

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, DECEMBER 2, 2019 TIME: 6:00PM

I. 6:00PM - WORK SESSION – UPDATE RE: PRESCOTT PARK MASTER PLAN

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

III. ROLL CALL

IV. INVOCATION

V. PLEDGE OF ALLEGIANCE

PRESENTATION:

1. Report and Recommendations on Scholarship Funds Policies from Trustees of the Trust – Thomas Watson, Trustee (***Sample motion – move to adopt the Trustees of the Trust recommendations regarding this report***)

VI. ACCEPTANCE OF MINUTES – SEPTEMBER 16, 2019, OCTOBER 7, 2019 AND OCTOBER 28, 2019

VII. RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS

VIII. PUBLIC COMMENT SESSION

IX. PUBLIC HEARING ON ORDINANCES AND/OR RESOLUTION

- A. Public Hearing/Second Reading of Ordinance – Zoning Ordinance – Flood Plain Overlay District: (***Public Hearing continued from November 12, 2019 Council meeting***)

Public Hearing/Second Reading of Ordinance amending Chapter 10 – Zoning Ordinance, Article 6 – Overlay Districts and Article 15 – Definitions – Flood Plain District

- B. Third and Final Reading of Ordinance – Food Licensing and Regulations:

Third and Final Reading of Ordinance amending Chapter 4, Article I, Sections 4.103 – Adoption of Specific Parts HE-P 2300, and Section 4.105 - License

- C. Third and Final Reading of Ordinance – Fire Codes:

Third and Final Reading of Ordinance amending Chapter 5, Article VIII – Alarm Systems and Article IX – Adopted Fire Codes

- D. Third and Final Reading of Ordinance – International Building Code & International Residential Code & International Plumbing Code, International Mechanical Code, Fuel Gas Installations and National Electrical Code:

Third and Final Reading of Ordinance amending Chapter 12, Part I – International Building Code, and Part II – International Residential Code & Chapter 15, Part I – International Plumbing Code, Part II – International Mechanical Code, Part III – Fuel Gas Installations, and Part IV – National Electrical Code

E. Third and Final Reading of Ordinance – Conservation Ordinance:

Third and Final Reading of Ordinance amending Chapter 8, Article V – Conservation Ordinance

F. Third and Final Reading of Ordinance – Wetlands Protection:

Third and Final Reading of Ordinance amending Chapter 10 – Zoning Ordinance, Article 10 – Environmental Protection Standards, Section 10.1010 – Wetlands Protection

X. **MAYOR BLALOCK**

1. *Appointment to be Considered:

- Beth Moreau appointment to the Rockingham Planning Commission as the Planning Board Representative

2. *Appointments to be Voted:

- John Formella reappointment to the Zoning Board of Adjustment
- Arthur Parrott reappointment to the Zoning Board of Adjustment
- Dana Levenson reappointment to the Trustees of the Trust Funds
- Jonathan Sandberg appointment as regular member to the Parking & Traffic Safety Committee
- Erica Wygonik appointment as an Alternate to the Parking & Traffic Safety Committee

3. Market Street Gateway Park (***Sample motions – 1) move to suspend the rules to suspend Council Rule 44 – Naming of Municipal Buildings, Parks and Facilities, 2) move to name the Market Street Gateway Park as the Bohenko Gateway Park***)

4. Thank you letter from Michael Griffin & Marga Coulp regarding George R. Laderbush Bridge Opening (***Sample motion – move to accept and place on file***)

XI. **CITY COUNCIL MEMBERS**

A. COUNCILOR ROBERTS

1. Parking and Traffic Safety Committee Action Sheet and Minutes of the November 7, 2019 meeting (***Sample motion – move to approve and accept the Action Sheet and Minutes of the November 7, 2019 Parking and Traffic Safety Committee***)

B. COUNCILOR DENTON

1. Request for the Portsmouth High School Eco Club to receive additional City of Portsmouth reusable tote bags to help raise funds at their Craft Fair for their permaculture greenhouse project

