS

(There are no Grant/Donations on this agenda)

XIII. CITY MANAGER'S ITEMS WHICH REQUIRE ACTION

A. CITY MANAGER

City Manager's Items Which Require Action:

1. Request for First Reading Re: Amendments to Building, Life Safety and Health Codes
2. Request for First Reading of Floodplain Overlay District Zoning Amendments
3. Request for First Reading of a Minor Ordinance Change to Conservation Ordinance
4. Request for First Reading on Wetlands Regulations Zoning Amendments
5. Request by Residents that Properties along Chase Drive and Cutts Avenue be Re-Zoned from Gateway Neighborhood Mixed Use Center (G2) to Single Residence B (SRB)
6. Sagamore Avenue Area Low Pressure Sewer System – Cost Apportionment
7. 2219 Lafayette Road Bicycle and Pedestrian Easement
8. 299 Vaughan Street Request for License Term Extension
9. Sale of Surplus Vehicles and Equipment

XIV. CONSENT AGENDA

- A. Letter from Matt Junkin, Seacoast Rotary requesting permission to hold the 11th Annual Turkey Trot 5k on Thanksgiving, November 28, 2019 at 7:00 a.m. (***Anticipated action – move to refer to the City Manager with power***)

XV. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Email Correspondence (***Sample motion – move to accept and place on file***)
- B. Letter from Edward W. Richards Regarding Bethel Assembly of God property, 200 Chase Drive

XVI. CITY MANAGER’S INFORMATIONAL ITEMS

- 1. Report Back Re: Railroad Operations

XVII. MISCELLANEOUS BUSINESS INCLUDING BUSINESS REMAINING UNFINISHED AT PREVIOUS MEETING

XVIII. ADJOURNMENT [at 10:00 p.m. or earlier]

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

** Indicates verbal report*

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, SEPTEMBER 3, 2019

PORTSMOUTH, NH
TIME: 6:15PM

There was one table for Public Dialogue Session – Table A

PRESENT: Mayor Blalock, Assistant Mayor Lazenby, Councilors Roberts, Perkins, Raynolds 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.

Harold Whitehouse said that this is one of the finest City Council's he has seen in a long time. He said this City Council all works together and handles difficult situations.

Mr. Whitehouse stated he hates to see the city divided on the McIntyre Building. He said Mr. Binnie had something to add to the McIntyre Building and brought together things that were an issue. He said there will be 94 parking spaces and St. John's Church will never be obstructed.

Christina Dubin spoke in support of the plastic disposable ordinance. She said she would like this item to go to a public hearing. She stated people do want to see the ordinance passed. She said the City branded itself as an Eco municipality and you need to put some weight behind that meaning, there is enough protection to regulate these kinds of materials.

Councilor Raynolds said he supports Councilor Denton's request and ordinance. He said it is a scaled back version and going as well as we can. He said we can't ban plastic bags at supermarkets.

Councilor Roberts spoke in supports of the ordinance. He said the part on Styrofoam on City property is unclear to him and we should find a way to move forward.

Councilor Becksted said he supports the ordinance by Councilor Denton. He said some concerns are with sports and we could always choose what types of materials to use. He said he does not want lawsuits.

Councilor Denton said he has started drafting amendments that would require the ban on Styrofoam.

Mark Brighton said he received 500 signatures against getting rid of the use of plastic bags a few years ago. He said there is not universal support for this ordinance. He said there is a 50/50 split on this matter.

Mayor Blalock said he would support a strongly written policy rather than an ordinance. He said we are talking about City owned property that you can't use these particular items.

Ms. Dubin said when donations are provided at Little Harbour School dinner you can't request to only receive recyclable items. She said Little Harbour School has Mr. Fox and does compost items.

Harold Whitehouse said the Post Office is a very important issue and it needs to come back to the downtown.

Mayor Blalock said dealing with the Post Office on the federal level we don't know where they're

going to put a post office and they don't provide a reason. He said it is challenging issue and the City Council did not make the decision.

Councilor Becksted said that the public can do their due diligence to try and get the Post Office to move back. He said the public needs to speak out to the Post Master.

Sue Polidura said that the Post Office will blame the City Council and the perception of the employees working at the Post Office is they are not coming back to the downtown site. She spoke opposed to the Plastic Disposable Ordinance. She said she reuses plastic bags for many things. She stated the ordinance does not meet the goals of saving resources.

The Public Dialogue Session concluded at 7:00 p.m.

I. WORK SESSION

There was no Work Session this evening.

II. CALL TO ORDER

Mayor Blalock called the meeting to order at 7:10 p.m.

III. ROLL CALL

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

ABSENT: Councilors Pearson and Dwyer

IV. INVOCATION

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

V. PLEDGE OF ALLEGIANCE

Mayor Blalock led the Pledge of Allegiance.

VI. ACCEPTANCE OF MINUTES – AUGUST 12, 2019

Assistant Mayor Lazenby moved to accept and approve the minutes of the August 12, 2019 City Council meeting. Seconded by Councilor Denton and voted.

VII. RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS

(There is no Recognition and Volunteer Committee Reports this evening)

VIII. PUBLIC DIALOGUE SUMMARY

Councilor Roberts gave a brief summary of the topics discussed during Public Dialogue, which was the Post Office, how wonderful the current City Council is, Plastic Bag Ordinance and the Post Office relocation.

IX. PUBLIC HEARING AND VOTE ON ORDINANCE AND/OR RESOLUTION

Public Hearing

XII. Public Hearing on Chapter 7, Article III, Section 7.326 – Limited Parking – Fifteen Minutes

ORDINANCE AMENDING CHAPTER 7, ARTICLE III, SECTION 7.326 – LIMITED PARKING – FIFTEEN MINUTES BY THE *DELETION* OF MAPLEWOOD AVENUE: ~~EASTERLY SIDE THE FIRST TWO SPACES COMMENCING 140 FEET NORTHERLY FROM VAUGHAN STREET~~

- **PRESENTATION**
- **CITY COUNCIL QUESTIONS**
- **PUBLIC HEARING SPEAKERS**
- **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

Mayor Blalock read the legal notice.

No Presentation was provided by staff.

There were no questions by the City Councilors.

Mayor Blalock declared the Public Hearing open and with no speakers, declared the Public Hearing closed.

Councilor Roberts moved to pass second reading and schedule third and final reading of the proposed Ordinance at the September 16, 2019 City Council meeting, as recommended by the Parking and Traffic Safety Committee. Seconded by Assistant Mayor Lazenby and voted.

B. Public Hearing on Chapter 7, Article III, Section 7.328 – Limited Parking – Three Hours

ORDINANCE AMENDING CHAPTER 7, ARTICLE III, SECTION 7.328 – LIMITED PARKING – THREE HOURS – MAPLEWOOD AVENUE: BOTH SIDES, BETWEEN RAYNES AVENUE AND VAUGHAN STREET

- **PRESENTATION**
- **CITY COUNCIL QUESTIONS**
- **PUBLIC HEARING SPEAKERS**
- **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

Mayor Blalock read the legal notice.

There was no Presentation provided by staff.

Mayor Blalock declared the Public Hearing open and with no speakers, declared the Public Hearing closed.

Assistant Mayor Lazenby moved to pass second reading and schedule third and final reading of the proposed Ordinance at the September 16, 2019 City Council meeting, as recommended by the Parking and Traffic Safety Committee. Seconded by Councilor Roberts.

Councilor Reynolds said the effects of this will make all parking on Maplewood Avenue metered and three hour parking.

Councilor Roberts said some of the street was already metered but this meters the entire street.

Motion passed.

- C. First Reading on Chapter 3, Article IX – Distribution of Single-Use Disposables (*Postponed first reading at the August 12, 2019 meeting until the September 3, 2019 meeting*)

Councilor Denton moved to pass first reading and schedule a public hearing and second reading at the September 16, 2019 City Council meeting. Seconded by Assistant Mayor Lazenby.

Councilor Denton reviewed the ordinance and said the goal is to get feedback and amendments brought forward that he would draft. He said that this is a lengthy ordinance but the goal is to get everyone at City events, businesses and city property to not use plastic bags. He said the ordinance will essentially ban the disposition of plastic bags and impose a ten cent fee to stay at the store. He said the exception came from the public. He stated plastic bags will still be allowed for residents. He spoke to disposable cups and water bottles. Councilor Denton said he would bring forth an amendment to eliminate the Styrofoam cups at the next meeting. He explained composting for disposable containers. He said straws would need to be requested. He said the effective date of the ordinance is December 31, 2019.

Councilor Becksted said we have many events on streets, how do you intend to enforce the ordinance.

Councilor Denton said the fee for violating the ordinance will be established by the Fee Committee. He stated events on City property and an amendment would be made at the next meeting to address this matter.

Councilor Becksted said he would not support going to second reading with this ordinance, as presented.

Mayor Blalock passed the gavel to Assistant Mayor Lazenby

Mayor Blalock said this ordinance is all well intended but he is troubled by the length of the ordinance and its complexities. He feels that it would be better suited to have a City policy on this matter. He said he might vote in favor of the first reading in order to get to second reading and public hearing.

Assistant Mayor Lazenby returned the gavel to Mayor Blalock.

Assistant Mayor Lazenby asked City Attorney Sullivan if the ordinance would run into issues. City Attorney Sullivan said on City property the City has the right to require things however, once the City regulates off City property you can't regulate plastic and there will be attorney's with questions on this ordinance.

Assistant Mayor Lazenby said it is safe to say we should move forward with a policy.

City Attorney Sullivan said everything Mayor Blalock said could be done. He said a City license or approval would be in compliance with rules as presented by Councilor Denton.

Councilor Perkins asked if there has been any outreach by Councilor Denton regarding Styrofoam uses and would like to know how businesses feel about Styrofoam.

Councilor Denton said at the recent Chamber of Commerce event no businesses were concerned with not using Styrofoam.

Councilor Reynolds said he feels we should be leading on this for the City and raising the bar.

Mayor Blalock passed the gavel to Assistant Mayor Lazenby.

Mayor Blalock said a policy could be accomplished now and would not take three readings. He said a policy makes the regulations stronger.

Assistant Mayor Lazenby returned by gavel to Mayor Blalock.

Councilor Roberts would move the ordinance to second reading.

Assistant Mayor Lazenby said he supports moving this to second reading and feels a policy is the right way to go at this time.

On a roll call 6-1, voted to pass first reading and schedule a public hearing and second reading at the September 16, 2019 City Council meeting. Assistant Mayor Lazenby, Councilors Roberts, Denton, Perkins, Reynolds and Mayor Blalock voted in favor. Councilor Becksted voted opposed.

D. Third and Final Reading on Chapter 7, Article III, Section 7.328 – Limited Parking – Three Hours

Ordinance amending Chapter 7, Article III, Section 7.328 – Limited Parking – Three Hours – Raynes Avenue: entire street, both sides and Vaughan Street: entire street, both sides

Councilor Roberts moved to pass third and final reading of proposed Ordinance, as recommended by the Parking and Traffic Safety Committee. Seconded by Councilor Reynolds and voted.

X. **MAYOR BLALOCK**

1. Appointments to be Considered:

- Maryellen Burke to be appointed to the Board of Library Trustees
- Janaki Fonseka to be appointed to the Board of Library Trustees
- Lori Soloway to be appointed to the Citywide Neighborhood Blue Ribbon Committee

The City Council considered the appointments as outlined by Mayor Blalock and will take action at the September 16, 2019 City Council meeting.

2. Appointment to be Voted:

- Pat Bagley to be appointed to the Trees and Greenery Committee

Councilor Becksted moved to appoint Pat Bagley to the Trees and Greenery Committee. Seconded by Councilor Denton and voted. Assistant Mayor Lazenby recused himself from voting.

3. Appointment of Jane Nisbet to the African Burying Ground Stewardship Committee

Mayor Blalock announced he has appointed Jane Nisbet to the African Burying Ground Stewardship Committee.

IX. **CITY COUNCIL MEMBERS**

A. COUNCILOR DENTON

1. Request for the Conceptual Regional Digester Evaluation

Councilor Denton said in FY19 \$50,000.00 was assigned for this and on the most recent Capital Improvement Plan there will be \$1.2 million for the project. He explained what a digester is and the money will be allocated.

City Manager Bohenko spoke to the components of the project and said the engineer has met with staff and a report will come back on this matter.

XII. APPROVAL OF GRANTS/DONATIONS

A. Acceptance of Grant for Household Hazardous Waste Collection

Councilor Raynolds moved to accept and expend a \$4,513.00 DES grant for the purpose of household hazardous waste collection events and authorize the City Manager to execute any documents which may be necessary for this grant contract. Seconded by Assistant Mayor Lazenby and voted.

B. Approval and Acceptance of Police Department Grant & Donation (Not on Agenda)

- NH Department of Safety Passport & Visa Centers Active Threat Exercise Grant in the amount of \$60,000.00
- Donation from United State Police Canine Association toward the procurement of a Police K-9 in the amount of \$3,000.00

Councilor Becksted moved to approve and accept the Grant and Donation to the Portsmouth Police Department. Seconded by Assistant Mayor Lazenby and voted.

XIII. CITY MANAGER'S ITEMS WHICH REQUIRE ACTION

A. CITY MANAGER

1. Request for Approval of Agreement between the Portsmouth Police Commission and the Portsmouth Police Ranking Officers Association

City Manager Bohenko said the agreement with the Ranking Officers Association has been recommended by the Police Commission. He further stated Negotiator Closson has reviewed the contract and it has been placed on the website for the public to review.

Assistant Mayor Lazenby moved to approve the proposed Four (4) Year Agreement between the Portsmouth Police Commission and the Portsmouth Police Ranking Officers Association July 1, 2019 to expire on June 30, 2023. Seconded by Councilor Perkins and voted.

2. Request for Approval of Agreement between the Portsmouth Police Commission and the Portsmouth Police Patrolman's Union

City Manager Bohenko reported the agreement is similar to the Ranking Officers and the Police Commission has recommended its approval.

Councilor Raynolds moved to approve the proposed Four (4) Year Agreement between the Portsmouth Police Commission and the Portsmouth Police Patrolman's Union from July 1, 2019 to expire on June 30, 2023. Seconded by Assistant Mayor Lazenby and voted.

3. Request for Approval of Agreement between the Portsmouth Police Commission and the Portsmouth Police Civilian Employees Association

City Manager Bohenko reported the agreement for the Police Department Civilian Employees Association is a 4 year agreement and is similar to the other contracts. He indicated that the Police Commission is recommending its approval.

Councilor Roberts moved to approve the proposed Four (4) Year Agreement between the Portsmouth Police Commission and the Portsmouth Police Civilian Employees Association from July 1, 2019 to expire on June 30, 2023. Seconded by Assistant Mayor Lazenby and voted.

4. Approval Re: Step Increases for Police Chief Robert Merner

City Manager Bohenko said that this is for step increases for Police Chief Merner which would move him from Step F to Step G and next year Step G to Step H. He advised the Council that the Police Commission supports the agreement and is recommending approval of the step increases.

Councilor Denton moved to approve the Police Commission's recommendation for step increases as indicated in the Police Commissions' letter dated August 24, 2019. Seconded by Assistant Mayor Lazenby and voted.

5. Report Back Re: Contact Information

Councilor Raynolds suggested deferring action until Councilor Pearson is present at the next meeting.

Councilor Raynolds moved to defer action until the September 16, 2019 City Council meeting. Seconded by Assistant Mayor Lazenby and voted.

6. Ceres Street Compactor/Dumpster Extension of Lease

Mayor Blalock passed the gavel to Assistant Mayor Lazenby and stepped down from the dais and did not participate in the discussion regarding this matter.

City Manager Bohenko said the compactor license has been around for 20+ years and stated the extension was not requested in May which would have allowed for automatic renewal for 5 years. He said having this compactor and agreement is in the best interest of the City and that it is an efficient operation that keeps the area clean.

Councilor Denton moved that the request of the licensees to extend the term of the Ceres Street compactor license for an additional five (5) years pursuant to item 13 of the license be granted. Seconded by Councilor Becksted.

Item 13 - Renewal: Licensees, individually or jointly, shall have the option to renew this License for an additional five year term under the following conditions:

- (a) *The City has been fully reimbursed the costs of construction of the enclosure whether through satisfactory repayment pursuant to the promissory notes or otherwise;*
- (b) *The City has issued no more than 12 notices of default during the initial 10-year license term;*
- (c) *Licensee(s) have made a written request to the City Manager to extend the license no later than May 15, 2019*

Councilor Denton asked if other businesses have asked to use the dumpster. City Manager Bohenko advised that Waste Management has indicated that they could not add to the current dumpster and the City prefers the operation as is.

Motion passed. Mayor Blalock recused himself from voting.

Assistant Mayor Lazenby returned the gavel to Mayor Blalock.

7. 260 Myrtle Avenue Easement – Acceptance of Utility Easement

City Manager Bohenko explained that Public Works has installed new public sewer and drain lines across a residential property at 260 Myrtle Avenue. He stated the property owners Robert A. and Meghan M. Defosses, are prepared to execute a permanent easement deed for the newly located lines. He advised the City Council that the Planning Board has reviewed this and recommend the City Council accept the utility easement.

Councilor Raynolds moved to authorize the City Manager to negotiate, execute and accept a utility easement from Robert A. and Meghan M. Defosses. Seconded by Assistant Mayor Lazenby and voted.

8. Market Street Property – Acceptance of Sewer Line Easement

City Manager Bohenko withdrew this item for the property in question is working on transferring ownership.

9. 111 Maplewood Avenue Easement

City Manager Bohenko said the property is within the North End Incentive Overlay District, which allows for a wide range of mixed uses, however there are height restrictions. He reported that the Planning Board voted to approve a site plan application and grant a density bonus in exchange for the owner conveying to the City publically accessible community space. He said the owner was required to provide publically accessible open space areas, such wide pedestrian sidewalks, a pedestrian alley and pocket park by Easement Deed.

Councilor Raynolds moved to authorize the City Manager to negotiate, execute, accept and record the Easement for Public Access to Community Space from 111 Maplewood Avenue, LLC in a form substantially as present. This authorization is conditioned upon the receipt of a Certificate of Title from the owner. Seconded by Councilor Perkins and voted.

XVI. CITY MANAGER'S INFORMATIONAL ITEMS

1. Report Back Re: PFAS Drinking Water Standards

Deputy Public Works Director Goetz spoke to his report dated August 27, 2019 which indicates we are currently in compliance with the standards for per- and polyfluoroalkyl substances (PFAS) in both the Portsmouth Regional and Pease International Tradeport Drinking Water Systems. He indicated that all Annual Water Quality Reports for all systems are sent to all water customers and posted on the City's website. He reported that the State of New Hampshire recently became the first state to promulgate enforceable drinking water Maximum Contaminant Level (MCL) standards for four per- and polyfluoroalkyl substances (PFAS); Perfluorohexane sulfonic acid (PFHxS), Perfluorononanoic acid (PFNA), Perfluorooctane sulfonic acid (PFOS), and Perfluorooctanoic acid (PFOA). He stated prior to the adoption of these standards, the State had been following the EPA's Health Advisory standard of 70 parts-per-trillion (ppt) for two compounds, PFOS and PFOA. He indicated now the New Hampshire standards set the drinking water maximum contaminant level (MCL) for each contaminant as follows:

PFAS Contaminant	MCL parts per trillion (ppt)
PFHxS	18
PFNA	11
PFOS	15
PFOA	12

Deputy Public Works Director Goetz advised the City Council that the new levels go into effect in October and that we are ahead of things in the City and below the new limits.

City Manager Bohenko commended Deputy Public Works Director Goetz and staff. He said the new facility has saved the City \$14 million for the treatment system.

Mayor Blalock said the system is impressive.

Assistant Mayor Lazenby also commended the staff. He spoke on monitoring and stated if we are 50% or lower we don't need to test for three years. Deputy Public Works Director Goetz said he recommends testing quarterly.

XIV. CONSENT AGENDA

- A. Request for License to Install Projecting Sign for owner Jason J. Mills of BCM Advisory Group LLC for property located at 406 Deer Street (400 The Hill) ***(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***

Councilor Denton moved to adopt the Consent Agenda. Seconded by Councilor Reynolds and voted.

XV. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

A. Email Correspondence

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

- B. Letter from Valerie Rochon, The Chamber Collaborative of Greater Portsmouth, supporting removing home addresses for Councilors and speakers at City meetings be removed from general publication**

Assistant Mayor Lazenby moved to accept and place on file and further provide a copy of the letter in the September 16, 2019 City Council packet for reference. Seconded by Councilor Roberts and voted.

- C. Letter from Charles Griffin Re: Proposed Ordinance Regulating Single-Use Disposables requesting the City Council to pass a resolution encouraging voluntary reduction in the use of plastics**

Councilor Denton moved to accept and place on file. Seconded by Councilor Reynolds and voted.

- D. Letter from Liz Good, Moderator, North Church of Portsmouth, UCC, requesting permission to hold its annual Gathering on the Bricks at the Market Square location on Sunday, September 15, 2019 from 11:00 a.m. to 12:00 p.m.**

Councilor Roberts moved to refer to the City Manager with power. Seconded by Councilor Reynolds and voted.

XVII. MISCELLANEOUS BUSINESS INCLUDING BUSINESS REMAINING UNFINISHED AT PREVIOUS MEETING

XVIII. ADJOURNMENT

At 8:15 p.m., Councilor Denton moved to adjourn. Seconded by Assistant Mayor Lazenby and voted.



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

LEGAL NOTICE

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Portsmouth City Council on Monday, October 7, 2019 at 7:00 p.m., Eileen Dondero Foley Council Chambers, Municipal Complex, 1 Junkins Avenue, Portsmouth, NH on the following Ballot Question:

“Shall we allow the operation of KENO games within the City of Portsmouth?”

This question will appear on the November 5, 2019 Municipal Election Ballot.

Kelli L. Barnaby, MMC/CNHMC
City Clerk

LEGAL NOTICE
NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Portsmouth City Council on Monday, October 7, 2019 at 7:00 p.m., Eileen Dondero Foley Council Chambers, Municipal Complex, 1 Junkins Avenue, Portsmouth, NH on the following Ballot Question:
“Shall we allow the operation of KENO games within the City of Portsmouth?”
This question will appear on the November 5, 2019 Municipal Election Ballot.
Kelli L. Barnaby, MMC/CNHMC
City Clerk
PH00453944

1 ORDINANCE #
2 THE CITY OF PORTSMOUTH ORDAINS

3
4 That the ordinances of the City of Portsmouth are hereby amended, by
5 the addition of a new section entitled Chapter 3, Article IX, Section
6 3.901 – **DISTRIBUTION OF SINGLE-USE DISPOSABLES** which
7 shall read in pertinent part as follows:
8

9 **CHAPTER 3**

10 **PUBLIC HEALTH**

11 **ARTICLE IX: DISTRIBUTION OF SINGLE-USE DISPOSABLES**

12 **3.901: PURPOSE**

13 The City of Portsmouth recognizes that limiting the distribution of
14 single-use disposables through source reduction is necessary to protect
15 human health, to preserve the natural environment, and to conserve
16 precious and dwindling natural resources through the proper and
17 integrated management of solid waste.

18 **3.902: DEFINITIONS**

19 For the purpose of this Section, the following definitions apply:

20 *Composting Facility*: a solid waste compost facility pursuant to Main
21 Solid Waste Management Rules: Composting Facilities, 06-096 CMR
22 410 or equivalent; the Maine Hazardous Waste, Septage and Solid
23 Waste Management Act, 38 M.R.S.A. 1301 to 1319-Y or equivalent,
24 and Maine’s other Solid Waste Management Rules or equivalents.

25 *Cost Pass-Through*: the cost which must be collected by retailers from
26 their Customers when providing a Single-Use Carryout Bag or a Single-
27 Use Cup.

1 *Customer*: any Person obtaining goods from a Store.

2 *Food Service Establishment*: any restaurant, take-out food establishment,
3 or any other business that is required to obtain a valid food service
4 license from the Public Health Department of the City of Portsmouth.
5 Food Service Establishments do not include Nonprofit Food
6 Establishments.

7 *Medical Facility*: a business or nonprofit that has a primary purpose of
8 providing medical services.

9 *Nonprofit Charitable Reuser*: a charitable organization or a distinct
10 operating unit or division of the charitable organization, that reuses and
11 recycles donated goods or materials and receives more than fifty percent
12 (50%) of its revenues from the handling and sale of those donated goods
13 or materials. To be considered a Nonprofit Charitable Reuser, the entity
14 must meet the terms of section 501(c)(3) of the U.S. Internal Revenue
15 Code (26 U.S.C. 501(c)(3)).

16 *Nonprofit Food Establishment*: a charitable entity that prepares or serves
17 food directly to the Customer or otherwise provides food or meals for
18 consumption by humans. The term includes central food banks, soup
19 kitchens, and nonprofit food delivery services. To be considered a
20 Nonprofit Food Establishment, the entity must meet the terms of section
21 501(c)(3) of the U.S. Internal Revenue Code (26 U.S.C. 501(c)(3)).

22 *Operator*: the person in control of, or having the responsibility for, the
23 operation of a Store, which may include, but not be limited to, the owner
24 of the Store.

25 *Person*: any natural person, firm, corporation, partnership, or other
26 organization or group however organized.

27 *Pharmacy*: any Store where prescriptions, medications, controlled or
28 over the counter drugs, personal care products or health supplement
29 goods, or vitamins are sold.

1 *Prepared Food:* foods or beverages which are prepared on the premises
2 by cooking, chopping, slicing, mixing, freezing, or squeezing, and which
3 require no further preparation to be consumed. Prepared Food does not
4 include any raw, uncooked meat product or fruits or vegetables which
5 are chopped, squeezed, or mixed.

6 *Produce Bag:* any bag without handles used exclusively to carry
7 produce, meats, or other food items to the point of sale inside a store or
8 to prevent such food items from coming into direct contact with other
9 purchased items. A Produce Bag is not a form of Single-Use Plastic Bag.

10 *Retail Establishment:* any commercial establishment that sells perishable
11 and nonperishable goods including but not limited to, clothing, food, and
12 personal items directly to the Customer and is located within or doing
13 business within the City. Retail Establishments do not include Food
14 Service Establishments, Nonprofit Charitable Reusers, or Pharmacies.

15 *Reusable Plastic Bag:* a sewn woven or non-woven nylon,
16 polypropylene, polyethylene-terephthalata, or Tyvek bag capable of
17 being used one hundred (100) times, is machine washable, and has
18 stitched or woven handles that are not fused. A Reusable Plastic Bag is a
19 form of Reusable Bag.

20 *Reusable Bag:* a bag capable of being used one hundred (100) times, is
21 machine washable, and has stitched or woven handles that are not fused.
22 Reusable Bags include Reusable Plastic Bags

23 *Single-Use Carryout Bag:* a bag made of plastic, paper, or other material
24 that is provided by a Store to a Customer at the check stand, cash
25 register, point of sale or other point of departure for the purpose of
26 transporting food or merchandise out of the Store. Single-Use Carryout
27 Bags include Single-Use Plastic Bags and Single-Use Recycled Paper
28 Bags. Single-Use Carryout Bags do not include Produce bags, Reusable
29 Bags, or bags without handles provided to the Customer to hold
30 prescription medication dispensed from a Pharmacy.

1 *Single-Use Compostable Plastic Container:* a container that is composed
2 of one hundred percent (100%) Polylactic Acid and distributed for the
3 purpose of transporting Prepared Food on a single occasion inside or
4 outside of a Store. A Single-Use Compostable Plastic Container is a
5 form of a Single-Use Plastic Container.

6 *Single-Use Compostable Plastic Cup:* a cup composed of one hundred
7 percent (100%) Polylactic Acid and is distributed for the purpose of
8 transporting a beverage on a single occasion inside or outside of a Store.
9 A Single-Use Compostable Plastic Cup is a form of a Single-Use Plastic
10 Cup.

11 *Single-Use Compostable Plastic Straw:* a disposable tube that is
12 composed of one hundred percent (100%) Polylactic Acid and is
13 distributed to transfer a beverage from a cup or container to the mouth of
14 a person drinking the beverage on a single occasion. A Single-Use
15 Compostable Plastic Straw is a form of a Single-Use Plastic Straw.

16 *Single-Use Container:* a container that is distributed for the purpose of
17 transporting Prepared Food on a single occasion inside or outside of a
18 Store.

19 *Single-Use Cup:* a cup that is distributed for the purpose of transporting
20 a beverage on a single occasion inside or outside of a Store.

21 *Single-Use Plastic Bag:* a bag that is made predominantly of plastic
22 derived from either petroleum or a biologically based polymer, such as
23 corn or other plant sources, and is provided at the check stand, cash
24 register, point of sale or other point of departure for the purpose of
25 transporting food or merchandise out of the Store. A Single-Use Plastic
26 Bag is a form of a Single-Use Carryout Bag.

27 *Single-Use Plastic Container:* a container that is made predominantly of
28 plastic derived from either petroleum or a biologically based polymer,
29 such as corn or other plant sources, and is distributed for the purpose of
30 transporting Prepared Food on a single occasion inside or outside of a

1 Store. A Single-Use Plastic Container is a form of a Single-Use
2 Container.

3 *Single-Use Plastic Cup*: a cup that is made predominantly of plastic
4 derived from either petroleum or a biologically based polymer, such as
5 corn or other plant sources, and is distributed for the purpose of
6 transporting a beverage on a single occasion inside or outside of a Store.
7 A Single-Use Plastic Cup is a form of a Single-Use Cup.

8 *Single-Use Polystyrene Container*: a container composed of
9 synthetic aromatic hydrocarbon polymers that is made from the monomer
10 styrene and distributed for the purpose of transporting Prepared Food on
11 a single occasion inside or outside of a Store. A Single-Use Polystyrene
12 Container is a form of a Single-Use Container.

13 *Single-Use Polystyrene Cup*: a cup composed of synthetic aromatic
14 hydrocarbon polymers that is made from the monomer styrene and
15 distributed for the purpose of transporting a beverage on a single
16 occasion inside or outside of a Store. A Single-Use Polystyrene Cup is a
17 form of a Single-Use Cup.

18 *Single-Use Plastic Straw*: a disposable tube made predominantly of
19 plastic derived from either petroleum or a biologically based polymer,
20 such as corn or other plant sources, that is distributed to transfer a
21 beverage from a cup or container to the mouth of a person drinking the
22 beverage. A Single-Use Plastic Straw is a form of a Single-Use Straw.

23 *Single-Use Recycled Paper Bag*: a paper bag provided at the check
24 stand, cash register, point of sale, or other point of departure for the
25 purpose of transporting food or merchandise out of the establishment
26 that contains no old growth fiber and a minimum of forty percent (40%)
27 post-consumer recycled content; is one hundred percent (100%)
28 recyclable; and has printed in a highly visible manner on the outside of
29 the bag the word “Recyclable,” the name and location of the
30 manufacturer, and the percentage of post-consumer recycled content.
31 The Single-Use Recycled Paper Bag is capable of composting,

1 consistent with the timeline and specifications of the American Society
2 of Testing and Material (ASTM) Standard Specification for
3 Compostable Plastics D6400, as published in September 2004. A Single-
4 Use Recycled Paper Bag is a form of a Single-Use Carryout Bag.

5 *Single-Use Straw*: a disposable tube that is distributed to transfer a
6 beverage from a cup or container to the mouth of a person drinking the
7 beverage on a single occasion. Single-Use Straws include a straw made
8 from both plastic materials and non-plastic materials such as paper,
9 pasta, sugar cane, wood, or bamboo.

10 *Store*: any Food Service Establishment, Pharmacy, or Retail
11 Establishment located within the City. Stores do not include Medical
12 Facilities.

13 **3.903 CARRYOUT BAGS**

14 A. Prohibited Carryout Bags:

- 15 1. No Store on City property shall provide a Single-Use Carryout Bag
16 to a Customer, at the check stand, cash register, point of sale, or
17 other point of departure for the purpose of transporting food or
18 merchandise out of the Store except as provided in this Section.
- 19 2. No Person shall distribute a Single-Use Carryout Bag at any City
20 facility, City-managed concession, City-sponsored event, or City--
21 permitted event unless a Store on City property is also otherwise
22 allowed to in this Section.

23 B. Permitted Carryout Bags:

- 24 1. Stores on City property are allowed to distribute Single-Use
25 Carryout Bags or Reusable Bags to Customers subject to the terms
26 of this Section.
- 27 2. All Stores may distribute their remaining 2020 Single-Use Plastic
28 Bag inventory.

1 3. Nothing in this Section prohibits Customers from using bags of
2 any type that they bring to the Store themselves or from carrying
3 away goods that are not placed in a bag, in lieu of using bags
4 provided by the Store.

5 C. Exemptions:

6 1. Stores on City property are allowed to distribute only Single-Use
7 Recycled Paper Bags or Reusable Bags to Customers for the
8 purpose of carrying away goods or other materials from the point
9 of sale, subject to the terms of this Section.

10 2. Food Service Establishments on City property are allowed to
11 distribute Single-Use Plastic Bags to Customers only for the
12 purpose of safeguarding health and safety during the transportation
13 of Prepared Foods, including take-out foods and liquids intended
14 for consumption away from the food provider’s premises, subject
15 to the terms of this Section.

16 3. A Customer shall be charged a minimum of a ten cents (\$.10) Cost
17 Pass-Through for each Single-Use Carryout Bag provided by the
18 Store on City property. The sale of each bag shall be separately
19 itemized on the sale receipt. The Cost Pass-Through will remain
20 with the Operator of the Store.

21 4. A Store on City property may provide a Customer participating in
22 *Special Supplement Nutrition Program for Women, Infants, and*
23 *Children (WIC)* or *Supplemental Nutrition Assistance Program*
24 *(SNAP)* with one (1) or more Single-Use Carryout Bag or Reusable
25 Bags at no cost.

26 5. A Store on City property may provide a Customer with (1) Single-
27 Use Recycled Paper Bag 6 inches across or less without handles at
28 no cost.

29 **3.904 DISPOSABLE CUPS**

30 A. Prohibited Disposable Cups:

- 1 1. No Store on City property shall provide a Single-Use Plastic Cup
2 to a Customer, at the check stand, cash register, point of sale, or
3 any other location for the purpose of transporting a beverage that
4 will be drank inside or outside of the Store except as provided in
5 this Section.
 - 6 2. No Store shall provide a Single-Use Polystyrene Cup to a
7 Customer at the check stand, cash register, point of sale, or any
8 other location for the purpose of transporting a beverage that will
9 be drank inside or outside of the Store.
 - 10 3. No Person shall distribute a Single-Use Plastic Cup or Single-Use
11 Polystyrene Cup at any City facility, City-managed concession,
12 City-sponsored event, or City-permitted event unless a Store on
13 City property is also otherwise allowed to in this Section.
- 14 B. Permitted Disposable Cups:
- 15 1. Stores on City property are allowed to distribute Single-Use Cups
16 to Customers for the purpose of transporting a beverage that will
17 be drank inside or outside of the Store, subject to the terms of this
18 Section.
 - 19 2. A Customer shall be charged a minimum of a ten cents (\$.10) Cost
20 Pass-Through for each Single-Use Cup provided by the Store on
21 City property. The sale of each Single-Use Cup shall be separately
22 itemized on the sale receipt. The Cost Pass-Through will remain
23 with the Operator of the Store.
 - 24 3. All Stores may distribute their remaining 2020 Single-Use Cup
25 inventory.
 - 26 4. Nothing in this Section prohibits Customers from using cups of
27 any type that they would otherwise be allowed to bring to the Store
28 themselves under the Ordinances of the City of Portsmouth in lieu
29 of using cups provided by the Store.
- 30 C. Exemptions:
- 31 1. The only Single-Use Plastic Cups that Stores on City property are
32 allowed to distribute are Single-Use Plastic Compostable Cups if

1 the Store on City property provides customers the option to dispose
2 of the Single-Use Compostable Plastic Cups in a specifically
3 designated composting receptacle that is both on the premise and
4 its contents will be transported to a Composting Facility to be
5 composted.

6 2. A Store may provide a Customer participating in the Special
7 Supplement Nutrition Program for Women, Infants, and Children
8 (WIC) or the Supplemental Nutrition Assistance Program (SNAP)
9 with one (1) or more Single-Use Cup at no cost.

10 **3.905 DISPOSABLE CONTAINERS**

11 A. Prohibited Disposable Containers:

12 1. No Store on City property shall provide a Single-Use Plastic
13 Container to a Customer, at the check stand, cash register, point of
14 sale, or any other location for the purpose of transporting Prepared
15 Food that will be consumed inside or outside of the Store except as
16 provided in this Section.

17 2. No Store shall provide a Single-Use Polystyrene Container at the
18 check stand, cash register, point of sale, or any other location for
19 the purpose of transporting Prepared Food that will be eaten inside
20 or outside of the Store.

21 3. No Person shall distribute a Single-Use Plastic Container or a
22 Single-Use Polystyrene Container at any City facility, City-
23 managed concession, City-sponsored event, or City-permitted
24 event unless a Store on City property is also otherwise allowed to
25 in this Section.

26 B. Permitted Disposable Containers:

27 1. Stores on City property are allowed to distribute Single-Use
28 Containers to Customers for the purpose of transporting Prepared
29 Food that will be eaten inside or outside of the Store, subject to the
30 terms of this Section.

- 1 2. All Stores may distribute their remaining 2020 Single-Use
2 Container inventory.
- 3 3. Nothing in this Section prohibits Customers from using containers
4 of any type that they would otherwise be allowed to bring under
5 the Ordinances of the City of Portsmouth to the Store themselves
6 in lieu of using containers provided by the Store.

7 C. Exemptions:

- 8 1. The only Single-Use Plastic Containers that Stores on City
9 property are allowed to distribute are Single-Use Plastic
10 Compostable Containers if the Store provides customers the option
11 to dispose of the Single-Use Compostable Plastic Containers in a
12 specifically designated composting receptacle that is both on the
13 premise and its contents will be transported to a Composting
14 Facility to be composted.

15 **3.906 DISPOSABLE STRAWS**

16 A. Prohibited Disposable Straws:

- 17 1. No Store on City property shall provide a Single-Use Plastic Straw
18 to a customer for the purpose of transferring a beverage from a cup
19 or container to the mouth of a person drinking the beverage on a
20 single occasion inside or outside of the Store, except as provided in
21 this Section.
- 22 2. No Person shall distribute a Single-Use Plastic Straw at any City
23 facility, City-managed concession, City-sponsored event, or City-
24 permitted event unless a Store on City property is also otherwise
25 allowed to in this Section.

26 B. Permitted Disposable Straws:

- 27 1. Stores on City property are allowed to distribute Single-Use Straws
28 to Customers for the purpose of transferring a beverage from a cup
29 or container to the mouth of a person drinking the beverage on a

- 1 single occasion inside or outside of the Store, subject to the terms
2 of this Section.
- 3 2. All Stores may distribute their remaining 2020 Single-Use Straw
4 inventory.
- 5 3. Nothing in this Section prohibits Customers from using straws of
6 any type that they bring to the Store themselves in lieu of using
7 containers provided by the Store.

8 C. Exemptions:

- 9 1. Stores on City property are only allowed to distribute Single-Use
10 Straws at the explicit request of the customer for the purpose of
11 transferring a beverage from a cup or container to the mouth of a
12 person drinking the beverage on a single occasion inside or outside
13 of the Store.
- 14 2. The only Single-Use Plastic Straws that Stores on City property are
15 allowed to distribute are Single-Use Plastic Compostable Straws if
16 the Store provides customers the option to dispose of the Single-
17 Use Compostable Plastic Straws in a specifically designated
18 composting receptacle that is both on the premise and its contents
19 will be transported to a Composting Facility to be composted.

20 **3.907 PENALTIES AND REMEDIES**

21 In addition to any other penalty or remedy permissible by law for
22 violation of this Section, the following shall apply:

- 23 1. If the City determines that a violation of this Section has occurred,
24 a written warning that includes the potential penalties for future
25 violations will be issued to the Operator.
- 26 2. Upon a second or subsequent infraction of this Section, the City is
27 authorized to issue citations to persons, firms, or corporations
28 violating this Section in accordance with the ordinances of the City
29 of Portsmouth. The amount of the fee that will accompany the
30 citation will be determined by the Fee Schedule Study Committee
31 of the City of Portsmouth.

1 3. The City Attorney is authorized to file any appropriate legal
2 proceedings, including but not limited to requests for injunctive
3 relief, necessary to prevent violation of this Section.

4 **SEVERABILITY**

5 Any portion of this ordinance that is found to be void shall be
6 unenforceable without invalidating the remainder of the ordinance.

7 **EFFECTIVE DATE**

8 This ordinance shall take effect on December 31, 2020.



(Current alternate)

CITY OF PORTSMOUTH, N.H. BOARDS AND COMMISSIONS

APPOINTMENT APPLICATION

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



Committee: Conservation Commission

Name: Jessica Blasko Telephone: 603-828-9203

Could you be contacted at work? YES NO If so, telephone# Same as above

Street address: 74 Wentworth Rd. Portsmouth

Mailing address (if different): _____

Email address (for clerk's office communication): jess@jptphysicaltherapy.com

How long have you been a resident of Portsmouth? 10 years

Occupational background:

Physical Therapist for 17 years. Earned both Master's and Doctorate degree from Northeastern University. Self-employed on Seacoast for over 10 years, primarily in Portsmouth.

Please list experience you have in respect to this Board/Commission:

Alternate on Conservation Commission since March 2019. Presented to Commission in 2014 for a renovation project to our property.

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

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

Reasons for wishing to serve: Would like to continue to serve on Commission as a full member. Invested in Portsmouth. My husband and I are both self-employed in Portsmouth; we own 2 properties; and are expecting our second child we hope to raise here. Would like to continue to be involved in issues impacting our community.

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

Alternate on Conservation Commission; Board Member for Clipper Foundation; Volunteer for Cooking Matters; Member of Music Hall, Seacoast Science Center and Surf Rider Foundation

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

1) Phil Pettis 82 Court St. Portsmouth 603-319-1074
Name, address, telephone number

2) Priscilla Coughlin Broad Street Portsmouth 603-828-7027
Name, address, telephone number
W-603-433-8715
Jim Jalbert C4J 185 Brafton Dr. Portsmouth C-603-817-1717

BY SUBMITTING THIS APPLICATION YOU UNDERSTAND THAT:

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

Signature: Jessica Blawie Date: 9.17.2019

If you do not receive the appointment you are requesting, would you be interested in serving on another board or commission? Yes X No

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

CHAPTER 329
HB 495 - FINAL VERSION

19Mar2019... 0697h
05/30/2019 2353s
27Jun2019... 2633-EBA

2019 SESSION

19-0535
08/03

HOUSE BILL **495**

AN ACT establishing a commission on drinking water.

SPONSORS: Rep. Cushing, Rock. 21; Rep. Edgar, Rock. 21; Rep. Bushway, Rock. 21; Rep. Janvrin, Rock. 37; Rep. Loughman, Rock. 21; Rep. Meuse, Rock. 29; Rep. Berrien, Rock. 18; Rep. Altschiller, Rock. 19; Rep. Le, Rock. 31; Rep. Khan, Rock. 20; Sen. Sherman, Dist 24; Sen. Fuller Clark, Dist 21

COMMITTEE: Resources, Recreation and Development

ANALYSIS

This bill establishes the long-term seacoast commission on drinking water.

Explanation: Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struck through.~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

19Mar2019... 0697h
05/30/2019 2353s
27Jun2019... 2633-EBA 19-0535
08/03

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Nineteen

AN ACT establishing a commission on drinking water.

Be it Enacted by the Senate and House of Representatives in General Court convened:

329:1 New Section; Long-Term Seacoast Commission on Drinking Water. Amend RSA 485-F by inserting after section 5 the following new section:

485-F:6 Seacoast Commission on Long-Term Goals and Requirements for Drinking Water.

- I. There is established a commission to plan for long-term goals and requirements for drinking water on the seacoast.
- II. The members of the commission shall be as follows:

- (a) Five members of the house of representatives, 3 appointed by the speaker of the house of representatives and 2 appointed by the minority leader of the house.
- (b) The member of the senate representing district 21 and the member of the senate representing district 24.
- (c) A representative of the water company that serves the town of Hampton, appointed by that company, or its successor.
- (d) A representative of the drinking water source protection program in the department of environmental services, appointed by the commissioner.
- (e) A representative of the town of Rye water district, appointed by the governing body of that town.
- (f) A representative of the town of Rye, appointed by the governing body of that town.
- (g) A representative of the town of New Castle, appointed by the governing body of that town.
- (h) A representative of the town of North Hampton, appointed by the governing body of that town.
- (i) A representative of the city of Portsmouth, appointed by the governing body of that city.
- (j) The executive director of the Rockingham planning commission, or designee.
- (k) The executive director of the Strafford regional planning commission, or designee.
- (l) A representative of the town of Seabrook, appointed by the governing body of that town.
- (m) A representative of the town of Exeter, appointed by the governing body of that town.
- (n) A representative of the town of Greenland, appointed by the governing body of that town.
- (o) A representative of the town of Newington, appointed by the governing body of that town.
- (p) A representative of the town of Stratham, appointed by the governing body of that town.
- (q) A representative of the town of Hampton, appointed by the governing body of that town.
- (r) A representative of the city of Dover, appointed by the governing body of that city.
- (s) A representative of the town of Madbury, appointed by the governing body of that town.
- (t) Six community members with backgrounds in environmental science or with interest in water-related science, 3 each appointed by senators representing districts 21 and 24.
- (u) A hydrogeologist from the United States Geological Survey, appointed by that organization.
- (v) A hydrogeologist from the university of New Hampshire, appointed by the dean of the college of engineering and physical sciences.
- (w) A climate scientist from the university of New Hampshire, appointed by the dean of the college of engineering and physical sciences.
- (x) A representative from any other private water company, appointed by that company, or its successor, that serves a town or part of a town in Rockingham or Strafford counties that is not explicitly represented by subparagraphs (a) through (w), appointed by that organization.

III. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

IV. The commission shall:

- (a) Continue the work of the RSA 485-F:5 seacoast commission on long-term goals and requirements for drinking water which was repealed on November 1, 2018.
- (b) Utilize and expand upon existing studies to plan for seasonal or drought supply issues.
- (c) Prepare and discuss mutual aid between seacoast towns for firefighting.
- (d) Prepare and discuss mutual aid agreements for emergency or replacement drinking water supply where contaminated.
- (e) Encourage coordination between towns and cities.
- (f) Establish working subgroups as needed.
- (g) Monitor and review the work of state agencies regarding possible new emerging contaminant threats.

V. The members of the commission shall elect a chairperson from among the members. The first meeting of the commission

shall be called by the first-named house member. The first meeting of the commission shall be held within 45 days of the effective date of this section. Eleven members of the commission shall constitute a quorum.

VI. The commission shall make annual interim reports of its findings on November 1 of each year, and a final report of its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2029.

329:2 Repeal. RSA 485-F:6, relative to the seacoast commission on long-term goals and requirements for drinking water, is repealed.

329:3 Effective Date.

I. Section 2 of this act shall take effect November 1, 2029.

II. The remainder of this act shall take effect upon its passage.

Approved: August 16, 2019

Effective Date:

I. Section 2 shall take effect November 1, 2029.

II. Remainder shall take effect August 16, 2019.

September 18, 2019

Dear Steve,

I'm sorry to let you know that I have decided to resign from the Conservation Commission, effective immediately.

My work schedule and personal commitments have become such that I cannot continue to volunteer the time necessary to fulfill my responsibilities as a Commissioner with the thoroughness I would like and feel it is best for me to make room for someone with the time and energy to devote to the job.

It has been a pleasure serving the City of Portsmouth and I greatly appreciate the tremendous learning experience this position has afforded me.

Thank you for the opportunity, and best wishes to you and the other members going forward.

Best regards,

Nathalie M. Morison

CITY OF PORTSMOUTH
PORTSMOUTH, NH 03801
City Councilor Pearson

Date: September 30, 2019
To: Honorable Mayor Jack Blalock and City Council Members
From: Nancy Pearson, City Councilor *NP*
Re: Contact Information

A review of the City Council Rules and Orders was conducted and there is no requirement by the public to indicate their address when speaking before the Council, but it has been historic practice to request the address of individuals prior to speaking. Based on the foregoing, I would suggest not requiring speakers to provide their addresses but to state their city and/or town of residence.

In addition, for City Council listings or Board and Commission listings members would be allowed the ability to opt out of having their addresses posted.

Therefore, I would request the City Council's support of the new practice to be followed by the Mayor during City Council meetings.

CITY OF PORTSMOUTH
CITY COUNCIL POLICY No. 2019-XX

DISTRIBUTION OF SINGLE USE DISPOSABLES POLICY

WHEREAS, the City Council voted unanimously to declare Portsmouth an Eco-Municipality in 2007 and signed a resolution which fully acknowledges Portsmouth's commitment and desire to become more sustainable; and

WHEREAS, the City Council recognizes that limiting the distribution of single-use disposables through source reduction is necessary to protect human health, to preserve the natural environment, and to conserve precious and dwindling natural resources through the proper and integrated management of solid waste;

NOW THEREFORE, the City Council adopts this Distribution of Single-Use Disposables Policy to encourage the following practices at City facilities, City-sponsored events, events on City property, and businesses on City property:

Carryout Bags: Customers will be charged a ten cent fee that will remain with the seller for every single-use recycled paper shopping bag they are issued that is greater than six inches across. Single-use plastic shopping bags are only allowed to be issued to transport prepared food and customers will be charged a ten cent fee that will remain with the seller for every single-use plastic shopping bag they are issued.

Disposable Cups: Customers will be charged a ten cent fee that will remain with the seller for every single-use cup they are issued when a thermos, mug, or reusable bottle could have been used instead. Any single-use cups that are issued will be compostable and the seller is responsible for providing a composting bin that will be emptied at a composting facility.

Disposable Containers: Any single-use containers that are issued will be compostable and the seller is responsible for providing a composting bin that will be emptied at a composting facility.

Disposable Straws: Straws are only to be distributed at the request of the customer. Any single-use straws that are issued will be compostable and the seller is responsible for providing a composting bin that will be emptied at a composting facility.

No customer participating in Special Supplement Nutrition Program for Women, Infants, and Children (WIC) or Supplemental Nutrition Assistance Program (SNAP) will be charged the fee for receiving any of the items listed above. Further, no soup kitchen or thrift store operating on City property will have to abide by the carryout bag, disposable cup, disposable container, or compostable straw requirements. Finally, nothing in this Policy prohibits customers from using their own bags, cups, containers, or straws if they are otherwise allowed to do so under the City's ordinances.

This Distribution of Single-Use Disposables Policy is intended to determine the best practices for implementing Chapter 3, Article IX: Distribution of Single-Use Disposables on City Property.

Adopted by the Portsmouth City Council on: _____.

Kelli L. Barnaby, MMC, CMC, CNHMC
City Clerk

memo

To: Portsmouth City Council
From: Councilor Rebecca Perkins Kwoka
Date: October 2, 2019

Re: Pease International Tradeport – Strategic Planning Process

As the Council is aware, on behalf of the citizens of Portsmouth, I have been working with members of the Pease Development Authority since early 2018 to address whether residential zoning could be implemented at the Tradeport. Towards that end, I lobbied members of the Pease Development Authority (“PDA”) to form the Residential Housing Study Committee, which effort this Council supported with a unanimous resolution in August 2018.

The Residential Housing Study Committee has met since January 2019, and has been engaged in examining processes and opportunities for residential zoning at the Tradeport. Pursuant to the attached memo from City staff, you will see that the Residential Housing Study Committee has discovered that legal impediments exist to the PDA implementing residential zoning. As the memo states, such barriers do not foreclose the possibility of residential zoning in the future, but the processes required are beyond the scope of the Residential Housing Study Committee. Though this is unfortunate, it also raises the opportunity to think more broadly about the future of the Tradeport. Strategic planning for the future of the Tradeport has not occurred since its formation in 1990, and given the size of the area and its strategic location and value to the City, it is critical that all stakeholders are thoroughly consulted and that the vision for the future of the Tradeport is a collaborative process and result.

Therefore, I am bringing the enclosed resolution for vote by the Council to encourage the State of New Hampshire to form a task force to assess the strategic future of the Tradeport and the Pease Development Authority in the very near future. Given the amount of land located within the City limits of Portsmouth, the City is an important stakeholder in this process and has standing to call for such an effort. It also opens the door for other important parties, including the State itself and regional stakeholders, to be involved in this conversation about the future of this important piece of land. Such an inquiry would afford the opportunity to also reexamine planned capital improvements, environmental concerns, and tax structures concerning land controlled by the PDA.

Of course, I and many others, continue to complement the staff of the Pease Development Authority and the outstanding work they have done converting the Tradeport from an old Air Force Base - no one would dispute what an outstanding success that process has been, and the staff of the PDA deserves tremendous credit for that conversion. However, it is time for the next chapter, and time for all of the bright minds of the entire Seacoast and State community to be involved in the conversation about what should come next for this important, strategic area.

CITY OF PORTSMOUTH
PORTSMOUTH, NEW HAMPSHIRE
TWO THOUSAND NINETEEN

RESOLUTION # -

BE IT RESOLVED:

THAT THE CITY OF PORTSMOUTH REQUESTS THAT THE STATE OF NEW HAMPSHIRE FORM A TASK FORCE TO EXAMINE THE STRATEGIC FUTURE OF THE PEASE INTERNATIONAL TRADEPORT.

WHEREAS the Pease Development Authority (“PDA”) was created by statute in 1990 to implement the redevelopment of the former Pease Air Force Base following closure.

WHEREAS strategic planning and master planning efforts were undertaken as part of that closure and redevelopment process.

WHEREAS the PDA is currently responsible for oversight of the Pease International Tradeport (“Tradeport”), portions of which lie in both Portsmouth and Newington;

WHEREAS by vote of the City Council in August 2018 the City Council endorsed the establishment of a Residential Housing Study Committee to study the possibility of housing at the Tradeport;

WHEREAS after ten (10) months of inquiry, the Study Committee has found that there are legal barriers and other obstacles to residential zoning at the Tradeport;

WHEREAS the strategic planning and master planning documents of the Tradeport have not been updated since 1990; and

WHEREAS the City wishes to work collaboratively with the PDA, surrounding towns, and the State of New Hampshire to examine the future of the Tradeport given its important role and central location in the seacoast region.

NOW THEREFORE, the City requests that State of New Hampshire form a task force to examine the strategic future of the Tradeport which would include examination of the PDA’s purpose, jurisdiction and scope.

WHEREFORE, the City Manager is authorized to take any reasonably necessary actions to assist in the creation of such a task force.

This Resolution shall take effect upon passage.

Approved:

Jack Blalock, Mayor

Adopted by the City Council

, 2019

Kelli L. Barnaby, City Clerk

CITY OF PORTSMOUTH
LEGAL DEPARTMENT
MEMORANDUM TO FILE

DATE: October 1, 2019

RE: SUMMARY OF OBSTACLES TO HOUSING AT PEASE

The documents governing the use of land at Pease International Tradeport do not expressly prohibit residential housing at Pease. Nevertheless, there are still significant obstacles to developing housing at the Tradeport. The primary challenge is posed by how Pease Development Authority (PDA) acquired the Tradeport. The United States government transferred the property to the State via a public benefit transfer, which was at no cost. As a result, PDA now has the duty to maintain a public airport for the benefit and support of the United States air traffic system. Furthermore, upon a change of use of the land at Pease, PDA is obliged to the Environmental Protection Administration (EPA) under the National Environmental Protection Act (NEPA) to ensure such a change would not result in a significant impact to the environment. Finally, there are practical considerations, such as the impact on the local municipalities and the economy which may be impediments to the success of such a proposal.

Pease International Tradeport and the FAA

The property at Pease has certain restrictions in place to protect the continued viability of the public airport. The use of land at the Tradeport is restricted exclusively to “airport uses” according to the three applicable deeds transferring the property from the Air Force to PDA. Furthermore, the FAA is responsible for determining which uses fall under this definition.

The Air Force transferred the Pease property to PDA through a public benefit transfer, and as a result there are restrictions of how the land may be used. While there are many restrictions in the deeds, the most pertinent is the Airport Obligations Covenant. This section states that none of the land at Pease shall be “used, leased, sold, salvaged, or disposed of by [PDA] for [any use] other than the public airport purposes without written consent of the Administrator of the FAA.” Quitclaim Deed from United States Air Force to PDA, dated Nov. 18, 1999 at page 4; Quitclaim Deed from United States Air Force to PDA, dated Oct. 15, 2003 at page 6; Quitclaim Deed from United States Air Force to PDA, dated Sept. 13, 2005 at page 6. The deeds provide that approval may only be granted if the new use does not “materially and adversely affect[] the development, improvement, operation, or maintenance of the Airport.” Id.

Furthermore, because Pease was transferred via the public benefit transfer, PDA receives federal funding to support the public airport. As a result, the airport is subject to the provisions of 49 U.S.C. 47107(a)(10). This statute requires recipients of federal funding like PDA to take affirmative steps to “restrict the use of land next to or near the airport to uses that are compatible with normal airport operation.”

Should PDA fail to abide by any of the restriction within the deeds, or any statutory obligations, the remedy is severe. Within the deeds, the Air Force reserved a right of re-entry. This means that if PDA fails to abide by any of these restrictions, the United States government may retake the entirety of Pease without any compensation to PDA.

FAA's Position on Housing

The above restrictions do not, on their face, prohibit housing at Pease. However, the FAA has taken the position that residential housing is always incompatible with the operation of a public airport. The FAA has published an extensive order detailing housing's impact on public airports.

Its conclusions are decisive and sweeping. Order 5190.6B is the FAA Airport Compliance Manual, and it provides guidance to public airports seeking to comply with FAA regulations. Although this document is not law, it does provide insight into how the FAA will interpret the various commitments public airports currently have, including those within the Pease deeds.

This order considers any housing near an airfield to be inconsistent with, and a threat to, the long-term sustainability of public airports. The FAA considers the interests of an airport to be directly opposed the interests of residential housing. The Order finds that noise and night-time operations pose the most critical inconsistencies with these two uses of land, because these uses of an airport will always run contrary to residents in their homes. The Order considers accessory housing for airplane pilots, and considers even this use to be inconsistent with operating a public airport. The best interests of someone living near an airport would always run contrary to the noise, lights, and night-time operations associated with a productive public airport. Thus, the FAA considers residential housing and airports to be incompatible.

The Order analyzes the potential conflict between a public airport and an airpark, or residential housing for airport employees. The order states "the likelihood that residents of any airpark will seek restrictions on the use of the airport for the benefit of their residential use is very high, whether or not they own aircraft." Most significantly, applying this logic to federally-funded public airports, the Order concludes, "[t]here is no justification for the introduction of residential development inside a federally obligated airport."

The order encourages operators of public airports to do the following:

- (1) Explicitly prohibit the development of residential living quarters on the airport in all tenant leases and subleases.
- (2) Develop minimum standards that require the explicit advanced approval of all tenant subleases by the airport sponsor.
- (3) Include clauses in all tenant leases stating that unauthorized development of residential living quarters may be declared an event of default under the lease and that the airport sponsor may declare any noncomplying subleases null and void.

(4) Convert any existing living quarters into nonresidential use at the earliest opportunity, especially if the airport sponsor holds title to the living quarters.

Order 5190.6B at 20-10. The conclusions and the recommendation by the FAA clearly indicate that any request for housing at Pease International Tradeport would be met with opposition by the FAA

Pease International Tradeport and the EPA

Oversight by the EPA is triggered by any proposal including residential housing because PDA receives federal funds to operate a public airport. Any change in use of land at the Tradeport would be a new action, triggering review under NEPA.


Relevantly, NEPA review is triggered when the use of federal land, or the use of land which received federal funding and has federal oversight, changes. When the Air Force sought to close the Air Force Base and use it for other purposes in the early 1990s, that action triggered NEPA review, and the Air Force published an Environmental Impact Statement (EIS) analyzing the impacts the proposed use and alternative uses would have on the environment. If PDA considers changing the use of the Tradeport to include some housing, this would also trigger NEPA review. Although NEPA prescribes varying levels of scrutiny, it is the position of PDA counsel that the change of the use of land at Pease to include housing would likely require a full Environmental Impact Study (EIS).

The Air Force published the Final Environmental Impact Statement for the Disposal and Reuse of Pease Air Force Base (FEIS) in 1991. The Air Force produced this document to comply with NEPA, thereby providing an environmental analysis of the proposed reuses of the Base. This document considered four alternative uses of Pease, including various housing options at the base. The report considered, in the alternative, reusing existing housing for the homeless under the McKinney Act, a medium density housing proposal, five-acre residential housing, and retaining the existing mobile home park. At the time, the only environmental hazards the EPA considered as obstacles to housing were lead paint and asbestos within existing buildings. The EPA concluded these housing proposals would have no significant impact on the environment.

Although the FEIS concluded that residential housing at Pease would have no significant impact on the environment, any change in the current use of land would still likely trigger a new EIS. Ultimately, housing was not included in the reuse of Pease Air Force Base, thus any inclusion of housing at this point would likely be a different use. The environmental factors and considerations at Pease have changed drastically since 1991, thus the analysis contained in the FEIS is dated and in need of review if any change in use is proposed.

**CITY OF PORTSMOUTH
PORTSMOUTH, NH 03801**

Office of the City Manager

Date: October 3, 2019
To: Honorable Mayor Jack Blalock and City Council Members
From: John P. Bohenko, City Manager 
Re: City Manager's Comments on October 7, 2019 City Council Agenda

6:15 p.m. - Public Dialogue Session

Public Hearings & Votes on Ordinances and/or Resolutions:

1. **Public Hearing Re: KENO.** At the August 12, 2019 City Council meeting, the Council voted that the following referendum question be placed on the ballot for the regular municipal election to be held on November 5, 2019, and further, that a public hearing be held by the City Council on the question at least 15 days but not more than 30 days before the question is to be voted on and that the public hearing be noticed as required by RSA 284:51;

Shall we allow the operation of KENO games within the City of Portsmouth?

2. **Third and Final Reading of Ordinance Amending Chapter 3, Article IX – Distribution of Single-Use Disposables.** At the September 16, 2019 City Council meeting, the Council voted to pass second reading and schedule a third and final reading regarding Councilor Denton's ordinance on Single-Use Disposables. [Attached is the Ordinance with amendments from the September 16th City Council meeting.](#)

At the September 16, 2019 meeting of the City Council, Councilor Chris Dwyer requested to be provided with the motions and amendments which might be made at the October 7, 2019 meeting of the City Council to remove certain provisions from the ordinance which will be heard that evening regarding distribution of single-use disposables. In particular,

she requested the motions and amendments necessary to remove from the ordinance at third reading those provisions which would create a City-wide ban on styrofoam (polystyrene) cups and containers. The motions and proposed amendments follow:

MOVED: To suspend the rules to allow amendments to be made to the proposed ordinance at third reading.

If that motion should pass by the required two-thirds vote, then the following motions, which must pass by simple majority, might be made to eliminate the City-wide ban on styrofoam cups and containers:

MOVED: To delete section 3.904 A 2, which prohibits the distribution of single-use polystyrene cups, from the proposed ordinance.

MOVED: To delete Section 3.905 A 2, which prohibits the distribution of single-use polystyrene containers, from the proposed ordinance.

If the City Council wishes to proceed, the following motion is required:

Move to pass third and final reading of the Ordinance, which may be amended as described in my comment.

City Manager's Items Which Require Action:

1. **Request for First Reading Re: Amendments to Building, Life Safety and Health Codes.** In December of 2017, the City Council adopted amendments to our Building Code (Chapters 12 and 15), Fire Code (Chapter 5) and our Food Code (Chapter 4) to reflect more current versions of the State Building and Fire Code, formally adopt and amend the 2009 Food Code and certain provisions the N.H. Code of Administrative Rules, He-P 2300, Sanitary Production and Distribution of Food. The amendments to our City Codes revised our local amendments to reflect the updated versions of the State Codes. The State has recently amended the State Building and Fire Codes to incorporate updated version of International Codes. Our current City Codes and local amendments need to be amended again to reflect the updated State Codes. Most of the proposed amendments to the [attached City Codes](#) are not substantive but are housekeeping in nature to reflect the updated State Codes (outlined below) and to delete local amendments now made unnecessary due to the State Code updates.
 - [Chapter 4, Food Licensing and Regulations, adopting definitions and standards for food processing plants from He-P 2300, the N.H. Code of Administrative Rules](#)
 - [Chapter 12, Part I: International Building Code \(IBC\), from 2009 to 2015 version, SBC *](#)
 - [Chapter 12, Part II: International Residential Code \(IRC\), from 2009 to 2015 version, SBC*](#)

- [Chapter 15, Part I](#): International Plumbing Code (IPC), from 2009 to 2015 version, SBC*
- [Chapter 15, Part II](#): International Mechanical Code, (IMC), from 2009 to 2015 version, SBC*
- [Chapter 15, Part III](#): Fuel Gas Installations, from Fuel Gas Installations to 2015 National Fuel Gas Code
- [Chapter 15, Part IV](#): National Electrical Code, 2017, SBC*
- [Chapter 5, Article IX](#): International Fire Code, 2015: Uniform Fire Code, NFPA 1, from 2009 to 2015, SFC**

(Although the Codes below are included in the State Building and Fire Codes, we do not have any local amendments to these Codes):

- Life Safety Code, 2015 (NFPA 101), SFC**
- International Energy Conservation Code, from 2009 to 2015, SBC*
- International Existing Building Code, from 2009 to 2015. SBC*
- [International Swimming Pool and Spa Code, 2015](#), SBC*

*SBC indicates Codes included in the State Building Code

**SFC indicates Codes included in the State Fire Code

In December of 2017, the City Council finalized Guiding Principles Related to Code Adoption in Portsmouth which recommends prompt revision of our ordinances to reflect the most recently adopted state codes and to evaluate current codes to improve code administration. If the Council votes to request a first reading of the amended ordinances in a form similar to those [attached](#), the City will schedule a public information session on these code updates before the public hearing. Prior to that informational public meeting, the City will establish a separate webpage that contains the proposed amendments and code information. This outreach to the community supports another of the Council’s Guiding Principles Related to Code Adoption [attached in the Agenda packet](#).

I recommend the following motions:

- a) *Move to authorize the City Manager to schedule first reading of amendments to Chapter 4 (Food Code) for the October 28, 2019 City Council Meeting;*
- b) *Move to authorize the City Manager to schedule first reading of amendments to Chapter 5 (Fire Code) for the October 28, 2019 City Council Meeting; and,*
- c) *Move to authorize the City Manager to schedule first reading of amendments to Chapter 12 and Chapter 15 (Building Codes) for the October 28, 2019 City Council meeting.*

2. **Request for First Reading of Floodplain Overlay District Zoning Amendments.** Over the past year, the Planning Department and Planning Board have been working on revisions and additions to the Zoning Ordinance that relate to a number of topics and issues identified as an outcome of the 2025 Master Planning process.

The **attached proposed amendments** to the Floodplain Overlay District in the Zoning Ordinance include both updates to bring these regulations into compliance with federal flood insurance program requirements as well as modifications that respond to projected impacts of climate change.

The Planning Board held a work session on these proposed amendments on August 22, 2019 and a public hearing on September 19, 2019. As a result of their review, the Board voted to recommend approval to City Council of the proposed floodplain amendments.

I recommend the City Council move to schedule first reading on the proposed amendments to the Floodplain Overlay District for the October 28, 2019 City Council meeting.

3. **Request for First Reading of a Minor Ordinance Change to Conservation Ordinance.**

At Chapter 8, Article V, the City has a Conservation Ordinance for purposes of protecting land and interests in land (easements) received or purchased for conservation purposes. The Ordinance lists properties subject to conservation protection and sets forth processes for managing those properties.

The proposed Ordinance amendments consist of the following:

- a. Adding two properties to the list of protected properties (property located on Lois Street and property located on Banfield Road) and deleting one property that should not be included on Heritage Avenue (it is a pump station);
- b. Updating the property identifiers with extended parcel IDs and book and page information; and
- c. Adding a new section to allow for the City to maintain municipal infrastructure located on such properties.

The Conservation Commission is supportive of these amendments and the Planning Board does not have a role. **Attached are the proposed Ordinance amendments.**

The Legal Department requests that these proposed changes to Chapter 8, Article V, be scheduled for first reading at the October 28, 2019 City Council meeting.

I recommend the City Council move to schedule first reading of the proposed amendments to Chapter 8, Article V at the October 28, 2019 City Council meeting.

4. **Request for First Reading on Wetlands Regulations Zoning Amendments.** The attached proposed amendments to the Wetlands Protection Section of the Zoning Ordinance primarily help clarify existing requirements as well as providing additional mechanisms for reviewing, assessing, and mitigating proposed impacts on the wetland buffer. These proposed amendments will provided additional detail to assist the Conservation Commission and Planning Board in their implementation of wetland protection regulations and include best practices for working in and near wetland environments throughout the City. The revisions include adding an exemption for fences without footings, clarifying the characterization of impacts to the wetland and buffer, adding information related to the compensatory removal of impervious surface and the requirements for a wetland buffer enhancement plan, providing guidance on living shorelines for tidal areas and use of porous pavement in the wetland buffer, and delineating wetland buffer areas.

The Conservation Commission reviewed the proposed amendments and provide feedback during a work session on July 10, 2019. The Planning Board held a work session on these proposed amendments on August 22, 2019 and a public hearing on September 19, 2019. As a result of their review, the Board voted to recommend approval to City Council of the proposed wetlands protection amendments.

I recommend the City Council move to schedule first reading on the proposed amendments to the Wetlands Protection section of the Zoning Ordinance for the October 28, 2019 City Council meeting.

5. **Request by Residents that Properties along Chase Drive and Cutts Avenue be Re-Zoned from Gateway Neighborhood Mixed Use Center (G2) to Single Residence B (SRB).** On March 31, 2019, residents and homeowners of Chase Drive, Cutts Avenue, Forest Street, and Brigham Lane submitted a letter to the City Council requesting that properties along Chase Drive and Cutts Avenue be re-zoned from Gateway Neighborhood Mixed Use Center (G2) to Single Residence B (SRB). The intent of this request was to reverse a City Council decision in December 2017 to re-zone these properties to a new zoning district – Gateway Neighborhood Mixed Use Center.

At the April 15, 2019 City Council meeting, the Council voted to refer this request to the Planning Board for a recommendation. The Planning Board held a public hearing on this request at the June 20, 2019 meeting. After listening to public comment and deliberating, the Planning Board voted to refer the request to the Planning Department to report back with additional information related to a potential G3 District, which had initially been considered when the current zoning was adopted.

At the Planning Board's request and in consideration of some of the concerns raised by the neighbors in their re-zoning request, the Planning Department developed a draft of a potential G3 district. As proposed, the third district would be primarily residential, but provides opportunities for small scale neighborhood-oriented commercial services. The district would also provide dimensional standards with lower height and density than the G1 and G2. On August 22, the Planning Board held a work session to discuss and review

the staff report back on the potential G3 District. The neighborhood has also provided some feedback on the proposed G3 District for the Planning Board's consideration.

With input received from the work session, Planning Department staff is prepared to continue working with the Planning Board and the neighborhood on a proposed zoning amendment to create a G3 District. However, in the meantime, the original request by residents to re-zone to SRB is still pending. Therefore, Planning Board and Planning Department staff felt that it was important to provide City Council with a recommendation regarding the original re-zoning request before proceeding too far with the G3 zoning amendments.

A copy of the draft G3 zoning amendment is attached along with Planning Director Juliet Walker's memorandum dated August 15, 2019.

The Planning Board discussed the original request to re-zone to SRB at the September 19, 2019 Planning Board meeting and voted not to recommend approval to the City Council. Furthermore, the Board voted to have the Planning Department staff provide a report back to the Council on the potential G3 District to determine whether the Council is supportive of the Planning Board moving forward with consideration of a zoning amendment at this time.

If the City Council is in agreement with the recommendation, an appropriate motion would be:

Move to place on file the citizen request to re-zone the properties along Chase Drive and Cutts Avenue from Gateway Neighborhood Mixed Use Center (G2) to Single Residence B (SRB) and, furthermore, to request that the Planning Board move forward with drafting a zoning amendment to bring back to the City Council for consideration that would create a Gateway 3 (G3) Zoning District.

6. **Sagamore Avenue Area Low Pressure Sewer System - Cost Apportionment.** City staff have evaluated the cost apportionment scenarios for the low pressure sewer system on portions of Sagamore Avenue, Cliff Road, Shaw Road, Walker Bungalow Road, Sagamore Grove and Wentworth House Road.

Because this project is required as part of the Second Modification to the City's Consent Decree with the Environmental Protection Agency and has a broad environmental benefit that extends to the entire rate base, **City Staff recommends that eighty percent (80%) of the capital costs for the sewer extension project be paid for by the sewer enterprise fund. Twenty percent (20%) of the capital costs shall be the responsibility of property owners up to a cap for residential property owners of \$10,000. Residential property owners would be eligible for a 10 year no-interest loan from the City for the capital contribution.** It is anticipated that no payments will be made until 2023.

Private property owners will still be responsible for the costs of their sewer service from the edge of roadway to the house, any plumbing and electrical modifications, and the low

pressure pumping system. Costs for individual property owners will vary depending on distance to the road, ledge and interior plumbing and electrical needs to connect but the cost to connect to the public sewer is likely to be materially less than the cost to replace a septic system that is failing given current regulatory requirements.

Project Background. This project is a public sewer extension to areas of the City where sewage is currently handled with septic tanks and leaching fields. The project is intended to reduce potential water quality issues in Sagamore Creek associated with failed septic systems in the project area. Typically these types of extensions are performed at the request of property owners and the costs for the project (in the road and on private property) are 100% paid by the property owners who benefit from the work. The extension of sewer to the Sagamore Avenue area is unique because the decision to extend the sewer, while initially triggered by failed systems in the area, was incorporated into the Consent Decree Second Modification. The City first looked at extending sewer along Sagamore Avenue and into the residential neighborhoods over twelve years ago; the engineering firm of Wright Pierce having completed a preliminary study in 2008. Adding this sewer extension project to the Consent Decree Second Modification in 2016 as a mitigation element was logical given the already determined need for a sewer option and environmentally sound given the ongoing concern that septic systems near water bodies are a source of pollutants. As a matter of process, the Consent Decree Second Modification was reviewed and approved by the Portsmouth City Council in March of 2016 and the City's monthly reporting of its performance under the Consent Decree Second Modification includes this project and is found on the City's website.

Construction costs for the sewer in this area are higher than typical due to shallow bedrock. In addition this is a sewer only project and there are no cost offsets from other proposed roadway or utility work. The costs for using this low pressure type sewer system are higher than a conventional gravity sewer because it requires property owners to install a pumping system and service to connect. With the high costs of the work and the relatively limited number of connections (~100 properties) the cost per property is estimated to be significantly higher than similar projects conducted in the past.

Staff consulted with the City's rate consultant, Mr. Hyder, and he concurred with the City Staff's recommendation. He indicated that this is a common approach where the overall benefits of a project extend to the entire service area, but the costs to the individual property owner may be unrealistic.

[Attached is an updated map of the project area.](#)

I recommend the City Council move to approve the cost apportionment for the Sagamore Avenue Area Low Pressure Sewer System as follows: twenty percent (20%) of the capital costs shall be the responsibility of property owners up to a cap for residential property owners of \$10,000. Eighty percent (80%) of the capital costs for the sewer extension project will be paid for by the Sewer Enterprise Fund. Residential property owners would be eligible for a 10 year no-interest loan from the City for the capital contribution.

7. **2219 Lafayette Road Bicycle and Pedestrian Easement.** On July 18, 2019, the Planning Board, granted Site Plan Review approval for the construction of a 6,830 square foot addition to an existing car dealership and related changes to the parking and display areas at 2219 Lafayette Road.

As approved, the Site Plan Approval required that the applicant provide an easement to the City for the creation of a 10' multi-use path paralleling Lafayette Road. [See attached Easement Plan and Deed.](#)

All of the foregoing has been approved by the Planning Board and is recommended by the Planning and Legal Departments.

If the City Council is in agreement with the recommendation, an appropriate motion would be:

Move to accept a bicycle and pedestrian easement for 2219 Lafayette Road.

8. **299 Vaughan Street Request for License Term Extension.** Previously, the City Council approved a temporary construction license Vaughan Street Hotel LLC to encumber a portion of the street, sidewalk and parking spaces. During the term of the license, Vaughan Street has been operated as a one-way street. The license term for this previously approved license expired on September 27, 2019.

The applicant has indicated that, due to construction delays, they now require an extension of the license term to October 19, 2019. The applicant has been approved for a 30-day temporary encumbrance permit, but was advised that a new license would be required along with applicable fees. The proposed license would replace the temporary encumbrance permit and the effective term of the license would start on September 28, 2019 and end on October 19, 2019.

The License Area for which an extension is required is shown on the [attached Plan](#). The total license area is 6,235 square feet. Per the City's policy for "License Fee for Encumbrance of City Property", the total fee for the temporary license is calculated at \$0.05 per square foot per day for a total of 23 days which comes to a total fee of \$7,170. The [attached proposed License Agreement](#) provides that, if the license area is returned to the City prior to the end of the License Term, the City will refund to the applicant the portion of the license fee already paid to the City. The proposed license also gives the City Manager the ability to extend the term of the license up to 6 months.

The Planning and Legal Departments have reviewed and approved the proposed temporary construction license.

I recommend the City Council move to authorize the City Manager to negotiate and enter into a temporary construction license with Vaughan Street Hotel, LLC as submitted to facilitate construction activities at 299 Vaughan Street.

9. **Sale of Surplus Vehicles and Equipment.** The Department of Public Works currently has surplus inventory comprising of vehicles and equipment ready for disposal (see attached list). Any questions regarding these items should be directed to Public Works Director Peter Rice at (603) 766-1416. As in the past, we have disposed of the surplus inventory through a sealed bid process in which the inventory is sold to the highest bidder.

According to City Ordinance Section 1.505, property valued at \$500.00 or more must receive approval from the City Council prior to bidding.

I recommend the City Council move to authorize the City Manager to dispose of surplus vehicles and equipment through a sealed bid process in which the inventory is sold to the highest bidder.

Informational Items:

1. **Report Back Re: Railroad Operations.** This memo is a response to ongoing questions about railroad operations in the downtown. Specifically, concerns for noise and exhaust fumes from idling locomotives in the downtown where PanAm Railroad has an active rail yard.

In response to a number of inquiries from local residents, PanAm contacted the City to discuss their operations and strategies to address concerns that have been voiced over the impact of the railroad on those living nearby. PanAm has stated they were working to address the concerns raised and according to PanAm train engines will no longer idle when temperatures are over 43 degrees. While not a complete solution, this will help to reduce the summer idling which creates noise and fumes impacts in a time when people may have their windows open.

To address idling throughout the year, PanAm has said they will increase their utilization of SCS (shore connection systems) units on their trains. These are auxiliary power units that allow the train to power down when they are stationary and idling. Where available these units will reduce noise and fumes from a idling train engines. In cases where these SCS units are not installed or available on certain pieces of equipment, PanAm said they would investigate acquiring the appropriate technology to provide auxiliary power to their engines. In addition, there is the possibility for applying for federal funds to install SCS units on trains that need it. There is a grant program known as the Clean Diesel Program that is overseen by New Hampshire Department of Environmental Services (DES). PanAm would be eligible to apply for anti-idling technology through this program. The City has been in contact with DES about this program and the State has said they will encourage PanAm to apply for the next round of funding that is made available through this grant program.

In addition to these measures, there have been questions about the ability to create Railroad Quiet zones. Designated quiet zones are certain designated road crossing where Trains are exempted from blowing their horns its horn as normally required by Train Horn Rule (49

CFR Part 222). In order to apply for a quiet zone status at any crossing, all of the crossings in a community need to be evaluated and assigned an existing safety rating. The crossing would need to have a minimum of flashing lights and gates and in many cases would need upgrades to be eligible. The analysis looks at the number of pedestrian and vehicles crossing the tracks and whether a quiet zone could be put in place without compromising the safety of those crossing the tracks.

The City is grateful for the interest PanAm has taken in the concerns raised by residents in the community and we look forward to working with them in the future to address these issues.

Guiding Principles Related to Code Adoption in Portsmouth

The purpose of codes is to protect public health, safety and general welfare as they relate to the construction, occupancy, and operation of buildings and structures. More specific benefits include increasing life safety, protecting public health, making communities more resilient, allowing for architectural innovation and interest, more environmentally-focused construction, and achieving efficient methods and potential cost savings.

1. **Origination of Codes:** Codes available for adoption by states and municipalities are created following a detailed process of expert review of the subject matter by professionals engaged in the fields of engineering, construction, public health, safety and general welfare. New code versions and revisions should be seen as “state of the art” in terms of advances in protecting the public as well as ensuring clear standards for implementing the newest and most energy-efficient and sustainable technologies, for examples.
2. **Timing of Adoption:** Revising our ordinances to reflect the most recently adopted State of New Hampshire codes will provide clarity about applicable codes and ensure local amendments align with current version of the NH state codes, but may not be the most recent version of National or International codes. As a result, the City Council should pursue prompt revision of our ordinances to reflect adoption of the State of New Hampshire adopted codes. This practice will have the added benefit of more frequent legislative activity surrounding codes underlying their importance and educating the public.
3. **Mandate to Enforce:** As the State of New Hampshire adopts codes and municipalities, as a rule, must implement and are charged to enforce the State’s minimum codes upon enactment by the State Legislature.
4. **Consideration, Communication and Outreach:** Updating local codes should be the result of careful deliberation and consideration following the input of qualified professionals in consultation with affected parties. Monitoring and constant evaluation of processes for code administration should be ongoing. The City’s process of updating codes should include proactive efforts at outreach to the community of builders, engineers & designers, firms and individuals in the building trades, homeowners, business/restaurant owners and employees, developers, and other constituencies who may interact with the code to be updated.
5. **Local Amendments to State-Adopted Codes:** In general, municipalities may only adopt local amendments to state codes if they are more restrictive than provisions in state-adopted codes, not less restrictive. Local amendments may also offer alternative means to meet code compliance, which are equally protective of the public welfare.
6. **Processes for Appeal:** Codes, state RSAs, and ordinances include processes for appeals of decisions made during code enforcement activities. Clarity about process for appeals is essential as is a clear understanding of what actions are able to be appealed, and should

be an independent review. Appeals processes should comply with the legal parameters established as well as be evident in materials and resources developed by the City.

7. **Guidance Information:** As a means of assisting the public's understanding and compliance with various codes, Departments may develop and distribute informational brochures, other explanatory information, and reference documents.

1 ORDINANCE #
2 THE CITY OF PORTSMOUTH ORDAINS

3
4 That Chapter 4, Article I, Sections 4.103 – ADOPTION OF SPECIFIC PARTS HE-P 2300, AS
5 AMENDED, and Section 4.105 - LICENSE of the Ordinances of the City of Portsmouth be
6 amended to read as follows (deletions from existing language ~~stricken~~; additions to existing
7 language **bolded**; remaining language unchanged from existing):

8 **CHAPTER 4**

9 **ARTICLE I FOOD LICENSING AND REGULATIONS**

10 **Section 4.103 Adoption of Specific Parts He-P 2300, as amended:**

11 *Adopt the following definitions:*

12 **He-P 2301 DEFINITIONS**

13 (e) **“Beverage”**

14 (l) **“Critical control point”**

15 (m) **“Critical limit”**

16 (p) **“Food”**

17 (q) **“Food Code”**

18 (s) **“Food processing plant”**

19 (u) **“Foodborne disease outbreak”**

20 (x) **“Immediately endangers public health or safety”**

21 (y) **“Imminent health hazard”**

22 (z) **“License”**

23 (aa) **“License holder”**

24 (ac) **“Major food allergen”**

25 (af) **“Package”**

26 (ah) **“Potentially hazardous food”**

27 (al) **“Public water system” means “public water system” as defined in RSA 485:1-a, XV.**

28 (ap) **“Regulatory authority”**

29 (aq) **“Remodeled”**

30 (as) **“Sanitization”**

31 (au) **“Sewage”**

32 Adopt the following ~~subject~~ subsection in its entirety:

33 He-P 2304.13 ~~(a)~~ Hazard Analysis and Critical Control Points (HACCP) Plan Requirements

34 Adopting the following subsection in its entirety and amend to read as follows:

35 He-P 2309.01 ~~Application Requirements~~ Special Requirements for Food Processing Plants

36 **Section 4.105 License.**

37 It shall be unlawful for any person or entity to operate a Food Service Establishment or Food Processing
38 Plant within the City of Portsmouth without obtaining a valid food service license issued by the
39 Department. Only a person or entity who complies with the requirements of this Chapter shall be
40 entitled to receive and retain such a license. A food service license shall be posted in public view.
41 Licenses are not transferable between entities or locations. Any change in ownership shall require a new
42 food service license subject to the provisions of this Chapter.

43

44

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

47

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

49

50 This ordinance shall take effect upon its passage.

51

APPROVED:

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Jack Blalock, Mayor

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56 ADOPTED BY COUNCIL:

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59 _____
Kelli L. Barnaby, City Clerk

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ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That Chapter 5, Article VIII – **ALARM SYSTEMS** and Article IX – **ADOPTED FIRE CODES** 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):

CHAPTER 5

FIRE DEPARTMENT AND PREVENTION REGULATIONS

ARTICLE VIII: ALARM SYSTEMS

Section 5.802: SERVICE FEE

The owner of any premises served by an alarm system shall be obligated to pay a service fee to the City of Portsmouth for ~~all~~ unfounded emergency calls to that premises in ~~excess of the number of such calls permitted by this Article. This service fee shall be in such amounts as shall be determined by the adoption of fees by budget resolution or the City Council in accordance with Chapter 1, Article XVI of the Ordinances of the City of Portsmouth. The service fee may be graduated to increase based upon an increasing number of unfounded emergency calls.~~ **accordance with the adoption of fees by budget resolution or the City Council in accordance with Chapter 1, Article XVI of the Ordinances of the City of Portsmouth.**

~~Section 5.803: PERMISSIBLE UNFOUNDED EMERGENCY CALLS~~

~~The owner of any premises served by an alarm system shall be permitted the following number of unfounded emergency calls prior to the imposition of a service fee:~~

- ~~A. Unfounded Emergency Calls to Police Department
Five calls per calendar year~~
- ~~B. Unfounded Emergency Calls to Fire Department
Four calls per six calendar month period (January to June inclusive or July to December inclusive)~~

ARTICLE IX: ADOPTED FIRE CODES

The City of Portsmouth formally adopts the “New Hampshire Fire Code”. This includes the N.H. Code of Administrative Rules, Chapter Saf-C 6000. ~~and is defined in NH RSA 153:VI-a as the adoption by reference of the Life Safety Code 2015 Edition and the Uniform Fire Code NFPA1, 2009 Edition, as published by the National Fire Protection Association and as amended by the State Board of Fire Control.~~

The City of Portsmouth adopts the International Fire Code, 2015 Edition (IFC) and the provisions of any other national code, model code or standard referred to in the IFC as published by the International Code Council, is hereby adopted as **Chapter 5, Article IX**, of the ordinances

of the City of Portsmouth, New Hampshire, subject to the following amendments, additions and deletions:

SECTION 105 PERMITS

Change subsections to read as follows:

~~**105.1.1 Permits required.** All permits required by this Code for the installation, modification, or maintenance of fire alarm or fire sprinkler systems shall be obtained prior to the initiation of any work being performed. Issued permits shall be kept on the premises designated therein at all times and shall be subject to inspection by fire code official.~~

~~**105.2 Application.** Application for permits shall be made using the City's on-line permitting system located at <https://portsmouthnh.viewpointcloud.com/>. Applications for permits shall be accompanied by construction documents as required by the fire code official for evaluation of the application.~~

~~**105.3** All fees for permits and applications shall be determined by the adoption of fees by budget resolution of the City Council in accordance with Chapter 1, Article XVI of the Ordinances of the City of Portsmouth.~~

~~**105.6 Required operational permits.** Permits shall be required by the fire code official in accordance with Sections 105.6.32 and 105.6.36.~~

~~*Delete subsections 105.6.1 through 105.6.31 without substitution.*~~

~~**105.6.32 Open Burning.** The City of Portsmouth Fire Department shall issue open burning permits under the requirements of Section 307.~~

~~*Delete subsections 105.6.31 through 105.6.35 without substitution.*~~

~~**105.6.36 Places of Public Assembly.** The City of Portsmouth Fire Department shall issue places of public assembly permits under the requirements of State RSA 155:17 and 155:18.~~

~~*Delete subsections 105.6.37 through 105.6.48 without substitution.*~~

Change subsections to read as follows:

~~**105.7 Required fire system construction permits.** Permits shall be required by the fire code official in accordance with Sections 105.7.1 through 105.7.17.~~

~~**105.7.1 Automatic fire extinguishing systems.** Applications for fixed fire extinguishing systems may be obtained from the building inspection department.~~

~~**105.7.6 Fire alarm and detection systems and related equipment.** Applications for fire alarm systems may be obtained from the building inspection department.~~

~~**105.7.17 Standpipe systems.** Applications for standpipe systems may be obtained from the city building inspection department.~~

SECTION 903 AUTOMATIC SPRINKLER SYSTEMS

Change subsection to read as follows with exceptions remaining unchanged:

~~903.4.1 Monitoring.~~ Alarm, supervisory and trouble signals shall be distinctly different and shall be automatically transmitted to an approved central station, remote supervising station, or proprietary supervising station as defined in NFPA 72 or, when approved by the building or fire official shall sound an audible and visual signal at a constantly attended location.

Change subsection to read as follows with exceptions remaining unchanged:

903.4.3 Floor Control Valves. *Approved supervised indicating control valves shall be provided at the point of connection to each floor at the direction of the Fire Code Official.*

SECTION 907 FIRE ALARM AND DETECTION SYSTEMS

Add new item 4 to end of subsection:

907.2.11.1 Group R-1.

4. In all exit access corridors, all exit enclosure stairs and in common areas on each floor level, including basements, when the building is not equipped with an automatic fire alarm system. Single-or multiple-station smoke ~~detectors~~ **alarms** in common areas shall be interconnected but shall not be interconnected with guest room smoke detectors.

Add new item 4 to end of subsection:

907.2.11.2 Groups R-2, R-3, R-4, and I-1.

4. In all exit access corridors, all exit enclosure stairs and in common areas on each floor level, including basements, when the building is not equipped with an automatic fire alarm system. Single-or multiple-station smoke detectors in common areas shall be interconnected but shall not be interconnected with dwelling unit smoke detectors. In some Group R-2 or R-3 occupancies, as determined by the fire official, additional single-or multiple-station smoke ~~detectors~~ **alarms** may be required in the basement, interconnected with a dwelling unit(s)-~~detector~~ **alarm** (s).

Add new subsection to read as follows:

907.2.11.2.1. Groups E, I-2 and I-4. Single-or multiple-station smoke ~~detectors~~ **alarms** shall be installed and maintained on all stories and all sleeping rooms of Group E day care facilities, Group I-2 child care facilities, Group I-4 day care facilities and Group I-4 child care facilities as defined in Section 202.

Exception: Single-or multiple-station smoke ~~detectors~~ **alarms** shall not be required when the building is equipped with an automatic fire alarm system with smoke detection in all sleeping rooms.

CHAPTER 10 MEANS OF EGRESS

Delete all sections within this chapter and replace with the following subsections:

SECTION 1001 ADMINISTRATION

Change subsections to read as follows:

~~**1001.1 General.** Buildings or portions thereof shall be provided with a means of egress system as required by this chapter and Saf C 6000. The provisions of this chapter and Saf C 6000 shall control the design, construction and arrangement of means of egress components required to provide an approved means of egress from structures and portions thereof. Sections 1003 through 1029 shall apply to new construction. Section 1030 shall apply to existing buildings.~~

~~**1001.2 Minimum requirements.** It shall be unlawful to alter a building or structure in a manner that will reduce the number of exits or the capacity of the means of egress to less than required by the code referenced in Section 1001.1.~~

SECTION 3201 GENERAL

~~**3201.1 Scope.** Delete in item 4, the reference to NFPA 230 and replace with NFPA 1.~~

CHAPTER 80 REFERENCED STANDARDS

Insert the following Codes and Standards:

New Hampshire State Building Code

Department of Safety
33 Hazen Drive
Concord, NH 03305
(603) 271-3294
bldgcodebrd@dos.nh.gov

New Hampshire Architectural Barrier Free Design Code

Governor's Commission on Disability
121 South Fruit Street, Suite 101
Concord, NH 03301
(603) 271-2773
1-800-852-3405 (NH)
<https://www.nh.gov/disability/abcommittee.html>

New Hampshire Energy Code

Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, NH 03301-2429
(603) 271-2431
www.puc.state.nh.us/EnergyCodes/energypg.htm

New Hampshire Elevator and Accessibility Lift Law, RSA 157-B

NH Labor Department
Boiler & Elevator Division
PO Box 2076
Concord, NH 03302-2076
(603) 271-2584
www.nh.gov/labor/inspection/boilers-elevators.htm

Amend in the NFPA Section the following referenced Standards:

~~Change **13-02** to **13-13** Design & Installation of Sprinkler Systems~~

~~Change **13D-02** to **13D-13** Design & Installation of Sprinkler Systems in 1 & 2 Family
Dwellings~~

~~Change **13R-02** to **13R-13** Design & Installation of Sprinkler Systems in
Residential Occupancies 4 Stories in Height or Less~~

~~Change **30-03** to **30-12** Flammable and Combustible Liquids Code~~

~~Change **30A-03** to **30A-15** Code for Motor Fuel dispensing Facilities and Repair Garages~~

~~Change 30B-02 to 30B-15 Manufacture and Storage of Aerosol Products~~

~~Change 31-01 to 31-11 Installation of Oil-Burning Equipment~~

~~Change 58-04 to 58-14 Liquefied Petroleum Gas Code~~

~~Change 72-02 to 72-13 National Fire Alarm Code~~

~~Change 211-03 to 211-13 Chimneys, Fireplaces, Vents, and Solid Fuel-Burning Appliances~~

~~Change 230-03 to 01-09 Uniform Fire Code~~

~~Change 409-01 to 409-11 Aircraft Hangers~~

~~Change 70-14 to 70-17 National Electric Code~~

Insert in the NFPA Section the following referenced Codes and Standards:

54-15 National Fuel Gas Code

~~**70-14** National Electric Code~~

96-14 Ventilation Control and Fire Protection of Commercial Cooking Operations

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

ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That Chapter 12, Part I – **INTERNATIONAL BUILDING CODE**, and Part II – **INTERNATIONAL RESIDENTIAL CODE** 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):

CHAPTER 12
Part I

INTERNATIONAL BUILDING CODE, 2009 2015
(Adopted ~~12/04/2017~~–eff. 01/01/2018 _____)

The International Building Code, **2009-2015** IBC Edition as published by the International Code Council, Inc., and provisions of national codes model codes or standards referred to within the IBC unless specifically excused by this Chapter, is hereby adopted as **Chapter 12, Part I** of the Ordinances of the City of Portsmouth, New Hampshire subject to the following amendments, additions and deletions:

SECTION 101 GENERAL

101.4.45 Property maintenance. The City of Portsmouth does not adopt the International Property Maintenance Code and any reference to it in this Code shall not direct the reader to its contents or requirements.

SECTION 110 INSPECTIONS

110.7 Reinspection fee. If, upon being called for any inspection, the work is not in compliance with this Code, ~~verbal notice will be given as to the deficiencies and such deficiencies shall be noted on the building official's report~~ **written notice (including the specific code sections) will be provided clearly identifying the deficiencies.** The permit holder shall be responsible for correcting the item(s) and for notifying the building official to reinspect said deficiencies. If when called to reinspect these deficiencies, all is correct, no further action will be taken. However, if during the first reinspection, the originally deficient work has not been corrected, there will be a reinspection fee assessed as determined by the adoption of fees by budget resolution of the City Council in accordance with Chapter 1, Article XVI, which must be paid at the Inspection Office before a third inspection will be made. For each subsequent reinspection of the same deficiency or deficiencies, a like procedure and fee shall be assessed.

During any inspection, the building official may find new item(s), not previously discovered, to be nonconforming. These item(s) will be noted on the building official's report, and will require reinspections. Reinspection fees will not be assessed for items newly found or for their first reinspection. However, said fees shall be assessed for these items if a third inspection is required. The same procedures as outlined above shall govern. Failure to pay any reinspection fees shall be just cause to revoke the permit under which the work was being done. Furthermore, no future permits will be issued to any person who owes the City of Portsmouth said reinspection fees, until all outstanding fees are paid.

SECTION 503 GENERAL HEIGHT AND AREA LIMITATIONS

General note pertaining to Table 503:

Table 503 as published in this Code has been *replaced* with **Table 503** as published by the State of New Hampshire Building Code Review Board. ~~Said new Table 503 is a modified version of the former BOCA Table 503, 2009.~~

Section 506 amendments by the State of New Hampshire Building Code Review Board:

SECTION 506 BUILDING AREA MODIFICATIONS

Change subsections to read as follows:

506.1 General. The provisions of this section shall modify the area limitations of the amended Table 503 as herein specified.

506.23 Frontage increase. Where a building or structure has more than 25 percent of the building perimeter fronting on a street or other unoccupied space, the area limitations specified in Table 503 shall be increased 2 percent for each 1 percent of such excess frontage. The unoccupied space shall be on the same lot or dedicated for public use, shall not be less than 30 feet (9144 mm) in width and shall have access from a street or posted fire lane not less than 18 feet (5486 mm) in width.

506.3.1 Automatic sprinkler system increase. Where a building is equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1, the area limitations specified in Table 503 shall be increased 200 percent for one- and two-story buildings and 100 percent for buildings more than two stories in height.

Exceptions:

1. The automatic sprinkler system increase shall not apply buildings with an occupancy of Group H-1.
2. The automatic sprinkler system increase shall not apply to any fire area with an occupancy of Group H-2 or H-3.

SECTION 507 UNLIMITED AREA BUILDINGS

Change subsection to read as follows:

507.34 Sprinklered, one story. The area of a one-story, Group A-4, B, F, M or S building, of Type I or II construction, shall not be limited when the building is equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1, and is surrounded and adjoined by public ways or yards not less than 60 feet (18,288 mm) in width.

Exceptions:

Exceptions 1 and 2 remain unchanged.

Edit first section in subsection as follows:

507.3.1 Mixed occupancy buildings with A-1 and A-2 of Type I and II.

Change subsection to read as follows:

507.45 Two story buildings. The area of a two story, Group B, F, M or S building, of Type I or II construction, shall not be limited when the building is equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1, and is surrounded and adjoined by public ways or yards not less than 60 feet (18,288 mm) in width.

SECTION 706 FIRE WALLS

706.8 Openings.

Delete Exception 1 without substitution:

- ~~1. Openings are not permitted in party walls constructed in accordance with Section 706.1705.~~

Edit Exception 2 as follows:

2. Openings shall not be limited to 156 square feet where both buildings are equipped **throughout throughout** with an automatic sprinkler system installed in accordance with Section 903.3.1.1 and the wall is not a *party wall*.

SECTION 7156 OPENING PROTECTIVES

Add new sentences to end of subsection. Exceptions remain unchanged:

715.4.86.5.9 Door closing. “The building or fire official shall approve the type of closing device to be used and when magnetic hold-open devices shall be required based on the occupancy classification, door use and location within the building. In Group E Occupancies and in Group B educational occupancies, magnetic hold-open devices shall be installed on all fire doors leading into enclosed exit stairs.”