XII. APPROVAL OF GRANTS/DONATIONS

1. *Acceptance of Donation to the Coalition Fund
 - Town of Moultonborough - \$5,000.00***(Sample motion – move to approve and accept the donation, as listed, to be placed in the Coalition Fund)***

XIII. CITY MANAGER'S ITEMS WHICH REQUIRE ACTION

A. CITY MANAGER

City Manager's Items Which Require Action:

1. 3 Pleasant Street Community Space Easements
2. Market Street Property – Recommendation for Acceptance of Sewer Line Easement
3. Lafayette Road Sewer Extension Into Rye

XIV. CONSENT AGENDA

- A. Request for License to Install Projecting Sign for owner Donald N. Gorvett of Piscataqua Fine Arts for property located at 123 Market Street ***(Anticipated action - move to approve the aforementioned Projecting Sign License as recommended by the Planning Director, and further, authorize the City Manager to execute the License Agreement for this request)***

Planning Director's Stipulations

- ***The license shall be approved by the Legal Department as to content and form;***
 - ***Any removal or relocation of projecting sign, for any reason, shall be done at no cost to the City; and***
 - ***Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the projecting sign, for any reason shall be restored at no cost to the City and shall be subject to review and acceptance by the Department of Public Works***
- B. Letter from Lilia Potter-Schwartz, Education For All Children (EFAC) requesting to hold the 5th annual Race to Educate on Sunday, May 24, 2020 at 12:30 p.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 Rabbi Ira Korinow, Temple Israel Board of Directors regarding Request to display a Hanukkah menorah in Market Square ***(Sample motion – move to accept the Temple Israel recommendation for a menorah in Market Square)***

- C. Letter from Hannah of Seacoast Chabad Jewish Center requesting to place a nine-foot Menorah in Market Square *(See attached Memorandum from City Attorney Sullivan)*
(Sample motion – move to accept and place the letter on file)

- D. Letter from Attorney Derek Durbin regarding Release of Interest in Tax Map 206, Lot 1 (Off Brackett Lane) ***(Sample motion – move to refer to the Planning Board from Report Back)***

XVI. CITY MANAGER’S INFORMATIONAL ITEMS

- 1. Board / Committee Input to the Guiding Parking Principles

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*

REPORT AND RECOMMENDATIONS
OF
TRUSTEES OF THE TRUST FUNDS OF THE CITY OF PORTSMOUTH
ON
SCHOLARSHIP FUNDS POLICIES

October 17, 2019

Respectfully Submitted

Trustees of the Trust Funds

Thomas R. Watson, Chair
Dana S. Levenson
Peter G. Weeks

REPORT AND RECOMMENDATIONS
OF
TRUSTEES OF THE TRUST FUNDS OF THE CITY OF PORTSMOUTH
ON
SCHOLARSHIP FUNDS POLICIES

A. INTRODUCTION

1. Background

Pursuant to New Hampshire RSA 31:19, cities and towns in New Hampshire are authorized to accept and hold in trust “gifts, legacies, and devises made to [the municipality] for the establishment, maintenance, and care of libraries, reading-rooms, schools and other educational facilities, parks, cemeteries, and burial lots, the planning and care of shade and ornamental trees upon [its] highways and other public places, and for any other public purpose that is not foreign to [its] institution or incompatible with the objects of [its] organization”. RSA 31:22 requires that all such trusts shall be administered by a board of trustees. The Trustees of the Trust Funds (the “Trustees”) of the City of Portsmouth were constituted by the adoption of Sections 7.21 and 7.22 of the Portsmouth City Charter. The Charitable Trust Unit of the Office of the Attorney General oversees the trustees of trust funds in all communities in the State of New Hampshire and an annual report is required to be filed with that office. RSA 31:38.

Among the trust funds managed by the Trustees of the Trust Funds in Portsmouth are 50 scholarship funds that were established by individual donors. The oldest scholarship fund dates to 1834. The most recent was established in 2019. The intended beneficiaries of the scholarship funds vary from fund to fund. By way of illustration, scholarship funds have been established for “promising youths seeking technical education;” a “high school graduate who plans to enter the nursing field;” a student “with the intention of becoming a teacher;” and a “college-bound football player.” A list of current scholarship funds by date, name and intended beneficiaries is attached hereto as **Exhibit A**. Although each scholarship fund is maintained separately and decisions regarding scholarships are made individually, the principal of all funds are pooled together for purpose of investment. At the end of Fiscal Year 2019, the total value of all scholarship funds was \$7,817,147.93.

Historically, the City of Portsmouth has placed few conditions on individuals or estates wishing to establish scholarship funds. Notably, there has been no policy concerning minimum contributions. In fact, the principal balances of the funds vary significantly. As of Fiscal Year 2019, they range from a low of \$1,136.99 to a high of \$1,970,894.14. A list showing the principal balance of each Fund as of the end of Fiscal Year 2019 is attached hereto as **Exhibit B**.

It has long been the practice that families or individuals desiring to establish scholarship funds do so with the assistance of the City's Legal Department and the Trustees. The vast majority of these scholarship funds were either created in memory of a loved one or popular member of the community or were established pursuant to a bequest in a deceased person's will. The funds were named for the deceased and were created to remain in perpetuity. In order to permit the value of the scholarship funds to grow over time, the trust agreements establishing scholarship funds require that the principal remain in the funds and distributions for scholarships be limited to income realized upon the principal. In some, though not many cases, the establishment of a scholarship fund was followed by fundraising by its settlor to boost the principal in the fund. On average, most of the newer funds were funded with between \$3,000 and \$5,000. Often, the creator of a scholarship fund does not appreciate that it will require several years of sustained investment, without distributions, for a fund of this size to accumulate sufficient principal to annually pay out an award as little as \$500.

The process for establishing a scholarship fund is often an educational one for the settlor. Often, scholarship funds are created upon the death of a loved one. Generally, at the outset, the settlor wants to be actively involved in determining the selection criteria for awards and, even, in the selection process itself. Over time, it becomes apparent that the settlor never intended that level of participation to be a lifetime commitment. Moreover, on a number of occasions, the City has been approached by a settlor who wants to change the terms of the original trust agreement several years after the fund was established. These settlers do not understand that, once the fund has been established and turned over to the Trustees, the settlor has no remaining legal interest in the fund. For these reasons, in recent years, the Legal Department has worked with settlers in discussing future scenarios and building alternatives into the trust agreements.

In the recent past, the City has offered settlers an alternative to the traditional perpetual named scholarship fund. The alternative fund is created for a specific purpose. It allows for principal as well as interest to be distributed as awards and is designed to sunset or expire when all the principal and interest has been paid out. For instance, at the time Sherburne School closed, funds were raised to start a scholarship fund benefitting students who attended that school. By the time the last class of Sherburne School students graduated from Portsmouth High School, the entire fund had been disbursed in awards.

2. Analysis of Existing Scholarships

In 2016, after observing that there were a number of scholarship funds that were not generating annual scholarship awards, Assistant City Attorney Kathleen M. Dwyer of the Legal Department performed an analysis of all scholarship funds to ascertain the extent of the problem. At that time, there were 46 scholarship funds. The analysis revealed the following:

Table 1

No distributions	17	(Total Value of All Funds \$ 220,987)
Distributions up to \$500	7	(Total Value of All Funds \$ 111,573)
Distributions \$501-1,000	11	(Total Value of All Funds \$ 328,226)
Distributions \$1,001-2,000	4	(Total Value of All Funds \$ 172,739)

Distributions \$2,000-15,000	4	(Total Value of All Funds \$ 305,132)
Distributions over \$15,001	4	(Total Value of All Funds \$4,922,132)

As Table 1 illustrates, nearly \$221,000 was unable to generate any scholarships because the sum was divided among 17 funds. In addition, another \$111,500 was only able to generate 7 scholarships of less than \$500 for the same reason.