SECTION 903 AUTOMATIC SPRINKLER SYSTEMS

Change subsection to read as follows, with exception remaining unchanged:

[Refer to City Ordinance, Chapter 5, Fire Department and Prevention Regulations]

SECTION 907 FIRE ALARM AND DETECTION SYSTEMS

[Refer to City Ordinance, Chapter 5, Fire Department and Prevention Regulations]

[F] 907.2 Where required. “A manual, automatic or combination manual and automatic fire alarm system shall also be provided in accordance with NFPA 101 as listed in Chapter 35.”

~~**[F] 907.2.1 Group A.**~~

~~*Delete Exception without substitution.*~~

~~*Edit subsections as follows:*~~

~~**[F] 907.2.2 Group B.**~~

~~*Delete Exception without substitution.*~~

~~**[F] 907.2.3 Group E.**~~

~~Delete Exception 3 without substitution.
[F] 907.2.4 Group F.~~

~~Delete Exception without substitution.~~

~~[F] 907.2.6.1 Group I-1.~~

~~Delete Exception 1 without substitution.~~

~~[F] 907.2.6.2 Group I-2.~~

~~Delete Exceptions 1 and 2 without substitution.~~

~~[F] 907.2.7 Group M.~~

~~Delete Exceptions 1 and 2 without substitution.~~

~~[F] 907.2.8.1 Manual fire alarm system.~~

~~Delete Exception 2 without substitution.~~

~~Change subsection to read as follows with exception remaining unchanged:~~

~~[F] 907.2.8.2 Automatic fire alarm system. System smoke detectors shall be installed in all common spaces and in means of egress components such as exit access corridors, exit enclosure stairs and basements and shall be installed to provide coverage based on the manufacturers listing for the devices.~~

~~Change subsection to read as follows:~~

~~[F] 907.2.9 Group R-2. A manual and automatic fire alarm system shall be installed and maintained in all Group R-2 occupancies where any dwelling unit is located three or more stories above the lowest level of exit discharge; or where any dwelling unit is located more than one story below the highest level of exit discharge of exits serving the dwelling unit; or when said building contain more than 11 dwelling units.~~

Exceptions:

~~1. A fire alarm system is not required in buildings not more than two stories in height where all dwelling units or sleeping units and contiguous attic and crawl spaces are separated from each other and public or common areas by at least 1-hour fire partitions and each dwelling unit or sleeping unit has an exit directly to a public way, egress court or yard.~~

~~2. A fire alarm system is not required in buildings that do not have interior corridors serving dwelling units and are protected by an approved automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2, provided that dwelling units either have a means of egress door opening directly to an exterior exit access that leads directly to the exits or are served by open-ended corridors designed in accordance with Section 1026.6, Exception 4.~~

~~[F] 907.2.9.1 Smoke detector coverage. System smoke detectors shall be installed in all common spaces and in means of egress components such as exit access corridors, exit enclosure stairs and basements and shall be installed to provide coverage based on the manufacturers listing for the device.~~

Add new item 4 to end of subsection:

~~[F] 907.2.1 Group R-1.~~

~~4. In all exit access corridors, all exit enclosure stairs and in common areas on each floor level, including basements, when the building is not equipped with an automatic fire alarm system, single and multiple station smoke alarms in common areas shall be interconnected but shall not be interconnected with guest room smoke alarms.~~

Add new item 4 to end of subsection:

~~[F] 907.2.2 Groups R-2, R-3, R-4, and I-1.~~

~~4. In all exit access corridors, all exit enclosure stairs and in common areas on each floor level, including basements, when the building is not equipped with an automatic fire alarm system. Single and multiple station smoke alarms in common areas shall be interconnected but shall not be interconnected with dwelling unit smoke alarms. In some Group R-2 or R-3 occupancies, as determined by the building official, additional single and multiple station smoke alarms may be required in the basement, interconnected with a dwelling unit(s) alarm(s).~~

Add new subsection to read as follows:

~~[F] 907.2.11.4.1 Smoke alarm circuits. Smoke alarms in individual units shall be wired to a branch circuit containing lighting loads of the dwelling unit or guestroom. Smoke alarms in common spaces shall be wired to a circuit used for common habitable space lighting. All smoke alarms shall be wired ahead of any switch on the circuit. The electric panel shall be clearly labeled as to which circuit the smoke alarms are wired.~~

Add new subsection to read as follows:

~~[F] 907.2.11.5 Groups E, I-2 and I-4. Single and multiple station smoke alarms shall be installed and maintained on all stories and all sleeping rooms of Group #E day care facilities, Group I-2 child care facilities, Group I-4 day care facilities and Group I-4 child care facilities as defined in Sections 305.2, 308.3.1, 308.5 and 308.5.2 respectively.~~

~~Exception: Single and multiple station smoke alarms shall be not required when the building is equipped with an automatic fire alarm system with smoke detection in all common areas and sleeping rooms.~~

Change subsection to read as follows with exceptions remaining unchanged:

~~[F] 907.14 Monitoring. Fire alarm systems required by this chapter or the *International Fire Code* shall be monitored by an approved supervising station or by a Auxiliary Fire Alarm System in accordance with NFPA 72.~~

SECTION ~~916~~17 FIRE SERVICE BUILDING ACCESS

~~[F] 916.1917~~ **General.** Where required by Chapter 9, IBC, key storage access boxes shall be installed at buildings in the required quantities, and in the required locations as specified by the fire code official.

SECTION ~~1011~~13 EXIT SIGNS

Change subsection to read as follows with exception remaining unchanged:

~~1011.23.3~~ **Illumination.** Exit signs shall be internally illuminated with the primary power source from the building electric system. Exit signs shall also be provided with a battery backup power source or from the building emergency power supply system if so equipped. Self-illuminated (nuclear) exit signs are not an approved source of illumination.

Change subsection to read as follows:

~~1011.53.6~~ **Externally illuminated exit signs.** When approved by the building official, externally illuminated exit signs shall comply with Sections 1011.5.1 through 1011.5.3.

SECTION ~~1029~~30 EMERGENCY ESCAPE AND RESCUE

Change exception 1 in subsection to read as follows:

~~1029~~30.1 **General.**

Exception 1: In buildings equipped throughout with an approved automatic sprinkler system in accordance with Section 903.3.1.1 or 903.3.1.2.

Add new exception to read as follows:

SECTION 1208 INTERIOR SPACE DIMENSIONS

Add new exception 4-5 to subsection to read as follows:

1208.2 **Minimum ceiling heights.**

Exception 4-5: Within dwelling units, the minimum ceiling height above lavatories and water closets shall be 6 foot 8 inches (6'-8"), as measured vertically from the ceiling to the floor at the operating handle end of the fixture. The minimum ceiling height above bathtubs and shower stalls shall be 6 foot 8 inches (6'-8"), as measured vertically from the ceiling to the floor or tub bottom at the operating handle end of the fixture and shall be maintained for a 30 inch by 30 inch clear area from the walls adjacent to the operating handles.

SECTION ~~1704~~ 1705 SPECIAL INSPECTIONS AND TESTS

~~1704.3.45.2.4~~ **Cold-formed steel trusses.** Special inspections shall be required for all light gauge metal roof or floor truss installations. The special inspection shall verify and document the proper installation of all required bracing, both temporary and permanent, and any special connection details required by either the design professional or the truss manufacturer.

~~1704.65.5.2~~ **Metal-plate-connected wood trusses.** Special inspections shall be required for all metal-plated-wood roof or floor truss installations. The special inspection shall verify and

document the proper installation of all required bracing, both temporary and permanent, and any special connection details required by either the design professional or the truss manufacturer.

Add new subsections to read as follows:

1704.171705.17 Fire-resistant penetrations and joints. In buildings of four or more stories above grade plane, special inspections for through-penetrations, membrane penetration firestops, fire-resistant joint systems, and perimeter fire barrier systems that are tested and listed in accordance with Sections 7134.3.1.2, 713.44.3.1.1.2, **714.3 715.3** and **714.4 715.4** shall be in accordance with Section 1704.17.1 or 1704.17.2

17041705.17.1 Penetration firestops. Inspections of penetration firestop systems that are tested and listed in accordance with Sections 713.3.12. and 713.4.1.1.2 shall be conducted by an approved inspection agency in accordance with ASTM E 2174.

17041705.17.2 Fire-resistant joint systems. Inspection of fire-resistant joint systems that are tested and listed in accordance with Sections 714.3.1.2 and 714.4.2 shall be conducted by an approved inspection agency in accordance with ASTM E 2393.

SECTION 1809 SHALLOW FOUNDATIONS

Amend Item 1 of subsection to read as follows:

1809.5 Frost protection. 1. Extending to 4 feet (1219 mm), as measured to the bottom of the footing from the adjoining finish grade.

SECTION 2701 GENERAL

Change subsection to read as follows:

[Refer to National Electrical Code, City Ordinance Chapter 15 Part IV]

~~**2701.1 Scope.** This chapter governs the electrical components, equipment and systems used in buildings and structures covered by this Code. Electrical components, equipment and systems shall be designed and constructed in accordance with the provisions of the *National Electric Code*, NFPA 70. The State of New Hampshire adopts new editions of NFPA 70 on a three year cycle. The edition that is State adopted at the time of a new electrical design or installation shall govern the requirements of that installation.~~

Add new sections to read as follows:

SECTION 2703 INSPECTIONS AND TESTS

~~**2703.1 Concealing work.** Work in connection with an electric system for which a permit is required, shall not be covered or concealed until such work has been inspected and permission to conceal such work has been given by the building official. It shall be the responsibility of the electric permit holder to contact the building official for said inspections. Furthermore, the permit holder shall allow a minimum of two work days (48 hours) from the time the building official is notified to the time the inspection is performed.~~

~~**2703.2 Service Inspection.** All service equipment shall be installed, grounded and bonded before a request is made for a service inspection. It shall be the responsibility of the permit holder to contact the building official for said inspection. The same inspection notification time~~

~~allowance is required as in Section 2703.1. After satisfactory completing said inspection, the building official shall issue written notification to the local electric utility to allow for meter installation and power connection. It shall be the responsibility of the permit holder to contact the local electric utility for scheduling this power connection.~~

~~**2703.3 Final inspection and tests.** After all work is complete, all systems have been supplied power and all systems have been tested by the installer, a request for final inspection shall be made by the permit holder. The same inspection notification time allowance is required as in Section 2703.1. Copies of all test results shall be provided to the building official at this time. The building official shall inspect the work and cause tests to be made of the operation of the entire system to insure compliance with all requirements.~~

~~**2703.4 Records.** Records of all inspections shall be kept by the respective building official. Said records shall list date of inspections, observed nonconformances, corrective actions required and the building official's initials. Follow-up inspections shall be required to confirm the completed corrective actions. All inspection records shall be maintained by the building officials and be available for public access. The owner shall provide for special inspections in accordance with Section 1704.~~

~~SECTION 2704 QUALIFICATIONS OF ELECTRICIANS~~

~~**2704.1 General.** All persons performing electrical work in the City of Portsmouth shall be licensed in accordance with the provisions of RSA 319-C of the State of New Hampshire; except owners of detached single family homes, who reside in said home, may do electrical work without a license. All electrical work requires an electrical permit unless exempt by Section 105.2.~~

~~**2704.2 Responsibilities of electricians.** When an electrical installation is required to be performed by a licensed New Hampshire Electrician, the permit for said work shall be obtained by the Master Electrician responsible for the work. Said electrician or company, shall be responsible for all work done under said permit.~~

~~SECTION [P] 2901 GENERAL~~

Change subsection to read as follows:

[Refer to City Ordinance, Chapter 15 Part 1 International Plumbing Code.]

~~[P] 2901.1 Scope. The design and installation of building plumbing systems shall conform to Chapter 15, Part I of the City Ordinances (Plumbing Code) and Chapter 29 of this Code. The design and installation of building sewer and building water supply piping (city side of water meters) shall conform to the requirements of the Public Works Department, Water/Sewer Division. Private sewage disposal systems shall conform to the requirements of the State of New Hampshire Water Supply and Pollution Control Subsurface Waste Disposal Division.~~

~~SECTION [P] 2902 MINIMUM PLUMBING FACILITIES~~

Change exception 2 in subsection to read as follows:

~~[P] 2902.2 Separate facilities.~~

~~Exception 2: In other than mercantile occupancies, separate facilities shall not be required in structures or tenant spaces with a total occupant load, including both employees and customers of 24 or less.~~

Add new sentences to end of subsection:

~~[P] 2902.3 Require public toilet facilities. “Plumbing features and facilities shall also comply with the accessibility requirements of Section 1109.”~~

Add new subsection to read as follows:

~~[P] 2902.5 Renovations to existing buildings. Where an existing toilet room or rooms is (are) present and renovations are being undertaken, the existing toilet room(s) shall not be removed if said removal will call the new occupancy to have less fixtures than what is required under this code for new installation. In a case where there are more toilet rooms existing than what are required under this code, toilet rooms in excess of the minimum required may be removed but at least one shall remain.~~

~~[F] SECTION 3003 EMERGENCY OPERATIONS~~

Add new subsection to read as follows:

~~[F] 3003.2.1 Elevator recall key. Where required by ASME A17.1, all new elevators shall be equipped with a Yale #3502 fire service elevator recall key.~~

SECTION 3306 PROTECTION OF PEDESTRIANS

Add new subsection to read as follows:

3306.10 Hazardous excavations. All open excavations left unattended, when deemed a hazard by the building official, shall be guarded or fenced in accordance with the criteria in Sections 1013.2. and 1013.3. The hazard judgment shall be based on public accessibility to the excavation, time period left open, falling hazard, and the pooling of surface or ground water at the bottom of the excavation. All appeals to the building official’s order shall be made in writing and will follow the appeals process in Section 113.

General note pertaining to Chapter 34:

The State of New Hampshire Building Code Review Board has adopted the 200915 Edition of the International Existing Building Code (IEBC) as published by the International Code Council. All IBC Chapter 34 code users shall utilize the technical provisions of the IEBC in lieu of the provisions of Chapter 34 of the IBC. The follow amemdments to Chapter 35 of the IBC apply:

CHAPTER 35 REFERENCED STANDARDS

Insert the following Codes and Standards:

New Hampshire State Building Code

Department of Safety
33 Hazen Drive Drive
Concord, NH 03305
(603) 271-3294

bldgcodebrd@dos.nh.gov

New Hampshire Architectural Barrier Free Design Code

Governor's Commission on Disability

121 South Fruit Street, Suite 101

Concord, NH 03301-8518

(603) 271-2773

1-800-852-3405 (NH)

<http://www.nh.gov/disability/abcommittee.html>

New Hampshire Energy Code

Public Utilities Commission

21 South Fruit Street, Suite 10

Concord, NH 03301-2429

(603) 271-2431

www.puc.state.nh.gov/EnergyCodes/energyppg.htm

puc@puc.nh.gov

New Hampshire Elevator and Accessibility Lift Law, RSA 157-B

NH Labor Department

Boiler & Elevator Division

PO Box 2076

Concord, NH 03302-2076

(603) 271-6294

www.nh.gov/labor/inspection/boilers-elevators.htm

Insert in the NFPA section the following referenced Codes and Standards:

54-0915	National Fuel Gas Code	101.4.1, 2801.1, 3401.3
70-1117	National Electric Code	101.4.1, 2701.1
101-09	Life Safety Code (Or as Adopted by the SFM)	903.2, 907.2, 1003.2, 1008.5.2

Amend in the NFPA section the following referenced Standards:

Change 13-07 to 13-13 Design & Installation of Sprinkler Systems

Change 13D-07 to 13D-13 Design & Installation of Sprinkler Systems in 1 & 2 Family Dwellings

Change 13R-07 to 13R-13 Design & Installation of Sprinkler Systems in Residential Occupancies 4 Stories in Height or Less

Change 72-07 to 72-13 National Fire Alarm Code

APPENDIX L – M

Appendix L and M are not adopted as part of this ordinance.

CITY ORDINANCE - CHAPTER 12
Part II

INTERNATIONAL RESIDENTIAL CODE, 200915
(Adopted 12/04/2017 - eff. 01/01/2018)

The International Residential Code, 200915 Edition (IRC) as published by the International Code Council, Inc. is hereby adopted as **Chapter 12, Part II** of the Ordinances of the City of Portsmouth, New Hampshire subject to the following amendments, additions and deletions:

SECTION R102 APPLICABILITY

Add new subsections to read as follows:

R102.4.13 Electrical. The provisions of the *National Electric Code*, NFPA 70 shall apply to the installation of electrical systems including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and appurtenances thereto. Wherever this Code references the *International Electric Code* the reader shall substitute that reference with the *National Electric Code*, NFPA 70 as adopted by the State of New Hampshire. The City of Portsmouth does not adopted Article 80, Administration and Enforcement, of NFPA 70.

R102.4.24 Gas. The provisions of the *National Fuel Gas Code*, NFPA 54, shall apply to the installation of gas piping from the point of delivery to gas appliances and related accessories as covered in this Code. These requirements apply to gas piping systems extending from the point of delivery to the inlet connections of the appliances and the installation and operation of residential gas appliances and related accessories. Wherever this Code references the *International Fuel Gas Code* the reader shall substitute that reference with the *National Fuel Gas Code*, NFPA 54.

R101.4.35 Plumbing. The City of Portsmouth does not adopt the *International Sewage Disposal Code* and any reference to it in this Code shall not direct the reader to its contents or requirements.

R102.4.4-6 Property maintenance. The City of Portsmouth does not adopt the *International Property Maintenance Code* and any reference to it in this Code shall not direct the reader to its contents or requirements.

SECTION R105 PERMITS

R105.910 Qualifications of persons doing trade work. Electrical, plumbing and mechanical work is allowed to be done by resident homeowners engaged in said trade work and conducted within the single-family dwelling in which they reside. Gas piping shall be done by a licensed plumber or another *qualified person or agency*, individual, firm, corporation or company that either in person or through a representative, is engaged in and is responsible for (a) the installation or replacement of gas piping or (b) the connection, installation, repair or servicing of gas equipment; and who is experienced in such work and is familiar with all the precautions required. For plumbing work refer to State RSA 329-A:13 and for electrical work refer to State RSA 319-C. All trade work require city permits.

SECTION R107 TEMPORARY STRUCTURES AND USES

SECTION R109 INSPECTIONS

R109.5 Reinspection fee. If, upon being called for any inspection, the work is not in compliance with this Code, **written notice (including the specific code section) will be provided clearly identifying the deficiencies verbal notice will be given as to the deficiencies and such deficiencies shall be noted on the building official's report.** The permit holder shall be responsible for correcting the item(s) and for notifying the building official to reinspect said deficiencies. If when called to reinspect these deficiencies, all is correct, no further action will be taken. However, if during the first reinspection, the work in question has not been corrected, there will be a reinspection fee assessed as determined by the adoption of fees by budget resolution of the City Council in accordance with Chapter 1, Article XVI, which must be paid at the Inspection Office before a third inspection will be made. For each subsequent reinspection of the same deficiency or deficiencies, a like procedure and fee shall be assessed.

During any inspection, the building official may find new item(s), not previously discovered, to be nonconforming. These item(s) will be noted on the building official's report, and will require reinspections. Reinspection fees will not be assessed for items newly found or for their first reinspection. However, said fees shall be assessed for these items if a third inspection is required. The same procedures as outlined above shall govern. Failure to pay any reinspection fees shall be just cause to revoke the permit under which the work was being done. Furthermore, no future permits will be issued to any person who owes the City of Portsmouth said reinspection fees, until all outstanding fees are paid.

SECTION R301 DESIGN CRITERIA

Insert in blank spaces in Table R301.2(1):

Ground snow load: 50 pounds per square foot (PSF)

Wind speed: 100 miles per hour (MPH)

Seismic Design Category: C

Weathering: Severe

Frost Line Depth: 4 feet to bottom of footing.

Termite: Slight to Moderate

Winter Design Temp.: (-)3 degree days

Ice Barrier Underlayment Required: Yes

Flood Hazard: **Flood Insurance Rate Map May 17, 2005**~~Current Flood Insurance Study, Sep. 2002~~

Air Freezing Index: 1000

Mean Annual Temperature: 47 degrees F

SECTION R302 FIRE-RESISTANT CONSTRUCTION

Amend Exception 1 in subsection to read as follows:

R302.3 Two-family dwellings.

Exception 1: A fire-resistance rating of ½ hour shall be permitted in two-family dwellings protected throughout with an automatic fire sprinkle system in accordance with ~~Section 2904~~, NFPA 13R or NFPA 13D as listed in Chapter 44.

SECTION R310 EMERGENCY ESCAPE AND RESCUE OPENINGS

R310.1 Emergency escape and rescue openings required.

All Emergency Escape and Rescue openings on new construction shall meet the requirements outlined in IRC, Section R310. However, Emergency Escape and Rescue openings for structures located within the Historic District will be reviewed on a case by case basis. Change of occupancy shall be considered new construction.

Add new exception 2 to read as follows:

Exception 2: Emergency escape and rescue openings are not required when the entire structure is protected throughout with an automatic fire suppression system conforming to Section 290, NFPA 13R or NFPA 13D as listed in Chapter 44.

Add new subsections to read as follows:

~~**R310.7 Renovations to existing finished basement areas. When existing basement areas are being remodeled for uses other than sleeping rooms and when such basements do not have an emergency escape and rescue opening or route as required by Sections R310.1, R310.2, R310.3 or R310.6; smoke and carbon monoxide alarms shall be installed in accordance with Section R314 and R315.**~~

Change section to read as follows:

SECTION R313 AUTOMATIC FIRE SPRINKLER SYSTEMS

Change subsection to read as follows:

R313.1.1 Design and installation. Automatic residential fire sprinkler systems for townhouses shall be designed and installed in accordance with ~~Section P2904 or~~ NFPA 13R as listed in Chapter 44.

Add new subsection to read as follows:

R313.1.2 Fire sprinkler system alarm monitoring. Townhouse fire sprinkler systems shall be monitored by water flow, supervisory and trouble conditions and shall automatically transmit signals to an approved central station, ~~remote~~ supervising station or proprietary supervising station as defined in NFPA 72 and shall sound an audible and visual signal on the building exterior in a publicly visible location.

Exception. When approved by the fire official, townhouse fire sprinkler systems shall sound **an audible notification within the dwelling unit and** an audible and visual signal on the building exterior in a publicly visible location and not require off site monitoring.

Delete subsection without substitution:

~~**R313.2 One and two family dwellings automatic fire systems.**~~

SECTION R314 SMOKE ALARMS

Add new sentence to end of subsection:

R314.4314.6 Power source. Smoke alarms shall be supplied by a branch circuit that also supplies lighting loads serving habitable spaces. Smoke alarm circuit(s) shall be clearly labeled in the electric panel. The branch overcurrent protective device supplying the smoke alarms shall be clearly labeled “Smoke Alarms” in a manner that distinguishes it from other overcurrent protective devices.

SECTION R315 CARBON MONOXIDE ALARMS

Change section to read as follows:

R315.2.3 Where required in existing dwellings. In existing dwellings within which fuel-fired appliances are present or which have attached garages and where alterations, repairs or additions that require a building permit are being undertaken or when additional sleeping rooms are being created; carbon monoxide alarms shall be installed in locations as required in Section 315.21. ~~The exceptions of Section R314 shall also apply to retrofitting interconnected hard-wired carbon monoxide alarms.~~

Add new subsection to read as follows:

R315.4315.5 Power source and alarm types. Single-station carbon monoxide alarms shall be hard wired to the building’s electric system in the same manner as required in Section R314 for smoke alarms. Carbon monoxide alarm devices may be individually powered or may be interconnected between devices when the device listing allows for interconnection. Carbon monoxide alarm devices may be combination devices such that they serve both the buildings smoke alarm and carbon monoxide alarm requirements. When combination units are used, they shall be interconnected and shall be capable of sounding different alarm signals for either a smoke or a carbon monoxide condition.

SECTION R501 GENERAL

Add new subsection to read as follows:

R501.3 Fire protection of floors. Floor assemblies, not required elsewhere in this code to be fire-resistance rated, shall be provided with a minimum of ½-inch (12.7 mm) gypsum wallboard membrane, 5/8-inch (16 mm) wood structural panel membrane, or equivalent on the underside of the floor framing members.

Exceptions:

1. Floor assemblies located directly over a space protected by an automatic sprinkler system in accordance with **Section P2904**, NFPA 13D or NFPA 13R.
2. Floor assemblies located directly over a crawl space not intended for storage or fuel-fired appliances.
3. Portions of floor assemblies can be unprotected when complying with the following:
 - 3.1 The aggregate area of the unprotected portions shall not exceed 80 square feet per story
 - 3.2 Fire blocking in accordance with Section R302.11.1 shall be installed along the perimeter of the unprotected portion to separate the unprotected portion from the remainder of the floor assembly.

4. Wood floor assemblies using dimension lumber or structural composite lumber equal to or greater than 2-inch by 10-inch (50.8 mm by 254 mm) nominal dimension, or other approved floor assemblies demonstrating equivalent fire performance.

CHAPTER 35 REFERENCED STANDARDS

Insert the following Codes and Standards:

New Hampshire State Building Code

Department of Safety
33 Hazen Drive Drive
Concord, NH 03305
(603) 271-3294

bldgeodebrd@dos.nh.gov

New Hampshire Architectural Barrier Free Design Code

Governor's Commission on Disability
121 South Fruit Street, Suite 101
Concord, NH 03301-8518
(603) 271-2773
1-800-852-3405 (NH)

<http://www.nh.gov/disability/abecommittee.html>

New Hampshire Energy Code

Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, NH 03301-2429
(603) 271-2431

www.puc.nh.gov/EnergyCodes/energypg.htm

puc@puc.nh.gov

New Hampshire Elevator and Accessibility Lift Law, RSA 157-B

NH Labor Department
Boiler & Elevator Division
PO Box 2076
Concord, NH 03302-2076
(603) 271-6294

www.nh.gov/labor/inspection/boilers-elevators.htm

Insert in the NFPA section the following referenced Codes and Standards:

13D-13 Design & Installation of Sprinkler Systems in 1 & 2 Family Dwellings R 302,3, R310.1

13R-13 Design & Installation of Sprinkler Systems in Residential Occupancies 4 Stories in Height or Less R310.1, R313.1.1,

54-152 National Fuel Gas Code R102.4.2, G2501.1

211-13 Chimneys, Fireplaces, Vents, and Solid Fuel-Burning Appliances R1001.1, R1003.1

Amend in the NFPA section the following referenced Standards:

Change: 70-08 to 70-11 National Electric Code R102.4.1, E3401.1

Change: 72-07 to 72-13 National Fire Alarm Code R313.1.2

**2015 INTERNATIONAL SWIMMING POOL AND SPA CODE
~~APPENDIX G—SWIMMING POOLS, SPAS AND HOT TUBS~~**

~~Appendix G is adopted as part of this ordinance without amendments.~~

**~~APPENDIX Q—INTERNATIONAL RESIDENTIAL CODE ELECTRICAL
PROVISIONS / NATIONAL ELECTRIC CODE CROSS REFERENCE~~**

~~Appendix Q is adopted as part of this ordinance without amendments.~~

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

ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That Chapter 15, Part I – **INTERNATIONAL PLUMBING CODE**, Part II – **INTERNATIONAL MECHANICAL CODE**, Part III – **FUEL GAS INSTALLATIONS**, and Part IV – **NATIONAL ELECTRICAL CODE** 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):

CHAPTER 15

Part I

INTERNATIONAL PLUMBING CODE, 20152015 (Adopted 12/04/2017, effective 01/01/2018)

The City of Portsmouth adopts the State Building Code, which adopts by reference the International Plumbing Code, 201509 Edition (IPC) as published by the International Code Council, Inc. is hereby adopted as **Chapter 15, Part I**, of the Ordinances of the City of Portsmouth, New Hampshire subject to the following amendments, additions and deletions.

SECTION 101 GENERAL

101.5 Appendices. Provisions in the appendices shall not apply unless specifically adopted. Appendices B, C, D, **and E and F** are adopted.

SECTION 103 DEPARTMENT OF PLUMBING INSPECTION~~BUILDING SAFETY~~

SECTION 106 PERMITS

Change subsection to read as follows:

106.3 Application for Plumbing permits. Plumbing permits shall be issued on the form provided by the Building Inspection Department. A separate permit application is not required.

Change subsection to read as follows:

106.6.2 Fee schedule. Fees shall be determined by the adoption of fees by budget resolution of the City Council in accordance with Chapter 1, Article XVI of the Ordinances of the City of Portsmouth, NH. All permit fees shall be payable at the time the permit is issued. No work will be inspected unless all fees are paid in full. See Section 107.~~2.5.41.2.4~~ for reinspection fees.

SECTION 107 INSPECTIONS AND TESTING

Add new subsection to read as follows:

107.2.5.4 Reinspection fees. If, upon being called for any inspection, and the work is not in compliance with this Code, verbal **and written notice (including the specific code sections) will be provided clearly identifying the deficiencies. ~~notice will be given as to the deficiencies and such deficiencies shall be noted on the code official's report.~~** The permit holder shall be

responsible for correcting the item(s) and for notifying the code official to reinspect said deficiencies. If when called to reinspect these deficiencies, all is correct, no further action will be taken. However, if during the first reinspection, the work in question has not been corrected, there will be a reinspection fee assessed as determined by the adoption of fees by budget resolution of the City Council, in accordance with Chapter 1, Article XVI which must be paid at the Inspection Office before a third inspection will be made. For each subsequent reinspection of the same deficiency or deficiencies, a like procedure and fee shall be assessed.

During any inspection, the code official may find new item(s), not previously discovered, to be nonconforming. These item(s) will be noted on the code official's report, and will require reinspections. Reinspection fees will not be assessed for items newly found or for their first reinspection. However, said fees shall be assessed for these items if a third inspection is required. The same procedures as outlined above shall govern. Failure to pay any reinspection fees shall be just cause to revoke the permit under which the work was being done. Furthermore, no future permits will be issued to any person who owes the City of Portsmouth said reinspection fees, until all outstanding fees are paid.

SECTION 108 VIOLATIONS

Change subsection to read as follows:

108.4 Violation penalties. Any person who shall violate a provision of this Code or shall fail to comply with any of the requirements thereof or who shall erect, construct, alter or repair **plumbing work and aa** building or structure in violation of an approved plan or directive of the building official, or of a permit or certificate issued under the provisions of this Code, shall be subject to the penalty provisions prescribed by RSA 155-A:8. Each day that the violation continues shall be deemed a separate offense. Reference State RSA's 155-A:8, 625:8 I(c), 651:2 IV(a) and 676:17 for further penalty provisions.

SECTION 202 GENERAL DEFINITIONS

Change the following definitions to read as follows:

Hot Water: Water having a temperature range between 111 degrees F (43.9 degrees C) and 130 degrees F (54 degrees C).

~~**Tempered Water:** Water having a temperature range between 85 degrees F (29 degrees C) and 110 degrees F (43.3 degrees C).~~

Amend Section 202 by adding the following definition:

SECTION 305 PROTECTION OF PIPES AND PLUMBING SYSTEM COMPONENTS

Change subsection to read as follows:

305.46 Freezing. Water, soil and waste pipes shall not be installed outside of a building, in attics or crawl spaces, concealed in outside walls, or in any other place subject to freezing temperature unless adequate provisions are made to protect such pipes from freezing by insulation or heat or both. The Portsmouth Water/Sewer Ordinance requires building water service pipes to be 4 feet

below grade, or adequately insulated to afford the same protection whenever a condition arises that the 4 feet cannot be attained.

Change subsection to read as follows:

305.46.1 Sewer depth. Building sewers that connect to private sewage disposal systems shall conform to RSA 485-A relative to minimum depth below finish grade. Building drains that connect to public sewers shall be a minimum depth of 48 inches(1219 mm) below grade or be adequately insulated to afford the same protection whenever a condition arises that the 48 inches(1219 mm) cannot be attained.

SECTION 312 TESTS AND INSPECTIONS

Change subsection to read as follows:

312.1 Required tests. The permit holder shall make the applicable tests prescribed in Sections 312.2, ~~312.3~~, through 312.9 to determine compliance with the provisions of this code. The permit holder shall give reasonable advance notice (2 work days) to the code official when the plumbing work is ready for tests. The equipment, material, power and labor necessary for the inspection and test shall be furnished by the permit holder and the permit holder shall be responsible for determining that the work will withstand the test pressure prescribed in the following tests. All plumbing system piping shall be tested with either water or air.

Change first sentence to read as follows:

312.3 Drainage and vent air test. Plastic piping shall not be tested using air unless a fixed 5 psi (34.5 kPA) relief valve is installed for testing purposes only.

SECTION 403 MINIMUM PLUMBING FACILITIES

Change exception 2 in subsection to read as follows:

403.2 Separate facilities.

~~Exception 2: In other than mercantile occupancies, separate facilities shall not be required in structures or tenant spaces with a total occupant load, including both employees and customers, of 24 or less. See Section 403.4.4 of these amendments for mercantile occupancy fixture requirements.~~

Add new subsection to read as follows:

~~403.34.5 Group M occupancies. A minimum of one public single occupant toilet room shall be provided in buildings or tenant spaces when the total occupant load is more than 24 persons but less than 50 persons. A minimum of two public single occupant toilet rooms shall be provided in buildings or tenant spaces when the total occupant load is 50 persons or more. Additional plumbing fixtures shall be provided when the occupant load reaches a point where the provisions of Table 403.1 would require more than two fixtures.~~

~~Exception: Where an existing toilet room is present and renovations are being undertaken, the existing toilet room shall not be removed even if the occupant load is 24 persons or less.~~

~~In a case where there are more toilet rooms existing than what are required under this code, toilet rooms in excess of the minimum required may be removed but at least one shall remain.~~
Add new in exception:
in subsection to read as follows:

403.3 Required public toilet facilities.

Exception 3: Mercantile occupancies having a public access area less than or equal to 500 square feet.

SECTION 405 INSTALLATION OF FIXTURES

Add new subsections to read as follows:

405.3.63 Bathtubs and showers. The clear space in front of a bathtub or shower shall be a minimum of 30-inches wide and 24-inches deep.

405.3.74 Ceiling height above fixtures. Bathrooms and kitchen sink areas shall have a minimum ceiling height of 6 feet 8 inches (6'-8") at the front clearance areas for fixtures as shown in Figure 405.3.1. The ceiling height above fixtures shall be such that the fixture is capable of being used for its intended purpose. A shower or bathtub equipped with a showerhead shall have a minimum ceiling height of 6 feet 8 inches (6'-8") above a minimum area 30 inches by 30 inches at the showerhead.

~~(SECTION 410 DRINKING FOUNTAINS)~~

SECTION 501 GENERAL

Change subsections to read as follows:

~~501.2 Water heater as space heater. Where combination potable water heating and space heating systems require water for space heating, a master thermostatic mixing valve complying with ASSE 1017 shall be provided to limit the water supplied to the potable hot water distribution system to a temperature of 130 degrees F (54 degrees C) maximum. The potability of the water shall be maintained throughout the system.~~

~~501.6 Water temperature control in piping from tankless heaters. The temperature of water from tankless heaters shall be a maximum of 130 degrees F (54 degrees C) when intended for domestic uses. When a tempering device is used to limit the maximum water distribution system temperature it shall conform to ASSE 1017. This provision shall not supersede the requirement for protective shower valves in accordance with Section 424.3.~~

SECTION 605 MATERIALS, JOINTS AND CONNECTIONS

Edit subsection as follows:

~~605.22.2 Solvent cementing. Delete the word "purple" in the second sentence.~~

SECTION 607 HOT WATER SUPPLY SYSTEMS

Add new subsection to read as follows:

607.1.31 Child care and Group E water temperatures. Water for hand washing sinks in child care and Group E occupancies shall be between 100 degrees F (37 degrees C) and 120 degrees F (49 degrees C).

Change subsection to read as follows:

~~**607.2 Hot water supply temperature maintenance.** Where the developed length of hot water piping from the source of hot water supply to the farthest fixture exceeds 50 feet (15.24 m), the hot water supply system shall be provided with a method of maintaining the temperature in accordance with the International Energy Code.~~

SECTION 608 PROTECTION OF POTABLE WATER SUPPLY

Change subsection to read as follows:

608.14 Portsmouth Water Department backflow prevention criteria. Backflow prevention at the water meter shall be accordance with Section 608.14.1 through 608.14.1.65, and Section 608.16.5.

SECTION 701 SANITARY DRAINAGE ~~GENERAL~~

SECTION 705 JOINTS

Edit subsections as follows:

705.118.2 Solvent cementing. Delete the word “purple” in the second sentence.

~~705.14.2 Solvent cementing. Delete the word “purple” in the second sentence.~~

SECTION 91209 WET VENTING

Amend Table 91209.3 as follows:

Table 91209.3 Wet Vent Sizing. *Delete* 1-1/2 inch Wet Vent Pipe Size and 1 Drainage Fixture Unit Load from table.

SECTION 9187 AIR ADMITTANCE VALVES

Change subsection to read as follows:

9187.3 Where permitted. Air admittance valves are not a substitute for a conventional venting system. Air admittance valves shall only be used when structural conditions prevent conventional venting of fixtures. Use of air admittance valves shall be pre-approved by the code official on a case-by-case basis. When approved, individual branch and circuit vents shall be permitted to terminate with a connection to an individual or branch type air admittance valve. Stack vents and vent stacks shall be permitted to terminate to stack type air admittance valves. Individual and branch type air admittance valves shall vent only fixtures that are on the same floor level and connect to a horizontal branch drain. The horizontal branch drain having individual and branch type air admittance valves shall conform to Section 9187.3.1, ~~or 917.3.2.~~ Stack type air admittance valves shall conform to Section 9187.3.23.

SECTION 1003 INTERCEPTORS AND SEPARATORS

Change subsection to read as follows:

1003.3 Food service grease interceptors required. New and remodeled food service establishments shall install a 1000 gallon in-ground grease interceptor located outside the building envelope in addition to all required grease interceptors at fixtures inside the building. The grease interceptor shall receive drainage from fixtures and equipment with grease laden waste as stated in Section 1003.3.1.

Exception 3: If the drain line connecting a grease laden fixture(s) to the in-ground interceptor exceeds 50 liner feet, then said fixture or fixtures, shall also be protected with a grease removal device ~~or an AGRU~~ as listed in Section 1003.3.4 ~~or 1003.3.5.~~

CHAPTER 15 REFERENCED STANDARDS

Insert the following referenced codes and regulations:

New Hampshire State Building Code

Department of Safety
33 Hazen Drive Drive
Concord, NH 03305
(603) 271-3294

bldgcodebrd@dos.nh.gov

New Hampshire Architectural Barrier Free Design Code

Governor's Commission on Disability
21 South Fruit Street, Suite 101
Concord, NH 03301-8518
(603) 271-2773
1-800-852-3405 (NH)

<http://www.nh.gov/disability/abcommittee.html>

New Hampshire Energy Code

Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, NH 03301-2429
(603) 271-2431

www.puc.state.nh.us/EnergyCodes/energypg.htm
puc@puc.nh.gov

Add in the NFPA section the following referenced Standards:

54-~~1509~~ National Fuel Gas Code 101.2, 102.8.2

Amend in the NFPA section the following referenced Standards:

Change 70-~~1402~~ to **70-~~1708~~** National Electric Code 102.8.1, 502.1,
504.3, 1113.1.3

APPENDIX A – PLUMBING PERMIT FEE SCHEDULE

Appendix A is not adopted as part of this ordinance.

APPENDIX B – RATES OF RAINFALL FOR VARIOUS CITIES

Appendix B is adopted as part of this ordinance without amendment

APPENDIX C – STRUCTURAL SAFETY

Appendix C is adopted as part of this ordinance without amendments-

~~APPENDIX C – GRAY WATER RECYCLING SYSTEMS~~

~~Appendix C is adopted as part of this ordinance without amendments-~~

APPENDIX D – DEGREE DAY DESIGN TEMPERATURES

Appendix D is adopted as part of this ordinance without amendments.

APPENDIX E – SIZING OF WATER PIPING SYSTEM

Appendix E is adopted as part of this ordinance without amendments.

~~APPENDIX F—STRUCTURAL SAFETY~~

~~Appendix F is adopted as part of this ordinance without amendments~~

~~APPENDIX G—VACUUM DRAINAGE SYSTEM~~

~~Appendix G is not adopted as part of this ordinance.~~

DRAFT

CHAPTER 15
Part II

INTERNATIONAL MECHANICAL CODE, 201509
(Adopted 12/04/2017, effective 01/01/2018)

The City of Portsmouth adopts the State Building Code, which adopts by reference The International Mechanical Code, 201509 Edition (IMC) as published by International Code Council is hereby adopted as **Chapter 15, Part II**, of the Ordinances of the City of Portsmouth, New Hampshire, subject to the following amendments, additions and deletions.

SECTION 102 APPLICABILITY

Add new subsections to read as follows:

102.8.31 Electrical code. The provisions of the *National Electric Code*, NFPA 70 shall apply to the installation of electrical systems including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and appurtenances thereto. Where ever this Code references the *International Electric Code* the reader shall substitute that reference with the *National Electric Code*, NFPA 70 as adopted by the State of New Hampshire. Article 80, *Administration and Enforcement, of NFPA 70* is not adopted by the City of Portsmouth. Refer to Chapter 12 of the city ordinances (Building Code) for the electric code administration process.

102.8.42 Gas code. The provisions of the *National Fuel Gas Code*, NFPA 54, shall apply to the installation of gas piping from the point of delivery (meter) to gas appliances and related accessories as covered in this code. Wherever this Code references the *International Fuel Gas Code* the reader shall substitute that reference with the *National Fuel Gas Code*, NFPA 54.

102.8.53 Liquefied petroleum gas code. The provisions of the *Liquefied Petroleum (LP) Gas Code*, NFPA 58, shall apply to the installation of propane containers and the first- and second stage pressure regulators.

102.8.64 Commercial cooking. The requirements of NFPA 96, the *Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations*, Chapter 10: *Fire-Extinguishing Systems*, Chapter 11: *Procedures for the Use and Maintenance of Equipment* and Chapter 14: *Solid Fuel Cooking Operations* shall apply to Type I hoods, in occupancies with commercial food preparation services.

SECTION 106 PERMITS

Change subsection to read as follows:

106.5.2 Fee schedule. Fees shall be determined by the adoption of fees by budget resolution of the City Council in accordance with Chapter 1, Article XVI, of the Ordinances of the City of Portsmouth, NH. All permit fees shall be payable at the time the permit is issued. No work will be inspected unless all fees are paid in full. See Section 107.3.46 for reinspection fees.

SECTION 107 INSPECTIONS AND TESTING

Add new subsection to read as follows:

107.3.4 Reinspection fees: If, upon being called for any inspection, and the work is not in compliance with this Code, **verbal and written notice (including the specific code section) will be provided clearly identifying the deficiencies. notice will be given as to the deficiencies and such deficiencies shall be noted on the code official's report.** The permit holder shall be responsible for correcting the item(s) and for notifying the code official to reinspect said deficiencies. If when called to reinspect these deficiencies, all is correct, no further action will be taken. However, if during the first reinspection, the work in question has not been corrected, there will be a reinspection fee assessed by the adoption of fees by budget resolution of the City Council in accordance with Chapter 1, Article XVI, which must be paid at the Inspection Office before a third inspection will be made. For each subsequent reinspection of the same deficiency or deficiencies, a like procedure and fee shall be assessed.

During any inspection, the code official may find new item(s), not previously discovered, to be nonconforming. These item(s) will be noted on the code official's report, and will require reinspections. Reinspection fees will not be assessed for items newly found or for their first reinspection. However, said fees shall be assessed for these items if a third inspection is required. The same procedures as outlined above shall govern. Failure to pay any reinspection fees shall be just cause to revoke the permit under which the work was being done. Furthermore, no future permits will be issued to any person who owes the City of Portsmouth said reinspection fees, until all outstanding fees are paid.

SECTION 108.0 VIOLATIONS

Change subsection to read as follows:

108.4 Violation penalties. Any person who shall violate a provision of this Code or shall fail to comply with any of the requirements thereof or who shall erect, construct, alter or repair **mechanical and** building or structure in violation of an approved plan or directive of the building official, or of a permit or certificate issued under the provisions of this Code, shall be subject to the penalty provisions prescribed by RSA 155-A:8. Each day that the violation continues shall be deemed a separate offense. Reference State RSA's 155-A:8, 625:8 I(c), 651:2 IV(a) and 676:17 for further penalty provisions.

SECTION 501 EXHAUST SYSTEM-GENERAL

Add new subsection to read as follows:

501.65 Mechanical equipment and terminations in the Historic District. Mechanical equipment and equipment terminations shall comply with the *City of Portsmouth Zoning Ordinance* with respect to the allowable size of equipment and termination devices, without having to receive Historic District Commission approval.

SECTION 507 COMMERCIAL KITCHEN HOODS

Add new subsection to read as follows:

~~507.2.3.1 Cooking appliances for accessory uses. All free standing domestic ranges used for cooking demonstrations/classes, employee break rooms, or similar “mini” kitchens, shall have Type II range hoods complying with Sections 507.5 and 507.7.2. Range hood vent terminations shall comply with Section 506.4.1. Ranges used for such accessory purposes shall not be used to prepare food sold to the general public.~~

SECTION 509 FIRE SUPPRESSION SYSTEMS

~~CHAPTER 8 CHIMNEYS AND VENTS~~

SECTION 801 CHIMNEYS AND VENTSGENERAL CHAPTER 15 REFERENCED STANDARDS

Insert the following Codes and Regulations:

New Hampshire State Building Code

Department of Safety
33 Hazen Drive
Concord, NH 03305
(603) 271-3294

bldgcodebrd@dos.nh.gov

Guidelines Manual for Two (2) PSIG Gas Systems. 1601.2 (NFPA 54, 5.5.1)

Unitil Corporation.
PO Box 508
325 West Road, Portsmouth, NH 03802-0508,
1-800-552-3047

New Hampshire Energy Code

Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, NH 03301-2429
(603) 271-2431

www.puc.state.nh.us/EnergyCodes/energyypg.htm
puc@puc.nh.gov

Add in the NFPA section the following referenced Standards:

~~54-1509~~ National Fuel Gas Code 101.2, 102.8.2, 801.1, ~~1601.1,~~
1601.2

~~70-17 05~~-National Electric Code 102.8.4

**APPENDIX A – COMBUSTION AIR OPENINGS AND
CHIMNEY CONNECTOR PASS-THROUGH**
Appendix A is adopted as part of this ordinance.

APPENDIX B – RECOMMENDED PERMIT FEE SCHEDULE
Appendix B is not adopted as part of this ordinance.

DRAFT

CHAPTER 15
Part III
CHAPTER 15
PART III
FUEL GAS INSTALLATIONS**NATIONAL FUEL GAS CODE**

SECTION 1001 GENERAL

This chapter shall govern the installation, modification and maintenance of fuel gas piping systems, fuel gas utilization equipment and related accessories. All such installations shall be regulated by the *National Fuel Gas Code*, NFPA 54 (2015) subject to the following additions, amendments and deletions.

~~1001.2 Amendments to the National Fuel Gas Code. The following text refers to the *National Fuel Gas Code*, NFPA 54 listed in Chapter 15.~~

~~**Section 5.5 Piping System Operating Pressure Limitations.**~~

~~*Add new subsection to read as follows:*~~

~~5.5.1.1 Two pound gas systems. Two pound gas delivery systems shall be designed and installed as outlined in the *Guidelines Manual for 2 psig Gas Systems* listed in Chapter 15.~~

~~(Section 5.6 Acceptable Piping Materials and Joining Methods.)~~

~~*Delete the following subsections without substitution:*~~

~~5.6.2.3 Copper and Brass~~

~~5.6.2.4 Threaded Copper, Brass, and Aluminum~~

~~5.6.2.5 Aluminum Alloy~~

~~5.6.2.6 Aluminum Installation~~

~~5.6.3 Metallic Tubing~~

~~5.6.3.1 Steel~~

~~5.6.3.2 Copper and Copper Alloy Brass~~

~~5.6.3.3 Aluminum~~

~~*Change subsection to read as follows:*~~

~~5.6.3.4 Corrugated Stainless Steel. Corrugated Stainless Steel Tubing must be installed in accordance with the manufacturers' installation instructions for specific construction types. A third party inspection may be required pursuant to Chapter 17, Section 1704 of the *International Building Code*.~~

Section 7.2 Installation of Piping.

~~*Add new subsections to read as follows:*~~

~~**7.2.68.1 Exterior Meter Connections.** CSST shall not be connected to an exterior meter. The tubing shall terminate at the foundation wall with a termination fitting, and the gas meter shall be rigidly connected with steel piping to the building structure.~~

7.2.68.2 Fireplace Log Installations. CSST shall terminate with a termination fitting at the entrance to the masonry fire box. The workmanship shall be performed and completed in such a manner so that the termination will not be exposed to any mechanical damage.

7.2.68.3 Fixed Appliance Connection Using CSST. CSST may be directly connected to a fixed appliance when all the following conditions are met:

1. The tubing is securely attached to the building structure or other means of solid support.
2. Tubing shall not run exposed for a distance greater than or equal to 30 inches without being physically attached to the building structure or other means of solid support.
3. CSST terminates with a proper fitting and gas cock.

7.2.68.4 CSST Used as an Appliance Connection. CSST shall not be used as a flexible appliance connector downstream of the appliance shutoff device.

7.2.8.5 7.2.6.5 Testing Requirements for CSST Systems. When CSST piping systems are installed in new construction or remodeling, the system shall be tested before any piping is covered as part of the inspections prescribed in Chapter 8.1. Before placing appliances and equipment in operation a second pressure test as prescribed in Chapter 8.1 shall be completed and inspected.