Total scholarship distributions for this period amounted to \$130,321. This situation did not improve in future years. For instance, in 2018, there were 15 scholarship funds that did not earn enough income to pay out an award.

Attorney Dwyer also reviewed the purposes for which the scholarship funds were established in relation to the total value under management and the amounts distributed in awards. The results of that analysis are set forth in Table 2.

Table 2

		Total Value	Total Awards
College Bound Students	26	3,886,566	81,955
Studying Education	7	186,315	2,707
Studying Nursing/Health	5	1,754,742	39,142
Trades	3	126,366	2,028
Unknown	4	106,800	4,489
Band*	2	Included in Unknown totals	

Table 2 demonstrates that students who wish to pursue certain areas of study after high school (e.g., studying education) cannot avail themselves of meaningful scholarships because, notwithstanding that there are substantial sums under management, the principal is so divided among the funds that the total value of the awards is small. For example, in the case of students wishing to study education, notwithstanding that there is \$186,315 in principal under management, that sum is divided among seven funds with the result that the total value of the awards made in this field was \$2,707.

3. Goals

Following the Trustees' receipt and review of the results of the analysis performed by the Legal Department, the Trustees and Attorney Dwyer have worked with the Charitable Trust Unit to enhance the overall amount of income available from existing scholarship funds, reduce the lack of awards from several existing funds and address the disparities in awards resulting from the prevalence of small, underfunded scholarship funds. Ultimately, these efforts led to three general recommendations for existing and future scholarship funds. These recommendations include:

1. Adoption of guidelines for future scholarship funds to ensure that they are adequately funded.

2. Creation of new community scholarship funds.
3. Consolidation of existing underfunded funds.

The Charitable Trust Unit has been provided with copies of all trust agreements governing scholarship funds managed by the Trustees (with the exception of four very old funds for which agreements either never existed or can no longer be found). The Trustees and the Legal Department have identified 20 scholarship funds that have been historically underfunded in that they do not generate enough income to make an annual award, or are only able to support an award of less than \$500. This list was submitted to the Charitable Trust Unit together with a recommendation that the Trustees be permitted to consolidate the underfunded funds into several newly created community scholarship funds in the following areas:

- Study in the fields of Science, Technology, Engineering and Mathematics (STEM)
- Study in the Arts.
- Study in Career Technology (Trades).
- Study in Higher Education generally.
- In recognition of athletic accomplishment.

The creation of community scholarship funds will also provide alternatives to future settlors or interested donors who are unable to contribute a significant enough sum to fund a stand-alone scholarship fund.

B. SUMMARY OF RECOMMENDATIONS

1. Adopt New Policies for the Establishment of new Scholarship Funds.

After careful analysis of existing scholarships, the Trustees recommend that potential settlors be offered three options regarding new scholarship funds.

- a. Named scholarship funds with a minimum initial principal balance of \$25,000.00. Payment of awards will be limited to payment from income only.
- b. Named scholarship funds with a balance of under \$25,000.00 that will sunset after a specified period of time. Payment of awards may be out of principal and income.
- c. Donations to one of five newly created community scholarship funds.

2. Create New Community Scholarship Funds

The Trustees recommend that the City create five new community scholarship funds for the following areas of study and accomplishment:

- Study in the fields of Science, Technology, Engineering and Mathematics (STEM).
- Study in the Arts.
- Study in Career Technology (Trades).
- Study in Higher Education generally.
- In recognition of athletic accomplishment

3. Merge Existing Small Scholarship Funds into Community Funds

The Trustees recommend that the current balance in each of the twenty scholarship funds that have been identified as underfunded, that is, as unable to make any award, or only able to make an award of less than \$500, be merged into one of the five newly created community funds. This will be accomplished through the execution of Non-Judicial Settlement Agreements as authorized by RSA 564-B:1-111(b).