7.2.68.6 CSST Piping Installed on Roofs. CSST shall be installed for roof top equipment only when it is supported by one of the following methods:

1. The CSST tubing is installed within a metal or plastic conduit that is securely attached by an appropriate method every six feet to the roof structure. Where the piping system requires a tee to be installed within the line, the sleeve shall terminate no more than 12 inches from the tee on both main and branch line runs.
2. For CSST tubing having sizes of 1½ inch and two inches and having a UV stabilized jacket, all the following requirements shall be satisfied:
 - a. The CSST shall be supported on blocks which are spaced not more than 48 inches apart.
 - b. The blocks shall be constructed of materials appropriate for outdoor conditions and shall be securely attached by an appropriate method to the roof structure, and
 - c. The method used to attach the CSST to the block shall not damage the plastic coating.
3. The maximum length of tubing not supported by any method listed shall not exceed 30-inches when connected to a gas fired roof top unit or similar gas equipment.

Section 12.5 Type of Venting Systems to Be Used

Change subsection to read as follows:

12.5.3 Plastic Pipes and Joints. Plastic pipe and fittings used to vent appliances shall be listed for use as a gas vent by the piping manufacturer and shall be installed in accordance with the appliance manufacturer's installation instructions. Where primer is required, it shall be of contrasting color

Section 12.9 Through the wall vent termination.

Add new subsection to read as follows:

12.9.76 Through-the-wall vents for mechanical draft vented appliances shall terminate a minimum of 5 ft from property lines.

End of NFPA 54 Amendments.

~~**APPENDIX A—COMBUSTION AIR OPENINGS AND
CHIMNEY CONNECTOR PASS-THROUGH**~~

~~*Appendix A is is adopted as part of this ordinance.*~~

~~**APPENDIX B—RECOMMENDED PERMIT FEE SCHEDULE**~~

~~*Appendix B is not adopted as part of this ordinance.*~~

DRAFT

CHAPTER 15
PART IV
NATIONAL ELECTRICAL CODE, 2017

The City of Portsmouth adopts the State Building Code, which adopts by reference The National Electrical Code, 2017(NEC), as Chapter 15, Part IV, of the ordinances of the City of Portsmouth, New Hampshire, subject to the following amendments, additions and deletions:

Change subsection to read:

210.8 Ground-Fault Circuit-Interrupter Protection for Personnel.

~~Ground-fault circuit interrupter protection for personnel shall be provided as required in 210.8(A) through (E). The ground-fault circuit interrupter shall be installed in a readily accessible location.~~

~~For the purposes of this section, when determining distance from receptacles the distance shall be measured as the shortest path the cord of an appliance connected to the receptacle would follow without piercing a floor, wall, ceiling, or fixed barrier, or passing through a door, doorway, or window.~~

(A) Dwelling Units. All 125-volt, and 240 volts single-phase, 15-thru 50 ampere receptacles installed in the locations specified in 210.8(A)(1) through (10) shall have ground-fault circuit interrupter protection for personnel.

~~1) Bathrooms~~

~~(2) Garages, and also accessory buildings that have a floor located at or below grade level not intended as habitable rooms and limited to storage areas, work areas, and areas of similar use.~~

~~(3) Outdoors~~

~~Exception to (3): Receptacles that are not readily accessible and are supplied by a branch circuit dedicated to electric snow-melting, deicing, or pipeline and vessel heating equipment shall be permitted to be installed in accordance with 426.28 or 427.22, as applicable.~~

~~(4) Crawl spaces — at or below grade level.~~

~~(5) Unfinished portions or areas of the basement not intended as habitable rooms.~~

~~Exception to (5): A receptacle supplying only a permanently installed fire alarm or burglar alarm system shall not be required to have ground fault circuit interrupter protection.~~

~~Informational Note: See 760.41(B) and 760.121(B) for power supply requirements for fire alarm systems.~~

~~Receptacles installed under the exception to 210.8(A)(5) shall not be considered as meeting the requirements of 210.52(G).~~

~~(6) Kitchens — where the receptacles are installed to serve the countertop surfaces.~~

~~(7) Sinks — where receptacles are installed within 1.8 m (6 ft) from the top inside edge of the bowl of the sink.~~

~~(8) Boathouses~~

~~(9) Bathtubs or shower stalls — where receptacles are installed within 1.8 m (6 ft) of the outside edge of the bathtub or shower stall.~~

~~(10) Laundry areas~~

B) All Area Including Dwelling Unit. All single-phase receptacles rated 150 volts to ground or less, 50 amperes or less and three phase receptacles rated 150 volts to ground or less, 100 amperes or less installed in the following locations shall have ground-fault circuit-interrupter protection for personnel.

~~(1) Bathrooms~~

~~(2) Kitchens~~

~~(3) Rooftops~~

~~Exception: Receptacles on rooftops shall not be required to be readily accessible other than from the rooftop.~~

~~(4) Outdoors~~

~~Exception No. 1 to (3) and (4): Receptacles that are not readily accessible and are supplied by a branch circuit dedicated to electric snow melting, deicing, or pipeline and vessel heating equipment shall be permitted to be installed in accordance with 426.28 or 427.22, as applicable.~~

~~Exception No. 2 to (4): In industrial establishments only, where the conditions of maintenance and supervision ensure that only qualified personnel are involved, an assured equipment grounding conductor program as specified in 590.6(B)(3) shall be permitted for only those receptacle outlets used to supply equipment that would create a greater hazard if power is interrupted or having a design that is not compatible with GFCI protection.~~

~~(5) — Sinks — where receptacles are installed within 1.8 m (6 ft) from the top inside edge of the bowl of the sink.~~

~~Exception No. 1 to (5): In industrial laboratories, receptacles used to supply equipment where removal of power would introduce a greater hazard shall be permitted to be installed without GFCI protection.~~

~~Exception No. 2 to (5): For receptacles located in patient bed locations of general care (Category 2) or critical care (Category 1) spaces of health care facilities other than those covered under 210.8(B)(1), GFCI protection shall not be required.~~

~~(6) — Indoor wet locations.~~

- ~~(7) — Locker rooms with associated showering facilities.~~
- ~~(8) — Garages, service bays, and similar areas other than vehicle exhibition halls and showrooms.~~
- ~~(9) — Crawl spaces — at or below grade level.~~
- ~~(10) — Unfinished portions or areas of the basement not intended as habitable rooms.~~
- ~~(C) — Boat Hoists. GFCI protection shall be provided for outlets not exceeding 240 volts that supply boat hoists installed in dwelling unit locations.~~
- ~~(D) — Kitchen Dishwasher Branch Circuit. GFCI protection shall be provided for outlets that supply dishwashers installed in dwelling unit locations.~~

Add new subsection to read as follows:

- (E) Kitchen Microwaves, Range Hood Branch Circuits.** GFCI protection shall be provided for outlets, or hard wired microwaves and range hood in dwelling unit locations.
- (F) Kitchen Refrigerator Branch Circuits.** GFCI protection shall be provided for outlets that supply refrigerators installed in dwelling unit location.
- (G) Kitchen Garbage Disposal, and Trash Compactors Branch Circuits.** GFCI protection shall be provided for outlets that supply garbage disposals and trash compactors installed in dwelling units.
- (H) Kitchen Electric Ranges Branch Circuits.** GFCI protection shall be provided for all electric ranges 120 volts thru 240 volts 50 amps and less in dwelling units.
- (I) Electric Dryers in Bathrooms, Basements and Laundry Room Rooms.** GFCI protection shall be provided for circuits for 120 volt thru 240 volts 50 amps or less that supply electric dryers in dwelling units.
- ~~(J) Crawl Space Lighting Outlets. GFCI protection shall be provided for lighting outlets not exceeding 120 volts installed in crawl space.~~

Change subsection to read as follows:

230 Service, Part VI. Service Equipment — Disconnecting Means.

230.70 General. Means shall be provided to disconnect all conductors in a building or other structure from the service entrance conductors.

(A) Location. The service disconnecting means shall be installed in accordance with 230.70(A)(1), (A)(2), and (A)(3) except for one and two family dwellings, the disconnecting means shall be located on the outside of the dwelling in a readily accessible location nearest point of the conductors entering the building or structure.

- ~~(1) — Readily Accessible Location. The service disconnecting means shall be installed at a readily accessible location either outside of a building or structure or inside nearest the point of entrance of the service conductors.~~
- ~~(2) — Bathrooms. Service disconnecting means shall not be installed in bathrooms.~~
- ~~(3) — Remote Control. Where a remote control device(s) is used to actuate the service disconnecting means, the service disconnecting means shall be located in accordance with 230.70(A)(1).~~

~~(B) — Marking. Each service disconnect shall be permanently marked to identify it as a service disconnect.~~

~~(C)~~ (C) Suitable for Use. Each service disconnecting means shall be suitable for the prevailing conditions. Service equipment installed in hazardous (classified) locations shall comply with the requirements of Articles 500 through 501

Change subsection to read as follows:

Article 334, Part II. Installation

334.10 Uses Permitted. Type NM, Type NMC, and Type NMS cables shall be permitted to be used in the following, except as prohibited in 334.12:

(1) One- and two-family dwellings and their attached or detached garages, and their storage buildings.

(A) Type NM. Type NM cable shall be permitted as follows:

(1) For both exposed and concealed work in normally dry locations in one and two family dwelling.

~~(2) — To be installed or fished in air voids in masonry block or tile walls.~~

334.12 Uses Not Permitted.

(A) Types NM, NMC, and NMS. Types NM, NMC, and NMS cables shall not be permitted as follows:

(1) In any dwelling or structure not specifically permitted in 334.10(1)

(2) Exposed in a dropped or suspended ceiling in other than one- and two-family.

~~(3) — As service-entrance cable.~~

Change subsection to read as follows:

334.15 Exposed Work in one and two family dwelling.

In exposed work, except as provided in 300.11(A), cable shall be installed as specified in 334.15(A) through (C).

~~(A) — To Follow Surface. Cable shall closely follow the surface of the building finish or of running boards.~~

~~(B) — Protection from Physical Damage. Cable shall be protected from physical damage where necessary by rigid metal conduit, intermediate metal conduit, electrical metallic tubing, Schedule 80 PVC conduit, Type RTRC marked with the suffix -XW, or other approved means. Where passing through a floor, the cable shall be enclosed in rigid m conduit, Type RTRC marked with the suffix -XW, or other approved means extending at least 150 mm (6 in.) above the floor.~~

~~Type NMC cable installed in shallow chases or grooves in masonry, concrete, or adobe shall be protected in accordance with the requirements in 300.4(F) and covered with plaster, adobe, or similar finish.~~

(C) In Unfinished Basements and Crawl Spaces in one and two family dwellings. Where cable is run at angles with joists in unfinished basements and crawl spaces, it

shall be permissible to secure cables not smaller than two 6 AWG or three 8 AWG conductors directly to the lower edges of the joists. Smaller cables shall be run either through bored holes in joists or on running boards. Nonmetallic sheathed cable installed on the wall of an unfinished basement shall be permitted to be installed in a listed conduit or tubing or shall be protected in accordance with 300.4. Conduit or tubing shall be provided with a suitable insulating bushing or adapter at the point the cable enters the raceway. The sheath of the nonmetallic-sheathed cable shall extend through the conduit or tubing and into the outlet or device box not less than 6 mm (1/4 in.). The cable shall be secured within 300 mm (12 in.) of the point where the cable enters the conduit or tubing. Metal with the provisions of 250.86 and 250.148.

~~334.17 Through or Parallel to Framing Members. Types NM, NMC, or NMS cable shall be protected in accordance with 300.4 where installed through or parallel to framing members. Grommets used as required in 300.4(B)(1) shall remain in place and be listed for the purpose of cable protection.~~

Change subsection to read as follows:

334.23 In Accessible Attics in one and two family dwellings. The installation of cable in accessible attics or roof spaces shall also comply with 320.23.

Change subsection to read as follows:

Article 338. Service Entrance Cable: Type SE and USE, Part II. Installation

338.10 Uses Permitted.

(A) Service-Entrance Conductors for one and two family dwellings. Service-entrance cable shall be permitted to be used as service-entrance conductors and shall be installed in accordance with 230.6, 230.7, and Parts II, III, and IV of Article 230.

~~(B) Branch Circuits or Feeders.~~

~~(1) Grounded Conductor Insulated. Type SE service-entrance cables shall be permitted in wiring systems where all of the circuit conductors of the cable are of the thermoset or thermoplastic type.~~

~~(2) Use of Uninsulated Conductor. Type SE service-entrance cable shall be permitted for use where the insulated conductors are used for circuit wiring and the uninsulated conductor is used only for equipment grounding purposes.~~

~~(3) Temperature Limitations. Type SE service-entrance cable used to supply appliances shall not be subject to conductor temperatures in excess of the temperature specified for the type of insulation involved.~~

~~(4) Installation Methods for Branch Circuits and Feeders.~~

~~(a) Interior Installations. In addition to the provisions of this article, Type SE service-entrance cable used for interior wiring shall comply with the installation requirements of Part II of Article 334, excluding 334.80.~~

~~For Type SE cable with ungrounded conductor sizes 10 AWG and smaller, where installed in thermal insulation, the ampacity shall be in accordance with 60°C (140°F) conductor temperature rating. The maximum conductor temperature rating~~

~~shall be permitted to be used for ampacity adjustment and correction purposes, if the final derated ampacity does not exceed that for a 60°C (140°F) rated conductor.~~

Change subsection to read as follows:

338.12 Uses Not Permitted.

(A) Service-Entrance Cable. Service-entrance cable (SE) shall not be used under the following conditions or in the following locations, other than one and two family dwellings.

- (1) Where subject to physical damage unless protected in accordance with 230.50(B).
- (2) Underground with or without a raceway.
- (3) For exterior branch circuits and feeder wiring unless the installation complies with the provisions of Part I of Article 225 and is supported in accordance with 334.30 or is used as messenger-supported wiring as permitted in Part II of Article 396.

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 Zoning Ordinance Amendments
Flood Plain District
For October 7, 2019 City Council**

ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That the Ordinances of the City of Portsmouth, Chapter 10 — Zoning Ordinance, Article 6 – Overlay Districts and Article 15 – Definitions, be amended as follows (deletions from existing language ~~stricken~~; additions to existing language **bolded**; remaining language unchanged from existing):

A. In Section 10.613.10, insert a new phrase at the end of the paragraph and reformat as follows:

10.613.10 The Flood Plain District (FP) consists of:

- (a) all lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its “Flood Insurance Study for the County of Rockingham County, NH” dated May 17, 2005 or as amended, together with associated Flood Insurance Rate Maps (FIRM) dated May 17, 2005 or as amended, which are declared to be part of this Ordinance and are hereby incorporated by reference; **and**
- (b) **all extended flood hazard areas as defined in Section 10.622.20, each of which shall be contiguous and adjacent to a special flood hazard area and shall be delineated on the basis of mapped or surveyed elevations.**

B. In Section 10.622.20 – Terms Defined for the Flood Plain District, delete the definitions for “100-year Flood” and “Breakaway Wall”, and insert the following new terms and definitions in alphabetical order:

Area of special flood hazard

The land in the floodplain within the City of Portsmouth subject to a one percent or greater possibility of flooding in any given year. The area is designated on the FIRM as Zones A and AE.

Extended flood hazard area

Any contiguous area of land adjacent to a special flood hazard area and less than two feet above the base flood elevation in that special flood hazard area.

Historic structure

Any structure that is:

- a. Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;**
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; or**
- c. Individually listed on the New Hampshire State Register of Historic Places.**

Manufactured home park or subdivision

For the purposes of the Flood Plain District, a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Recreational vehicle

A vehicle that is:

- (a) built on a single chassis;**
- (b) 400 square feet or less when measured at the largest horizontal projection;**
- (c) designed to be self-propelled or permanently towable by a light duty truck; and**
- (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.**

Violation

The failure of a structure or other development to be fully compliant with the flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required under this ordinance is presumed to be in violation until such time as that documentation is provided.

C. In Section 10.622.20 – Terms Defined for the Flood Plain District, make the following changes to existing definitions:

Base flood elevation

The water surface elevation having a one percent possibility of being equaled or exceeded in any given year, **as defined on the flood insurance rate map (FIRM) currently in effect.**

Development

Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operation **or storage of equipment or materials.**

Manufactured home

A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities, ~~including.~~ **For floodplain management purposes the term “manufactured home” includes park trailers, travel trailers, and other similar vehicles placed on site for greater than 180 days. This includes manufactured homes located in a manufactured home park or subdivision.**

Mean sea level

The National Geodetic Vertical Datum (NGVD) of 1929, **North American Vertical Datum (NAVD) of 1988**, or other datum, to which base flood elevations (BFE) shown on a community’s FIRM are referenced.

New construction

A structure for which the start of construction commenced on or after the effective date of this flood plain management regulation and includes any subsequent improvements to such structure **and means, for the purposes of determining insurance rates, structures for which the “start of construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.**

Regulatory floodway

The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without **cumulatively** increasing the water surface elevation **more than a designated height.** ~~These areas are designated as floodways on the Flood Boundary and Floodway Map.~~

Special flood hazard area (SFHA)

~~The land in the flood plain within the City of Portsmouth subject to a one percent or greater possibility of flooding in any given year. The area is designated on the FIRM as Zones A, AE, AO, AH, AR, A99, V and VE. See “Area of special flood hazard”.~~

Substantial damage

Damage ~~by flood~~ **of any origin** sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement

Any combination of repairs, reconstruction, additions, rehabilitation, alterations, or improvements to a structure in which the cumulative cost equals or exceeds ~~50~~ **40** percent of the market value of the structure. The market value of the structure should equal:

- (a) the appraised value prior to the start of the initial repair or improvement; or
- (b) in the case of damage, the value of the structure prior to the damage occurring.

For the purposes of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures which have incurred substantial damage, regardless of actual repair work performed. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a historic structure, provided that the alteration will not preclude the structure’s continued designation as a historic structure.

Water surface elevation

The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, **North American Vertical Datum (NAVD) of 1988**, ~~(or other datum, where specified)~~, of floods of various magnitudes and frequencies in the flood plains.

D. Amend Section 10.625 – Flood Information, paragraph 10.625.10, as follows:

10.625.10 For all new or substantially improved structures located in Zones A **or AE, A1-A30, AO or AH**, the applicant shall furnish the following information to the Code Official:

- ~~(a) The as-built elevation (in relation to mean sea level) of the lowest floor (including basement), and whether or not the structure contains a basement;~~
 - ~~(b) If the structure has been flood proofed, the as-built elevation (in relation to mean sea level) to which the structure was flood proofed;~~
 - ~~(c) Any certification of flood proofing.~~
 - (a) A completed and certified copy of a FEMA Elevation Certificate that includes the as-built elevation (in relation to mean sea level) of the lowest floor of the structure and whether or not the structure has a basement.**
 - (b) If a non-residential structure includes floodproofing, a completed and certified copy of the FEMA Floodproofing Certificate for Non-Residential Structures that includes the as-built elevation (in relation to mean sea level) to which the structure was floodproofed and certification of floodproofing.**
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E. In Section 10.626 – Watercourse Alteration, Relocation or Encroachment, make the following changes:

- (1) In paragraph 10.626.10, change both occurrences of the words “Wetlands Board” to “Wetlands Bureau”, and change the words “Environmental Services Department” to “Department of Environmental Services”.
- (2) Delete the existing paragraph 10.626.20 and insert the following in its place:

10.626.30 The Code Official shall obtain, review, and reasonably utilize any floodway data available from Federal, State, or other sources as criteria for requiring that all development located in Zone A meet the following floodway requirement:

“No encroachments, including fill, new construction, substantial improvements, and other development are allowed within the floodway that would result in any increase in flood levels within the community during the base flood discharge.”

F. In Section 10.627 – Determination of Base Flood Elevation, make the following changes:

(1) In paragraph 10.627.12, change the words “an unnumbered A zone” to “Zone A”.

(2) Delete paragraph 10.627.13 and insert the following in its place:

10.627.13 In Zone A where a base flood elevation is not available, the base flood elevation shall be at least two feet above the highest adjacent grade.

G. In Section 10.628 – Construction Standards in Special Flood Hazard Areas, make the following changes:

(1) In the section title, change the words “Special Flood Hazard Areas” to “Special Flood Hazard Areas and Extended Flood Hazard Areas”.

(2) In paragraph 10.628.10, delete the words “Zones A, AH, AO and A99” and insert in their place the words “Zones A and AE”.

(3) Amend paragraphs 10.628.20, 10.628.30 and 10.628.40, and insert two new paragraphs, as follows:

10.628.20 Any new construction ~~or substantial improvement~~ of a residential structure shall have the lowest floor (including basement) elevated to ~~or~~ **at least two (2) feet** above the base flood elevation **if in Zone A or AE, and to at least two (2) feet above the base flood elevation of the adjacent special flood hazard area if in an extended flood hazard area.**

10.628.30 Any substantial improvement of a residential structure shall have the lowest floor (including basement) elevated to or above the base flood elevation if in Zone A or AE.

10.628.340 ~~Any new construction or substantial improvement~~ of a nonresidential structure shall have the lowest floor (including basement) elevated to ~~or~~ **at least two (2) feet** above the base flood elevation **if in Zone A or AE, and to at least two (2) feet above the base flood elevation of the adjacent special flood hazard area if in an extended flood hazard area;** or together with attendant utility and sanitary facilities, shall:

(a) be floodproofed so that below **two (2) feet above** the base flood elevation **in Zone A or AE, or below two (2) feet**

above the base flood elevation of the adjacent special flood hazard area in an extended flood hazard area, the structure is watertight with walls substantially impermeable to the passage of water;

- (b) have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
- (c) be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section.

10.628.50 Any substantial improvement of a nonresidential structure shall have the lowest floor (including basement) elevated to or above the base flood elevation if in Zone A or AE; or together with attendant utility and sanitary facilities, shall:

- (a) be floodproofed so that below the base flood elevation in Zone A or AE, the structure is watertight with walls substantially impermeable to the passage of water;**
- (b) have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and**
- (c) be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section.**

10.628.460 Any manufactured home to be placed or substantially improved within a special flood hazard area shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is ~~at or~~ **at least two (2) feet** above the base flood elevation; and be securely anchored to resist floatation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces;

(4) Delete existing paragraph 10.628.60 in its entirety.

(5) Amend existing paragraph 10.628.70 as follows:

10.628.780 Any recreational vehicle placed on a site within Zones AH, A and AE for 180 or more consecutive days shall either:

~~(a) be fully licensed and ready for highway use, or~~

(a) be fully licensed, on wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions, or

~~(b) meet all standards of Section 60.3(b)(1) of the National Flood Insurance Program Regulations~~ **Section 10.623.10 of this ordinance** and the elevation and anchoring requirements for manufactured homes in ~~Section 60.3(c)(6) of the Regulations~~ **Section 10.628.60 of this ordinance.**

H. In Section 10.1521 – Terms with Specialized Applications, delete the terms “100-year flood” and “breakaway wall” and insert the following terms in alphabetical order:

Area of special flood hazard
Extended flood hazard area
Historic structure
Manufactured home park or subdivision
Recreational vehicle
Violation

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

Article 6 Overlay Districts

10.613 Overlay District Locations

10.613.10 The **Flood Plain District** (FP) consists of:

(a) all lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its “Flood Insurance Study for the County of Rockingham County, NH” dated May 17, 2005 or as amended, together with associated Flood Insurance Rate Maps (FIRM) dated May 17, 2005 or as amended, which are declared to be part of this Ordinance and are hereby incorporated by reference; and

(b) all extended flood hazard areas as defined in Section 10.622.20, each of which shall be contiguous and adjacent to a special flood hazard area and shall be delineated on the basis of mapped or surveyed elevations.

10.613.20 The **Historic District** is identified on the Zoning Map.

10.613.30 The **Downtown Overlay District** (DOD) is identified on the Zoning Map.

10.613.40 The **Osprey Landing Overlay District** (OL) is identified on the Zoning Map.

10.613.50 The **Airport Approach Overlay District** (AA) consists of:

(a) the Approach Zones shown on the Airport Obstruction Chart AOC 678 with the associated Obstruction Data Sheet ODS 678 (Surveyed October 1990, 1st Edition, for Pease Air Force Base, Portsmouth, NH), along with two detailed drawings (Exhibits 1 and 2), a legend (Exhibit 3), and the accompanying FAR Part 77.25, Civil Airport Imaginary Surfaces (Exhibit 4), all of which documents collectively are hereinafter called the “Airport Obstruction Chart” or “AOC”; and

(b) all the land within a distance of two miles from the airport reference point shown on the Pease International Tradeport Approach Map.

10.613.60 The **Highway Noise Overlay District** (HN) is identified on the Zoning Map.

Section 10.620 Flood Plain District

10.621 Purpose

- 10.621.10 The regulations in this Section shall apply to land in the Flood Plain District, and shall overlay and supplement the regulations of any underlying district.
- 10.621.20 If any provision of this Section differs or appears to conflict with any other provision of the Zoning Ordinance or other ordinance or regulation, the provision imposing the greater restriction or more stringent standard shall be controlling.

10.622 Definitions

10.622.10 Rules of Construction

- 10.622.11 The definitions of words and terms in Section 10.622.20 apply to the Flood Plain District regulations (Section 10.620). When a term is used in the Flood Plain District Regulations and is defined in Section 10.622.20, it shall have that meaning, which shall supersede any definition in Article 15.
- 10.622.12 When a term is used in Section 10.620 and is not defined in Section 10.622.20, its meaning shall be determined in accordance with Article 15.
- 10.622.13 When a term appears in a section of the Zoning Ordinance other than Section 10.620, its meaning for the purpose of that section shall be determined in accordance with Article 15.

10.622.20 Terms Defined for the Flood Plain District

Area of special flood hazard

The land in the floodplain within the City of Portsmouth subject to a one percent or greater possibility of flooding in any given year. The area is designated on the FIRM as Zones A and AE.

~~100-year flood~~

~~see Base flood.~~

Base flood

The flood having a one percent possibility of being equaled or exceeded in any given year.

Base flood elevation (BFE)

The water surface elevation having a one percent possibility of being equaled or exceeded in any given year as defined on the flood insurance rate map (FIRM) currently in effect.

Basement

Any area of a building having its floor subgrade on all sides.

Breakaway wall

~~A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation.~~

Building

See structure in this Section.

Development

Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operation or storage of equipment or materials.

Extended flood hazard area

Any contiguous area of land adjacent to a special flood hazard area and less than two feet above the base flood elevation in that special flood hazard area.

FEMA

The Federal Emergency Management Agency.

FIRM

See flood insurance rate map.

Flood or flooding

A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters or the unusual and rapid accumulation or runoff of surface waters from any source.

Flood insurance rate map (FIRM)

An official map, incorporated with this Ordinance, on which FEMA has delineated both the special flood hazard areas (SFHAs) and the Risk Premium Zones applicable to the City of Portsmouth.

Flood insurance study

An examination, evaluation, and determination of flood hazards and if appropriate, corresponding water surface elevations, or an examination and determination of mudslide or flood-related erosion hazards.

Flood plain or flood-prone area

Any land area susceptible to being inundated by water from any source.

Flood proofing

Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures and their contents.

Floodway

See regulatory floodway.

Highest adjacent grade

The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure

Any structure that is:

- a. Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; or
- c. Individually listed on the New Hampshire State Register of Historic Places.

Lowest floor

The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Ordinance.

Manufactured home

A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities, ~~including~~. For floodplain management purposes the term "manufactured home" includes park trailers, travel trailers, and other similar vehicles placed on site for greater than 180 days. This includes manufactured homes located in a manufactured home park or subdivision.

Manufactured home park or subdivision

For the purposes of the Flood Plain District, a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean sea level

The National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations (BFE) shown on a community's FIRM are referenced.

New construction

A structure for which the start of construction commenced on or after the effective date of this flood plain management regulation and includes any subsequent improvements to such structure; and means, for the purposes of determining insurance rates, structures for which the “start of construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.

Recreational vehicle

A vehicle that is:

- (a) built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) designed to be self-propelled or permanently towable by a light duty truck;
- and
- (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

Regulatory floodway

The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. These areas are designated as floodways on the Flood Boundary and Floodway Map.

Special flood hazard area (SFHA)

The land in the flood plain within the City of Portsmouth subject to a one percent or greater possibility of flooding in any given year. The area is designated on the FIRM as Zones A, AE, AO, AH, AR, A99, V and VE. See Area of special flood hazard.

Start of construction (including substantial improvement)

The date on which the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date.

- (a) The “actual start” means either the first placement of permanent construction of a structure on site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation.
- (b) “Permanent construction” does not include any of the following:
 - (1) land preparation, such as clearing, grading and filling;
 - (2) the installation of streets and/or walkways;
 - (3) excavation for a basement, footings, piers, or foundations or the erection of temporary forms;
 - (4) the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or part of the main structure.

Structure

For flood plain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

Substantial damage

Damage ~~by flood~~ of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement

Any combination of repairs, reconstruction, additions, rehabilitation, alterations, or improvements to a structure in which the cumulative cost equals or exceeds ~~50~~ 54 percent of the market value of the structure. The market value of the structure should equal:

- (a) the appraised value prior to the start of the initial repair or improvement; or
- (b) in the case of damage, the value of the structure prior to the damage occurring.

For the purposes of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures which have incurred substantial damage, regardless of actual repair work performed. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Violation

The failure of a structure or other development to be fully compliant with the flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required under this ordinance is presumed to be in violation until such time as that documentation is provided.

Water surface elevation

The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, (or other datum, where specified) of floods of various magnitudes and frequencies in the flood plains.

10.623 Building Permits

10.623.10 All proposed development in a special flood hazard area shall require a building permit.

10.623.20 The Code Official shall review all building permit applications for new construction or substantial improvements to determine (a) whether the proposed building site will be in a special flood hazard area and (b) if

so, that all new construction or substantial improvements will comply with the requirements of this section.

- 10.623.30 The Code Official shall not grant a building permit until the applicant certifies that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

10.624 Water and Sewer Systems

Where new or replacement water and sewer systems (including on-site systems) are proposed in a special flood hazard area, the applicant shall provide the Code Official with assurance that these systems will be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems will be located to avoid impairment to them or contamination from them during periods of flooding.

10.625 Flood Information

- 10.625.10 For all new or substantially improved structures located in Zones A or ~~AE, A1-A30, AO or AH~~, the applicant shall furnish the following information to the Code Official:
- ~~(a) The as-built elevation (in relation to mean sea level) of the lowest floor (including basement), and whether or not the structure contains a basement;~~
 - ~~(b) If the structure has been flood proofed, the as-built elevation (in relation to mean sea level) to which the structure was flood proofed;~~
 - ~~(c) Any certification of flood proofing.~~
 - (a) A completed and certified copy of a FEMA Elevation Certificate that includes the as-built elevation (in relation to mean sea level) of the lowest floor of the structure and whether or not the structure has a basement.
 - (b) If a non-residential structure includes floodproofing, a completed and certified copy of the FEMA Floodproofing Certificate for Non-Residential Structures that includes the as-built elevation (in relation to mean sea level) to which the structure was floodproofed and certification of floodproofing.
- 10.625.20 The Code Official shall maintain the above information for public inspection and shall furnish such information upon request.

10.626 Watercourse Alteration, Relocation or Encroachment

10.626.10 In riverine situations, prior to the alteration or relocation of a watercourse the applicant for such authorization shall notify the Wetlands ~~Board~~Bureau of the New Hampshire Department of Environmental Services ~~Department~~ and submit copies of such notification to the Code Official in addition to the copies required by provisions of State law. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Code Official, including notice of all scheduled hearings before the Wetlands ~~Board~~Bureau.

10.626.20 ~~The applicant shall submit to the Code Official certification provided by a registered professional engineer assuring that the flood-carrying capacity of an altered or relocated watercourse can and will be maintained. The Code Official shall obtain, review, and reasonably utilize any floodway data available from Federal, State, or other sources as criteria for requiring that all development located in Zone A meet the following floodway requirement:~~

“No encroachments, including fill, new construction, substantial improvements, and other development are allowed within the floodway that would result in any increase in flood levels within the community during the base flood discharge.”

10.626.30 Along watercourses with a designated regulatory floodway, no encroachment, including fill, new construction, substantial improvement or other development, is allowed within the floodway that would result in any increase in flood levels within the community during the base flood discharge. In Zone A, the Code Official shall obtain, review, and reasonably utilize any floodway data available from Federal, State or other sources as criteria for requiring that development meet the floodway requirements of this section.

10.626.40 Along watercourses that have not had a regulatory floodway designated, no new construction, substantial improvement or other development (including fill) shall be permitted within Zone AE on the FIRM, unless it is demonstrated by the applicant that the cumulative effect on the proposed development, when combined with all existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

10.627 Determination of Base Flood Elevation

10.627.10 In a special flood hazard area (SFHA) the Code Official shall determine the base flood elevation in the following order of precedence according to the data available:

- 10.627.11 In Zone AE, refer to the elevation data provided in the community's flood insurance study and accompanying FIRM;
- 10.627.12 In ~~an unnumbered Zone~~ A-zone, the Code Official shall obtain, review, and reasonably utilize any base flood elevation data available from any Federal, State or other source including data submitted for development proposals submitted to the community (i.e. subdivisions, site approvals);
- 10.627.13 ~~In Zone AO the base flood elevation is determined by adding the elevation of the highest adjacent grade to the depth number specified on the FIRM or if no depth number is specified on the FIRM at least 2 feet. In Zone A where a base flood elevation is not available, the base flood elevation shall be at least two feet above the highest adjacent grade.~~

10.628 Construction Standards in Special Flood Hazard Areas and Extended Flood Hazard Areas

- 10.628.10 In Zones A, ~~AE, AH, AO and A99~~ and AE, any new construction or substantial improvement shall:
 - (a) be designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - (b) be constructed with materials resistant to flood damage;
 - (c) be constructed by methods and practices that minimize flood damage; and
 - (d) be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- 10.628.20 Any new construction ~~or substantial improvement~~ of a residential structure shall have the lowest floor (including basement) elevated to ~~or at least two (2) feet~~ at least two (2) feet above the base flood elevation if in Zone A or AE, and to at least two (2) feet above the base flood elevation of the adjacent special flood hazard area if in an extended flood hazard area.
- 10.628.30 Any substantial improvement of a residential structure shall have the lowest floor (including basement) elevated to or above the base flood elevation if in Zone A or AE.

10.628.~~430~~ Any new construction ~~or substantial improvement~~ of a nonresidential structure shall have the lowest floor (including basement) elevated to ~~at least two (2) feet~~ above the base flood elevation if in Zone A or AE, and to at least two (2) feet above the base flood elevation of the adjacent special flood hazard area if in an extended flood hazard area; or together with attendant utility and sanitary facilities, shall:

- (a) be floodproofed so that below two (2) feet above the base flood elevation in Zone A or AE, or below two (2) feet above the base flood elevation of the adjacent special flood hazard area in an extended flood hazard area, ~~the base flood elevation~~ the structure is watertight with walls substantially impermeable to the passage of water;
- (b) have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
- (c) be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section.

10.628.50 Any substantial improvement of a nonresidential structure shall have the lowest floor (including basement) elevated to or above the base flood elevation if in Zone A or AE; or together with attendant utility and sanitary facilities, shall:

- (a) be floodproofed so that below the base flood elevation in Zone A or AE, the structure is watertight with walls substantially impermeable to the passage of water;
- (b) have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
- (c) be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section.

10.628.~~460~~ Any manufactured home to be placed or substantially improved within a special flood hazard area shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is ~~at or~~ at least two (2) feet above the base flood elevation; and be securely anchored to resist floatation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces;

10.628.~~570~~ For any new construction or substantial improvement, fully enclosed areas below the lowest floor that are subject to flooding are permitted provided they meet the following requirements:

- (a) the enclosed area is unfinished or flood resistant, usable solely for the parking of vehicles, building access or storage;
- (b) the area is not a basement;
- (c) the area shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater certified by a registered professional engineer or architect, or must meet or exceed the following minimum criteria:
 - (i) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - (ii) The bottom of all openings shall be no higher than one foot above grade.
 - (iii) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

~~10.628.60 — Any structure proposed to be located on a slope in a special flood hazard area Zones AH and AO shall include adequate drainage paths to guide flood waters around and away from the proposed structure.~~

10.628.780 Any recreational vehicle placed on a site within Zones AH, and AE for 180 or more consecutive days shall either:

- ~~(a) be fully licensed and ready for highway use, or~~
- ~~(a) be fully licensed, on wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions, or~~
- (b) meet all standards of ~~Section 60.3(b)(1) of the National Flood Insurance Program Regulations~~ Section 10.623.10 of this ordinance and the elevation and anchoring requirements for manufactured homes in ~~Section 60.3(e)(6) of the Regulations~~ Section 10.628.60 of this ordinance.

10.629 Variances and Appeals

10.629.10 Any order, requirement, decision or determination of the Code Official made under this Section 10.620 may be appealed to the Board of Adjustment as set forth in accordance with the provisions of State law.

10.629.20 If the applicant, upon appeal, requests a variance as authorized by the provisions of State law, the applicant shall have the burden of showing in addition to the usual variance standards under State law:

- (a) That the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense;

- (b) That if the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result; and
- (c) That the variance is the minimum necessary considering the flood hazard, to afford relief.

10.629.30 The Board of Adjustment shall notify the applicant in writing that:

- (a) The issuance of a variance to construct below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and
- (b) Such construction below the base flood elevation increases risks to life and property.

Such notification shall be maintained with a record of all variance actions.

10.629.40 The community shall:

- (a) Maintain a record of all variance actions, including their justification for their issuance, and
- (b) Report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

Article 15 Definitions

- Section 10.1510 Rules of Construction
- Section 10.1520 Terms With Specialized Applications
- Section 10.1530 Terms of General Applicability

Section 10.1510 Rules of Construction

- 10.1511 Unless otherwise expressly stated, the following words and terms shall have the meanings shown in this Article.
- 10.1512 When a term is defined both in this Article 15 and in another Article of this Ordinance, the definition in the other Article shall supersede the definition in Article 15. Examples include the definitions relating to Sexually-Oriented Businesses and Telecommunications Facilities in Article 5, and to the Flood Plain District and Airport Approach Overlay District in Article 6.
- 10.1513 Where terms are not defined in this Ordinance and are defined in the Building Code, such terms shall have the meanings ascribed to them therein.
- 10.1514 Where terms are not defined in this Ordinance or in the Building Code, such terms shall have ordinarily accepted meanings such as the context implies.

Section 10.1520 Terms With Specialized Applications

- 10.1521 Terms that are used primarily in Section 10.620, Flood Plain District, are defined in Section 10.622, including:

100-year flood <u>Area of special flood hazard area</u> Base flood Base flood elevation (BFE) Basement Breakaway wall Building * Development <u>Extended flood hazard area</u> FEMA FIRM Flood insurance rate map Flood insurance study Flood or flooding Flood plain Flood-prone area	Flood proofing Floodway Highest adjacent grade <u>Historic structure</u> Lowest floor Manufactured home <u>Manufactured home park or subdivision</u> Mean sea level New construction Regulatory floodway <u>Recreational vehicle</u> Special flood hazard area Start of construction Structure * Substantial damage Substantial improvement * <u>Violation</u> Water surface elevation
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ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That Chapter 8, Article V – **CONSERVATION ORDINANCE** 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):

ARTICLE V: CONSERVATION ORDINANCE

Section 8.501: PURPOSE

Those properties listed in Section 8.503 are hereby declared to be conservation properties of the City of Portsmouth. **Other than the maintenance of Public Infrastructure described in Section 8.505**, passive recreation is the only permitted use or activity on the conservation properties. Any other use or activity on the conservation properties must be approved by prior vote of City Council. Such approval shall be by a 2/3 majority of those present and voting on the question. Any Council vote under this provision must be preceded by a referral of the question to the Conservation Commission for its review and report back to the Council. The Council shall not vote on the question until either the report has been received from the Conservation Commission or thirty (30) days have passed from the Council vote referring the matter to the Conservation Commission.

Section 8.502: PASSIVE RECREATION

The term “Passive Recreation” shall mean uses of land, or activities on land, which are conducted primarily for leisure purposes and which do not cause damage to the conservation nature of the land.

Section 8.503: CONSERVATION PROPERTIES

<u>Map/Lot</u> <u>Map-Block-Lot</u>	<u>Location</u>	<u>Book/Page</u>	<u>Date</u> <u>Adopted</u>
123/9 0123-0009-000A	235 Maplewood Ave (Adopted 7/16/01)	3577/2037	07/16/2001
201/26 0201-0026-0000	Sagamore Ave	2299/1707	04/07/1997
204/7 0204-0007-0000	Little Harbor Rd	2395/1462	04/07/1997
222/73 0222-0073-0000	Jones Ave	2391/0386	04/07/1997

<u>Map/Lot</u> <u>Map-Block-Lot</u>	<u>Location</u>	<u>Book/Page</u>	<u>Date</u> <u>Adopted</u>
225/8 0225-0008-0000	Elwyn Rd	2289/1810	04/07/1997
0283-0019-0000	Ocean Rd	5907/1795	
263/3 0263-0003-0000	Greenland Rd	2385/0403	04/07/1997
265/20 0265-002D-0000	Banfield Rd	2413/0222	04/07/1997
271/1-8 0271-0001-0008	Lafayette Rd	2851/2879	04/07/1997
274/3 0274-0003-0000	Banfield Rd	2327/1314	04/07/1997
278/1 0278-0001-0000	Greenland Rd	2646/0720	04/07/1997
278/2 0278-0002-0000	Greenland Rd	2235/0417	04/07/1997
278/3 0278-0003-0000	Greenland Rd	2235/0417	04/07/1997
280/3 0280-0003-0000	Greenland Rd	2646/0720	04/07/1997
0232-0008-0001	Lois Street	6014/0575	
283/13 0283-0013-0000	Ocean Rd	2249/0432	04/07/1997
284/3 0284-0003-0000	Heritage Ave	2253/1684	04/07/1997
284/4 0284-0004-0000	Lafayette Rd Suzanne Dr	1615/0129	04/07/1997
288/1 0288-0001-0000	Lang Road (Adopted 4/20/98)	3278/1316	04/20/1998
284/5	Ocean Rd		
284/9 0284-0009-0000	Ocean Rd Heritage Ave	2253/1684	04/07/1997
287/3 0287-0003-0000	Ocean Rd off of Lang Road	2230/0277	04/07/1997
293/10 0293-0010-0000	Ocean Rd	2299/0424	04/07/1997
293/13 0293-0013-0000	Ocean Rd	2249/0432	04/07/1997
294/9 0294-0009-0000	Ocean Rd	2370/1383	04/07/1997
294/22 0294-0022-0000	Ocean Rd	2249/0432	04/07/1997
295/1 0295-0001-0000	Ocean Rd	2230/0275	04/07/1997

<u>Map/Lot</u> <u>Map-Block-Lot</u>	<u>Location</u>	<u>Book/Page</u>	<u>Date</u> <u>Adopted</u>
295/2 0295-0002-0000	Ocean Rd	2156/0149	04/07/1997
295/3 0295-0003-0000	Ocean Rd	2230/0275	04/07/1997
295/5 0295-0005-0000	Ocean Rd	2230/0278	04/07/1997
296/1 0296-0001-0000	Ocean Rd off of Lafayette Road	2747/2301	04/07/1997
296/4 0296-0004-0000	Ocean Rd off of Lafayette Road	2230/0276	04/07/1997
296/6 0296-0006-0000	Ocean Rd off of Lafayette Road	2230/0276	04/07/1997
296/11 0296-0011-0000	Ocean Rd off of Lafayette Road	2484/0311	04/07/1997
296/12 0296-0012-0000	Ocean Rd off of Lafayette Road	2484/0311	04/07/1997
296/13 0296-0013-0000	Ocean Rd off of Lafayette Road	2484/0311	04/07/1997
296/8 0296-0008-0000	Ocean Rd	2215/1493	04/07/1997
296/10 0296-0010-0000	Ocean Rd	2249/0432	04/07/1997
293/16 0293-0016-0000	Ocean Rd	2249/0432	04/07/1997
298/8 0298-0008-0000	Lafayette Rd	2247/0237	04/07/1997
298/5-1 0298-0005-0001	Lafayette Rd	2549/1850	04/07/1997

Section 8.504: ENFORCEMENT

- A. This ordinance may be enforced against the City of Portsmouth by means of an action seeking injunctive relief, which may be filed in the Courts of the State of New Hampshire by any interested party.
- B. Any other person, firm or corporation violating any provision of this ordinance shall be subject to a penalty, upon conviction, of up to \$1,000 per occurrence.
- C. The enforcement provisions of this ordinance shall not be deemed exclusive, but shall be concurrent with any other remedies available at law.

Section 8.505: MAINTENANCE OF PUBLIC INFRASTRUCTURE

Nothing in this ordinance shall prohibit the maintenance of public roadways, sidewalks, drainage and stormwater structures, sewer and water lines and other utilities (“Public Infrastructure”) that cross or abut Conservation Properties. Maintenance shall include replacement if within the existing footprint of the original structure. Any expansion or new use for Public Infrastructure on any Conservation Property would require the approval described in Section 8.501.

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 Zoning Ordinance Amendments
Wetlands Protection
for City Council October 7, 2019**

ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That the Ordinances of the City of Portsmouth, Chapter 10 — Zoning Ordinance, Article 10 – Environmental Protection Standards, Section 10.1010 – Wetlands Protection, be amended as follows (deletions from existing language ~~stricken~~; additions to existing language **bolded**; remaining language unchanged from existing):

A. In Section 10.1016.10, insert the following new paragraph (8):

(8) Construction of fences outside the vegetated buffer strip, provided that any posts are no wider than 3” in any dimension, and that there are no footings and no ground disturbance beyond the installation of the posts.

B. In Section 10.1017.20 – Application Requirements, renumber existing subsection 10.1017.22 as 10.1017.23, and insert the following new subsections 10.1017.22, 10.1017.24 and 10.1017.26:

10.1017.22 Where the proposed project will involve the temporary or permanent alteration of more than 250 sq. ft. of wetland and/or wetland buffer, the application shall provide information about the affected wetland and wetland buffer as follows:

- (1) Up to 1,000 sq. ft. of alteration to the wetland: a wetland characterization that describes the type of wetland (e.g., emergent, scrub-shrub, forested), the percent of invasive species, and whether the wetland is seasonally flooded.**
- (2) More than 1,000 sq. ft. of alteration to the wetland: a functions and values assessment equivalent to the model set forth in Appendix A of *The Highway Methodology Workbook Supplement – Wetland Functions and Values: A Descriptive Approach*, NAEPP-360-1-30a, US Army Corps of Engineers, New England Division, September 1999, as amended.**

- (3) **More than 250 sq. ft. of alteration to the wetland buffer (regardless of the amount of alteration to the wetland): a description of the 100-foot buffer including vegetation type, the percent of the buffer with invasive species, and the percent of the buffer that is paved or developed.**

[...]

10.1017.24 Where feasible, the application shall include removal of impervious surfaces at least equal in area to the area of impervious surface impact. The intent of this provision is that the project will not result in a net loss of pervious surface within a jurisdictional wetland buffer. If it is not feasible to remove impervious surfaces from the wetland buffer at least equal in area to the area of new impervious surface impact, the application shall include a wetland buffer enhancement plan that describes how the wetland functions and values will be enhanced to offset the proposed impact.

10.1017.25 A wetland buffer enhancement plan shall be designed to enhance the functions of the jurisdictional wetland and/or wetland buffer on the lot, and to offset the impact of the proposed project.

- (1) **The wetland buffer enhancement plan shall include a combination of new plantings, invasive species removal, habitat creation areas, improved site hydrology, or protective easements provided offsite.**
- (2) **Where the vegetated buffer strip contains grass or non-native plantings, or is otherwise not intact, the first priority of the wetland buffer enhancement plan shall be to include revegetation of the vegetated buffer strip with native, low-maintenance shrubs and other woody vegetation.**

C. In Section 10.1017.20 – Application Requirements, insert a new subsection 10.1017.26 as follows:

10.1017.26 Where the proposed project involves a use, activity or alteration in a tidal wetland or tidal wetland buffer, the application shall include a living shoreline strategy to preserve the existing natural shoreline and/or encourage establishment of a living shoreline through restoration, as applicable. Said living

shoreline strategy shall be implemented unless the Planning Board determines that it is not feasible.

D. In Section 10.1017.40, insert the following new subsection 10.1017.45:

10.1017.45 Where new impervious surface is proposed in a wetland or wetland buffer, the submission of a plan to compensate for such new impervious surface does not guarantee that a conditional use permit will be granted.

E. In Section 10.1018, insert the following new sections 10.1018.30 and 10.1018.40:

10.1018.30 Porous Pavement in Wetland Buffer

10.1018.31 All new pavement installed in a wetland buffer shall be porous pavement. The Planning Board may allow exceptions to this requirement where it can be demonstrated that the height of ground water, condition of soil, or other factors as described in the application are not appropriate for porous pavement.

10.1018.32 An application that proposes porous pavement in a wetland buffer shall include a pavement maintenance plan addressing erosion control, periodic removal of sediment and debris from the porous surfaces, snow management, and repairs.

10.1018.40 Wetland Boundary Markers

Permanent wetland boundary markers shall be shown on the plan submitted with an application for a conditional use permit and shall be installed during project construction.

F. In Article 15 – Definitions, Section 10.1530 – Terms of General Applicability, insert the following new term and definition:

Living shoreline

Any shoreline management system using native vegetation, alone or in combination with offshore sills, to stabilize the shoreline without interrupting the natural water/land continuum to the detriment of natural shoreline ecosystems.

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

Article 10 Environmental Protection Standards

Section 10.1010 Wetlands Protection

Section 10.1020 Earth Products Removal and Placement

Section 10.1010 Wetlands Protection

10.1011 Purpose

The purposes of this Section are:

- (1) To maintain, and where possible improve, the quality of surface waters and ground water by controlling the rate and volume of stormwater runoff and preserving the ability of wetlands to filter pollution, trap sediment, retain and absorb chemicals and nutrients, and produce oxygen.
- (2) To prevent the destruction of, or significant changes to, wetlands, related water bodies and adjoining land which provide flood protection, and to protect persons and property against the hazards of flood inundation by assuring the continuation of the natural or existing flow patterns of streams and other water courses within the City.
- (3) To protect, and where possible improve, potential water supplies and aquifers and aquifer recharge areas.
- (4) To protect, and where possible improve, wildlife habitats and maintain ecological balance.
- (5) To protect, and where possible improve, unique or unusual natural areas and rare and endangered plant and animal species.
- (6) To protect, and where possible improve, shellfish and fisheries.
- (7) To prevent the expenditure of municipal funds for the purpose of providing and/or maintaining essential services and utilities which might be required as a result of misuse or abuse of wetlands.
- (8) To require the use of best management practices and low impact development in and adjacent to wetland areas.

10.1012 Relationship to Other Regulations

- 10.1012.10 The provisions and criteria set forth in this Section are in addition to the provisions of applicable state and federal laws and regulations, other sections of this Zoning Ordinance, and other local ordinances and regulations.

- 10.1012.20 Where any provision of this Section conflicts with a state or federal law or regulation, another section of this Zoning Ordinance, or another local ordinance or regulation, the more restrictive provision shall apply.
- 10.1012.30 Nothing in this Section shall permit a use or activity which is contrary to any other provision of the Zoning Ordinance.
- 10.1012.40 Notwithstanding any other provisions of the Zoning Ordinance, the City of Portsmouth and its administrative and operating agencies and instrumentalities shall comply with the provisions of this Section.

10.1013 Jurisdictional Areas

The provisions of this Section 10.1010 apply to the following jurisdictional areas:

- 10.1013.10 Any inland wetland, other than a vernal pool, that is 10,000 square feet or more in area;
- 10.1013.20 Any vernal pool regardless of area.
- 10.1013.30 Any non-tidal perennial river or stream.
- 10.1013.40 The tidal wetlands of Sagamore Creek, Little Harbour, North Mill Pond, South Mill Pond and part of the Piscataqua River, defined as follows:
 - (a) Sagamore Creek: Bounded by the easterly side of Peverly Hill Road and the southerly side of Greenleaf Avenue as these cross Sagamore Creek, and extending along the Creek to Little Harbour.
 - (b) Little Harbour: Extending along the Little Harbour shoreline from the municipal line with the Town of Rye to the southerly side of New Castle Avenue, and including Goose Island, Belle Island, Pest Island and that portion of Shapleigh Island lying south of New Castle Avenue.
 - (c) North Mill Pond: Extending along the entire shoreline of North Mill Pond between Bartlett Street and Market Street.
 - (d) South Mill Pond: Extending along the entire shoreline of South Mill Pond west of the tide gate at Pleasant Street.
 - (e) Piscataqua River: Extending along the shoreline of the Piscataqua River from the northwest side of the I-95 bridge up to and including the waterfront parcel fronting on Porpoise Way.

10.1014 Identification and Delineation of Wetlands and Wetland Buffers

10.1014.10 Wetlands

- 10.1014.11 Wetlands shall be identified by use of the Federal Manual and/or Field Indicators, and shall be delineated by on-site inspection of soil types,

vegetation, and hydrology by a certified wetland scientist at a time when conditions are favorable for such determination.

10.1014.12 A created wetland shall be considered a wetland for the purposes of this section.

10.1014.13 Any area which may have been a wetland but was filled prior to January 1, 1970 or pursuant to properly issued federal, state and local permits granted prior to the adoption of this Ordinance shall be judged according to the conditions existing at the time an application for a building permit or subdivision is filed or submitted.

10.1014.20 Wetland Buffers

10.1014.21 The purpose of a wetland buffer is to reduce erosion and sedimentation into the adjacent wetland, vernal pool or water body, to aid in the control of nonpoint source pollution, to provide a vegetative cover for filtration of runoff, to protect wildlife habitat, and to help preserve ecological balance.

10.1014.22 The required wetland buffer for a jurisdictional wetland or water body shall be defined as all land within 100 feet of the jurisdictional area.

10.1014.23 Wetland buffers, including vegetated buffer strips and limited cut areas, shall be parallel to and measured from the reference line for the applicable jurisdictional area on a horizontal plane.

(1) Inland wetland buffers shall be measured from the edges of inland wetlands and surface water bodies.

(2) Tidal wetland buffers shall be measured from the edges of tidal wetlands and highest observable tide lines.

10.1015 Notification to Planning Director

Notice shall be provided to the Planning Director prior to any construction, demolition, tree cutting, vegetation removal, or other alteration in a wetland or wetland buffer.

10.1016 Permitted Uses

10.1016.10 The following uses, activities and alterations are permitted in wetlands and wetland buffers:

(1) Any use that does not involve the erection or construction of any structure or impervious surface, will not alter the natural surface configuration by the addition of fill or by dredging, will not result in site alterations, and is otherwise permitted by the Zoning Ordinance. Examples of such uses include forestry and tree farming, wildlife refuges, parks and recreational uses, conservation and

nature trails, and open spaces as permitted or required by the Zoning Ordinance or Subdivision Regulations.

- (2) Improvements to existing public rights-of-way and sidewalks.
- (3) The construction of piers or docks, provided that all required local, state and federal approvals have been granted.
- (4) The construction of an addition or extension to a one-family or two-family dwelling that lawfully existed prior to the effective date of this Ordinance or was constructed subject to a validly issued conditional use permit, provided that:
 - (a) The footprint area of the addition or extension, together with the area of all prior such additions and extensions, shall not exceed 25 percent of the area of the footprint of the principal heated structure existing prior to the effective date of this Ordinance or constructed pursuant to a validly issued conditional use permit (this 25 percent limit shall not be based on pre-existing attached or detached garages, sheds, decks, porches, breezeways, or similar buildings or structures);
 - (b) The addition or extension shall be no closer to a wetland or water body than the existing principal structure; and
 - (c) The addition or extension shall conform with all other provisions of the Zoning Ordinance and with all other applicable ordinances and regulations of the City of Portsmouth.
- (5) The use of motor vehicles, except for all-terrain vehicles, when necessary for any purpose permitted by this Ordinance.
- (6) Emergency power generator outside the wetland and vegetated buffer strip, provided that the total coverage by equipment and any mounting pad shall not exceed 10 square feet.
- (7) Uses, activities and alterations that are consistent with a Wetland Protection Plan that has been approved by the Planning Board through the grant of a conditional use permit.
- (8) Construction of fences outside the vegetated buffer strip, provided that any posts are no wider than 3" in any dimension, and that there are no footings and no ground disturbance beyond the installation of the posts.

10.1016.20 Any use, activity or alteration not specifically permitted by Section 10.1016.10 above is prohibited unless authorized by the Planning Board through the grant of a conditional use permit.

- 10.1016.30 When the Planning Director reasonably believes that an existing or proposed use, activity or alteration that is not specifically permitted by Section 10.1016.10 is located in a wetland or wetland buffer, and a conditional use permit has not been granted for such use, activity or alteration, the Planning Director may require a wetland delineation complying with Section 10.1014 in order to verify the location or absence of wetlands and determine whether the use, activity or alteration requires a conditional use permit.

10.1017 Conditional Uses

10.1017.10 General

The Planning Board is authorized to grant a conditional use permit for any use not specifically permitted in Section 10.1016.10, subject to the procedures and findings set forth herein.

10.1017.20 Application Requirements

10.1017.21 The application shall be in a form prescribed by the Planning Board, and shall include the following information:

- (1) Location and area of lot and proposed activities and uses;
- (2) Location and area of all jurisdictional areas (vernal pool, inland wetland, tidal wetland, river or stream) on the lot and within 250 feet of the lot;
- (3) Location and area of wetland buffers on the lot;
- (4) Description of proposed construction, demolition, fill, excavation, or any other alteration of the wetland or wetland buffer;
- (5) Setbacks of proposed alterations from property lines, jurisdictional areas and wetland buffers;
- (6) Location and area of wetland impact, new impervious surface, previously disturbed upland;
- (7) Location and description of existing trees to be removed, other landscaping, grade changes, fill extensions, rip rap, culverts, utilities;
- (8) Dimensions and uses of existing and proposed buildings and structures.
- (9) Any other information necessary to describe the proposed construction or alteration.

10.1017.22 Where the proposed project will involve the temporary or permanent alteration of more than 250 sq. ft. of wetland and/or wetland buffer, the

application shall provide information about the affected wetland and wetland buffer as follows:

- (1) Up to 1,000 sq. ft. of alteration to the wetland: a wetland characterization that describes the type of wetland (e.g., emergent, scrub-shrub, forested), the percent of invasive species, and whether the wetland is seasonally flooded.
- (2) More than 1,000 sq. ft. of alteration to the wetland: a functions and values assessment equivalent to the model set forth in Appendix A of The Highway Methodology Workbook Supplement – Wetland Functions and Values: A Descriptive Approach, NAEPP-360-1-30a, US Army Corps of Engineers, New England Division, September 1999, as amended.
- (3) More than 250 sq. ft. of alteration to the wetland buffer (regardless of the amount of alteration to the wetland): a description of the 100-foot buffer including vegetation type, the percent of the buffer with invasive species, and the percent of the buffer that is paved or developed.

10.1017.2~~23~~3 The application shall describe the impact of the proposed project with specific reference to the criteria for approval set forth in Section 10.1017.50 (or Section 10.1017.60 in the case of utility installation in a right-of-way), and shall demonstrate that the proposed site alteration is the alternative with the least adverse impact to areas and environments under the jurisdiction of this Ordinance.

10.1017.24 Where feasible, the application shall include removal of impervious surfaces at least equal in area to the area of impervious surface impact. The intent of this provision is that the project will not result in a net loss of pervious surface within a jurisdictional wetland buffer. If it is not feasible to remove impervious surfaces from the wetland buffer at least equal in area to the area of new impervious surface impact, the application shall include a wetland buffer enhancement plan that describes how the wetland functions and values will be enhanced to offset the proposed impact.

10.1017.25 A wetland buffer enhancement plan shall be designed to enhance the functions of the jurisdictional wetland and/or wetland buffer on the lot, and to offset the impact of the proposed project.

- (1) The wetland buffer enhancement plan shall include a combination of new plantings, invasive species removal, habitat creation areas, improved site hydrology, or protective easements provided offsite.
- (2) Where the vegetated buffer strip contains grass or non-native plantings, or is otherwise not intact, the first priority of the wetland buffer enhancement plan shall be to include revegetation of the vegetated buffer strip with native, low-maintenance shrubs and other woody vegetation.

10.1017.26 Where the proposed project involves a use, activity or alteration in a tidal wetland or tidal wetland buffer, the application shall include a living shoreline strategy to preserve the existing natural shoreline and/or encourage establishment of a living shoreline through restoration, as applicable. Said living shoreline strategy shall be implemented unless the Planning Board determines that it is not feasible.

10.1017.30 Application Review Procedure

- 10.1017.31 The application for a conditional use permit shall be submitted to the Planning Director.
- 10.1017.32 The Planning Director shall refer the application to the Conservation Commission for review and comment.
- 10.1017.33 The Planning Board or the Planning Director may require the findings of an independent New Hampshire certified wetland scientist or other additional special investigative studies, and may assess the owner reasonable fees to cover the costs of such studies and for the review of documents required by application.
- 10.1017.34 The Planning Board shall hold a public hearing on the application within 90 days of the initial submittal to the Planning Board, and shall issue a letter of decision within 10 days of the public hearing. The time requirements stated herein may be waived by the applicant.
- 10.1017.35 Public notice for public hearings shall be made in accordance with State law.
- 10.1017.36 The application process pursuant to this section may proceed prior to and/or run concurrent with the State and Federal permit processes, but the conditional use permit shall not become effective until the State and Federal permits are received.

10.1017.40 Conditional Use Approval

- 10.1017.41 The Planning Board shall grant a conditional use permit provided that it finds that all other restrictions of this Ordinance are met and that proposed development meets all the criteria set forth in section 10.1017.50 or 10.1017.60, as applicable.
- 10.1017.42 The Planning Board shall evaluate an application for a conditional use permit in accordance with *The Highway Methodology Workbook Supplement – Wetland Functions and Values: A Descriptive Approach*, NAEPP-360-1-30a, US Army Corps of Engineers, New England Division, September 1999, as amended.
- 10.1017.43 The burden of proof that the criteria required for approval of the conditional use permit exist or are met shall be the responsibility of the applicant.

10.1017.44 Economic considerations alone are not sufficient reason for granting a conditional use permit.

10.1017.45 Where new impervious surface is proposed in a wetland or wetland buffer, the submission of a plan to compensate for such new impervious surface does not guarantee that a conditional use permit will be granted.

10.1017.50 Criteria for Approval

Any proposed development, other than installation of utilities within a right-of-way, shall comply with all of the following criteria:

- (1) The land is reasonably suited to the use, activity or alteration.
- (2) There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration.
- (3) There will be no adverse impact on the wetland functional values of the site or surrounding properties;
- (4) Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals; and
- (5) The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this Section.
- (6) Any area within the vegetated buffer strip will be returned to a natural state to the extent feasible.

10.1017.60 Public and Private Utilities within Rights-of-Way in Wetlands and Wetland Buffers

The installation of utilities (including power lines and pipelines) within a right-of-way in an inland wetland or wetland buffer shall comply with all of the following criteria instead of the criteria set forth in section 10.1017.50:

- (1) The proposed construction is in the public interest;
- (2) Design, construction, and maintenance methods will utilize best management practices to minimize any detrimental impact of such use upon the wetland and will include restoration of the site as nearly as possible to its original grade, condition and vegetated state;
- (3) No alternative feasible route exists which does not cross or alter a wetland or have a less detrimental impact on a wetland; and
- (4) Alterations of natural vegetation or managed woodland will occur only to the extent necessary to achieve construction goals.

10.1017.70 Expiration and Extension

10.1017.71 A conditional use permit shall expire one year after the date of approval by the Planning Board unless a building permit is issued prior to that date.

10.1017.72 The Planning Board may grant a one-year extension of a conditional use permit if the applicant submits a written request to the Planning Board prior to the expiration date. Any other extension may be granted only after a new public hearing on the reconsideration of the application.

10.1017.80 Wetland Protection Plan

10.1017.81 General

10.1017.811 The owner of a parcel that contains more than 5 acres and more than 5 residential structures may apply for a conditional use permit for pre-approval of multiple individual projects over a multi-year time frame by submitting a Wetland Protection Plan conforming to the requirements of this section.

10.1017.82 Submission Requirements and Procedures

10.1017.821 Plan Contents: A Wetland Protection Plan shall include the following information:

- (1) Wetland delineation, wetland buffers (100 feet), limited cut areas (50 feet) and vegetated buffer strips (25 feet).
- (2) Existing buildings, structures, streets, driveways and other site improvements.
- (3) Calculations of existing impervious surface areas (total and within the wetland buffer). For a manufactured housing park these calculations shall be provided for each dwelling site and for the park as a whole.
- (4) Proposed protective measures (e.g., rain gardens, tree plantings, shrub plantings).
- (5) Calculations of areas of protective measures and proposed or potential future impervious surfaces.

10.1017.822 Initial Submission, Review and Approval Procedures: The initial Wetland Protection Plan shall be submitted to the Planning Department and shall be processed following the procedures for an application for a conditional use permit under Section 10.1017.30 and 10.1017.40.

10.1017.823 Effect of Plan Approval: The grant of a conditional use permit for a Wetland Protection Plan represents an overall pre-approval of impacts within the wetland buffer as

described on the Plan, subject to the submission of individual site plans in connection with application for a building permit that represents a change or increase in impervious surface within the wetland buffer.

10.1017.824 Permit Site Plans:

- (1) Following the approval of a Wetland Protection Plan, each application for a building permit that proposes a relocation of or increase in impervious surface within the wetland buffer shall be accompanied by a permit site plan showing the specific impervious surface changes and the specific protective measures proposed as compensation. Said protective measures shall be completed prior to or concurrently with the proposed impervious surface impact for which they provide compensation.
- (2) The Planning Director may approve a permit site plan that is consistent with an approved Wetland Protection Plan.
- (3) If the Planning Director determines that a permit site plan proposes a significant change from the approved Wetland Protection Plan, the owner shall submit an application to the Conservation Commission and Planning Board for an amendment to the conditional use permit.

10.1017.825 Plan Updates: After every 10 building permits have been issued under an approved Wetland Protection Plan, whether authorized administratively or by conditional use permit, the owner shall submit an updated Wetland Protection Plan showing the new existing site conditions and including updated calculations. The updated Plan shall also serve as an application for administrative site plan approval for all site changes that have been made since the previously approved Plan or Plan amendment.

10.1017.83 Wetland Protection Plan Standards

10.1017.831 No net increase in impervious surface within the wetland buffer: Buildings, structures or other impervious surfaces may be constructed, expanded or relocated within the wetland buffer provided that (1) no new impervious surface shall be within 25 feet of the wetland boundary, and (2) any new area converted to impervious surface shall be compensated for at a 1:1 ratio by the conversion of existing impervious surface within the wetland buffer to vegetated open space (lawn or planted areas). Such

compensatory open space does not need to be shown on the approved Wetland Protection Plan, but shall be shown on the permit site plan submitted with the building permit application.

10.1017.832 Net increase in impervious surface within the wetland buffer with compensation: Buildings, structures or other impervious surfaces may be constructed, expanded or relocated within the wetland buffer provided that (1) no new impervious surface shall be within 25 feet of the wetland boundary, and (2) the net increase in impervious surface shall be compensated for by protective measures that are shown on the approved Wetland Protection Plan at the following ratios:

Protective Measure	Ratio of protective measure area to net impervious surface area	
	25' -50' from wetland	50' -100' from wetland
Rain garden	3.0:1	2.0:1
Tree plantings	3.0:1	2.0:1
Shrub plantings	3.0:1	2.0:1

10.1017.833 Any increase in permanent impervious surface permitted through the provision of compensating protective measures shall also permit a temporary impact within the wetland buffer equal to two times the area of the permanent impact.

10.1018 Performance Standards

10.1018.10 Stormwater Management

All construction activities and uses of buildings, structures, and land within wetlands and wetland buffers shall be carried out so as to minimize the volume and rate of stormwater runoff, the amount of erosion, and the export of sediment from the site. All such activities shall be conducted in accordance with Best Management Practices for stormwater management including but not limited to:

1. *New Hampshire Stormwater Manual*, NHDES, current version.
2. *Best Management Practices to Control Non-point Source Pollution: A Guide for Citizens and City Officials*, NHDES, January 2004.

10.1018.20 Vegetation Management

10.1018.21 The required wetland buffer includes two smaller areas where additional standards and criteria apply: a vegetated buffer strip and a limited cut

area. The width of these areas shall be based on the type of jurisdictional area, as follows:

Jurisdictional Area	Vegetated Buffer Strip	Limited Cut Area
Vernal pool	0' - 50'	50' - 75'
Inland wetland, other than vernal pool	0' - 25'	25' - 50'
Non-tidal perennial stream or river	0' - 25'	25' - 75'
Inter-tidal area or tidal wetland as specified in section 10.1013.40	0' - 25'	25' - 50'

10.1018.22 If the vegetated buffer strip specified in Section 10.1018.21 contains an area that has a slope of 10% or more for at least 10 feet in a direction perpendicular to the edge of the jurisdictional area, the required width of the vegetated buffer strip shall be increased to 55 feet from the edge of a vernal pool and to 40 feet from the edge of any other wetland.

10.1018.23 Removal or cutting of vegetation:

- (1) Chemical control of vegetation is prohibited in all areas of a wetland or wetland buffer.
- (2) The removal or cutting of vegetation is prohibited in a wetland or vegetated buffer strip, except that non-chemical control of plants designated by the State of New Hampshire as “New Hampshire Prohibited Invasive Species” is permitted.
- (3) The removal of more than 50% of trees greater than 6" diameter at breast height (dbh) is prohibited in the limited cut area.

10.1018.24 Fertilizers:

- (1) The use of any fertilizer is prohibited in a wetland, vegetated buffer strip or limited cut area.
- (2) The use of fertilizers other than low phosphate and slow release nitrogen fertilizers is prohibited in any part of a wetland buffer.

10.1018.25 Pesticides and herbicides:

The use of pesticides or herbicides is prohibited in a wetland or wetland buffer, except that application of pesticides by a public agency for public health purposes is permitted.

Section 10.1018.30 Porous Pavement in Wetland Buffer

10.1018.31 All new pavement installed in a wetland buffer shall be porous pavement. The Planning Board may allow exceptions to this requirement where it can be demonstrated that the height of ground water, condition of soil, or other factors as described in the application are not appropriate for porous pavement.

10.1018.32 An application that proposes porous pavement in a wetland buffer shall include a pavement maintenance plan addressing erosion control, periodic removal of sediment and debris from the porous surfaces, snow management, and repairs.

10.1018.40 Wetland Boundary Markers

Permanent wetland boundary markers shall be shown on the plan submitted with an application for a conditional use permit and shall be installed during project construction.

Article 15 Definitions

- Section 10.1510 Rules of Construction**
- Section 10.1520 Terms With Specialized Applications**
- Section 10.1530 Terms of General Applicability**

Section 10.1510 Rules of Construction

- 10.1511 Unless otherwise expressly stated, the following words and terms shall have the meanings shown in this Article.
- 10.1512 When a term is defined both in this Article 15 and in another Article of this Ordinance, the definition in the other Article shall supersede the definition in Article 15. Examples include the definitions relating to Sexually-Oriented Businesses and Telecommunications Facilities in Article 5, and to the Flood Plain District and Airport Approach Overlay District in Article 6.
- 10.1513 Where terms are not defined in this Ordinance and are defined in the Building Code, such terms shall have the meanings ascribed to them therein.
- 10.1514 Where terms are not defined in this Ordinance or in the Building Code, such terms shall have ordinarily accepted meanings such as the context implies.

Section 10.1520 Terms With Specialized Applications

- 10.1521 Terms that are used primarily in Section 10.620, Flood Plain District, are defined in Section 10.622, including:
 - 100-year flood
 - Base flood
 - Base flood elevation (BFE)
 - Basement
 - Breakaway wall
 - Building *
 - Development
 - FEMA
 - FIRM
 - Flood insurance rate map
 - Flood insurance study
 - Flood or flooding
 - Flood plain
 - Flood-prone area
 - Flood proofing
 - Floodway
 - Highest adjacent grade
 - Lowest floor
 - Manufactured home
 - Mean sea level
 - New construction
 - Regulatory floodway
 - Special flood hazard area
 - Start of construction
 - Structure *
 - Substantial damage
 - Substantial improvement *
 - Water surface elevation
- * These terms are defined differently for Section 10.622 than for other sections of this Ordinance.

10.1522 Terms that are used primarily in Section 10.920, Wireless Telecommunications Facilities, are defined in Section 10.922, including:

- Antenna
- Co-location
- Provider or carrier
- Wireless telecommunications facility
- Wireless telecommunications facility, camouflaged
- Wireless telecommunications facility, concealed
- Wireless telecommunications facility, free-standing

10.1523 Terms that are used primarily in Section 10.930, Sexually-Oriented Businesses, are defined in Section 10.933, including:

- | | |
|---|-----------------------------|
| Adult arcade | Permittee or Licensee |
| Adult bookstore
or Adult video store | Semi-nude |
| Adult cabaret | Sexual encounter center |
| Adult theater | Sexually oriented business |
| Establishment | Specified anatomical areas |
| Nudity or state of nudity | Specified sexual activities |
| | Substantial enlargement |

10.1524 Terms that are used primarily in Article 12, Signs, are defined in Section 10.1290, including:

- | | |
|-----------------------------|-------------------------|
| Animated sign | Marquee |
| Awning sign | Marquee sign |
| Banner sign or banner | Monument sign |
| Canopy sign | New business sign |
| Changeable sign | Pennant sign or pennant |
| Direct illumination | Pole sign |
| Directional sign | Projecting sign |
| Directory sign | Roof sign |
| External illumination | Sign |
| Externally illuminated sign | Sign area |
| Freestanding sign | Sign band |
| Halo sign | Special event sign |
| Hanging sign | Temporary mobile sign |
| Informational sign | Temporary sign |
| Internal illumination | Window sign |
| Internally illuminated sign | |

10.1525 Terms that are used primarily in Article 5A, Character Districts, are defined in Sections 10.5A43.10, 10.5A43.70, 10.5A45.10 and 10.5A60, including:

Section 10.5A43.10 – Façade Types

Forecourt	Stoop
Officefront	Dooryard
Porch	Terrace
Recessed entry	Gallery
Shopfront	Arcade
Step	

Section 10.5A43.70 – Building Types

House	Cottage
Duplex	Paired House
Rowhouse	Gateway Townhouse
Apartment building	Mixed Use Building
Live/work building	Small Flex Space/Fabrication Building
Small commercial building	
Large commercial building	Community Building

Section 10.5A46.10 – Community Spaces

Greenway	Square
Park	Recreation Field or Court
Pedestrian Alley	Common or Green
Playground	Community Garden
Plaza	Outdoor Dining Café
Pocket Park	Courtyard

Section 10.5A60 – Definitions

Backbuilding	Front lot line buildout
Block	Liner building
Community space	Outbuilding
Entrance spacing	Path
Façade	Regulating Plan
Façade glazing	Streetscreen

Section 10.1530 Terms of General Applicability

A

Accessory building or structure

A subordinate building located on the same lot with the principal building, occupied by or devoted to an accessory use. Where an accessory building is attached to the main building in a substantial manner, as by a wall or roof, such accessory building shall be considered part of the main building. For the purpose of this Ordinance, a detached accessory dwelling unit is not an accessory building or structure.

Accessory dwelling unit (ADU)

A dwelling unit that is constructed on the same lot as a single-family dwelling and complies with the standards for accessory dwelling units set forth in this Ordinance.

Attached accessory dwelling unit (AADU)

An accessory dwelling unit that is constructed within or attached to a single-family dwelling. For the purpose of this definition, “attached” means:

- (a) located within the dwelling and separated from the principal dwelling unit either horizontally or vertically, or
- (b) sharing a common wall for at least 25 percent of the length of the side of the single-family dwelling.

“Attached” does not include connection to the single-family dwelling solely by an unenclosed structure (such as a breezeway) or by an enclosed but unconditioned space.

Detached accessory dwelling unit (DADU)

An accessory dwelling unit that is constructed within an accessory building on a lot containing one single-family dwelling. A detached accessory dwelling unit may be connected to the single-family dwelling by an unenclosed structure (such as a breezeway) or by an unconditioned space.

Accessory use

A use that is incidental and subordinate to the principal use and located on the same lot with such principal use or building.

Accessway

A privately owned roadway, sidewalk or passageway, whether improved or unimproved, utilized as a principal or accessory means of ingress or egress in connection with any use. An accessway shall be classified in the same manner as the use it serves. If an accessway serves more than one use, the accessway shall be deemed to serve the more intensive use and shall be classified accordingly.

Active Use Area

The land area within 35 feet of a dwelling unit, or other principal use, on the sides closest to the highway where patios, children's play areas, and outdoor activities are common.

Adjacent

Touching or sharing a common lot line, or separated from a lot line by a street, right-of-way, alley or easement.

Affordable

Housing with combined rental and utility costs or combined mortgage loan debt service, property taxes, and required insurance that do not exceed 30% of a household's gross annual income.

Affordable unit

A dwelling unit that is restricted for sale, lease or rental to households within specific income ranges and available at prices affordable to households within such income ranges.

Age-restricted housing

A residential development consisting of independent dwelling units restricted to occupancy by persons at least 55 years old, which may contain limited social or recreational facilities or services for the residents but which do not include centralized dining and on-site medical services. (See also: assisted living facility; congregate care facility; continuing care retirement community.)

Airport

An airstrip/landing strip where aircraft can land and take off and which is usually equipped with hangers, facilities for refueling and repair, accommodations for passengers, freight, etc.

Alteration

Any change, addition or modification in construction, use or occupancy of an existing structure.

Amusement Park

A commercially operated enterprise that offers rides, games, and other forms of amusement. (See also: water park, theme park.)

Area median family income

The median family income for the Portsmouth-Rochester NH HUD Metro Fair Market Rent Area (HMFA) published by the U.S. Department of Housing and Urban Development, as updated yearly and adjusted for family size.

Assisted living facility

A building or group of buildings providing housing and supportive services and care for persons who require assistance with daily living activities but do not require the skilled nursing and medical care provided in a nursing home or other residential care facility. Such supportive services include the provision of meals, housekeeping, laundry, transportation, daily personal care, dispensing of medications and 24 hours per day staffing. An assisted living facility includes one or more community dining rooms in which meals are provided to all residents, and each individual assisted living unit may also have a kitchenette. Other than any accommodations provided for use by the facility's staff, only assisted living units are permitted as part of an assisted living facility. (See also: age-restricted housing, congregate care facility, continuing care retirement community, residential care facility.)

Assisted living center

An assisted living facility that provides resident rooms or residential units to six or more residents.

Assisted living home

An assisted living facility that provides resident rooms to five or fewer residents

Assisted living unit

A unit in an assisted living facility or continuing care retirement community (CCRC) that provides housing and support services for one or more persons who may require assistance with daily living activities but do not require 24-hour skilled nursing and medical care. Such supportive services may include the provision of meals, housekeeping, laundry, transportation, daily personal care, programmed social activities, dispensing of medications and around the clock staffing. (See also: independent living unit.)

Attic

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

B

Bank

See financial institution.

Bar

See drinking establishment.

Base residential density

The number of dwelling units which could be constructed on a parcel by means of a conventional development plan, calculated as set forth in Section 10.723.

Bed and breakfast

The provision of short-term lodging and breakfast within an owner-occupied dwelling. The capacity of the dining facilities shall accommodate no more than 25 persons. (See also: hotel, motel, inn.)

Bed and Breakfast 1

A bed and breakfast with between 1 and 5 guest rooms.

Bed and Breakfast 2

A bed and breakfast with between 6 and 10 guest rooms.

Best management practice (BMP)

A practice or combination of practices that is determined to be the most technologically and economically feasible means of preventing or minimizing potential adverse impacts to natural and cultural resources. BMPs include structural and nonstructural controls and operation and maintenance procedures.

With respect to wetlands management, BMPs are practices to minimize disturbances and impact to the wetland resulting from activities that alter the natural character of the wetland.

Board

The Planning Board or the Zoning Board of Adjustment of the City of Portsmouth, New Hampshire. If not clear based on the context, the term shall refer to the Zoning Board of Adjustment.

Boarding house

A residential structure, other than a bed and breakfast, in which rooms are rented, leased or otherwise made available for compensation to more than two but not more than 10 individuals, and where such rooms do not contain separate cooking or bathroom facilities.

Building

Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of persons, animals or chattel. Each portion of a building separated either horizontally or vertically from other portions by a fire wall shall be considered as a separate structure. (See also: structure.)

Building block length

Measured along a street, public way, or public greenway, the building block length shall be the total length of a continuous building façade regardless of fire separation, common walls, or property lines. Individual building blocks shall be separated by open space or community space areas of at least 15 feet in width.

Building Code

The International Building Code and/or the International Residential Code, as applicable to the particular structure type.

International Building Code (IBC)

The International Building Code, published by the International Code Council, Inc., as adopted with amendments, additions and deletions as Chapter 12, Part I, of the Ordinances of the City of Portsmouth, and as amended from time to time by the City.

International Residential Code (IRC)

The International Residential Code, published by the International Code Council, Inc., as adopted with amendments, additions and deletions as Chapter 12, Part II, of the Ordinances of the City of Portsmouth, and as amended from time to time by the City.

Building coverage

The aggregate horizontal area or percentage (depending on context) of a lot or development site covered by all buildings and structures on the lot, excluding

- (a) gutters, cornices and eaves projecting not more than 30 inches from a vertical wall, and
- (b) structures less than 18 inches above ground level (such as decks and patios);
- (c) balconies, bay windows or awnings projecting not more than 2 feet from a vertical wall, not exceeding 4 feet in width, and cumulatively not exceeding 50% of the width of the building face;
- (d) fences; and
- (e) mechanical system (i.e. HVAC, power generator, etc.) that is less than 36 inches above the ground level with a mounting pad not exceeding 10 square feet.

Building footprint

The total area at or above 18 inches in elevation as measured from the outside walls at the grade plane of a detached building, or of two or more buildings separated only by fire walls, common walls or property lines.

Building height

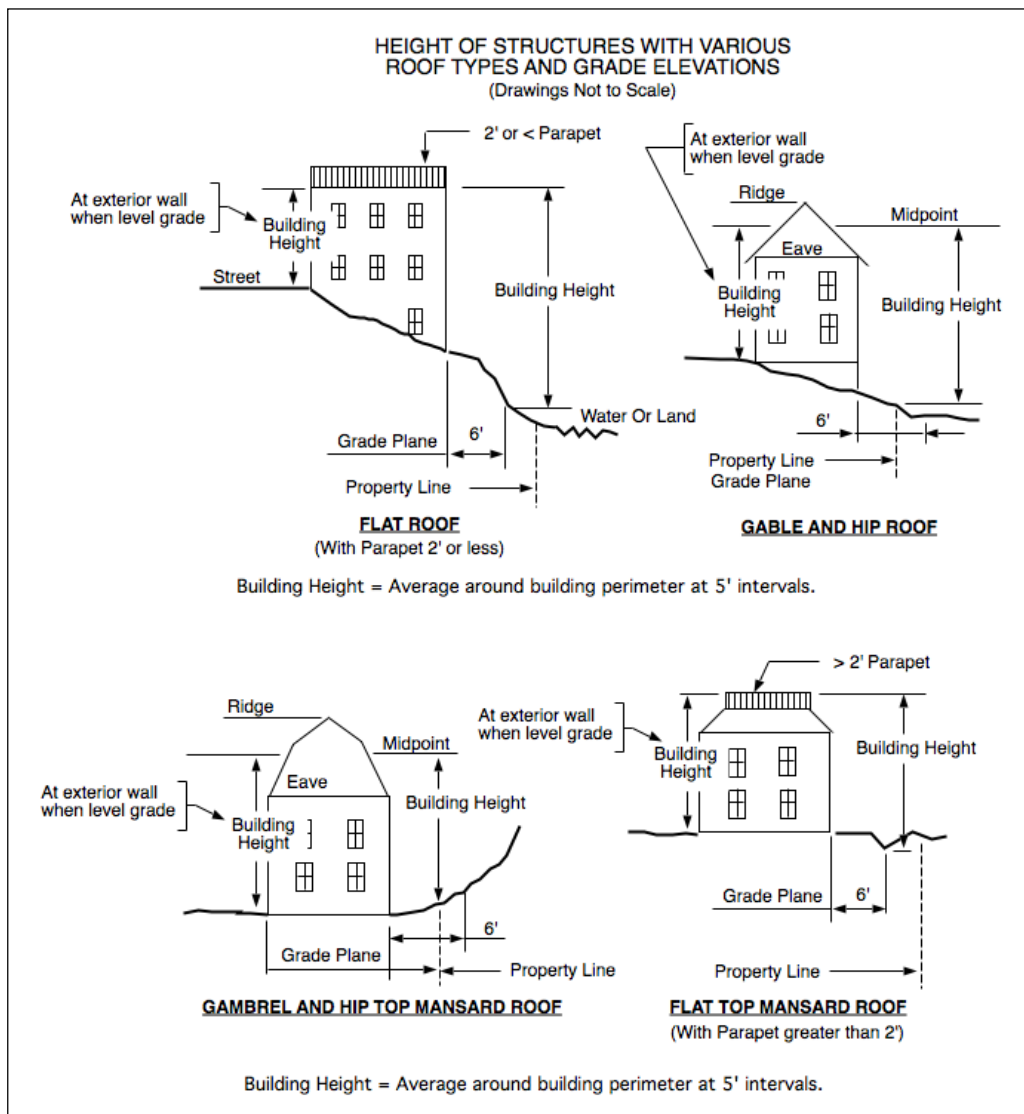
The greatest vertical measurement between two reference points defined as follows:

- (a) The lower reference point shall be the grade plane as defined herein.
- (b) The upper reference point shall be any of the following:
 - (1) For a flat or mansard roof, the highest point of the roof surface;
 - (2) For a pitched, hip, or gambrel roof, the elevation midway between the level of the eaves and highest point of the roof. For this purpose, the “level of the eaves” shall mean the highest level where the plane of the roof intersects the plane of the outside wall on a side

containing the eaves, but at no time shall this level be lower than the floor level of the uppermost story or attic

- (c) A parapet wall, fence, railing or similar structure that extends more than two feet above the roof surface shall be included in the determination of building height, but shall not be included if it does not extend more than two feet above the roof surface.
- (d) To determine building height, measurements shall be taken at least every 5 feet around the entire perimeter of a building. An average is calculated from these figures and that figure shall be the building's height for purposes of this Ordinance.

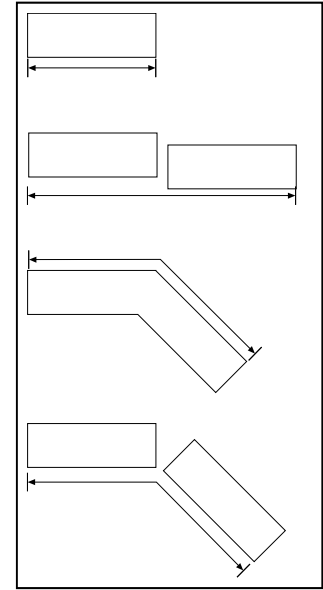
(See also: grade plane, parapet wall.)



Building length

The longest horizontal dimension of a building, as measured in a single straight direction parallel to an elevation of the building, except as follows:

- (a) Where buildings on the same site are separated by a distance of less than 10 feet, the building length shall be the total of the building lengths of each individual building, including the distance between them.
- (b) Where the interior angle between two elevations of a building, or between the elevations of two buildings separated by less than 10 feet, is 135 degrees or more, the building length shall be the total of the building lengths measured individually.



Building permit

A permit issued by a code official indicating that a proposed construction, alteration or reconstruction of a structure complies with the Building Code, and that a proposed use, building or structure is accordance with the Zoning Ordinance; and authorizing an applicant to proceed with said use, building or structure.

Bypass lane

A circulation lane to permit vehicles to circulate around a drive-through facility without conflicting with access to transaction windows or devices.

C

Call center

A centralized office used for the purpose of receiving and transmitting a large volume of telephone calls, such as incoming product support or information inquiries from consumers, or outgoing calls for telemarketing or debt collection. A call center does not include use of a facility for less than 6 months in a two-year period for a political campaign.

Car wash

An establishment for washing and waxing private automobiles, light trucks and vans including auto detailing services.

Caretaker residence

A dwelling unit that is accessory to and on the same lot as a nonprofit use, and that is provided for and limited to occupancy by a person employed to provide maintenance and security 24 hours per day for the principal use.

Certified wetland scientist

A person qualified to perform wetland delineation and certified by the New Hampshire Board of Natural Scientist pursuant to State law.

Clinic

A facility providing care and treatment for sick or injured human patients, not including a medical office, hospital or substance abuse treatment facility.

Outpatient clinic

A clinic providing care and treatment on an outpatient basis, including ambulatory care or similar medical services that generally require a stay of less than 24 hours, that does not include overnight care facilities.

Inpatient clinic

A clinic that may include overnight care facilities.

Club, fraternal or service organization

A building for gathering and entertainment by members of a non-profit membership organization, not to include rooms for overnight lodging or rooming.

Code official

Any employee of the City of Portsmouth authorized to administer or enforce the Zoning Ordinance, including but not limited to the Planning Director and the Chief Building Inspector.

Commercial fishing craft

Any marine craft used for commercial fishing.

Commercial vehicle

Any vehicle having a commercial license plate or used commercially.

Commercial passenger vessel

Any vessel carrying passengers for hire, such as a cruise ship, ferry, water taxi, excursion boat, party boat, charter boat or sport fishing boat (provided that the fish caught are not sold commercially); but not including a vessel used primarily for commercial carrying cargo, towing, dredging or salvage, or a vessel used for commercial fishing.

Congregate care facility

A residential development consisting of individual dwelling units with centralized amenities such as dining, housekeeping, transportation and organized social and recreational activities, and which may include limited medical services on site. (See also: assisted living facility; continuing care retirement community; age-restricted housing.)

Construction trailer

A structure used in conjunction with construction activities. Such structure shall include tractor trailers and similar structures which are used or are constructed in a manner as to permit daily occupancy and/or the storage of equipment and materials.

Contiguous

Adjoining or touching at a point or along a boundary.

Continuing care retirement community (CCRC)

A residential development that provides multiple elements of senior adult living including independent living units, assisted living units and skilled nursing care, enabling residents to live at a single location as their medical needs change over time. A CCRC includes common dining, recreation and health facilities and other common areas; provides services such as medical, programmed social activities; and may include limited accessory retail and personal services. A CCRC is intended for and solely occupied by persons 62 years of age or older and thereby qualifies as “housing for older persons” under state law. (See also: assisted living facility, congregate care facility, age-restricted housing.)

Contributing structure

A structure identified as a contributing structure in “An Architectural Survey of the Historic District of Portsmouth, NH”, dated June–September, 1982, prepared by the Portsmouth Advocates Inc., Woodard D. Openo, Survey Director.

Convenience goods

A retail establishment offering for sale prepackaged food products, household items and other goods and having a gross floor area of less than 2,500 square feet.

Convenience goods 1

A convenience goods establishment that does not sell food prepared on the premises for consumption off the premises.

Convenience goods 2

A convenience goods establishment that sells food prepared on the premises (excluding fried food) for consumption off the premises.

Cornice

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

Coverage

See building and open space coverage.

D

Day care facility

A facility operated daily where care, protection, and supervision are provided for persons regardless of age but excluding any psychiatric care.

Family day care facility

A day care facility, as an accessory use in a single residence, for up to 6 persons.

Group day care facility

A day care facility for more than 6 persons.

dBA

The sound pressure level in decibels that is frequency weighted to the A-scale according to a frequency response established by the American National Standards Institute (ANSI S1.4-1971) and that approximates the frequency response of the human ear.

Demolition

Razing or destruction, entirely or in part, of any exterior surface of a building or structure (including a monument, statue or memorial), whether or not reconstruction is planned after demolition. Demolition shall also include the removal of any building or structure in whole or in part from its present location.

Developable area

The total area of a single development site, which may include one or more lots, excluding all open water bodies, wetlands subject to this Ordinance, 100-year flood plains, slopes exceeding 15 percent, and areas subject to existing valid open space restrictions.

Development

Any man-made alteration of land, a lot, a building or other structure whether horizontal, vertical, surface or subsurface.

Depth of lot

See lot depth.

Drinking establishment

An establishment, other than a restaurant, serving alcoholic or non-alcoholic beverages for consumption on the premises. For purposes of this Ordinance, a drinking establishment may be a principal use or an accessory use, and a portion of the premises may be devoted to entertainment, which may include a dance floor, with either live or recorded music.

Bar or Tavern

A drinking establishment with an occupancy of less than 250 persons.

Nightclub

A drinking establishment with an occupancy of 250 or more persons.

Drive-through facility

A building, attached structure or portion thereof that provides products or services directly to a customer in a motor vehicle by means of a window or mechanical device.

Drive-through lane

A lane in which vehicles obtain service from transaction windows or devices at a drive-through facility.

Driveway

The area between the travelled portion of a street or road and a parking area used by motor vehicles for access to and from the parking area. A driveway does not include any maneuvering aisle or other circulation area within the interior of a parking area. Except for parking lots containing fewer than 7 off-street parking spaces, a driveway has no abutting parking spaces.

Dwelling

A building or portion thereof containing one or more dwelling units.

Single-family dwelling

A building consisting of a single dwelling unit.

Two-family dwelling

A building consisting of two dwelling units.

Multifamily dwelling

A building consisting of three or more dwelling units.

See also: townhouse, manufactured housing.

Dwelling, principal

A single-family dwelling on a lot on which an accessory dwelling unit or a garden cottage is allowed.

Dwelling unit

A building or portion thereof providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. This use shall not be deemed to include such transient occupancies as hotels, motels, rooming or boarding houses.

Dwelling unit, accessory

See accessory dwelling unit.

Dwelling unit, principal

A dwelling unit in a single-family dwelling that is not an attached accessory dwelling unit or a garden cottage.

E

Electronics manufacturing
See under Manufacturing.

Establishment
A single physical location where business is conducted or where services or industrial operations are performed. A company may have one or many establishments, and a building may contain one or many establishments.

F

Family
An individual living alone, or any of the following groups living together as a single housekeeping unit and sharing common living, sleeping, cooking and eating facilities:
(a) Two or more individuals related by blood, marriage, civil union, adoption or guardianship;
(b) Two or three individuals not related by blood, marriage, civil union, adoption or guardianship, along with one or more dependents related to any of them by blood, marriage, civil union, adoption or guardianship.

Family day care facility
See under day care facility.

Farm animal
Any animal other than a household pet as defined in this Ordinance.

Federal Manual
Corps of Engineers Wetland Delineation Manual, Wetlands Research Program Technical Report Y-87-1, U.S. Army Corps of Engineers.

Field Indicators
Field Indicators for Identifying Hydric Soils in New England, New England Interstate Water Pollution Control Commission (current edition).

Financial institution
An establishment where the principal business is the provision of financial, banking or lending services to consumers or clients including the receipt, disbursement or exchange of funds and currencies. May include all or one of the following uses:

Financial services office

An office associated with the operation of a financial institution that provides banking, lending, or investment services, but does not include teller services, automated teller machines, or similar high-volume customer functions.

Retail bank

An office associated with the operation of a financial institution that provides walk-in and/or drive-in teller services to customers primarily for depository banking and related services.

Automated teller machine (ATM)

An unattended electronic device that is activated by customers to conduct financial transactions. An ATM may be located on the outside of a building, or in an access-controlled entrance to a building, or within a principal use in a building, and may serve pedestrians or patrons in motor vehicles. An ATM servicing patrons in motor vehicles must meet the standards for drive-through establishments provided in this Ordinance. An ATM is permitted only as an accessory use to a related principal use, and is not permitted as a principal use or in a free-standing structure not attached to a principal use.

Fish market

Retail sales of (a) fresh or frozen fish, shellfish or lobster; or (b) baked, boiled or steamed fish, shellfish or lobster, or fish or seafood chowder, which may be prepared on the premises but shall not be consumed on the premises.

Fish preparation

The secondary preparation of fin fish by filleting, skinning and/or cutting. (See also: fish processing.)

Fish processing

The primary preparation of fin fish by gutting and/or heading in preparation for the secondary preparation of filleting, skinning and cutting. (See also: fish preparation, food processing.)

Fishing boat landing

Landing of commercial fishing craft.

Fishing boat landing 1

Landing of no more than two commercial fishing craft used by no more than two persons per boat, with no fish preparation, fish processing, or sales of fish or sea-related products.

Fishing boat landing 2

Landing of commercial fishing craft, without limitation on either the number of boats or the number of persons per boat, which may include fish preparation in an enclosed building by no more than five persons.

Flat roof

A roof with a slope of less than 1:4 for more than 50% of the roof area.

Floodlight or spotlight

Any lighting fixture or lamp that is that incorporates a reflector or a refractor to concentrate the light output into a directed beam in a certain direction.

Floor area ratio (FAR)

The ratio of the gross floor area of all buildings on a lot to the lot area.

Food processing

The preparation or processing of food or beverage products, but not including consumption on the premises. Examples include bakeries, dairies, canneries, bottling plants and similar businesses. (See also: fish processing.)

Foot-candle

A measure of light falling on a given surface. One foot-candle is equal to the amount of light generated by one candle shining on a square foot surface one foot away. One foot-candle is one lumen per square foot.

Foreign trade zone

An area established wherein component parts for electric products, watches, automobiles, etc. may be imported initially duty free, such duty being postponed until the finished product enters the larger American market.

Frontage

The horizontal distance measured along a lot line dividing a lot from a street. Such measurement shall refer to a continuous line except where otherwise specified.

Full-cutoff

A lighting fixture with a shield such that all of its light output is aimed below horizontal to the ground. Full-cutoff fixtures cut off all upward transmission of light.

Furniture and home furnishing store

An establishment for retail sales of home or office furniture, carpets, mattresses, or similar items that require extensive floor area for the display of merchandise.

G

Garage

An area within a principal building or outbuilding that provides space for parking vehicles as an accessory use. Not synonymous with parking structure. (See also: parking lot, parking structure, underground parking level.)

Garden cottage

A dwelling unit that is constructed through conversion of an accessory building on the same lot as a single-family dwelling and complies with the standards for garden cottages set forth in the Ordinance.

Glare

Excessive brightness in the field of view that is sufficiently greater than the brightness to which the eyes are adapted, to cause annoyance or loss in visual performance and visibility, so as to jeopardize health, safety or welfare.

Grade plane

A reference plane representing the average of finished ground levels adjoining the building at all exterior walls. When the finished ground level slopes away from exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or, when the lot line is more than 6 feet from the building, between the building and a point 6 feet from the building. (See also building height.)

Gross floor area (GFA)

The sum of the areas of the several floors of a building or buildings as measured by the exterior faces of the walls, but excluding the areas of fire escapes, unroofed porches or terraces, and areas such as basements and attics exclusively devoted to uses accessory to the operation of the building. If the exterior walls are greater than 6 inches thick, then the gross floor area shall be adjusted to a maximum of a 6-inch thick wall.

Ground floor or story

Any floor or story of a building in which the floor is less than six feet above or below the finished grade at any street entrance of the building. Under this definition a building may have more than one ground floor or story.

Group day care facility

See under day care facility.

H

Helipad

An area of land, water, or a structure designated for the occasional landing and takeoff of helicopters but not used solely for that purpose, and not including facilities for helicopter fuel, service, maintenance or overhaul, or sale of products.

Heliport

An area of land, water, or a structure used or intended to be used for the landing and takeoff of helicopters, together with appurtenant buildings and facilities.

High hazard use

Any use which is defined by the Building Code as H-1, H-2, H-3, H-4 or H-5.

High hazard use A

A high hazard use which presents a detonation hazard (Use Group H-1) or which presents a deflagration hazard or a hazard from accelerated burning (Use Group H-2).

High hazard use B

A high hazard use which contains materials that readily support combustion or present a physical hazard (Use Group H-3), or which contain materials that are a health hazard (Use Group H-4).

High hazard use C

A semiconductor fabrication facility or comparable research and development area in which hazardous process materials are used (Use Group H-5).

Highest observable tide line

A line defining the furthest landward limit of tidal flow, not including storm events, which can be recognized by indicators such as the presence of a strand line of flotsam and debris, the landward margin of salt tolerant vegetation, or a physical barrier that blocks further flow of the tide.

Historic preservation building or structure

A building or structure that has historic significance and is owned or maintained by a non-profit agency for the purposes of preservation.

Home occupation

An office or other use customarily conducted as an accessory use to a dwelling, complying with all the following standards:

- (a) Conducted entirely within a dwelling or an existing accessory building, and with no change to the character of the dwelling or accessory building;
- (b) Maximum floor area of 300 square feet;
- (c) No outdoor storage of materials or products;
- (d) Outdoor parking of no more than one vehicle related to the home occupation;
- (e) No deliveries by vehicles with more than two axles.

Home occupation 1

A home occupation with no nonresident employees; no sign related to the business; no client, vendor or general public visitation; and no deliveries other than by regular postal service and no more than one package delivery service truck (e.g., FedEx, UPS, etc.) per day.

Home occupation 2

A home occupation with not more than one nonresident employee.

Hospice

See residential care facility.

Hospital

A facility licensed to provide care and treatment for sick or injured patients, primarily while they are acutely ill or chronically ill, containing facilities for diagnostic treatment and major surgery, and providing nursing care 24 hours a day. The term does not include nursing home, rest home, home for the aged, sanatorium, convalescent hospital or facility for treating alcohol or drug abuse, or beds set aside for any of these purposes in a hospital. The term includes a psychiatric hospital but does not include a psychiatric hospital for the care and treatment of the criminally insane. A hospital may include other uses customarily associated with the principal use, including medical offices, pharmacies, gift shops and cafeterias. (See also: clinic, residential care facility.)

Hotel

A building in which the primary use is transient lodging accommodations offered to the public on a daily rate for compensation and where ingress and egress to the sleeping rooms is made primarily through an inside lobby or office, supervised by a person in charge at all hours. Such facilities may include, where allowed, such accessory uses as restaurants, bars, taverns, nightclubs, function rooms, places of public assembly or recreational facilities, but shall not include casino gambling, keno or other forms of gambling. (See also: motel.)

Household pet

A small animal that is customarily kept on residential premises for company or pleasure. Examples include dogs, cats, rabbits, birds and fish.

Hydric soil

Soil that is saturated or flooded during a sufficient portion of the growing season to develop anaerobic conditions in the upper soil layers, as further defined in the Federal Manual.

Hydrophytic vegetation

Macrophytic plant life growing in water, in soil, or on a substrate that is at least periodically deficient in oxygen as a result of excess water content, as further defined in the Federal Manual.

I

IBC

The International Building Code (see Building Code).

Illuminance

The amount of light falling on a surface measured in foot-candles.

Illumination

The act of lighting a surface or area.

Impact fee

An impact fee as defined by state law, as may be amended from time to time.

Impervious surface

Any modified surface that cannot effectively absorb or infiltrate water. Impervious surfaces include, but are not limited to, roofs and paved areas such as driveways, parking areas and walkways. Impervious surfaces also include decks, patios and gravel or crushed stone surfaces unless such structures or surfaces have been designed to effectively absorb or infiltrate water.

Impound lot

A facility that provides temporary outdoor storage for vehicles that are to be claimed by titleholders or their agents.

Independent living unit

A dwelling unit in a continuing care retirement community (CCRC), in which residents live independently while having access to all common facilities and services of the CCRC, but without the inclusive supportive services typically associated with Assisted Living or Skilled Nursing units. (See also: assisted living unit, continuing care retirement community.)

Industrial use

The use of a building, structure or lot for assembling, fabricating, finishing, manufacturing or packaging. Industrial uses are classified as electronics manufacturing, general manufacturing, light industry, or research and development.

Electronics manufacturing

Research and development, engineering and manufacturing of electronic products and components, including communications equipment, data systems equipment and precision instruments; pharmaceutical, medical and dental supplies and equipment; architectural and engineering supplies and equipment; and additive research. No such use shall be classified as high hazard use A or high hazard use B.

General manufacturing

A facility for industrial use that is not classified as light industry, electronics manufacturing, or research and development.

Light industry

A facility that (a) works predominantly with previously prepared, manufactured, or processed materials or parts; (b) may include assembly, fabrication, accessory research and development, office uses, most high technology production, packaging, or combinations of such uses; (c) does not result in significant noise, glare, odor, dust, smoke, or vibration which could be detectable beyond the building; and (d) does not include uses classified as H3 or H4 in the Building Code.

Research and development

Laboratories and related facilities for research, development and testing, excluding biological or chemical laboratories and high hazard uses. Prototype production facilities and related assembly of high technology equipment or components may be included, but shall not exceed 40 percent of the gross floor area of the building.

Inn

A building offering lodging for transient boarders with up to 15 sleeping rooms. An inn may have a caretaker residence but does not have to be occupied by the owner, and shall not serve food to the public. (See also: bed and breakfast, hotel, motel.)

IRC

The International Residential Code (see Building Code).

J

Junk

Scrap iron, scrap tin, scrap brass, scrap copper, scrap lead or scrap zinc and all other scrap metals and their alloys, and bones, rags, used cloth, used rubber, used rope, used tinfoil, used bottles, old or used machinery, used tools, used appliances, used fixtures, used utensils, used lumber, used boxes or crates, used pipe or pipe fittings, used automobiles or airplane tires, and other manufactured goods that are so worn, deteriorated or obsolete as to make them unusable in their existing condition, but are subject to being dismantled.

Junk yard

The use of any lot, whether inside or outside a building, for the storage, keeping or abandonment of junk.

K

Kennel

An establishment in which a primary use is housing dogs, cats, or other household pets, and/or grooming, breeding, boarding, training, or selling of animals.

L

Landside support facility

A facility on land for supporting the operation of a commercial passenger vessel, including vehicular parking for employees and customers, passenger ticketing and processing, administrative office space, baggage handling, shower and restroom facilities, docking, maintenance and utility extensions.

Large format retail sales

See retail sales, large format.

Lamp

The component of a luminaire that produces the actual light.

Landscaping

The improvement of a lot, parcel or tract of land with grass and shrubs and/or trees. Landscaping may include pedestrian walks, flower beds, ornamental objects such as fountains and statuary, and other similar natural objects.

Leg(h) [hourly equivalent sound level]

The equivalent, steady-state A-weighted sound level that in one hour contains the same acoustic energy as the time-varying sound level during the same period. This is the average noise over one hour adjusted for human hearing.

Loudest traffic hour sound level

The Leg(h) associated with the loudest highway traffic hour.

Lawful nonconforming

See nonconforming.

Light, Lighting

Accent lighting

Directional lighting to emphasize a particular object or to draw attention to a part of the field of view.

Decorative lighting

Any exterior lighting used for decorative effects, including, but not limited to architectural illumination, flag and monument lighting, holiday decoration, and illumination of landscaping.

Direct light

Light emitted directly from the lamp, off of the reflector or reflector diffuser, or through the refractor or diffuser lens of a luminaire.

Indirect light

Direct light that has been reflected or scattered off of other surfaces.

Light trespass

The shining of light produced by a luminaire beyond the boundaries of the property on which it is located.

Lighting fixture

The assembly that houses the lamp or lamps.

Outdoor lighting

The illumination of an outside area or object by any man-made device located outdoors that produces light by any means.

Temporary lighting

Lighting which will not be used for more than one thirty (30) day period with at least 180 days passing before being used again. Temporary lighting is intended for uses which by their nature are of limited duration including, but not limited to, holiday decoration, civic events, or construction projects.

Light truck

A truck of 10,000 pounds gross vehicle weight rating or less, including a pickup, van, truck-based station wagon or sport utility vehicle.

Live/work unit

A dwelling unit which includes a nonresidential use that is otherwise allowed in the zoning district in which the unit is located and that is operated by the resident of the dwelling unit, and which complies with the following standards:

- (a) The live/work unit shall not exceed 3,000 sq. ft. gross floor area.
- (b) The nonresidential area shall be between 25 percent and 50 percent of the gross floor area of the unit.
- (c) The nonresidential area shall be limited to the first or main floor only of the live/work unit.
- (d) No workers shall be employed or occupied in the nonresidential use other than residents of the live/work unit.
- (e) The live/work unit shall not include any high hazard use, and shall not include any storage use exceeding 10 percent of the space dedicated to nonresidential activities.

Living shoreline

Any shoreline management system using native vegetation, alone or in combination with offshore sills, to stabilize the shoreline without interrupting the natural water/land continuum to the detriment of natural shoreline ecosystems.

Lot

A single parcel of land in the same ownership throughout as shown or defined on a recorded instrument or defined by metes and bounds and having its principal frontage on a street or on such other means of access as may be determined in accordance with the provisions of law to be adequate as a condition of the issuance of a building permit for building on such land.

Corner lot

A lot having frontage on two intersecting streets, including their point of intersection.

Through lot

A lot having frontage on two more or less parallel streets. On a through lot, both street lines shall be deemed to be front lot lines.

Lot area

The total horizontal area included within the property lines.

Lot depth

The average horizontal distance between the front lot line and the rear lot line as measured along both side property lines.

Lot line

A property line bounding a lot.

Lot line, front

A boundary of lot that separates the lot from a street or public place. In the case of a corner lot or waterfront lot, the front lot line shall be the line bordering the street on which the lot has its address. A corner lot or a through lot shall have two front lot lines.

Lot line, rear

A boundary of a lot that is opposite and most distant from the front lot line. If the rear lot line is less than 10 feet in length, or if the lot forms a point at the rear, the rear lot line shall be deemed to be a line 10 feet in length within the lot, parallel to and at the maximum distance from the front lot line.

Lot line, side

Any boundary of a lot that is not a front lot line or a rear lot line.

Low impact development (LID)

A stormwater management approach that emphasizes conservation and use of natural features integrated with engineered, small-scale hydrologic controls to mimic predevelopment hydrologic conditions. LID is applied at the parcel and subdivision scale and uses design techniques that infiltrate, filter, store, evaporate, and detain runoff close to its source.

Lumen

A measure of light energy generated by a light source. One foot candle is one lumen per square foot. For the purposes of this Ordinance, the lumen output values shall be the initial lumen output rating of a lamp.

Luminaire

A complete lighting system including lamp or lamps and a lighting fixture.

Luminaire height

The vertical distance from the ground directly below the centerline of a luminaire to the lowest direct-light-emitting part of the luminaire.

M

Mansard roof

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

Maneuvering aisle

A travel lane located within the perimeter of a parking lot by which motor vehicles directly enter and leave parking spaces.

Manufactured housing

Any structure, transportable in one or more sections, which, in the traveling mode, is 8 body feet or more in width and 40 body feet or more in length, or when erected on site, is 320 square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, which include plumbing, heating and electrical systems contained therein. Manufactured housing does not include housing built in conformance with the United States Department of Housing and Urban Development minimum property standards or the IBC.

Manufactured housing park

A single lot containing more than one manufactured housing unit, with or without an internal road system or amenities.

Manufacturing, electronics

See under Industrial use.

Marina

A waterfront facility that provides docking, mooring, and/or wet or dry storage of pleasure boats for a fee, and that may also provide one or more of the following: (a) sales of marine supplies, parts and fuel; (b) boat service and repair; (c) boat sales, rental or charter; and (d) as an accessory use, sales of provisions for pleasure boats. A yacht club shall be considered a marina. Boat docks accessory to a dwelling shall not be considered a marina.

Marine dependent

Dependent on the ocean or the Piscataqua River for transport, resources, processing, production or cooling.

Marine-related retail

Retail sales of marine goods, groceries and ice.

Maximum occupancy

The occupant load of a building or portion thereof as determined in accordance with the Building Code.

Medical office

See office, medical.

Micro-unit

A dwelling unit with a gross floor area of 400 square feet or less in a multifamily dwelling.

Mixed-use development

A development project that includes a mix of (a) residential and non-residential uses, or (b) office and retail/service uses. The uses may be combined in one building (“vertical mixed use”) or may consist of multiple buildings with different uses on one development site (“horizontal mixed use”).

Motel

A building or group of detached or connected buildings intended or used primarily to provide sleeping accommodations to the public on a daily rate for compensation and having a parking space generally located adjacent to a sleeping room with each sleeping room discharging directly outdoors. Such facilities may include, where allowed, such accessory uses as restaurants, bars, taverns, nightclubs, function rooms, places of public assembly or recreational facilities, but shall not include casino gambling, keno or other forms of gambling. (See also: hotel.)

Motor vehicle accessory sales and service

The sales, installation, and repair of interior motor vehicle accessories such as audio, alarm and navigation systems.

Motor vehicle painting or body work

The repair or straightening of motor vehicle bodies or frames, or painting of motor vehicles or motor vehicle parts. Maintenance, service and engine repair may be performed as an ancillary function of the body work.

Motor vehicle repair

The repair, overhaul, removing, adjusting, replacing or assembling, disassembling, or installing new or used motor vehicle parts such as mufflers, brakes, or tires.

Motor vehicle service station

An establishment that sells fuel (including but not limited to gasoline, diesel, natural gas, electricity or hydrogen) to individual vehicles. A motor vehicle service station may include the following:

- retail sale of propane and kerosene;
- retail sale of products required for motor vehicle maintenance such as oil, transmission fluid, brake fluid, polish, wax, fuel additives and treatments, wipers, tires, batteries, windshield wiper fluid, cleaning fluids and similar items;

- minor automotive maintenance such as the addition of fluids, replacement of wiper blades and similar activities; and
- retail sale of over-the-counter consumer merchandise.

Motor vehicle service station 1

A motor vehicle service station that includes not more than 12 square feet of display area for the retail sale of consumer merchandise, and that does not include any of the following:

- motor vehicle repair;
- motor vehicle painting or body work;
- motor vehicle sales, leasing or rental;
- outdoor storage or display of vehicles, boats, automobile parts or other merchandise, except for (a) small sample displays of automotive accessory items or (b) batteries or tires located adjacent to the principal building or on the pump islands.

Motor vehicle service station 2

A motor vehicle service station that include the activities and limitations of motor vehicle service station 1 and also includes motor vehicle repair.

Motor vehicle service station 3

A motor vehicle service station that includes the activities and limitations of motor vehicle service station 1 and also includes sale of convenience goods 1 or 2.

Municipal trail

A full public right-of-way of indefinite duration subject to public trail use restrictions, and classified as a Class A or Class B trail by the City Council pursuant to RSA Chapter 231-A.

Museum

A non-profit permanent institution, open to the public, which acquires, conserves, researches, exhibits, and interprets objects having scientific, historical or artistic value. Museums may include exhibit and display areas, libraries and research areas, administrative offices, areas for constructing exhibits, and storage areas for museum materials, artifacts and objects. Accessory uses may include retail sales, food services for museum visitors or others, manufacturing for museum purposes, and events such as craft demonstrations, receptions, and periodic celebrations, provided that all such accessory uses are incidental and subordinate to the primary non-profit museum use.

N

Nightclub

See drinking establishment.

Noise barrier

A noise wall, an earth berm, or a noise wall in combination with an earth berm, that obstructs the path of sound from the sound source to the sound receiver.

Noise mitigation

Reduction of the noise that is transmitted from a noise source to a receiver as a result of distance, natural features, noise barriers, or other structures.

Noise sensitive land use

Residential use, institutional residence or residential care facility, hospital, lodging establishment, places of assembly, library, school, and day care facility.

Nonconforming lot, building, structure, or use

Lawful nonconforming lot

A single lot of record which does not conform to a dimensional requirement set forth in this Ordinance and applicable to the district in which it is located (such as minimum lot area or frontage), but which conformed to all requirements of the Zoning Ordinance in effect at the time the lot was created; or a single lot of record created by legislative or judicial decision which does not conform to a dimensional requirement.

Lawful nonconforming building or structure

A building or structure which does not conform to a dimensional requirement set forth in this Ordinance and applicable to the district in which it is located (such as maximum building height or building coverage, or minimum yards or open space), but was legally existing at the time that such requirement took effect.

Lawful nonconforming use

A use of land, building, structure or parts thereof, which does not conform to the use requirements of this Ordinance or its amendments but was legally existing prior to the adoption of this Ordinance, or at the time a district was changed by amendment thereafter.

Nursing home

See residential care facility.

O

Occupant load

The total number of persons that may occupy a building or portion thereof (including outdoor decks) at any one time, calculated in accordance with the Building Code.

Office

A place of business where professional or clerical duties are performed.

General office

An office for the carrying on, conducting or managing of a business or for the practice of a profession, except for a medical office as defined in this Article.

Medical office

An office of a physician, dentist, psychologist, optometrist or other licensed health care provider, which does not include any hospital or ambulatory surgical care facilities.

Off-street parking

Parking that is totally located off the public right-of-way.

Open space

Land area vertically open to the sky, free of all structures, parking area/lots, driveways and other uses which preclude attractive landscaping in such area. Open space shall be predominantly pervious, may be landscaped with lawn, trees, shrubs or other planting, and may include walks and terraces. For the purposes of this definition, water areas are considered to constitute open space.

Open space coverage

The aggregate horizontal area or percentage (depending on context) of a lot or development site covered by open space.

Outdoor activity areas

Residential yards, gardens, patios, pools, etc.; private and public play areas.

Outdoor recreation use

An area designed and intended to be used for active outdoor recreation, including but not limited to athletic fields, golf courses, tennis courts and swimming pools; but not including activities involving the use of motorized equipment or firearms, and not including amusement parks, theme parks, water parks or similar establishments.

Outdoor lighting

See under lighting.

Outdoor storage

Storage of materials on a lot without benefit of a structure with four walls and a roof to protect said material from the elements. This definition shall not be deemed to include the outside storage of junk (regulated separately) or as a temporary structure.

Overlay district

A zoning district that is superimposed over portions of one or more underlying zoning districts in order to apply additional or modified standards addressing a special purpose, such as historic preservation or flood plain protection.

P

Parapet wall

That part of an exterior wall extending entirely above the roof surface.

Parking lot

A ground-level open area within a lot for parking vehicles as a principal use or accessory use. (See also: garage, parking structure, underground parking level.)

Parking structure

A structure containing multiple stories of parking as a principal use or accessory use. (See also: garage, parking lot, underground parking level.)

Penthouse

A habitable space within the uppermost portion of a building above the cornice which is set back at least 15 feet from all edges of the roof and the total floor area of which does not exceed 50% of the area of the story below. For internal courtyards at least 40 feet from a street or vehicular right-of-way or easement, the penthouse shall be setback at least 8 feet from the edge of the roof of the story below.

Performance facility

A building or an area that is designed, intended or used primarily for musical, dance, dramatic or other performances.

Indoor performance facility

A performance facility located entirely within a building or structure, such as a theater (excluding a commercial cinema) or auditorium.

Outdoor performance facility

A performance facility not located entirely within a building or structure.

Permanently moored vessel (PMV)

A vessel that has been removed from navigation and is not inspected by the Coast Guard. A PMV is either “substantially a land structure” or cannot be moved except on a deliberate basis where extensive effort and equipment would be required. PMVs include both vessels that would have received a Coast Guard certificate of inspection had they stayed in navigation, and vessels whose utilities and services (e.g., water, sewage, electrical, etc.) are tied directly to facilities on land.

Person

An individual, proprietorship, partnership, corporation, association, or other legal entity.

Personal services

Establishments providing frequent or recurrent services related to personal needs, and including accessory retail sales of products related to the services offered. Examples include beauty and barber shops, nail salons, tanning salons, clothing rental, tailors, dry cleaning pick-up shops, garment and shoe repair shops, and similar businesses.

Place of assembly

A building used in whole or in part for the gathering together of persons for such purposes as deliberation, entertainment, amusement, or religious services, or for awaiting transportation. A place of worship is a place of assembly.

Place of worship

A church, synagogue, temple, mosque or other facility that is used primarily for conducting formal religious services on a regular basis.

Planned unit development (PUD)

A coordinated development of a large parcel that allows more flexibility than a conventional subdivision in the siting of buildings, open space, streets and infrastructure.

Open space planned unit development (OS-PUD)

A PUD in which residential dwelling units are clustered so as to preserve natural features and create usable open space.

Residential density incentive planned unit development (RDI-PUD)

A PUD in which the allowable residential development intensity is increased based on the provision of dwelling units that will be restricted for sale or rental at below-market prices.

Portico

A small porch composed of a roof supported by columns, often found in front of a doorway.

Principal building

The primary building on a lot which contains one or more principle uses.

Principal use

The primary use on a lot, which may have accessory uses.

Q

Quarry, Sand Pit, Gravel Pit, Top Soil Stripping

A lot or land or part thereof used for the purpose of extracting stone, sand, gravel or top soil for sale, as an industrial operation, and exclusive of the process of grading a lot preparatory to the construction of a building, for which application for a building permit has been made to the Code Official.

R

Rail transport

The transportation by rail of goods or passengers, including such infrastructure and facilities as tracks, sidings, signals, shops and yards for maintenance and storage of rail machinery, loading platforms, and passenger and freight terminals.

Rail trail

A multi-purpose public path (paved or natural) created within an abandoned rail corridor right-of-way.

Rail with trail

A shared-use path that is located on or directly next to an active railroad corridor.

Recreational vehicle

A vehicle which is (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) designed to be self-propelled or permanently towable by a light duty truck; and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

Recycling facility

A building or yard area in which used material is separated and processed prior to shipment to others who will use those materials to manufacture products. A junk yard is not deemed to be a recycling facility. A recycling facility shall not be a high hazard use B.

Recycling plant

A facility that is not a junk yard and in which recoverable resources such as newspapers, magazines, books, other paper products, glass, aluminum, metal cans, plastic, and other similar products are recycled, reprocessed and treated to return such products to a condition in which these may be used for production. A recycling plant shall not be a high hazard use B.

Reference line

For a fresh water body, the natural mean high water level as defined by state law; for coastal waters, the highest observable tide line; and for a river or stream, the ordinary high water mark as defined by State law.

Research and development

See under Industrial use.

Residential care facility

A facility providing room and board together with continuing medical or nursing supervision, or medical care or treatment, but not including a facility that is primarily for the provision of alcohol, drug abuse or mental health services. Examples include nursing home, rest home, convalescent home, rehabilitation hospital, and hospice. (See also: assisted living facility, continuing care retirement community, hospital.)

Restaurant

An establishment in which food is prepared on the premises and served to customers. (See also: bar, nightclub and tavern)

Fast food restaurant

A restaurant where food or beverage is sold for consumption on-site or off-premises within a short period of time, orders are made at either a walk-up window or counter, payment is made prior to consumption, and packaging of food is done in disposable containers, or is otherwise not a "full service restaurant." A fast food restaurant may provide, as secondary activities, delivery service or related retail sales items.

Full-service restaurant

A restaurant where prepared food is sold for consumption on the premises, customers are provided an individual menu, and a restaurant employee serves customers at the same table or counter where the items are consumed. A full-service restaurant may also provide, as secondary activities, delivery service, take out service (except drive-up customer service) or related retail sales items.

Take-out restaurant

A restaurant that offers prepared food for consumption entirely off the premises, with no drive-through facility.

Retail sales

The sale or rental of goods or merchandise directly to the consumer, including services incidental to the sale of such goods or merchandise, but excluding sale or rental of motor vehicles, recreational vehicles, marine craft and manufactured housing.

Large format retail sales

A retail sales building, other than a shopping center, that is larger than 50,000 square feet gross floor area.

Roof appurtenance

A device or structure not designed for human occupancy, attached to the exterior of the roof of a building, such as a stair or elevator tower, cooling tower, mechanical equipment housing, storage tank, antenna or similar equipment.

S

School, Post-Secondary

A facility or establishment providing full-time or part-time education or training beyond the high school level or whose students are usually age 18 or older. Examples include colleges, community colleges, business schools and trade schools.

School, Primary or Secondary

A school approved by the New Hampshire State Board of Education in which the subjects taught are those prescribed by the state board for the grades kindergarten through 12 of the public schools, including any schools recognized by the state board as an elementary, middle, junior high or high school.

Self-service storage facility

A building or group of buildings in a fenced compound with controlled access and which contains varying sizes of individual, compartmentalized stalls or lockers that are used for the storage of customer's personal property, goods or wares.

Setback

The required distance between a structure or use and a specified reference point such as a use, lot line, zoning district boundary, wetland or water body. (See also: yard.)

Shopping center

An integrated group of commercial establishments that is planned, developed, owned and managed as a unit. Uses in a shopping center may be in one or more buildings and on one or more lots, provided that all buildings and lots are developed with a unified approach to access and circulation, parking, truck loading, vehicular entrances and exits, drainage, utilities, and management of landscaped and buffer areas.

Sidewalk

A pedestrian way paved with concrete, bricks, pavers or other material, which is parallel and adjacent or close to the front lot line, and which is either within the public right-of-way or within an easement for public access.

Sign

See Section 10.1290 for all sign-related definitions.

Skilled nursing care unit

A nursing bed or individual room in a continuing care retirement community (CCRC) or residential care facility which provides board, shelter and 24-hour skilled nursing and medical care to a single chronic or convalescent patient.

Sloped roof

A roof with a slope of 1:4 or more for at least 50% of the roof area.

Social service campus

A facility owned by a not-for-profit entity, containing one or more uses in a planned campus, designed to support or promote the welfare of the community and the health and well-being of individuals within the community.

Social service campus, residential

A social service campus which includes dwelling units or other overnight living facilities.

Stacking lane

An area of stacking spaces and driving lane(s) provided for vehicles waiting for drive-through service, which is physically delineated and distinct from other traffic and pedestrian circulation on the site.

Stacking space

An area within a stacking lane for vehicles waiting to initiate and/or complete a drive-through transaction.

Street

A thoroughfare or roadway which is either

- (a) formally accepted by the City, or
- (b) shown on a subdivision plan approved by the Planning Board and constructed to City subdivision specifications or for which surety has been posted to guarantee construction of all improvements required by the Planning Board.

Storage trailer

Any operable or inoperable vehicle, truck or tractor trailer (with or without the cab) located on a lot for more than 30 days in a calendar year.

Story

That portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above. It is measured as the vertical distance from top to top of two successive tiers of beams or finished floor surfaces and, for the topmost story, from the top of the floor finish to the top of the ceiling joists or, where there is not a ceiling, to the top of the roof rafters. For the purpose of determining the number of stories in a building, a story above grade plane shall count as a full story. An attic, half story or penthouse shall not be counted as a story, but a short story shall be counted as a story. (See also: building height, grade plane, half story, short story, and story above grade plane)

Half Story

A story immediately below a roof in which the floor area with a ceiling height of 7 feet or more is not greater than 50 percent of the total floor area of the story below.

Short story

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

Story Above Grade Plane

Any story having its finished floor surface entirely above grade plane, or in which the finished surface of the floor next above is more than 6 feet above grade plane, or more than 12 feet above the finished ground level at any point.

Story height

The floor to floor distance between finished floors.

Structure (including roof structure)

Any production or piece of work, artificially built up or composed of parts and joined together in some definite manner. Structures include, but are not limited to, buildings, fences over 4 feet in height, signs, and swimming pools. (See also: temporary structure.)

Structure height

See building height.

Substance abuse treatment facility

A facility that represents or advertises itself as an alcohol abuse or drug abuse treatment program and that provides treatment, care or rehabilitation for individuals who show the effects of drug abuse or alcohol abuse.

Superinsulated

Designed and constructed to achieve a noise level reduction of more than 20 dBA Leq(h) between outdoor and indoor noise levels.

Sustainability

The characteristics defined for sustainable development.

Sustainable

Having the characteristics of sustainable development.

Sustainable development

Development that conserves land, protects natural and historic resources, combines multiple land uses at various scales (site, neighborhood, and city), and promotes equitable sharing of the benefits and burdens of development.

Sustainable development includes the following characteristics:

- (1) Efficient use of land, energy, water, and materials;
- (2) Reuse of existing sites, structures, and infrastructure, including remediation where necessary;
- (3) Protection and restoration of environmentally sensitive lands, natural resources, wetlands and water resources, and cultural and historic landscapes;

- (4) Promotion of pedestrian-friendly districts and neighborhoods;
- (5) Provision of housing to meet the needs of people of all abilities, income levels, and household types;
- (6) Maintenance and expansion of the quantity, quality and accessibility of open spaces and recreational opportunities;
- (7) Support for transportation options that maximize mobility, reduce congestion, conserve fuel and improve air quality; and
- (8) Maximizing energy efficiency and renewable energy opportunities, and minimizing greenhouse gas emissions and consumption of fossil fuels.

T

Tavern

See drinking establishment.

Temporary structure

A structure which by type and materials of its construction is erected for not more than 180 days, but not including (a) a construction trailer or (b) a structure erected in conjunction with a licensed circus or carnival or a nonprofit fundraising activity. (See also: construction trailer.)

Theme park

An amusement park whose attractions are organized around one or more themes.

Townhouse

A dwelling unit in a group of three or more attached units, foundation to roof, open space on at least two sides, separated by a fire-rated wall.

Truck fueling facility

A facility primarily used for the fueling of trucks which may include such accessory uses as service, repair, a convenience store and/or public bathrooms.

Truck, light

See light truck.

Truck stop

A facility for fueling and repair of trucks and which contains one or more of the following: brokerage of loads, convenience goods, restaurant, public bathrooms with showers and laundry facilities, the overnight parking of trucks, storage of cabs or trailers and sleeping facilities.

Truck terminal

Land and buildings used as a relay station for the transfer of a load from one vehicle to another or one party to another. The terminal cannot be used for permanent or long-term accessory storage for principal land uses at other locations. The terminal facility may include storage areas for trucks and buildings or areas for the repair of trucks associated with the terminal.

U

Underground parking level

A story used for off-street parking that is below the grade plane.

Upland

Land that is not a wetland.

Use

Any purpose for which a lot, building or other structure or a tract of land may be designated, arranged, intended, maintained or occupied; or any activity, occupation, business or operation carried on or intended to be carried on in a building or other structure or on a tract of land.

use, nonconforming

See nonconforming use.

V

Vegetated buffer strip

An area retained in its natural state or replanted along the banks of watercourses, water bodies or wetlands, for the purpose of preventing erosion, trapping the sediment in overland runoff, and allowing for periodic flooding without damage to structures. (see also: wetland buffer)

Vehicular use area

An accessway, driveway, maneuvering aisle, or off-street parking or loading area.

Vernal pool

A surface water or wetland, excluding areas resulting from man-made activities such as gravel pit operations, logging equipment rutting, sedimentation ponds, or detention ponds but including areas intentionally created for purposes of compensatory mitigation, which provides breeding habitat for amphibians and invertebrates that have adapted to the unique environments provided by these pools and which:

- (a) Cycle annually from flooded to dry conditions, although their hydroperiod, size, and shape might vary from year to year; and
- (b) Typically have the following characteristics:
 - (1) Formed in a shallow depression or basin;
 - (2) Have no permanently flowing outlet;
 - (3) Hold water for at least 2 continuous months following spring ice-out;
 - (4) Lack a viable fish population; and
 - (5) Support one or more primary vernal pool indicators, or 3 or more secondary vernal pool indicators.

Vessel, permanently moored
See permanently moored vessel.

Veterinary care facility
An establishment for the diagnosis and treatment of animals, which may include animal boarding or animal crematory as accessory uses.

W

Water Park
An amusement park whose attractions include slides, fountains, pools and other recreational settings involving water.

Wetland
An area that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands include, but are not limited to, swamps, marshes, bogs, vernal pools and similar areas. The following are specifically included in the definition of wetland:

Created wetland
An area that has been transformed from upland to wetland where the upland was not created by human activity such as by filling or water diversion.

Inland wetland
A wetland that is not subject to periodic inundation by tidal waters.

Tidal wetland
A wetland whose vegetation, hydrology or soils are influenced by periodic inundation of tidal waters.

Wetland buffer
An upland area, adjacent to a wetland or water body, which is subject to special regulations and reviews in order to protect the adjacent wetland or water body. (see also: vegetated buffer strip)

Wetland hydrology

Permanent or periodic inundation, or soil saturation to within 6 inches of the soil surface for at least 7 consecutive days during the growing season and as further defined in the Federal Manual.

Wholesale use

A facility that sells goods and materials to customers who are other business entities or that sells by mail. Unless specifically allowed in the Table of Use regulations, wholesale uses do not include retail sales or direct sales to consumers.

Workforce housing

A dwelling, or group of dwellings developed as a single project, containing workforce housing units, provided that a housing development that excludes minor children from more than 20 percent of the units, or in which more than 50 percent of the dwelling units have fewer than two bedrooms, shall not constitute workforce housing for the purposes of this Ordinance. All workforce housing units shall include a restrictive covenant that ensures affordability as specified in RSA 674:58,IV, for the maximum allowable term but no less than 30 years.

Workforce housing unit

A housing unit which qualifies as “workforce housing” under RSA 674:58, IV, including:

- (a) housing which is intended for sale and which is affordable to a household with an income of no more than 100 percent of the median income for a 4-person household for the Portsmouth-Rochester HUD Metropolitan Fair Market Rent Area (HMFA) as published annually by the United States Department of Housing and Urban Development (HUD), or
- (b) rental housing which is affordable to a household with an income of no more than 60 percent of the median income for a 3-person household for the Portsmouth-Rochester HMFA as published annually by HUD.

To qualify as a workforce housing unit under this Ordinance, the unit must be subject to enforceable restrictions as to price and occupancy, such as a recorded land lease or deed restriction, as determined by the Planning Board, in order to ensure its long-term availability and affordability. A workforce housing unit is a specific type of affordable unit as defined in this Ordinance. (See also: affordable unit.)

X

Xeriscape

Landscape design that incorporates drought-tolerant native plants to conserve water.

Y

Yard

An open space from the ground upward and open to the sky on the same lot with a building or structure. (See also: setback)

Yard, front

A yard extending across the full width of a lot between the street right of way line and nearest point of any building. Front yard dimensions are to be measured from the street where a plan of the street is on file with the Rockingham County Registry of Deeds or in City records, or in the absence of such plan, from a line 25 feet from and parallel to the center line of the traveled way.

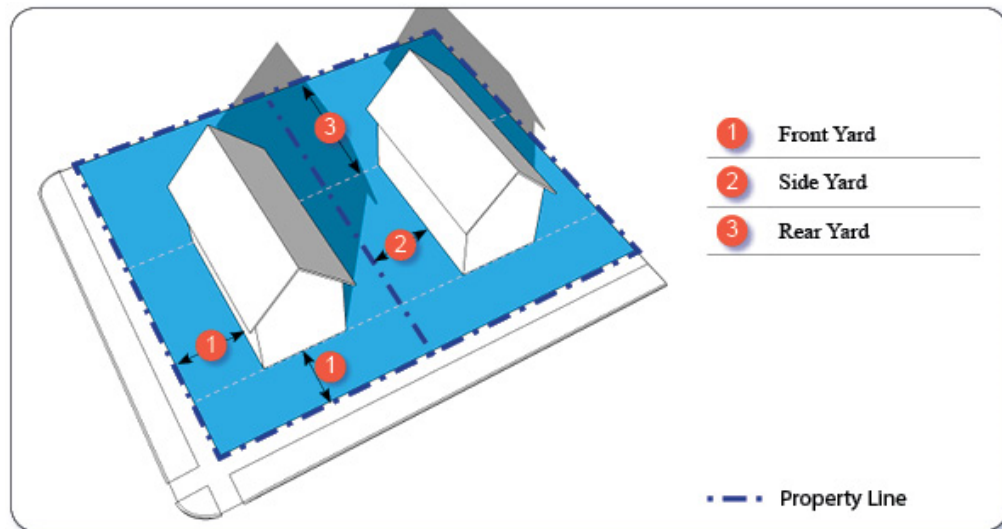
Principal front yard

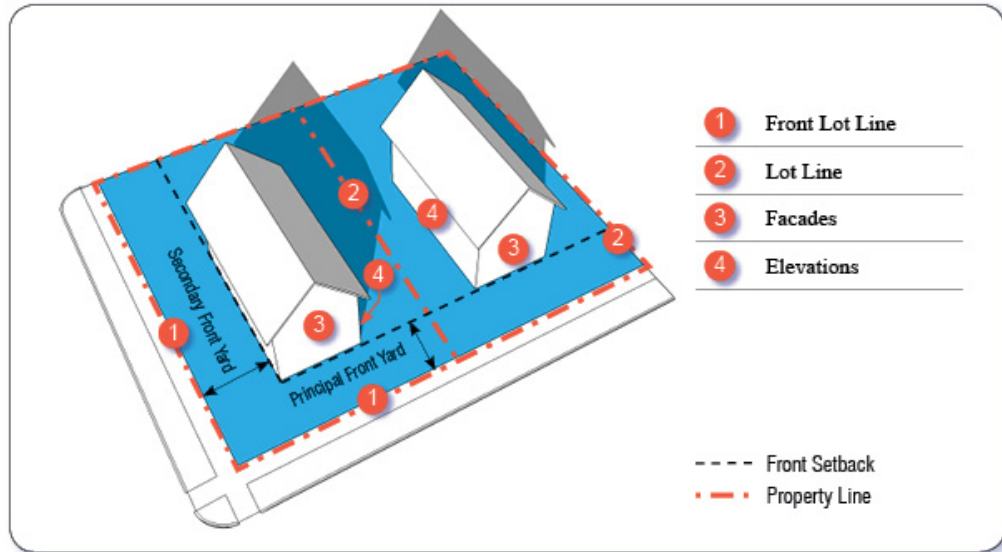
On a lot with more than one front yard, the front yard designated to bear the address. On a lot with one front yard, that front yard may be referred to as the principal front yard.

Secondary front yard

On a lot with more than one front yard, the front yard that is not the principal front yard.

Yard Designations





Yard, rear

A yard extending the full width of the lot along the rear lot line and extending in depth from the nearest point on the rear lot line to the nearest point of the principal building or buildings.

Yard, side

A yard extending from a front yard to the rear yard and from the nearest point of a side lot line to the nearest point of the principal building or buildings.

Yard sale

The temporary sale of second hand goods held on a residential property and limited to 3 days in any 6-month period per residential building. Such sales are not considered to be commercial in character.

Z

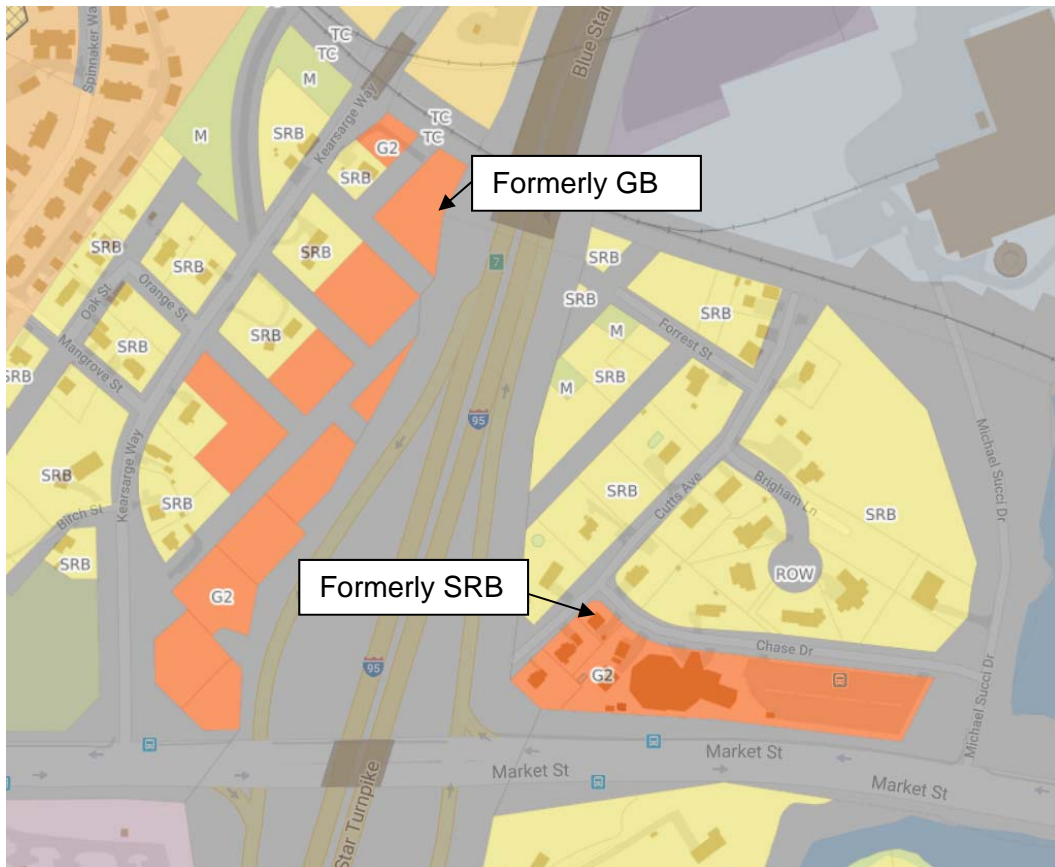


MEMORANDUM

To: Planning Board
From: Juliet T.H. Walker, Planning Director *JTW*
Subject: August 22, 2019 Planning Board Work Session on potential G3 Zoning District
Date: 08/15/19

On March 31, 2019, residents and homeowners of Chase Drive, Cutts Avenue, Forest Street, and Brigham Lane submitted a letter to the City Council requesting that properties along Chase Drive and Cutts Avenue be re-zoned from Gateway Neighborhood Mixed Use Center (G2) to Single Residence B (SRB). The intent of this request was to reverse a City Council decision in December 2017 to re-zone these properties to a new zoning district – Gateway Neighborhood Mixed Use Center.

At the April 15, 2019 City Council meeting, the Council voted to refer this request to the Planning Board for a recommendation. The Planning Board held a public hearing on this request at the June 20, 2019 meeting. After discussion, the Planning Board voted to refer the request to the Planning Department to report back with additional information related to a potential G3 District, which had initially been considered when the current zoning was adopted.



Background

These properties were re-zoned in 2017 (after an extensive public process) based on recommendations of the Master Plan (adopted in 2017) and the Housing Policy Committee. Prior to 2017, the area to the west of I-95 along Kearsarge Way was zoned General Business (GB) and the area to the east fronting along Market Street and I-95 was zoned Single Residence B (SRB).

The 2017 re-zoning effort focused on three areas: 1) along the Lafayette Rd commercial corridor and sites along Route 1 Bypass and Outer Market St; 2) both sides of Mirona Rd; 3) the I-95 Exit 7 Area. The zoning amendments resulted in the creation of two new zoning districts called the Gateway Neighborhood Mixed Use Districts (G1 and G2) which allowed a mix of residential and commercial uses and provided incentives for workforce housing and public realm improvements. In addition, the zoning included a set of dimensional standards for the design and scale of new and redevelopment in these areas.

Early in the Planning Board's zoning process for these amendments, a third zoning district (G3) was recommended for the properties around Exit 7. The proposed location of the G3 district, draft district purpose statement, and proposed land uses allowed in the district were provided for the Planning Board's consideration. At that time, there was no proposal to differentiate the dimensional requirements for G3 from G1 and G2. However, after initial discussions, the Planning Board decided to consolidate the areas into two districts, eliminating the G3 option. The attached 2 slides provide an overview of the G3 as originally proposed.

Potential G3 Zoning Options

At the Planning Board's request and in consideration of some of the concerns raised by the neighbors in their re-zoning request, the Planning Department has developed a draft of a potential G3 district. As proposed, the third district would be primarily residential, but provides opportunities for small scale neighborhood-oriented commercial services. The district would also provide dimensional standards will lower height and density than the G1 and G2.

GATEWAY DISTRICTS ZONING & DESIGN STANDARDS

ARTICLE 4 – ZONING DISTRICTS AND USE REGULATIONS

10.410 Establishment and Purpose of District

10.420 District Location and Boundaries

PROPOSED AMENDMENT:

Add:

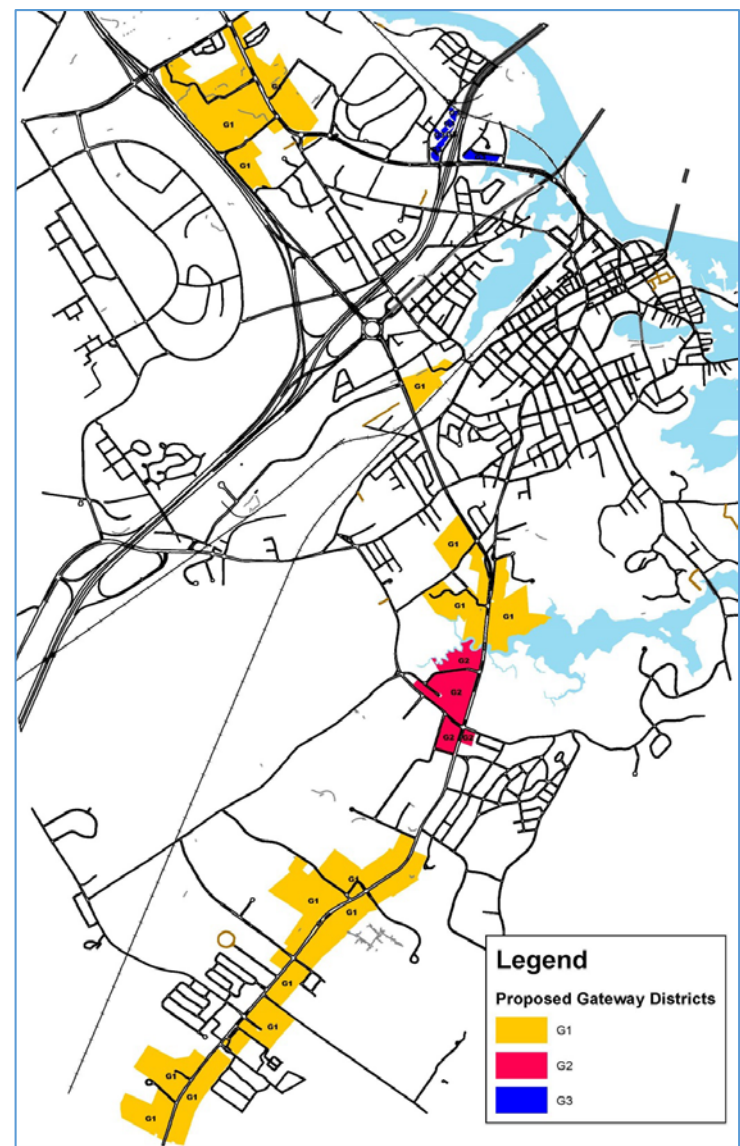
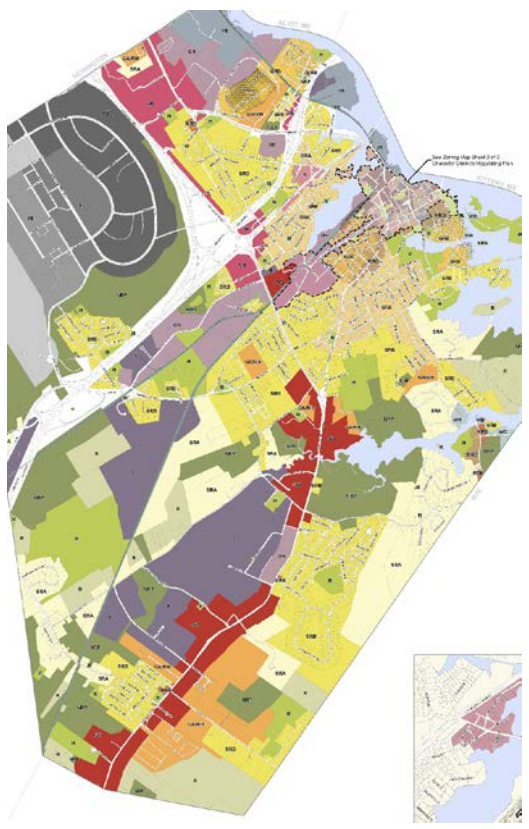
Gateway Corridor Mixed-Use	G1	The purpose of this district is to facilitate a broad range of housing types together with compatible commercial, fabrication, and civic uses in a high-quality pedestrian environment with moderate to high density.
Gateway Corridor Mixed Use Center	G2	This district is intended to facilitate a broad range of residential and mixed use development at a pedestrian scale and moderate density providing commercial uses that benefit residents of the district and surrounding neighborhoods along major corridors.
Gateway Neighborhood Mixed Use Center	G3	The purpose of this district is to facilitate a limited range of residential and small mixed use development at a pedestrian scale and moderate density providing new housing choices and convenient services that benefit nearby residents. It is further intended that development in this district be predominantly residential at a scale that is compatible with the surrounding neighborhoods.

GATEWAY DISTRICTS ZONING & DESIGN STANDARDS

ARTICLE 4 – ZONING DISTRICTS AND USE REGULATIONS

10.420 District Location and Boundaries

PROPOSED AMENDMENT: Replace current GW, GB, I, and MRB where appropriate with new G1, G2, and G3 zoning districts on the City of Portsmouth Zoning Map.



Potential Zoning Amendments to Create a New Gateway Residential (G3) District

1. Section 10.410 Establishment and Purpose of Districts

Create new Gateway Neighborhood Mixed Use Residential District

District	Purpose
Gateway Neighborhood Mixed Use Residential	G3 <i>The purpose of this district is to facilitate a range of residential and limited mixed use development at a pedestrian scale with moderate density providing new housing choices and convenient services that benefit nearby residents.</i>

2. Section 10.440 Table of Uses – Residential, Mixed Residential, Business and Industrial Districts

Add new column for land uses in the new G3 district. Uses would be primarily residential but would allow for small scale commercial services oriented to the residential neighborhoods they serve.

3. 10.5B34 Building Type Standards

Modify building type standards to allow only residential and small mixed use building types in the G3 district. Only Building Types allowed in G3 would be Cottage, Paired House, Apartment Building, Gateway Townhouse, Small Mixed Use Building and Community Building. Maximum building height of 3 stories, 40'. Maximum building footprint of 10,000 sq. ft. Maximum building coverage of 50%.

4. 10.5B42 Development Site Standards

Modify development site standards to allow only residential development types in the G3 district. Development sites are projects that include multiple buildings and/or multiple lots.

5. 10.5B71 Residential Density

Provide new reduced residential density requirements for G3 district.

P = Permitted S = Special Exception CU = Conditional Use Permit N = Prohibited

Section 10.440 Table of Uses – Residential, Mixed Residential, Business and Industrial Districts

Use	R	SRA SRB	GRA GRB	GRC (A)	GA/ MH	MRO CD4- L1	CD4- L2	MRB	CD5 CD4	GB	G1	G2	G3	B CD4- W	WB	OR	I	WI	Supplemental Regulations
1. Residential Uses																			
1.10 Single family dwelling	P	P	P	P	N	P	P	P	P	N	P	P	P	N	N	N	N	N	
1.20 Accessory dwelling unit																			10.814 (Accessory Dwelling Units)
1.21 Attached	CU	CU	CU	CU	N	CU	CU	CU	CU	N	CU	CU	CU	N	N	N	N	N	
1.22 Detached	CU	CU	CU	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
1.25 Garden Cottage	CU	CU	CU	CU	N	CU	CU	CU	CU	N	N	N	N	N	N	N	N	N	10.815 (Garden Cottages)
1.30 Two-family dwelling	N	N	P	P	P	P	P	P	P	N	P	P	P	N	N	N	N	N	10.640 (Downtown Overlay district)
1.40 Townhouse	N	N	S	P	P	P	P	P	P	N	P	P	P	P	N	N	N	N	10.640 (Downtown Overlay district)
1.50 Multifamily dwelling																			
1.51 3 or 4 dwelling units	N	N	S	P	P	P	P	P	P	N	P	P	P	P	N	N	N	N	10.5A32 (Character district permitted uses)
1.52 5 to 8 dwelling units	N	N	N	S	P	P	P	P	P	N	P	P	P	P	N	N	N	N	10.640 (Downtown Overlay district)
1.53 More than 8 dwelling units	N	N	N	N	P	N	N	N	P	N	P	P	P	P	N	N	N	N	10.813 (Multifamily Dwellings in the Business District)
1.60 Conversion of a building existing on January 1, 1980, with less than the required minimum lot area per dwelling unit specified in Article 5																			10.640 (Downtown Overlay District)

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Use	R	SRA SRB	GRA GRB	GRC (A)	GA/ MH	MRO CD4- L1	CD4- L2	MRB	CD5 CD4	GB	G1	G2	G3	B CD4- W	WB	OR	I	WI	Supplemental Regulations
1.61 To 2 dwelling units	N	N	S	S	N	P	P	P	S	N	N	N	N	N	N	N	N	N	10.812 (Conversion of Existing Dwelling to Multifamily Dwelling)
1.62 To 3 or 4 dwelling units	N	N	S	S	N	P	P	P	S	N	N	N	N	N	N	N	N	N	
1.63 To 5 to 8 dwelling units	N	N	N	S	N	S	S	S	S	N	N	N	N	N	N	N	N	N	
1.64 To more than 8 dwelling units	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
1.70 Live/work unit	N	N	N	N	N	P	P	P	P	N	P	P	P	P	N	N	N	N	
1.80 Manufactured housing park	N	N	N	N	P	N	N	N	N	N	N	N	N	N	N	N	N	N	10.816 (Manufactured Housing Park Dimensional Standards)
1.90 Planned unit development (PUD)																			10.720 (Planned Unit Developments)
1.91 Open space PUD	CU	CU	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
1.92 Residential density incentive PUD	N	N	CU	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
2. Institutional Residence or Care Facilities																			
2.10 Assisted living facility																			
2.11 Assisted living center	N	N	N	N	N	N	N	N	P	P	S	S	N	P	N	N	N	N	
2.12 Assisted living home	S	S	S	S	S	S	S	S	N	N	S	S	N	N	N	N	N	N	
2.20 Residential care facility																			
2.21 5 or fewer residents	S	S	S	S	S	S	S	S	N	N	S	S	S	S	N	N	N	N	
2.22 More than 5 residents	N	N	N	N	N	S	S	S	P	S	S	S	S	S	N	S	N	N	

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Use	R	SRA SRB	GRA GRB	GRC (A)	GA/ MH	MRO CD4- L1	CD4- L2	MRB	CD5 CD4	GB	G1	G2	G3	B CD4- W	WB	OR	I	WI	Supplemental Regulations
3. Educational, Religious, Charitable, Cultural and Public Uses																			
3.10 Place of assembly																			
3.11 Religious	S	S	S	N	N	S	S	S	S	S	S	S	S	S	N	N	N	N	
3.12 Other nonprofit	N	N	N	N	N	S	S	S	S	S	S	S	S	S	N	N	N	N	
3.20 School																			
3.21 Primary or secondary	N	N	N	N	N	S	S	P	P	P	S	S	S	P	P	N	N	N	
3.30 Post-secondary	N	N	N	N	N	S	S	P	P	P	S	S	S	P	N	P	P	N	
3.30 Historic preservation building	S	S	S	S	S	P	P	P	P	P	P	P	P	P	N	P	N	N	10.821 (Historic Preservation Buildings and Museums)
3.40 Museum	N	N	N	N	N	P	P	N	P	P	S	S	N	P	N	P	N	N	10.821 (Historic Preservation Buildings and Museums)
3.50 Performance facility																			
3.51 Indoor performance facility																			
3.511 Occupancy up to 500 persons	N	N	N	N	N	N	N	N	P	P	S	S	N	S	N	N	N	N	10.592 (location) 10.860 (hours of operation)
3.512 Occupancy more than 500	N	N	N	N	N	N	N	N	S	P	N	N	N	N	N	N	N	N	
3.52 Outdoor performance facility																			
3.521 Occupancy up to 500 persons	N	N	N	N	N	N	N	N	S	S	S	S	N	N	N	N	N	N	10.592 (location) 10.822 (yards) 10.860 (hours of operation)

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Use	R	SRA SRB	GRA GRB	GRC (A)	GA/ MH	MRO CD4- L1	CD4- L2	MRB	CD5 CD4	GB	G1	G2	G3	B CD4- W	WB	OR	I	WI	Supplemental Regulations
3.522 Occupancy more than 500	N	N	N	N	N	N	N	N	S	S	N	N	N	N	N	N	N	N	
3.60 Cemetery	S	S	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
3.70 Club, fraternal or service organization	N	N	N	N	N	N	S	S	P	S	S	S	S	S	N	N	N	N	
3.80 Municipally operated park and related activities	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	For other municipal uses see Section 10.460 (Municipal districts)
4. Recreational Uses																			
4.10 Religious, sectarian or private non-profit recreational use	N	S	N	N	N	S	S	N	P	P	S	S	N	P	N	N	N	N	
4.20 Cinema or similar indoor amusement use with no live performance	N	N	N	N	N	N	N	N	P	P	S	S	N	P	N	N	N	N	10.825 (noise) 10.860 (hours of operation)
4.30 Indoor recreation use, such as bowling alley or arcade	N	N	N	N	N	N	N	N	P	P	S	S	N	P	N	N	N	N	10.825 (noise) 10.860 (hours of operation)
4.40 Health club, yoga studio, martial arts school, or similar use																			
4.41 Up to 2,000 sq. ft. GFA*	N	N	N	N	N	S	S	P	P	P	P	P	P	P	N	N	S	N	
4.42 More than 2,000 sq. ft. GFA	N	N	N	N	N	N	N	N	S	P	S	S	N	S	N	N	S	N	
4.50 Outdoor recreation use	N	N	N	N	N	N	N	N	N	S	P	P	P	N	N	N	N	N	10.592 (location) 10.860 (hours of operation)

*GFA = gross floor area.

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Use	R	SRA SRB	GRA GRB	GRC (A)	GA/ MH	MRO CD4- L1	CD4- L2	MRB	CD5 CD4	GB	G1	G2	G3	B CD4- W	WB	OR	I	WI	Supplemental Regulations
4.60 Amusement park, water park or theme park	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
5. Office Uses, Non-Medical																			
5.10 Professional office	N	N	N	N	N	P	P	S	P	P	P	P	N	P	N	P	P	N	10.833 (Mixed Residential districts)
5.20 Business office (incl. real estate office)	N	N	N	N	N	P	P	P	P	P	P	P	N	P	N	P	P	N	10.833 (Mixed Residential districts)
5.30 Financial institution																			
5.31 Financial services office	N	N	N	N	N	P	P	P	P	P	P	P	N	P	N	P	P	N	
5.32 Retail bank	N	N	N	N	N	N	S	P	P	P	P	P	N	P	N	S	N	N	
5.40 Social service campus																			10.823
5.41 Nonresidential	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	P	N	
5.42 Residential	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	S	N	
5.50 Media studio																			
5.51 Excluding any transmitting antenna tower	N	N	N	N	N	S	S	S	P	P	S	S	N	P	N	N	P	N	
5.52 Including accessory transmitting antenna tower	N	N	N	N	N	N	N	N	N	S	N	N	N	S	N	N	S	N	10.834
5.60 Publishing facility or similar electronic production operation	N	N	N	N	N	S	S	S	P	P	P	P	N	P	N	P	P	N	
5.70 Call Center	N	N	N	N	N	N	N	N	N	P	N	N	N	N	N	N	S	N	

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Use	R	SRA SRB	GRA GRB	GRC (A)	GA/ MH	MRO CD4- L1	CD4- L2	MRB	CD5 CD4	GB	G1	G2	G3	B CD4- W	WB	OR	I	WI	Supplemental Regulations
6. Medical Services and Health Care																			
6.10 Hospital	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	P	N	N	
6.20 Medical offices and clinics (outpatient only)	N	N	N	N	N	S	S	S	P	P	P	P	N	P	N	P	N	N	
6.30 Clinics with inpatient care	N	N	N	N	N	N	N	N	N	S	S	N	N	S	N	S	N	N	
6.40 Ambulatory surgical center	N	N	N	N	N	N	N	N	N	S	S	N	N	S	N	S	N	N	
6.50 Substance abuse treatment facility	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
6.60 Psychiatric hospital for the criminally insane	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
7. Services, Other Than Health Care																			
7.10 Day Care																			
7.11 Family day care facility	P	P	P	N	N	P	P	P	N	N	P	P	P	N	N	N	N	N	
7.12 Group day care facility including private preschool and kindergarten	S	S	S	S	N	S	S	P	P	P	S	S	S	P	N	N	N	N	10.824 (group day care facilities) 10.860 (hours of operation)
7.20 Personal services	N	N	N	N	N	N	S	S	P	P	P	S	S	P	N	N	N	N	
7.30 Consumer services such as copy shop, bicycle repair, and pet grooming	N	N	N	N	N	N	S	S	P	P	P	S	S	P	N	N	N	N	

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Use	R	SRA SRB	GRA GRB	GRC (A)	GA/ MH	MRO CD4- L1	CD4- L2	MRB	CD5 CD4	GB	G1	G2	G3	B CD4- W	WB	OR	I	WI	Supplemental Regulations
7.40 Trade, craft and general service establishments, such as shops for plumbers, electricians, painters, paper hangers, upholsterers, sign painters and printers	N	N	N	N	N	N	N	S	P	P	P	S	S	P	N	P	P	P	All storage of materials and equipment shall be located within a building
7.50 Veterinary Care	N	N	N	N	N	N	N	S	N	S	S	S	N	S	N	S	S	N	10.832
7.60 Laundry and dry cleaning establishments																			
7.61 Drop-off/pick-up only for items to be dry cleaned or laundered off site	N	N	N	N	N	P	P	P	P	P	P	P	S	P	N	S	N	N	
7.62 Self-service laundry for use by the general public	N	N	N	N	N	S	S	P	S	P	P	S	S	P	N	N	N	N	
7.63 Dry cleaning establishment with on-site cleaning facilities.	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	P	N	
7.70 Undertaking establishment, funeral parlor or mortuary chapel, excluding crematorium	N	N	N	N	N	N	N	P	N	P	S	S	S	P	N	N	N	N	
8. Retail Trade																			
8.10 Convenience goods																			10.860 (hours of operation)
8.11 Convenience goods 1																			
8.111 Hours of operation between 6:00 AM and 11:00 PM	N	N	N	N	N	N	P	P	P	P	P	P	S	P	N	N	N	N	

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Use	R	SRA SRB	GRA GRB	GRC (A)	GA/ MH	MRO CD4- L1	CD4- L2	MRB	CD5 CD4	GB	G1	G2	G3	B CD4- W	WB	OR	I	WI	Supplemental Regulations
8.112 24 hours per day operation	N	N	N	N	N	N	N	N	P	P	S	N	N	S	N	N	N	N	
8.12 Convenience goods 2																			
8.121 Hours of operation between 6:00 AM and 11:00 PM	N	N	N	N	N	N	P	S	P	P	P	P	S	P	N	N	N	N	
8.122 24 hours per day operation	N	N	N	N	N	N	N	N	S	S	S	N	N	S	N	N	N	N	
8.30 Retail sales conducted within a building																			
8.31 Not marine-related	N	N	N	N	N	N	P	S	P	P	P	P	S	P	N	N	N	N	
8.32 Marine-related	N	N	N	N	N	N	N	N	P	P	P	P	S	P	P	N	N	N	
8.40 Shopping center	N	N	N	N	N	N	N	N	P	P	P	P	N	S	N	N	N	N	
8.50 Retail sales, large format	N	N	N	N	N	N	N	N	N	S	N	N	N	N	N	N	N	N	
8.60 Fish market	N	N	N	N	N	N	N	N	P	P	P	P	N	P	P	N	N	N	10.860 (hours of operation)
8.70 Manufacture of goods sold at retail on the premises, such as crafts, coffee roasting and bakery goods	N	N	N	N	N	N	S	S	P	P	P	P	N	P	N	N	P	N	Maximum of 5 persons employed in manufacture
8.80 Sexually oriented business	N	N	N	N	N	N	N	N	N	S	N	N	N	N	N	N	N	N	10.930 (Sexually Oriented Businesses)
9. Eating and Drinking Places																			
9.10 Nightclub or bar																			
9.11 Occupant load less than 250	N	N	N	N	N	N	N	N	P	P	P	S	N	N	N	N	N	N	10.590 (location)

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Use	R	SRA SRB	GRA GRB	GRC (A)	GA/ MH	MRO CD4- L1	CD4- L2	MRB	CD5 CD4	GB	G1	G2	G3	B CD4- W	WB	OR	I	WI	Supplemental Regulations
9.12 Occupant load from 250 to 500	N	N	N	N	N	N	N	N	S	S	S	S	N	N	N	N	N	N	
9.13 Occupant load greater than 500	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
9.20 Restaurant, take-out only	N	N	N	N	N	N	N	N	P	P	P	P	S	P	N	N	N	N	
9.30 Restaurant, fast food	N	N	N	N	N	N	N	N	P	P	P	P	S	P	N	N	N	N	
9.40 Restaurant, place of public assembly or function room																			10.590 (location) 10.860 (hours of operation)
9.41 Occupant load less than 50	N	N	N	N	N	N	P	N	P	P	P	P	S	P	N	N	N	N	
9.42 Occupant load from 50 to 250	N	N	N	N	N	N	N	N	P	P	P	S	N	S	N	N	N	N	
9.43 Occupant load from 250 to 500	N	N	N	N	N	N	N	N	P	S	S	S	N	N	N	N	N	N	
9.44 Occupant load greater than 500	N	N	N	N	N	N	N	N	S	S	N	N	N	N	N	N	N	N	
9.50 Permanently moored vessel used as restaurant or bar , with occupant load less than 250	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
10. Lodging Establishments																			
10.10 Boarding house	N	N	N	N	N	N	N	N	N	S	S	N	N	S	N	N	N	N	
10.20 Bed and breakfast																			
10.21 Bed and Breakfast 1	N	N	S	N	N	S	S	P	P	N	S	S	S	P	N	N	N	N	

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Use	R	SRA SRB	GRA GRB	GRC (A)	GA/ MH	MRO CD4- L1	CD4- L2	MRB	CD5 CD4	GB	G1	G2	G3	B CD4- W	WB	OR	I	WI	Supplemental Regulations
10.22 Bed and Breakfast 2	N	N	N	N	N	S	S	P	P	N	S	S	S	P	N	N	N	N	
10.30 Inn	N	N	N	N	N	N	S	S	P	P	S	S	N	P	N	N	N	N	
10.40 Hotel or motel																			10.836 (Office Research districts)
10.41 Up to 125 rooms	N	N	N	N	N	N	N	N	P	S	S	S	N	N	N	P	N	N	
10.42 126 to 250 rooms	N	N	N	N	N	N	N	N	P	S	S	S	N	N	N	S	N	N	
10.42 251 to 500 rooms	N	N	N	N	N	N	N	N	P	S	S	N	N	N	N	N	N	N	
10.43 More than 500 rooms	N	N	N	N	N	N	N	N	P	S	S	N	N	N	N	N	N	N	
10.50 Conference hotel	N	N	N	N	N	N	N	N	P	P	S	N	N	N	N	N	N	N	
10.60 Conference center	N	N	N	N	N	N	N	N	P	P	S	N	N	N	N	N	N	N	
11. Motor Vehicle-Related Uses																			
11.10 Sales, renting or leasing of passenger cars and light trucks, motorcycles, tractors, snowmobiles and small power equipment (e.g., lawnmowers), including accessory repair services	N	N	N	N	N	N	N	N	N	P	S	N	N	S	N	N	N	N	10.592 (location) 10.843 (motor vehicle related uses)
11.20 Motor vehicle service station, motor vehicle repair or washing facility for passenger cars and light trucks	N	N	N	N	N	N	N	N	N	S	S	N	N	S	N	N	S	N	10.581 (lot area) 10.592 (location) 10.843 (motor vehicle related uses)

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Use	R	SRA SRB	GRA GRB	GRC (A)	GA/ MH	MRO CD4- L1	CD4- L2	MRB	CD5 CD4	GB	G1	G2	G3	B CD4- W	WB	OR	I	WI	Supplemental Regulations
11.30 Sales, rental, leasing, distribution, and repair of trucks over 10,000 lb gross vehicle weight (GVW), recreational vehicles, marine craft or manufactured housing, and related equipment	N	N	N	N	N	N	N	N	N	S	S	N	N	S	N	N	S	N	10.581 (lot area) 10.592 (location) 10.843 (motor vehicle related uses)
11.40 Impound lot (principal or accessory use)	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	S	N	
11.50 Truck fueling facility	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	S	N	10.581 (lot area) 10.592 (location) 10.843 (motor vehicle related uses)
11.60 Truck terminal	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	S	N	10.592 (location) 10.843 (motor vehicle related uses)
12. Marine Craft Related Uses																			
12.10 Boat landings, boat docks, boathouses and associated marine uses																			
12.11 Non-commercial	P	P	P	P	P	P	P	P	P	P	P	P	N	P	N	N	N	N	
12.12 Fishing boat landing 1	N	S	S	N	N	N	N	N	P	P	N	N	N	N	P	N	N	P	10.837.10 (Residential districts)
12.13 Fishing boat landing 2	N	N	N	N	N	N	N	N	N	S	N	N	N	N	S	N	N	P	
12.20 Marina																			

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Use	R	SRA SRB	GRA GRB	GRC (A)	GA/ MH	MRO CD4- L1	CD4- L2	MRB	CD5 CD4	GB	G1	G2	G3	B CD4- W	WB	OR	I	WI	Supplemental Regulations
12.21 With no repair, servicing or fueling facilities	N	N	N	N	N	N	N	N	N	N	N	N	N	N	P	N	N	N	
12.22 With repair, servicing or fueling facilities	N	N	N	N	N	N	N	N	N	N	N	N	N	N	S	N	N	N	10.581 (lot area) 10.592 (location) 10.860 (hours of operation)
12.30 Repair of commercial marine craft and marine-related structures	N	N	N	N	N	N	N	N	N	N	N	N	N	N	S	N	S	P	10.581 (lot area) 10.592 (location) 10.860 (hours of operation)
12.40 Landside support facility for commercial passenger vessel	N	N	N	N	N	N	N	N	N	N	N	N	N	N	P	N	N	P	
13. Wholesale Trade, Warehousing and Distribution																			
13.10 Wholesale use																			
13.11 Not marine-dependent	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	P	N	
13.12 Marine-dependent	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	P	P	
13.20 Wholesale sales devoted to, and in the same establishment as, a permitted retail use																			
13.21 Occupying up to 20% of gross floor area of establishment	N	N	N	N	N	N	N	N	P	P	S	N	N	P	N	N	N	N	

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Use	R	SRA SRB	GRA GRB	GRC (A)	GA/ MH	MRO CD4- L1	CD4- L2	MRB	CD5 CD4	GB	G1	G2	G3	B CD4- W	WB	OR	I	WI	Supplemental Regulations
13.22 Occupying 21% to 40% of gross floor area of establishment	N	N	N	N	N	N	N	N	N	P	N	N	N	P	N	N	N	N	
13.30 Wholesale lumber yards, lumber and contractor sales																			
13.31 Not marine-dependent	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	P	N	
13.32 Marine-dependent	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	P	S	
13.40 Warehousing or distribution of non-flammable, non-hazardous materials, not classified as a high hazard use																			
13.41 Not marine-dependent	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	P	N	
13.42 Marine-dependent	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	P	P	
14. Industrial Uses																			
14.10 Light industry																			
14.11 Not marine-dependent	N	N	N	N	N	N	N	N	N	S	S	S	N	N	N	N	P	N	
14.12 Marine-dependent	N	N	N	N	N	N	N	N	N	S	N	N	N	N	N	N	P	P	
14.20 Research and development																			
14.21 Not marine-dependent	N	N	N	N	N	N	N	P	N	S	S	N	N	S	N	S	P	N	
14.22 Marine-dependent	N	N	N	N	N	N	N	N	N	S	N	N	N	S	P	S	P	P	

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Use	R	SRA SRB	GRA GRB	GRC (A)	GA/ MH	MRO CD4- L1	CD4- L2	MRB	CD5 CD4	GB	G1	G2	G3	B CD4- W	WB	OR	I	WI	Supplemental Regulations
14.30 Food processing																			
14.31 Not including seafood processing	N	N	N	N	N	N	N	N	N	P	S	N	N	N	N	N	P	P	10.592 (location) 10.851 (use contained in building)
14.32 Including seafood processing	N	N	N	N	N	N	N	N	N	S	N	N	N	N	N	N	S	S	
14.40 Electronics manufacturing	N	N	N	N	N	N	N	N	N	S	S	N	N	S	N	N	P	N	
14.50 General manufacturing																			
14.51 Not marine-dependent	N	N	N	N	N	N	N	N	N	N	S	S	N	N	N	N	P	N	
14.52 Marine-dependent	N	N	N	N	N	N	N	N	N	N	N	N	N	N	P	N	P	S	
14.60 Biological or chemical laboratory																			
14.61 Not marine-dependent	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	S	N	
14.62 Marine-dependent	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	S	S	
14.70 Recycling facility or recycling plant	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	S	N	10.592 (location) 10.853
14.80 High hazard use, including other uses listed in this section but not including uses described in 14.90	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	S	N	10.593 (location)

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Use	R	SRA SRB	GRA GRB	GRC (A)	GA/ MH	MRO CD4- L1	CD4- L2	MRB	CD5 CD4	GB	G1	G2	G3	B CD4- W	WB	OR	I	WI	Supplemental Regulations
14.90 Storage (other than normal accessory use), processing, disposal, or transfer of petroleum, petrochemicals, natural gas and liquid petroleum products, coal, alcohol, wood pulp, solid or liquid waste, junk or hazardous waste as classified by Federal or State law	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
15. Transportation and Utilities																			
15.10 Public or private transformer station, substation, pumping station or automatic telephone exchange, not including any business office, storage yard or storage building																			
15.11 Essential to service the area in which it is located	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	P	S	
15.12 Providing community-wide or regional service	N	N	N	N	N	N	N	N	N	S	N	N	N	N	N	N	S	S	
15.20 Heliport or helipad																			
15.21 Helipad, as an accessory use to a permitted hospital use	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	S	S	S	

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Use	R	SRA SRB	GRA GRB	GRC (A)	GA/ MH	MRO CD4- L1	CD4- L2	MRB	CD5 CD4	GB	G1	G2	G3	B CD4- W	WB	OR	I	WI	Supplemental Regulations
15.22 Heliport	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
16. Wireless Telecommunications Facilities																			
16.10 Satellite dish receiver 42 inches or less in diameter:																			
16.11 Building-mounted, maximum height less than or equal to 4 feet from the roof surface	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
16.12 Ground-mounted, complying with all yard requirements for the district	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
16.20 Satellite dish receiver more than 42 inches in diameter:																			
16.21 Building-mounted, maximum height less than or equal to 4 feet from the roof surface	S	S	S	S	S	S	S	S	S	S	S	S	P	S	S	S	S	S	
16.22 Ground-mounted, complying with all yard requirements for the district	S	S	S	S	S	S	S	S	S	S	S	S	P	S	S	S	S	S	
16.30 Whip antenna not more than 30 feet in height	S	S	S	S	S	S	S	S	P	P	S	S	S	P	P	P	P	P	

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Use	R	SRA SRB	GRA GRB	GRC (A)	GA/ MH	MRO CD4- L1	CD4- L2	MRB	CD5 CD4	GB	G1	G2	G3	B CD4- W	WB	OR	I	WI	Supplemental Regulations
16.40 Other wireless telecommunications facility not included above	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	10.460 (Municipal districts) 10.920 (Wireless telecommunications facilities)
17. Agricultural Uses																			
17.10 Farm, not including the keeping of farm animals	P	P	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
17.20 Keeping of farm animals	S	S	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
18. Temporary Uses																			
18.10 Construction trailer	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
18.20 Temporary structure																			
18.21 Up to 30 days	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
18.22 31 to 90 days	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	P	P	P	
18.23 91 to 180 days	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	S	S	S	
18.24 More than 180 days	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
18.30 Manufactured housing not on a foundation, as temporary replacement housing for a dwelling on the same lot destroyed by natural causes, provided that there is an active building permit for rebuilding the destroyed dwelling																			
18.31 Up to 180 days	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	

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Use	R	SRA SRB	GRA GRB	GRC (A)	GA/ MH	MRO CD4- L1	CD4- L2	MRB	CD5 CD4	GB	G1	G2	G3	B CD4- W	WB	OR	I	WI	Supplemental Regulations
18.32 More than 180 days	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	P	P	P	
18.40 Carts or trailers, including outdoor display area, used for the seasonal sale of dry goods, Christmas trees, flowers, fruits, vegetables, seasonal products and prepared food	N	N	N	N	N	N	N	N	P	P	S	N	N	P	N	P	P	P	
19. Accessory Uses																			
19.10 Accessory use to a permitted principal use, but not including any outdoor storage	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	10.811 (residential accessory uses)
19.20 Home occupation																			
19.21 Home occupation 1	P	P	P	P	P	P	P	P	P	P	P	P	P	P	N	N	N	N	
19.22 Home occupation 2	S	S	S	S	N	S	S	P	P	P	P	P	P	P	N	N	N	N	
19.30 Concessions and services located within the principal building	N	N	N	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
19.40 Drive-through facility, as accessory use to a permitted principal use	N	N	N	N	N	N	N	N	N	CU	CU	N	N	CU	N	CU	N	N	10.835 (accessory drive-through uses)
19.50 Outdoor dining or drinking area, as accessory use to a permitted principal use	N	N	N	N	N	N	CU	N	P	P	P	P	CU	CU	N	N	N	N	

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Use	R	SRA SRB	GRA GRB	GRC (A)	GA/ MH	MRO CD4- L1	CD4- L2	MRB	CD5 CD4	GB	G1	G2	G3	B CD4- W	WB	OR	I	WI	Supplemental Regulations
20. Accessory Storage																			
20.10 Indoor storage of motor vehicles or boats as an accessory use	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
20.20 Outdoor storage of registered motor vehicles owned by residents of the premises or business. Such vehicles may include only one commercial vehicle, which shall be limited to no more than 2 axles and 6 wheels.	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
20.30 Outdoor storage for not more than 9 consecutive months of boats owned by residents of the property:																			
20.31 Not more than one motorboat or sailboat longer than 12 feet	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
20.32 Any number of (a) motorboats or sailboats up to 12 feet in length, or (b) hand-powered craft (canoes and kayaks) without restriction as to length	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
20.40 Outdoor storage of lobster traps, lobster buoys and associated rope	P	P	P	P	P	P	P	P	N	P	P	P	P	P	P	N	P	P	10.811.20

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Use	R	SRA SRB	GRA GRB	GRC (A)	GA/ MH	MRO CD4- L1	CD4- L2	MRB	CD5 CD4	GB	G1	G2	G3	B CD4- W	WB	OR	I	WI	Supplemental Regulations
20.50 Outdoor storage of raw or partially finished material																			
20.51 Not marine-dependent	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	S	N	
20.52 Marine-dependent	N	N	N	N	N	N	N	N	N	N	N	N	N	N	S	N	S	S	
20.60 Outdoor storage of machinery, equipment and vehicles																			
20.61 Not marine-dependent	N	N	N	N	N	N	N	N	N	S	N	N	N	S	N	N	S	N	
20.62 Marine-dependent (other than allowed by 20.30 or 20.40 above)	N	N	N	N	N	N	N	N	N	S	N	N	N	S	S	N	S	S	

10.5B34 Building Type Standards

10.5B34.10 Cottage

LOT STANDARDS

Minimum lot depth	NR
Minimum street frontage	30 ft
Front building setback from lot line	5 ft min. to 20 ft max.
Minimum side building setback from lot line	5 ft
Minimum rear building setback from lot line	10 ft
Minimum open space coverage	20%

BUILDING AND LOT USE

Maximum dwelling units per building	1
Maximum dwelling unit size	1,400 GFA; 2 Bedrooms

DESIGN STANDARDS

Maximum building height	1.5 stories or 20 ft
Minimum street facing façade height	10 ft
Maximum finished floor surface of ground floor above sidewalk grade	36"
Maximum building coverage	50%
Maximum building footprint	1,000 sf
Maximum façade modulation length	18 ft (see Section 10.5A43.20)
Minimum street facing façade glazing	20% ground floor
Street facing entrance	required
Maximum street facing entrance spacing	NR
Roof type	gable, hip
Façade types	dooryard, stoop, step, porch

PERMITTED DISTRICTS

G1, G2, G3

ADDITIONAL STANDARDS

Only allowed in a Pocket Neighborhood Development (see Section 10.5B41)

10.5B34.20 Paired House

LOT STANDARDS

Minimum lot depth	NR
Minimum street frontage	50 ft
Front building setback from lot line	10 ft min. to 30 ft max.
Minimum side building setback from lot line	10 ft
Minimum rear building setback from lot line	20 ft
Minimum open space coverage	20%

BUILDING AND LOT USE

Maximum dwelling units per building	3
Dwelling unit size	NR

DESIGN STANDARDS

Maximum building height	2.5 stories or 35 ft
Minimum street facing façade height	12 ft
Maximum finished floor surface of ground floor above sidewalk grade	36"
Maximum building coverage	50%
Maximum building footprint	NR
Maximum façade modulation length	18 ft (see Section 10.5A43.20)
Minimum street facing façade glazing	20% ground floor
Street facing entrance	required
Maximum street facing entrance spacing	NR
Roof type	gable, hip, gambrel
Façade types	dooryard, stoop, step, porch

PERMITTED DISTRICTS

G1, G2, G3

ADDITIONAL STANDARDS

Only allowed in a Pocket Neighborhood Development (see Section 10.5B41)

10.5B34.30 Gateway Townhouse

LOT STANDARDS

Minimum lot depth	50 ft
Minimum street frontage	20 ft
Front building setback from lot line	5 ft min. to 15 ft max.
Minimum side building setback from lot line	10 ft
Minimum rear building setback from lot line	15 ft
Minimum open space coverage	20%

BUILDING AND LOT USE

Maximum dwelling units per building	1
Maximum dwelling unit size	NR

DESIGN STANDARDS

Maximum building height	2.5 stories or 35 ft
Minimum street facing façade height	12 ft
Maximum finished floor surface of ground floor above sidewalk grade	36"
Maximum building coverage	50%
Maximum building footprint	NR
Maximum façade modulation length	required every 4th Unit (see Section 10.5A43.20)
Minimum street facing façade glazing	20% ground floors
Street facing entrance	required
Maximum street facing entrance spacing	NR
Roof type	all
Façade types	dooryard, stoop, recessed entry, step, porch

PERMITTED DISTRICTS

G1, G2, G3

ADDITIONAL STANDARDS

A maximum of 8 units can be attached by a common wall before a separation of 20 feet or more is required.

10.5B34.40 Apartment Building

LOT STANDARDS

Minimum lot depth	NR
Minimum street frontage	50 ft
Front building setback from lot line	10 ft min. to 30 ft max.
Minimum side building setback from lot line	15 ft
Minimum rear building setback from lot line	20 ft
Minimum open space coverage	20%

BUILDING AND LOT USE

Dwelling units per building	4 min. to 24 max.
Maximum dwelling unit size	NR

DESIGN STANDARDS

Maximum building height	4 stories or 50 ft <u>in G1, G2</u> <u>3 stories or 40 ft in G3</u>
Minimum street facing façade height	24 ft
Maximum finished floor surface of ground floor above sidewalk grade	36"
Maximum building coverage	50%
Maximum building footprint	NR
Maximum façade modulation length	50 ft (see Section 10.5A43.20)
Minimum street facing façade glazing	20% ground floor
Street facing entrance	required
Maximum street facing entrance spacing	NR
Roof type	All
Façade types	forecourt, recessed entry, dooryard, step, porch

PERMITTED DISTRICTS

G1, G2, G3

10.5B34.50 ~~Live/Work~~ Small Mixed Use Building

LOT STANDARDS

Minimum lot depth	NR
Minimum street frontage	20 ft
Front building setback from lot line	0 ft min. to 15 ft max.
Minimum side building setback from lot line	10 ft
Minimum rear building setback from lot line	20 ft
Minimum open space coverage	15%

BUILDING AND LOT USE

Maximum dwelling units per building	<u>124</u>
Maximum dwelling unit size	NR

DESIGN STANDARDS

Maximum building height	2.5 stories or 35 ft
Minimum street facing façade height	18 ft
Finished floor surface of ground floor above sidewalk grade	0" min. to 24" max.
Maximum building coverage	50%
Maximum building footprint	<u>NR 10,000 sf</u>
Maximum façade modulation length	18 ft (see Section 10.5A43.20)
Minimum street facing façade glazing	50% ground floor
Street facing entrance	required
Maximum street facing entrance spacing	NR
Roof type	all
Façade types	dooryard, recessed entry, porch, shopfront, terrace

PERMITTED DISTRICTS

G1, G2, G3

10.5B34.60 Small Commercial Building

LOT STANDARDS

Minimum lot depth	NR
Minimum street frontage	50 ft
Front building setback from lot line	0 ft min. to 20 ft max.
Minimum side building setback from lot line	10 ft
Minimum rear building setback from lot line	15 ft
Minimum open space coverage	10%

BUILDING AND LOT USE

Maximum dwelling units per building	NR
Maximum dwelling unit size	NR

DESIGN STANDARDS

Maximum building height	3 stories or 40 ft
Minimum street facing façade height	18 ft
Maximum finished floor surface of ground floor above sidewalk grade	24"
Maximum building coverage	70%
Maximum building footprint	10,000 sf
Maximum façade modulation length	50 ft (see Section 10.5A43.20)
Minimum street facing façade glazing	50% ground floor
Street facing entrance	required
Maximum street facing entrance spacing	NR
Roof type	all
Façade types	forecourt, recessed entry, porch, officefront, shopfront, terrace, gallery, arcade

PERMITTED DISTRICTS

G1, G2

10.5B34.70 Large Commercial Building

LOT STANDARDS

Minimum lot depth	NR
Minimum street frontage	100 ft
Front building setback from lot line	0 ft min. to 50 ft max.
Minimum side building setback from lot line	15 ft
Minimum rear building setback from lot line	15 ft
Minimum open space coverage	10%

BUILDING AND LOT USE

Maximum dwelling units per building	NR
Maximum dwelling unit size	NR

DESIGN STANDARDS

Maximum building height	4 stories or 50 ft
Minimum street facing façade height	18 ft
Maximum finished floor surface of ground floor above sidewalk grade	24"
Maximum building coverage	70%
Maximum building footprint	40,000 sf
Maximum façade modulation length	100 ft (see Section 10.5A43.20)
Minimum street facing façade glazing	50% ground floor
Street facing entrance	required
Maximum street facing entrance spacing	NR
Roof type	all
Façade types	forecourt, recessed entry, porch, officefront, shopfront, terrace, gallery, arcade

PERMITTED DISTRICTS

G1, G2	
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10.5B34.80 Large Mixed Use Building

LOT STANDARDS

Minimum lot depth	NR
Minimum street frontage	50 ft
Front building setback from lot line	0 ft min. to 50 ft max.
Minimum side building setback from lot line	15 ft
Minimum rear building setback from lot line	20 ft
Minimum open space coverage	20%

BUILDING AND LOT USE

Maximum dwelling units per building	24
Maximum dwelling unit size	NR

DESIGN STANDARDS

Maximum building height	4 stories or 50 ft
Minimum street facing façade height	18 ft
Maximum finished floor surface of ground floor above sidewalk grade	24"
Maximum building coverage	60%
Maximum building footprint	20,000 sf
Maximum façade modulation length	100 ft (see Section 10.5A43.20)
Minimum street facing façade glazing	50% ground floor
Street facing entrance	required
Maximum street facing entrance spacing	NR
Roof type	all
Façade types	forecourt, recessed entry, porch, officefront, shopfront, terrace, gallery, arcade

PERMITTED DISTRICTS

G1, G2	
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10.5B34.90 Flex Space/Fabrication Building

LOT STANDARDS

Minimum lot depth	NR
Minimum street frontage	50 ft
Front building setback from lot line	0 ft min. to 30 ft max.
Minimum side building setback from lot line	20 ft
Minimum rear building setback from lot line	20 ft
Minimum open space coverage	10%

BUILDING AND LOT USE

Maximum dwelling units per building	NR
Maximum dwelling unit size	NR

DESIGN STANDARDS

Maximum building height	2.5 stories or 40 ft
Minimum street facing façade height	12 ft
Maximum finished floor surface of ground floor above sidewalk grade	24"
Maximum building coverage	70%
Maximum building footprint	20,000 sf
Maximum façade modulation length	100 ft (see Section 10.5A43.20)
Minimum street facing façade glazing	20% ground floor
Street facing entrance	required
Maximum street facing entrance spacing	NR
Roof type	all
Façade types	dooryard, recessed entry, officefront, shopfront, terrace

PERMITTED DISTRICTS

<u>G1, G2</u>	
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10.5B34.100Community Building

LOT STANDARDS

Minimum lot depth	NR
Minimum street frontage	50 ft
Front building setback from lot line	10 ft min. to 40 ft max.
Minimum side building setback from lot line	15 ft
Minimum rear building setback from lot line	20 ft
Minimum open space coverage	20%

BUILDING AND LOT USE

Maximum dwelling units per building	NR
Maximum dwelling unit size	NR

DESIGN STANDARDS

Maximum building height	3 stories or 45 ft <u>in G1 and G2</u> <u>3 stories or 40 ft in G3</u>
Minimum street facing façade height	18 ft
Finished floor surface of ground floor above sidewalk grade	2 ft min. to 6 ft max.
Maximum building coverage	NR
Maximum building footprint	NR
Maximum façade modulation length	100 ft (see Section 10.5A43.20)
Minimum street facing façade glazing	30% ground floor
Street facing entrance	required
Maximum street facing entrance spacing	NR
Roof type	all
Façade types	dooryard, forecourt, stoop, recessed entry, step, porch, terrace, gallery, arcade

PERMITTED DISTRICTS

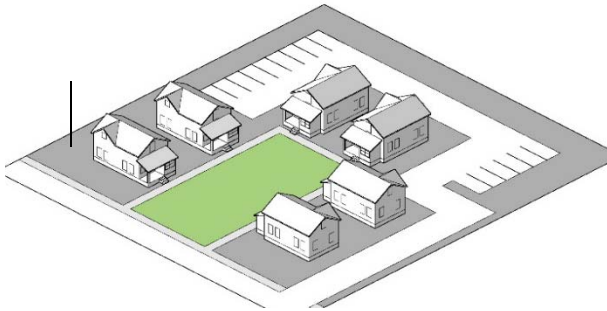
<u>G1, G2, G3</u>	
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10.5B42 Development Site Standards

10.5B42.10 Pocket Neighborhood Development

A Pocket Neighborhood is a cohesive cluster of homes gathered around a variety of common open space amenities. In the Gateway Neighborhood Mixed Use Districts, the following Pocket Neighborhood Development Sites are permitted:

- (a) Cottage Court: This Pocket Neighborhood consists of multiple small, detached single family dwellings, arranged around a courtyard. The shared courtyard takes the place of private yard space and becomes an important community-enhancing element of this development site. The cottage court is appropriately scaled to fit within or nearby medium-density neighborhoods. The pocket neighborhood enables appropriately scaled, well-designed, higher density developments important for providing a broad choice of housing types in a walkable environment. Cottage courts consist of cottages, paired houses, and community building types meeting the design standards in Table 10.5B34 and the density thresholds in Section 10.5B70.
- (b) Cohousing/Housing Cooperative: Cohousing is



a community of private dwellings clustered around shared building and community spaces. Each attached or single family dwelling has traditional residential amenities, including a private kitchen. Shared spaces typically feature a common house, which may include a large kitchen and dining area, laundry, and recreational spaces. Other shared spaces include community garden plots, recreational fields, and shared work spaces. Cohousing developments consists of cottages, paired houses, and community building types meeting the design standards in Table 10.5B33 and the density thresholds in Section 10.5B70.

DEVELOPMENT STANDARDS

Minimum development site area	10,000 sf
Minimum site width	75 ft
Minimum site depth	100 ft
Minimum perimeter buffer	NR
Maximum development block dimensions	block length 300 ft; block perimeter 1,200 linear ft
Maximum building coverage	50%
Minimum open space coverage	20%
Community space types	greenway, courtyard, park, pocket park, playground, recreation field or court, community garden, common or green

PERMITTED BUILDING TYPES

Cottages, paired houses, community buildings

PERMITTED DISTRICTS

G1, G2, G3

ADDITIONAL STANDARDS

Maximum cottage unit size	1,400 GFA and 2 bedrooms
Maximum cohousing unit size	1,800 GFA and 3 bedrooms
Minimum courtyard design	3,000 GFA and 40 ft width
Minimum courtyard area per dwelling unit	600 sf
Buildings shall be centered on a common courtyard in groups of 16 or less.	
Cottage courts and cohousing developments may include a community garden, common house, co-work space, and other common access site amenities.	
For cottage court development blocks, the cottages will face a central courtyard in the interior areas of the block, and a service road will provide access to parking areas and building lots along the perimeter of the block.	

10.5B42.20 Mixed Use Development

A development project containing multiple residential, nonresidential, and mixed use building types. Mixed Use Developments may include a combination of horizontally and vertically mixed buildings and uses on site subject to all applicable building type standards in Section 10.5B30.



DEVELOPMENT STANDARDS

Minimum development site area	20,000 sf
Minimum site width	100 ft
Minimum site depth	100 ft
Minimum perimeter buffer	75 ft from a Residential District, Mixed Residential District, or Character District 4-L1
Maximum development block dimensions	block length 800 ft; block perimeter 2,200 linear ft
Maximum building coverage	70%
Minimum open space coverage	20%
Community space types	all

PERMITTED BUILDING TYPES

apartment building, gateway townhouse, ~~live/work~~ small mixed use building, small commercial building, large commercial building, large mixed use building, small flex space/fabrication building, community building

PERMITTED DISTRICTS

G1, G2

10.5B42.30 General Residential Development

A development project containing one or more residential building types in accordance with allowed building types and design standards in Section 10.5B34.



DEVELOPMENT STANDARDS

Minimum development site area	10,000 sf
Minimum site width	75 ft
Minimum site depth	100 ft
Minimum perimeter buffer	75 ft from a Residential District, Mixed Residential District, or Character District 4-L1
Maximum development block dimensions	block length 500 ft; block perimeter 1,500 linear ft
Maximum building coverage	50%
Minimum open space coverage	20%
Community space types	greenway, park, pocket park, playground, recreation field or court, common or green, community garden, square, plaza

PERMITTED BUILDING TYPES

apartment building, gateway townhouse, ~~live/work~~ small mixed use building, community building

PERMITTED DISTRICTS

G1, G2, G3

10.5B42.40 General Commercial Development

A development project containing one or more commercial building types in accordance with allowed building types and design standards in Section 10.5B34.



DEVELOPMENT STANDARDS

Minimum development site area	10,000 sf
Minimum site width	75 ft
Minimum site depth	100 ft
Minimum perimeter buffer	100 ft from a Residential District, Mixed Residential District, or Character District 4-L1
Maximum development block dimensions	block length 700 ft; block perimeter 2,000 linear ft
Maximum building coverage	70%
Minimum open space coverage	10%
Community space types	park, pedestrian alley, wide pedestrian sidewalk, common or green, outdoor dining café, greenway, square, plaza, courtyard

PERMITTED BUILDING TYPES

small commercial building, large commercial building, small flex space/fabrication building

PERMITTED DISTRICTS

G1, G2

Section 10.5B70 Density Thresholds and Bonuses

10.5B71 Residential Density

10.5B71.10 New development or redevelopment that consists of one principal residential or mixed residential building according to the standards for building type in Section 10.5B34 on a single lot shall comply with the following density requirements for the maximum number of dwelling units per acre.

Dwelling Units Per Acre

Building Type	Gateway Corridor (G1)		Gateway Center (G2)		<u>Gateway Residential (G3)</u>	
	P	CU	P	CU	<u>P</u>	<u>CU</u>
Cottage	NR	NR	NR	NR	<u>NR</u>	<u>NR</u>
Paired House	NR	NR	NR	NR	<u>NR</u>	<u>NR</u>
Apartment Building	16	24	16	24	<u>16</u>	<u>20</u>
Gateway Townhouse	16	24	16	24	<u>16</u>	<u>20</u>
Live-Work Small Mixed Use Building	16	24	16	24	<u>12</u>	<u>16</u>
Mixed Use Building	16	24	16	24		

P = Permitted

CU = Conditional Use Permit under the provisions for Density Bonuses in Section 10.5B72

NR = No requirement

10.5B71.20 New development or redevelopment that is constructed according to the standards for a development site in Section 10.5B43 shall comply with the density requirement for the maximum number of dwelling units per acre for all of the buildings in the development.

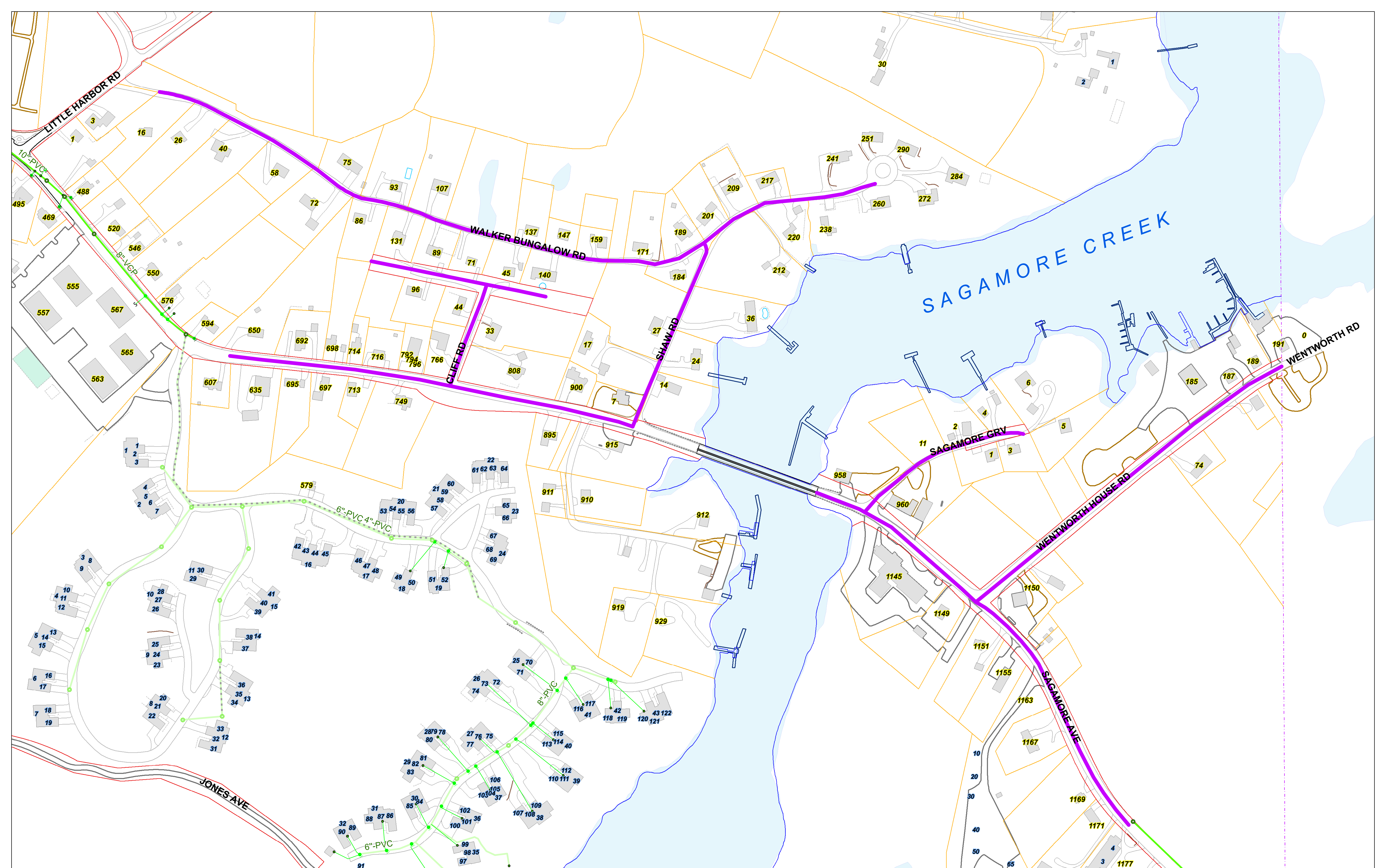
Dwelling Units Per Acre

Development Sites	Gateway Corridor (G1)		Gateway Center (G2)		<u>Gateway Residential (G3)</u>	
	P	CU	P	CU	<u>P</u>	<u>CU</u>
Pocket Neighborhood	16	20	12	16	<u>12</u>	<u>16</u>
Mixed Use Development	20	36	20	36	<u>NA</u>	<u>NA</u>
General Residential Development	20	36	20	36	<u>16</u>	<u>20</u>

P = Permitted

CU = Conditional Use Permit under the provisions for Density Bonuses in Section 10.5B72

NA = Not Allowed



Legend

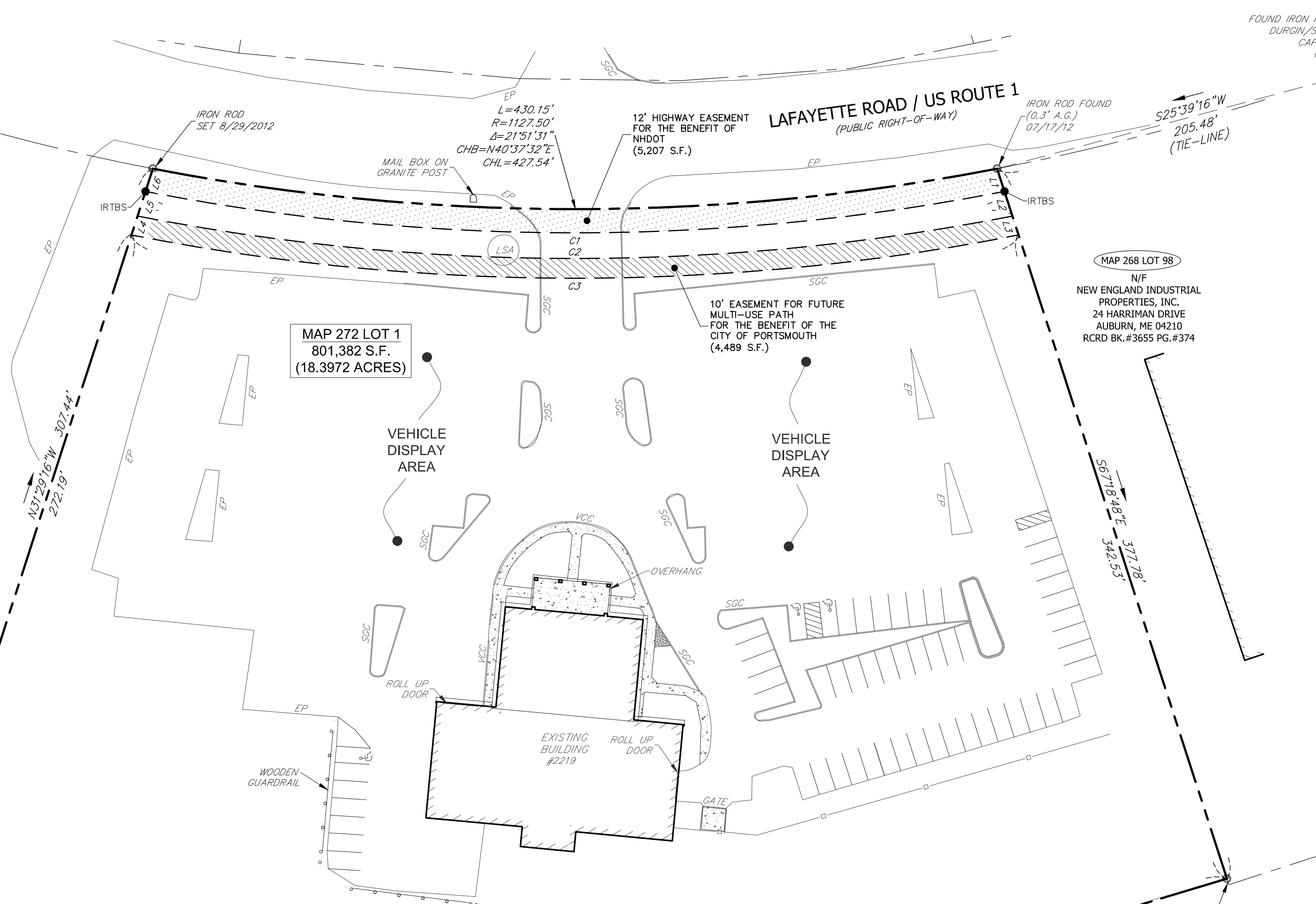
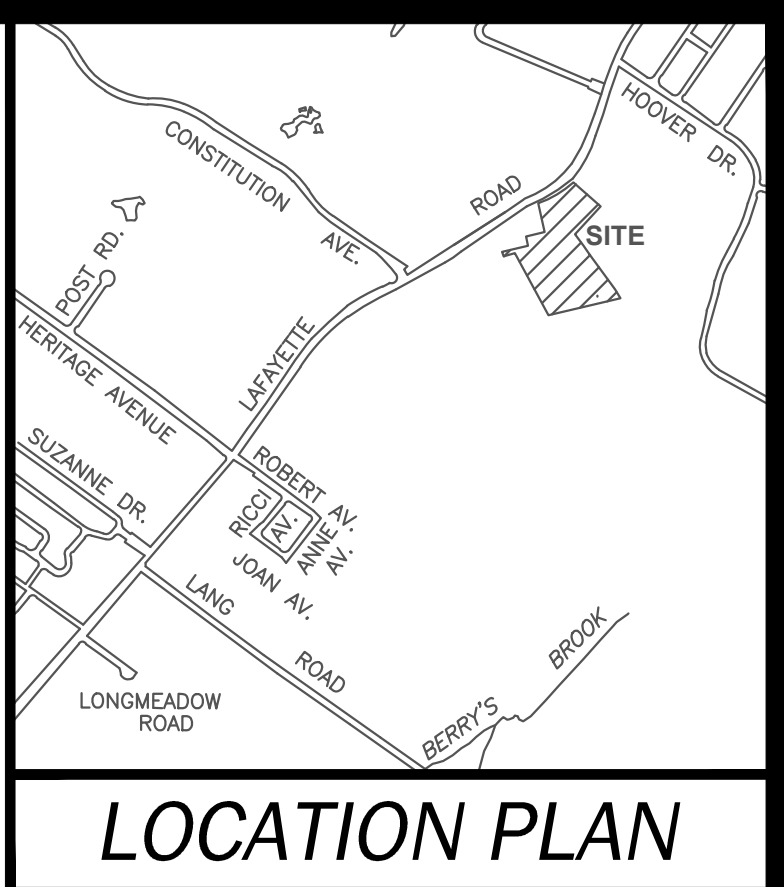
— Proposed Low Pressure Sewer Main

0 60 120 240 360 Feet
1 inch = 120 feet



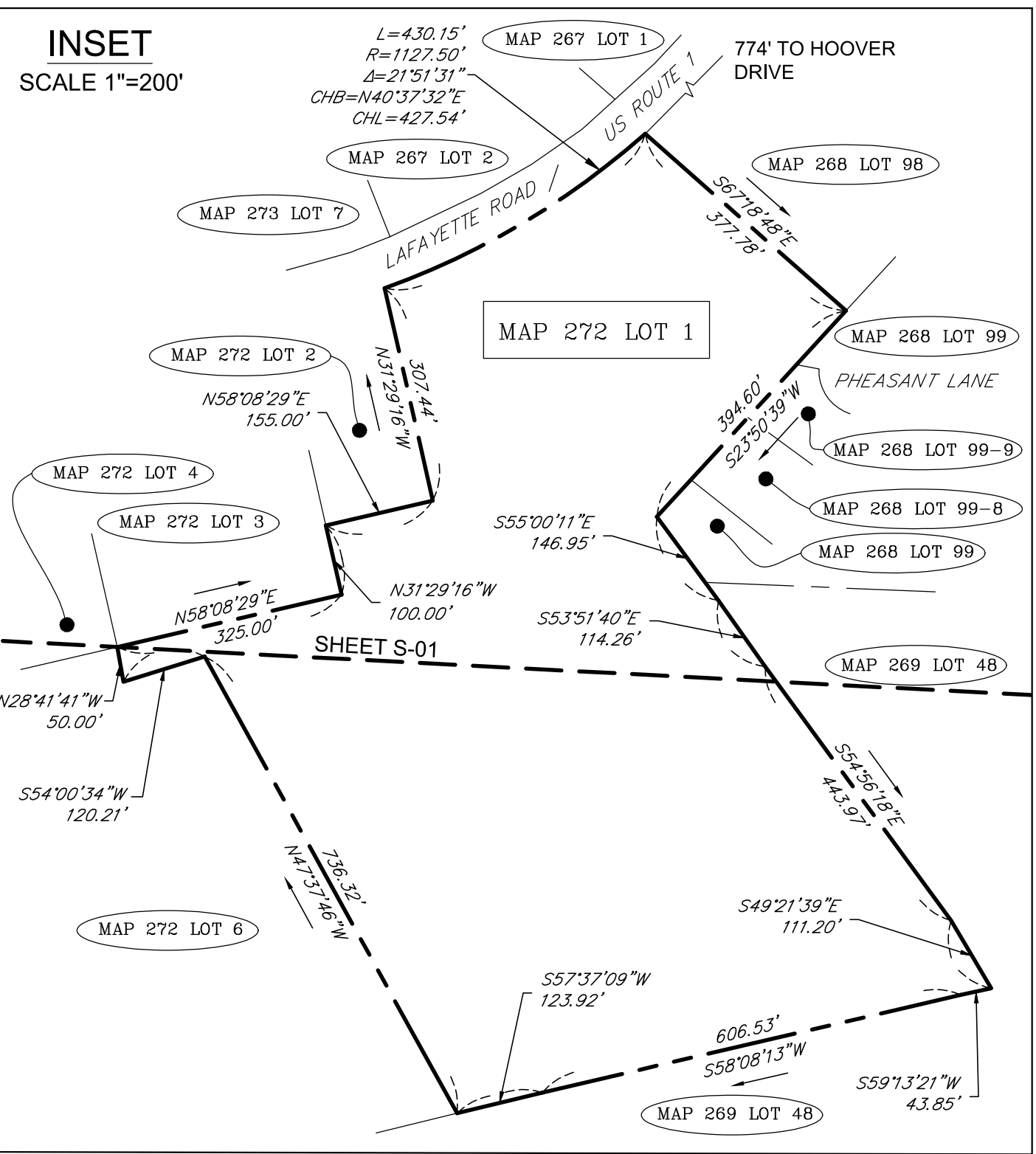
LEGEND

MAP 272 LOT 3	ASSESSORS MAP & PARCEL NUMBER
A.G.	ABOVE GRADE
BK./PG.	BOOK/PAGE
CHB	CHORD BEARING
CHL	CHORD LENGTH
EP	EDGE OF PAVEMENT
IRTBS	IRON ROD TO BE SET
L	LENGTH
LSA	LANDSCAPED AREA NOW OR FORMERLY
N/F	NEW HAMPSHIRE DEPARTMENT OF TRANSPORTATION
NHDOT	NEW HAMPSHIRE DEPARTMENT OF TRANSPORTATION
NAD83	NORTH AMERICAN 1983 DATUM
R	RADIUS
RCRD	ROCKINGHAM COUNTY REGISTRY OF DEEDS
S.F.	SQUARE FEET
SGC	SLOPED GRANITE CURB
VCC	VERTICAL CONCRETE CURB
Δ	CENTRAL ANGLE
○	HANDICAP
—	STONE WALL
—	GUARD RAIL
—	STOCKADE FENCE
—	PROPERTY LINE
■	CONCRETE
■	12' WIDE NHDOT EASEMENT
■	10' EASEMENT FOR FUTURE MULTI-USE PATH



- NOTES:**
1. THE PARCEL IS LOCATED IN THE GATEWAY CORRIDOR (G1) AND THE SINGLE RESIDENCE A (SRA) ZONING DISTRICTS.
 2. THE PARCEL IS SHOWN ON THE CITY OF PORTSMOUTH ASSESSOR'S MAP 272 AS LOT 1.
 3. THE PARCEL IS LOCATED IN FLOOD ZONE X AS SHOWN ON FLOOD INSURANCE RATE MAP, ROCKINGHAM COUNTY, NEW HAMPSHIRE, PANEL 270 OF 681, MAP NUMBER 33015C0270E, EFFECTIVE DATE: MAY 17, 2005.
 4. OWNER OF RECORD: 2219 LAFAYETTE ROAD, LLC 549 US HIGHWAY 1 BYPASS PORTSMOUTH, NH 03801 RCRD BK.#5900 PG.#1408
 5. HORIZONTAL DATUM IS NAD83(2011) PER STATIC GPS OBSERVATIONS.
 6. FIELD SURVEY COMPLETED BY TODD C. EMERSON AND MARINUS VANDER POL III IN MARCH, 2019 USING A TOPCON DS103, HIPER-V, HIPER-SR AND A TOPCON FC-5000 DATA COLLECTOR.
 7. THE INTENT OF THIS PLAN IS TO SHOW THE LOCATION OF BOUNDARIES IN ACCORDANCE WITH THE CURRENT LEGAL DESCRIPTIONS. IT IS NOT AN ATTEMPT TO DEFINE UNWRITTEN RIGHTS, DETERMINE THE EXTENT OF OWNERSHIP OR DEFINE THE LIMITS OF TITLE.
 8. THE PURPOSE OF THIS PLAN IS TO SHOW A 12' WIDE HIGHWAY EASEMENT FOR THE BENEFIT OF THE NEW HAMPSHIRE DEPARTMENT OF TRANSPORTATION (NHDOT) AND A 10' WIDE FUTURE MULTI-USE PATH EASEMENT FOR THE BENEFIT OF THE CITY OF PORTSMOUTH NEW HAMPSHIRE ON TAX MAP 272 LOT 1.

- PLAN REFERENCES:**
1. "SUBDIVISION PLAN ERIN FOOD SERVICES INC. PORTSMOUTH N.H." BY THOMAS F. MORAN INC. CIVIL ENGINEERS & SURVEYORS, DATED NOVEMBER 14, 1972. RCRD PLAN #C-3702.
 2. "SUBDIVISION PLAN FOR JOHN E. STEF LAFAYETTE ROAD PORTSMOUTH, NEW HAMPSHIRE" BY WARD B. WILLIAMS ASSOC., DATED DECEMBER 1977. RCRD PLAN #C-7649.
 3. "SUBDIVISION OF LAND FOR THE HOUSE OF THREE OFF HOOPER DRIVE COUNTY OF ROCKINGHAM PORTSMOUTH, N.H." BY TOWN PLANNING AND ENGINEERING ASSOCIATES, INC., DATED MAY 1978. RCRD PLAN #D-8018.
 4. "SUBDIVISION OF THE CEDARS OF PORTSMOUTH OWNER: PAUL MACK INC. LOCATION: US ROUTE 1 LAFAYETTE ROAD PORTSMOUTH N.H." SURVEY BY: RICHARD D. BARTLETT L.L.S., DATED DECEMBER 4, 1984. RCRD PLAN #D-14691.
 5. "SITE PLAN OF SPRING BROOK CONDOMINIUMS LOCATION: US ROUTE 1 LAFAYETTE ROAD PORTSMOUTH N.H." SURVEY BY: RICHARD D. BARTLETT L.L.S., DATED DECEMBER 4, 1984, WITH LAST REVISION DATED 7/21/86. RCRD PLAN #D-15310.
 6. "TITLE INSURANCE PLAN (LOT 3 MAP R72) LAFAYETTE RD. PORTSMOUTH, NEW HAMPSHIRE PREPARED FOR BURGER KING CORPORATION" BY ALLAN H. SWANSON, INC., DATED 5 JUNE 1990. RCRD PLAN #D-20705.
 7. "SITE PLAN PHEASANT LANE, A PLANNED UNIT DEVELOPMENT (PUD) FOR PHEASANT LANE REALTY TRUST 4 HOOPER DRIVE COUNTY OF ROCKINGHAM PORTSMOUTH, N.H." BY MILLETTE, SPRAGUE & COLWELL, INC., DATED JANUARY 30, 1998 WITH REVISION 5 DATED 6/08/98. RCRD PLAN #D-26342.
 8. "SUBDIVISION PLAT PROJECT: PRIMAX PROPERTIES, LLC PROPOSED "ADVANCE AUTO PARTS" STORE" BY BOHLER ENGINEERING, P.C., DATED 12/23/04, WITH REVISION 3 DATED 09/20/05. RCRD PLAN #D-33166.
 9. "ALTA-ACSM LAND TITLE SURVEY ANTHONY DILORENZO ROUTE 1 - LAFAYETTE ROAD PORTSMOUTH, NEW HAMPSHIRE" BY TRITECH ENGINEERING CORPORATION, DATED DECEMBER 30, 2005. RCRD PLAN #D-33422.
 10. "ALTA/ACSM LAND TITLE SURVEY TAX MAP 272 LOT 1 PROPERTY OF ANTHONY DILORENZO 2219 LAFAYETTE ROAD PORTSMOUTH, NEW HAMPSHIRE" BY MSC CIVIL ENGINEERS & LAND SURVEYORS, INC., DATED JULY 30, 2012, WITH REVISION 1 DATED 08/01/12. PLAN IS NOT RECORDED.



LINE	BEARING	DISTANCE
L1	S67°18'48"E	12.09'
L2	S67°18'48"E	13.09'
L3	S67°18'48"E	10.07'
L4	N31°29'16"W	10.07'
L5	N31°29'16"W	13.09'
L6	N31°29'16"W	12.09'

CURVE	ARC LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	437.66'	1139.50'	22°00'23"	S40°37'31"W	434.98'
C2	445.81'	1152.50'	22°09'47"	N40°37'30"E	443.03'
C3	452.07'	1162.50'	22°16'52"	S40°37'29"W	449.23'

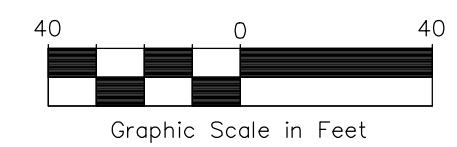
PURSUANT TO NEW HAMPSHIRE REVISED STATUTES ANNOTATED 676:18, II, III AND IV AND 672:14:
 "I CERTIFY THAT THIS SURVEY PLAT IS NOT A SUBDIVISION PURSUANT TO THIS TITLE AND THAT THE LINES OF STREETS AND WAYS SHOWN ARE THOSE OF PUBLIC OR PRIVATE STREETS OR WAYS ALREADY ESTABLISHED AND THAT NO NEW WAYS ARE SHOWN."
 I CERTIFY THAT THIS SURVEY AND PLAN WERE PREPARED BY THOSE UNDER MY DIRECT SUPERVISION AND ARE THE RESULT OF A FIELD SURVEY CONDUCTED IN MARCH, 2019. THIS SURVEY CONFORMS TO THE ACCURACY REQUIREMENTS OF AN URBAN SURVEY OF THE NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES OF THE BOARD OF LICENSURE FOR LAND SURVEYORS. I FURTHER CERTIFY THAT THIS SURVEY IS CORRECT TO THE BEST OF MY PROFESSIONAL KNOWLEDGE, AND THE FIELD TRAVERSE SURVEY EXCEEDS A PRECISION OF 1:15,000.
 A COPY OF THIS PLAN HAS BEEN FILED WITH THE LOCAL PLANNING BOARD.

FOR REVIEW

LICENSED LAND SURVEYOR _____ DATE _____

ABUTTERS

MAP 267 LOT 1 N/F 2200 LAFAYETTE RD LLC C/O LEONARD KOVIT 401 CHANDLERS WHARF PORTLAND, ME 04101 RCRD BK.#4092 PG.#2384	MAP 272 LOT 4 N/F RYE PORT PROPERTIES LLC PO BOX 345 STRATHAM, NH 03885 RCRD BK.#5083 PG.#763
MAP 267 LOT 2 N/F KSC LLC C/O KEN S. CHEN PO BOX 6808 PORTSMOUTH, NH 03802 RCRD BK.#5761 PG.#1292	MAP 272 LOT 6 N/F SPRINGBROOK CONDOMINIUM PORTSMOUTH, NH 03801 RCRD BK.#2622 PG.#1831
MAP 269 LOT 48 N/F WOODLANDS HOMEOWNERS ASSOCIATION, INC PO BOX 8191 PORTSMOUTH, NH 03802 RCRD BK.#2839 PG.#1705	MAP 273 LOT 7 N/F FESTIVAL FUN PARKS, LLC C/O PROPERTY TAX SERVICE CO. PO BOX 543185 DALLAS, TX 75354 RCRD BK.#3471 PG.#2972



REV.	DATE	DESCRIPTION	DR	CK

TAX MAP 272 LOT 1
EASEMENT PLAN
KEY ACURA OF PORTSMOUTH
2219 LAFAYETTE ROAD
PORTSMOUTH, NEW HAMPSHIRE
COUNTY OF ROCKINGHAM
 OWNED BY
2219 LAFAYETTE ROAD, LLC

SCALE: 1" = 40' (22x34)
 1" = 80' (11x17)

AUGUST 2, 2019

TFM	MSC	Civil Engineers	170 Commerce Way, Suite 102
		Structural Engineers	Portsmouth, NH 03801
		Traffic Engineers	Phone (603) 431-2222
		Land Surveyors	Fax (603) 431-0910
		Landscape Architects	www.tfmoran.com
		Scientists	

A division of TFMoran, Inc.

45407.80	DR	MVP	FB	555	S-01
	CK	BMK	CADFILE		

AUG 02 2019 - 4:16pm
 F:\MSC Projects\45407 - Lafayette Road - Portsmouth\45407.80 - 2219 Lafayette Road - Portsmouth\45407.80 - 2219 Lafayette Road - Portsmouth\45407.80 - Easement.dwg

Return To:
Legal Department
City Hall
1 Junkins Ave.
Portsmouth, NH 03801

BICYCLE AND PEDESTRIAN PATH EASEMENT DEED

2219 LAFAYETTE ROAD, LLC, a New Hampshire limited liability company, with a mailing address of 549 US Highway 1 Bypass, Portsmouth, County of Rockingham, State of New Hampshire 03801, hereinafter "Grantor," for consideration paid, grants to the **CITY OF PORTSMOUTH**, a municipal body politic, having a mailing address of 1 Junkins Avenue, Portsmouth, New Hampshire 03801, hereinafter, "Grantee," with QUITCLAIM COVENANTS, the following easement with respect to Grantor's real property situate on the southerly side of Lafayette Road Street/Way in the City of Portsmouth, State of New Hampshire :

1. **Permanent Easement Area:**

A permanent easement for the purpose of a installing and maintaining a public bicycle and pedestrian path over the land of 2219 Lafayette Road, LLC. The Plan to be recorded herewith. That easement area is more particularly described as follows:

Being a 4,489 square foot, 10' wide easement for future multi-use path located southerly of Lafayette Road/US Route 1 in the City of Portsmouth, County of Rockingham, State of New Hampshire. Said easement being shown on a plan entitled "Tax Map 272 Lot 1 Easement Plan Key Acura of Portsmouth 2219 Lafayette Road Portsmouth New Hampshire County of Rockingham owned by 2219 Lafayette Road, LLC" prepared by MSC, a division of TFMoran, Inc. dated August 2, 2019 and is recorded at the Rockingham County Registry of Deeds as Plan # _____ (hereinafter "the Plan"). Said easement being bounded northerly and southerly by land now or formerly of 2219 Lafayette Road, LLC recorded in Book 5900 Page 1408, easterly by land now or formerly of New England Industrial Properties, Inc. (NE Industrial) recorded in Book 3655 Page 374, westerly by land now or formerly of Brian Short LLC recorded in Book 3685 Page 490 and is more particularly described as follows:

BEGINNING at a point in the easterly line of said land of Brian Short LLC, said point being located S 31°29'16" E a distance of 25.18 feet from an iron rod in the southerly sideline of Lafayette Road/US Route 1; thence through said land of 2219 Lafayette Road, LLC along a non-tangent curve turning to the left with a radius of 1,152.50 feet, an arc length of 445.81 feet, a chord bearing of N 40°37'30" E and a chord length of 443.03 feet to a point in the westerly line of said land of NE Industrial, said point being located S 67°18'48" E a distance of 25.18 feet from an iron rod in the southerly sideline of Lafayette Road/US Route 1; thence along said land of NE Industrial S 67°18'48" E a distance of 10.07 feet to a point; thence through said land of 2219 Lafayette Road, LLC along a non-tangent curve turning to the right with a radius of

1,162.50 feet, an arc length of 452.07 feet, a chord bearing of S 40°37'29" W and a chord length of 449.23 feet to a point in the easterly line of said land of Brian Short LLC; thence along said land of Brian Short LLC N 31°29'16" W a distance of 10.07 feet to the point of **BEGINNING**.

Containing 4,489 square feet, more or less.

General Provisions Applicable to all Bicycle and Pedestrian Path Easements:

2. **Purpose and Rights:** The Grantee shall have a permanent easement and right of way in, under, across and over the Permanent Easement Area for the purpose of constructing, installing, maintaining, and regulating the use of a public bicycle and pedestrian path. The Grantee shall have the right to remove trees, bushes, undergrowth and other obstructions interfering with the activities authorized herein and to take such other actions as may be necessary, useful or convenient for the exercise of the easement rights herein granted.
3. **Easement Area for Construction Purposes:** The Grantee shall have a construction easement consisting of 10 feet on either side of the Permanent Easement Area for purposes of installing and maintaining the path. Disturbed areas within the Easement Area for Construction Purposes shall be back-filled and restored at the Grantee's expense to equal or better condition.
4. **Use of the Bicycle and Pedestrian Path:** The Grantee shall have the right to access and use the entire easement area without interference from or by the Grantor. The Grantee reserves the exclusive right to exclude such uses from the easement area as Grantee deems at its sole discretion interfere with the public benefit or safe use of the easement area. The Grantee shall not interfere with the use of any existing permitted driveways and access ways during or after construction of the Bicycle and Pedestrian Path, except as necessary for public safety or otherwise permitted by law.
5. **Common Plan and Relationship to Right of Way:** The intent of the parties is to accommodate a unified Bicycle and Pedestrian Path spanning Lafayette Road/Route 1 in the City of Portsmouth. Each party agrees to take such steps as needed to effectuate said intent. The failure to complete the entire Path shall not affect any rights or duties herein granted.
6. **Grantor's Retained Rights:** Excepting such rights as conferred in this document, the Grantor retains all other rights incident to ownership of the Easement Area insofar as the exercise thereof does not endanger or interfere with the purpose of this instrument.
7. **Easement to Run with Land:** All rights and privileges, obligations and liabilities created by this instrument shall inure to the benefit of, and be binding upon, the heirs, devisees, administrators, executor, successors and assignees of the Grantee and of the Grantor, the parties hereto and all subsequent owners of the Premises and shall run with the land.

MEANING AND INTENDING to convey an easement over a portion of the premises conveyed to the within Grantor by deed of Stephen H. Roberts, Trustee of The ADL 2017 Irrevocable Trust #2 dated March 19, 2018 and recorded in Book 5900, Page 1408 of the Rockingham County Registry of Deeds.

This is an exempt transfer per RSA 78-B:2(I).

DATED this _____ day of _____, 2019.

By: _____

Name: _____

STATE OF NEW HAMPSHIRE
COUNTY OF ROCKINGHAM

The foregoing instrument was acknowledged before me this _____ day of _____, 2019.

Justice of the Peace/Notary Public

Printed Name:

My Commission Expires:

LICENSE AGREEMENT
for Vaughan Street Hotel LLC

The City of Portsmouth (hereinafter "City"), a municipal corporation with a principal place of business of 1 Junkins Ave, Portsmouth, New Hampshire 03801 for good and valuable consideration as set forth herein and as approved by the City Council on October 7, 2019, hereby grants this Revocable License to Vaughan Street Hotel LLC (hereinafter "Licensee") with a principal place of business at 1359 Hooksett Road, Hooksett, NH 03106 pursuant to the following terms and conditions:

1. **Areas of License and Use:** The City authorizes Licensee to use the travel way and the public sidewalks as shown in Exhibit A attached hereto as described as follows: City land in the vicinity of 225-229 Vaughan Street consisting of approximately 6,235 square feet including a portion of the street, sidewalk, and parking spaces on Vaughan Street
2. **Use:** Licensee shall make use of the Licensed Area for the purpose of facilitating the Licensee's construction activities only and in accordance with the terms and conditions set forth herein and consistent with any local land use or building permit approvals or other City agreements or approvals related to this project.
3. **Term:** This license shall be for 23 days, commencing on September 28, 2019 and concluding on October 19, 2019. Licensee may make application to the City Manager for an extension of this term, not to exceed an additional six (6) months, should Licensee, in spite of due diligence in the construction of the project, require additional time to complete the project. Owner shall be responsible for applicable license fees associated with any extension of the term.
4. **Early Termination:** Licensee may terminate this License prior to the end of the term by returning the License Area or any portion thereof to safe and effective use by the public prior to the expiration of the term of this License. Licensee shall contact the Director of Public Works for a determination that the License Area has been returned to safe and effective use. Failure to remove all vehicles, barriers, materials and equipment and to return the License Area to the City in the manner prescribed under this License by the end of the term may result in enforcement action by the City.
5. **Notice:** Licensee shall provide notice to the City's Director of Public Works when the Licensee assumes control and use of the Licensed Areas and again when the Licensed Areas are returned to the City's control and use.
6. **License Fees:** The Licensee shall pay to the City license fees in accordance with the City Council Policy No. 2018-02 entitled "License Fee for Encumbrance of City Property" ("License Fee Policy"). The total License Fee for the term of this License is seven thousand one hundred and seventy dollars (\$7,170). The total License Fee shall be paid to the City in advance of the commencement of the Term of this Agreement. Because it is in the City's interest that the Licensed Areas be returned to the public use as soon as possible, if all or a portion of the License Area is returned to the City prior to the end of the License Term, the City will refund the Licensee the portion of the License Fee paid but not used by the Licensee.
7. **Indemnification:** Licensee agrees to indemnify and hold harmless the City of Portsmouth for any and all property damage, bodily injury or personal injury which arises as a result of its utilization of the Licensed Areas. This obligation survives termination or revocation of this agreement.
8. **Insurance:** At all times the Licensee shall maintain insurance for bodily injury and property damage in the amount of at least \$1,000,000 per occurrence. Licensee will provide proof of insurance.
9. **Maintenance of Area:** During the course of this Agreement, Licensee shall maintain the Licenses Area in a safe, neat, and orderly fashion. The Licensee shall secure the perimeter of the Licensed Areas and take such other measures as may be necessary for pedestrian and vehicular safety during us of the Licensed Areas.
10. **Damage:** Licensee agrees to remedy any damage to the Licensed Areas caused by the Licensee's activities. The City may elect to accept reasonable reimbursement from the Licensee in lieu of remedy.
11. **Compliance with Other Laws:** This Agreement does not relieve from compliance with any other local, state or federal laws or regulations or conditions imposed by any local board or department. Failure to abide by any local, state or federal laws or regulations or any condition or approval may, at the City's discretion, result in revocation.
12. **Revocation:** The City may terminate this agreement or any provision contained in this agreement on 72 hours written notice provided if Licensee fails to meet the terms and conditions of this License or if the public interest requires such termination.
13. **Contractor and Subcontractor Parking:** Licensee understands and agrees that its contractors and subcontractors for the project shall not use on-street parking.

Language will be inserted in Licensee's vendors and suppliers Purchase Orders and Trade Subcontracts that make the prohibition against parking on City streets mandatory. Contractor shall limit/manage construction vehicles and deliveries to avoid disruption to businesses, particularly during the holiday season. Contractor may use loading zones for active loading and unloading of materials, equipment and tools.

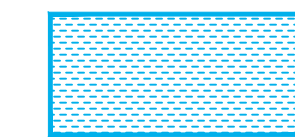
Dated this _____ day of _____, _____
City of Portsmouth

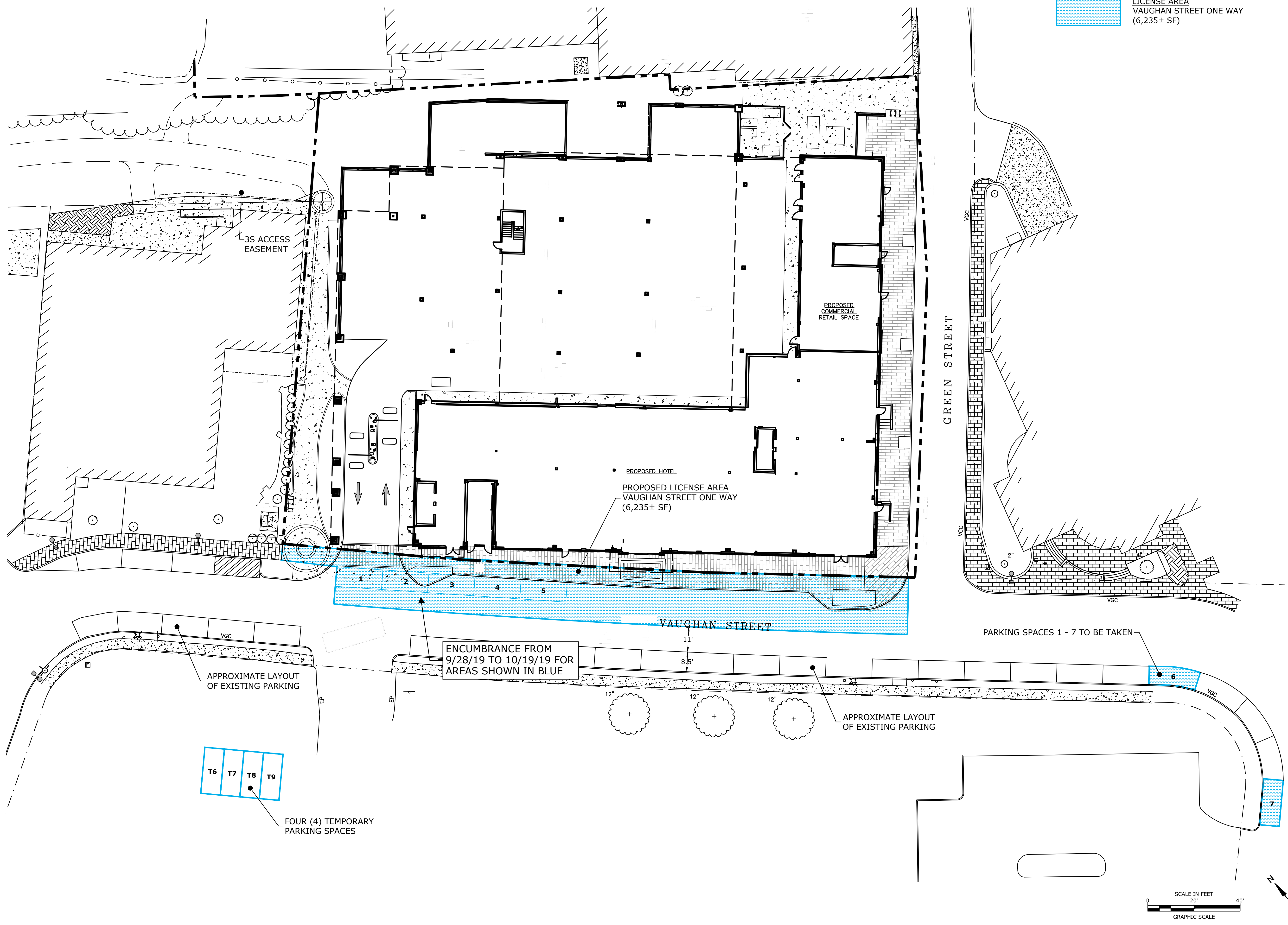
By:
John P. Bohenko, City Manager
Pursuant to vote of the City Council on
October 7, 2019

Dated this _____ day of _____, _____
Vaughan Street Hotel LLC

By:
Jeff Johnston

LEGEND

 LICENSE AREA
VAUGHAN STREET ONE WAY
(6,235± SF)



AC Hotel and Community Space

299 Vaughan Street, LLC

Portsmouth, New Hampshire

MARK	DATE	DESCRIPTION
1	10/1/2019	Rev for Encumbrance

PROJECT NO: C-0960-2
DATE: November 5, 2018
FILE: C-0960-2_C-DSGN.dwg
DRAWN BY: NAH/CML
CHECKED: PMC
APPROVED: BLM

ENCUMBRANCE PLAN - 9/28/19 - 10/19/19

SCALE: AS SHOWN

Last Saved: 10/1/2019 10:17am By: CHL
Plotted On: Oct 02, 2019 10:17am
Tighe & Bond 231 Campbell Calhoun, C-0960-2 Vaughan St Drawings - Figures AutoCAD Venti C-0960-2 - C-DSGN.dwg

DPW 2019 Auction List

Make	Model	PICTURE	Odometer	
Meyer Diamond	Poly Salter	Meyers Poly	N/A	A-1
Meyer Diamond	Salter	Meyers D2	N/A	A-2
Meyer Diamond	Salter	Meyers D3	N/A	A-3
Meyer Diamond	Salter	Meyers D4	N/A	A-4
Meyer Diamond	Salter	Meyers D5	N/A	A-5
Crane Carrier/Leach Pckmaster	Trash truck	2IIR10248	254,591 MI	A-6
Crane Carrier/Leach Pckmaster	Trash truck	2RII-10237	283,257 MI	A-7
Ingersoll Rand	185 Compressor	Compressor	N/A	A-8
Billy Goat	Leaf Blower	BG Leaf Blower	N/A	A-9
Chevy	Uplander	Yellow Uplander	113,854 MI	A-10
Light Set	light Set	Light Set 1	N/A	A-11
Light Set	light Set	Light Set 2	N/A	A-12
Chevy	Silverado	W166 Yellow	103,230 MI	A-13
Chevy	Uplander	Silver Uplander	106,425 MI	A-14
Fisher	Plow #68	Fisher Plow	N/A	A-15
Ford	F-250 Bed (Yellow)	F-250 BED YELLOW	N/A	A-16
Stanley	HP-1 Portable Hydraulic	Stanley HP-1	N/A	A-17
Parking Booth	Parking Booth	Parking Booth	N/A	A-18
Goodall	Starter pack	Goodall	N/A	A-19
Wachs	Abrasive Saw	Wachs Saw	N/A	A-20
SnowQuip	Chute Extender	Chute Extender	N/A	A-21
Fleet Charger	Battery Charger	Charger 1	N/A	A-22
Fleet Charger	Battery Charger	Charger 2	N/A	A-23
Metal Roller Press	Metal Press	Metal Press	N/A	A-24
Linde	Mig Welder	Welder	N/A	A-25
Rockwell/Delta	Drill Press	Drill Press	N/A	A-26
Stihl	Cut-Off Saw	Cut Off Saw 1	N/A	A-27
Stihl	Cut-Off Saw	Cut Off Saw 2	N/A	A-28
Stihl	Cut-Off Saw	Cut Off Saw 3	N/A	A-29
Honda	Trash Pump	TRASH PUMP	N/A	A-30
Stihl	Weed Wacker	WEED WACKER 1	N/A	A-31
Stihl	Weed Wacker	WEED WACKER 2	N/A	A-32
Green Jack	20 Ton	20 TON JACK	N/A	A-33
ReelCraft	Hose Reel	HOSE REEL	N/A	A-34
Toro	Wheel Horse	TORO 1	450 HRS	A-35
Toro	Wheel Horse	TORO 2	428 HRS	A-36
ExMark	Lazer Z-Turn	Lazer-Z	1,916 HRS	A-37
KD Vac	Pro Series	KD VAC	N/A	A-38
Case	590 Super M	590 SUPER M	6,622 HRS	A-39
Fisher	Plow #10	FISHER PLOW #10	N/A	A-40
Gardner-Denver	Greenline Generator	GARDNER	19,621 HRS	A-41
GEHL	T-650BD Power Box	GEHL HOT TOP BOX	2,393 HRS	A-42



27 September 2019

Portsmouth NH City Council
c/o City Clerk's Office
1 Junkins Ave
Portsmouth NH 03801

Dear City Council,

My name is Matt Junkin. I am the Race Director of the Seacoast Rotary Turkey Trot 5k.

I am writing this letter to ask the City Council consider approval of our 11th Annual race which will take place on Thanksgiving November 28th, 2019. Registration for the race begins at 7am and the race will commence at 8:30 AM on Peirce Island, and Finish at Strawberry Banke.

Thank you for your consideration as well as the support you have provided for this event over the last 10 years.

Best Regards,

Matt Junkin
Past President, Seacoast Rotary
mrjunkin@gmail.com
603-591-0083

CITY COUNCIL E-MAILS

September 17th – October 3, 2019 (9:00 a.m.)

OCTOBER 7, 2019 Council Meeting

Below is the result of your feedback form. It was submitted by Timi Hendrix (DumpireGoodness@gmail.com) on Monday, September 16, 2019 at 20:11:20

address: nh

comments: Briefly for right now... I'm a street performer by night (Constitutional lawyer by day) and your professional police officers told me I cannot use an AMP, but the Feds already threw those laws out, and I'm hoping we can all get on the SAME PAGE, legally, so I don't have to sue (as I've done in the past many times, successfully). Is there a way we can all settle this via EMAIL? (I don't live in Portsmouth. If I did, I'd go to a CC meeting.) BASICALLY, the fed courts say "AMP LAWS ARE NOT LEGAL, b/c they're lazy and bogus attempts to regulate VOLUME. 1) acoustic DRUMS or brass or bagpipes are FAR louder than almost anyone using an amp or electricity, so the "LAW" is bogus b/c it says electric / electronic MUSICIANS have fewer free expression rights than acoustic musicians, irrespective of VOLUME. 2) The AMP LAWS are even more unConstitutional... b/c they serve NO PURPOSE: amp or no amp... permit or no permit... it's STILL up to the DISCRETION OF POLICE. Either you are too loud or blocking peds or annoying someone.... OR YOU AREN'T. Amp-or-no-amp is POINTLESS and redundant." (MORE LEGAL ARGUMENTS upon request.) MAKES PERFECT SENSE that the Amp Law is unConstitutional. If a performer is causing ANY problem, the police can SOLVE it, without any amp law. Even having a permit doesn't trump a Volume Complaint, proving the permit system to be BOGUS as well. The AMP LAW serves no purpose. Either a performer is upsetting someone or they are NOT upsetting anyone, and now that every one has Cell Phones, 911 is easier than every before. See the logic here? ALL I'm asking is you DITCH the amp law and let police take care of anyone who is too loud, with or without an amp. SIMPLE LOGIC. Thanks for any assist. (Note: strangers LOVE me more than I ever dreamt. I expected more complaints, but I try to always be considerate of others.)

includeInRecords: on

Engage: Submit

Below is the result of your feedback form. It was submitted by Kim Lovely (Kimlynnlovely@gmail.com) on Tuesday, September 17, 2019 at 16:10:46

address: 450 islington st

comments: Good evening memebers of the Portsmouth City Council. Im writing in regards to the basketball court and tennis court in The Atlantic Heights that our city has allowed to get run down, how do we go about replacing the nets and hops so our children have another place for play?

includeInRecords: on

Engage: Submit

Below is the result of your feedback form. It was submitted by Jay Mack (hopsnbaer@yahoo.com) on Tuesday, September 17, 2019 at 21:51:11

address: 1039 islington street, Unit 8

comments: Hello,

I understand that nothing can probably be done about the trains after 9:00PM.
They are sounding their horns as they cross the bridge on Bartlett street and Barberry lane.

Is it possible we can have someone look into the possibility of making the Islington Street corridor a train quiet zone?

Thanks
Jay Mack

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Christina DALlesandro (cdallesandro@gmail.com) on Thursday, September 26, 2019 at 12:42:05

address: 140 Walker Bungalow Road

comments: Hello all -

I am writing to express my concern regarding the expansion of sewer coverage to my neighborhood. There are many unanswered questions about the true cost of this project, the expected environmental impact or mitigation and the ultimate benefit to the city and the resident.

When my husband and I purchased our home we were told that the city had no plans to expand sewer coverage despite the existence of the consent decree. In fact in the 3 plus years we have lived in the neighborhood at least three of our neighbors have put in new septic systems.

We are concerned that there was no public engagement prior to the authorization of funds to complete this work, nor any clear indication of who would bear this cost - not was this disclosed at the planning meeting until prodded by a resident. We are deeply concerned that the costs will in fact escalate and that the numbers given to this point are not in fact accurate.

The residents of my neighborhood should not bear the burden of a settlement the city offered forward without our consultation. Manager Bohenko incorrectly compares this circumstance to the expansion on Pleasant Point - but therein lies a key difference - those residents asked for the expansion while we have not.

I ask that you reconsider your vote and engage the community in a thoughtful discussion about the best way to proceed - we all want to preserve the Creek and finding the most effective way to do that is in all of our best interest - however we cannot exclusively bear the burden of a city decision we were not party to making.

Best,
Christina D'Allesandro & Kevin Smith

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Rudy Burke (rudy.burke@comcast.net) on Saturday, September 28, 2019 at 11:36:58

address: 176 Breakfast Hill Road

comments: I often have family and guests visiting Portsmouth at varying times of the year. The one constant problem they have is accidentally parking in the Private Pay Lots. The signs, although slightly modified are still woefully misleading to visitors and the unexpected "ticket" invoice leaves a bad taste in the mouth of visitors.

I have been informed by the Mr. Slovenski is responsible for the design of these misleading signs. Since this is the case (or even if it is not) I want to recommend that the "P" in any color be removed from the sign and PRIVATE PAY LOT be the largest lettering on these signs. The "parking" signs with arrows should also be disallowed because they guide visitors to PRIVATE parking AND AWAY FROM municipal lots/garages.

The signs are CLEARLY misleading and designed that way to entrap unsuspecting visitors AND to divert parking income away from the city.

Your kind and immediate attention is greatly appreciated

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Maureen and Russell Foster (msf4@comcast.net) on Wednesday, October 2, 2019 at 14:03:03

address: 17 Shaw Road

comments: Dear City Councillors,

We are writing today to express our deep concern about the upcoming sewer project in our neighborhood. While we applaud the overall goal of improving water quality in the Sagamore Creek area, and recognize that the city is required through the second modification of a consent decree to implement sewer in our area, we are shocked and concerned that the city is considering having the residents of this area (approximately 100 homes) pay for this project. Here are the fundamental issues as we see them:

As Portsmouth residents, many of us have been faithfully paying property taxes for decades under the assumption that we all pool our resources to pay for the necessary infrastructure of a well operating community. We have, through our taxes, helped pay for schools, roads, sewers, etc for neighborhoods not our own. We are therefore shocked that there is any discussion about our small neighborhood shouldering such a significant burden for what is considered municipal infrastructure.

This project is required by a consent decree with the Environmental Protection Agency. Portsmouth has since the 1970s violated wastewater regulations, including noncompliance with the first consent decree in 2009. The City of Portsmouth signed the current consent decree and holds full responsibility for its implementation, including finances, and not the hundred or so households that appear to be the financial scapegoats for the city's mismanagement of its environmental responsibilities.

This project is well beyond the financial means of many of the residents of this neighborhood. As in any neighborhood, we have a good number of older retired people on fixed incomes, young people raising children of school age and under, and generally folks who are getting by paying their bills but who would find a cost of this magnitude unsustainable. We also have those folks who have recently had homes built and brand new septic systems installed at great expense. As the city moves forward with this project, with an expected completion date of June 2020, they still do not have a firm estimate of cost. Current thought is \$4.4 million, but that is just a ballpark estimate.

Why is the Sewer Enterprise Fund not being used for this project? Estimates indicate that there is more than enough money currently in the fund for this and other projects.

Finally, please consider how you would like the City of Portsmouth to be viewed, both by its citizens and by those considering residency. Do you want Portsmouth to be seen as a true community where people are treated fairly and city expenses are shared among its citizens? Or will Portsmouth become a place where expenses are levied arbitrarily and one cannot trust that the citizens' well being is considered and advocated for?

Thank you for your time and careful consideration.

includeInRecords: on

Engage: Submit

received
9/18/19

435 Cutts Avenue
Portsmouth NH 03801
September 18, 2019

Mayor Jack Blalock
City of Portsmouth
1 Junkins Avenue
Portsmouth NH 03801

Planning Department
City of Portsmouth
1 Junkins Avenue
Portsmouth NH 03801

Robert P. Sullivan, Esquire
City of Portsmouth
1 Junkins Avenue
Portsmouth NH 03801

Community Development Department
City of Portsmouth
1 Junkins Avenue
Portsmouth NH 03801

RE: Bethel Assembly of God property, 200 Chase Drive, Portsmouth

Dear Mayor Blalock, Attorney Sullivan, Community Development Department and Planning Department:

I previously wrote a letter to the City regarding the reversion of the zoning on 200 Chase Drive in Portsmouth from G2 back to SRB. My request was referred by the Council to the Planning Board for review. Due to discussions that have occurred at the Planning Board level, I supplement my request that if reversion back to SRB zone will not be recommended by the Planning Board and approved by the City Council, in the alternative that the Planning Board be instructed to consider the establishment of G3 zoning criteria. Thereafter, I request that zoning of 200 Chase Drive be changed from G2 zone to G3 zone.

Thank you in advance for your attention to this matter.

Sincerely,



Edward W. Richards