C. SPECIFIC RECOMMENDATIONS

1. Adopt New Guidelines Governing the Creation of New Scholarship Funds

(a) Named Scholarship Fund - Perpetual

- For each new “named” scholarship fund intended to remain in perpetuity, the original trust corpus must be at least \$25,000, an amount sufficient to generate enough income to make at least a \$500 annual award. These scholarship funds will prohibit the invasion of principal for the payment of awards. Settlers are free to define the intended beneficiaries and course of study as they have in the past. They may also participate in the selection process should they wish.
- If the initial corpus is less than \$25,000, the settlor will have three years from the establishment of the fund to raise enough contributions to attain the \$25,000 minimum.
- If, at the end of three years, the \$25,000 minimum has not been raised, the fund will convert to a “sunshine” scholarship fund or can be designated to merge into one of the community scholarship funds.

(b) Named Scholarship Fund with Sunshine Provision

- This type of fund is structured to make annual awards from principal and interest, in a predetermined amount of at least \$500 until the fund is fully expended. There is no minimum or maximum initial contribution as long as the corpus supports the minimum annual scholarship award. Settlers are free to define the intended beneficiaries and course of study and participate in the selection process.

2. Create Five New Community Scholarship Funds

The five new community scholarship funds will benefit students who wish to pursue further study in the following fields or in recognition of athletic accomplishment:

Study in the fields of Science, Technology, Engineering and Mathematics (STEM).

Study in the Arts.

Study in Career Technology (Trades).

Study in Higher Education generally.

In recognition of athletic accomplishment.

These fields of study are consistent with the purposes for which many of the City's existing scholarships were established. They are also broad enough in scope to insure that there likely will be more than one qualified recipient for awards from each fund annually.

A qualified recipient for an award from one of the newly created community scholarship funds must be graduate (or a current graduating senior) of Portsmouth High School or a Portsmouth resident who is a graduate (or a currently graduating senior) of an accredited New Hampshire secondary school who will be continuing his or her education at an accredited institution or program after graduation.

The recipients of scholarship awards from the community scholarship funds will be selected by a committee consisting of the following persons at Portsmouth High School:

College Guidance Counsellor
Senior Class Guidance Counsellor
Grade Office Principal for the Senior Class
Director of the Career Technical Education
Principal or Principal's Designee

The initial corpus of each community scholarship fund will be the sums devolving to that fund when the current underfunded scholarship funds are merged into the community funds, as discussed in Section 3 below.

The community scholarship funds will also serve as potential repositories for individuals or businesses that want to contribute to education generally without tying their donations to the memory of a particular person and present opportunities for fund raising events. The Trustees recommend that the program created for the annual scholarship award ceremony recognize new contributions to each community fund during the year preceding the award. The Trustees also recommend that there be permanent recognition of the scholarship funds that are merged to create the new community scholarship funds.

3. Merge Existing Small Scholarship Funds into Community Funds

Working with the Charitable Trust Unit and with notice to original settlors, where possible, the current balance in each of the twenty scholarship funds that have been identified as unable to make any award, or an award of less than \$500, will be merged into one of the five newly created community funds. This will be accomplished through the execution of Non-Judicial Settlement Agreements as authorized by RSA 564-B:1-111. An effort will be made to "match" the original purpose of the underfunded fund with the purpose of the community scholarship fund into which its balance will merge as much as possible.

Preliminarily, it is anticipated that the merger of the underfunded funds, totaling \$281,628.30, into the community funds will result in the following initial funding for the community funds:

Table 3

Arts	\$ 81,094.71
STEM	\$ 10,036.53
Career Technology	\$ 17,829.78
Higher Education Generally	\$135,016.31
Athletics	\$ 37,650.97

Inasmuch as the documentation necessary to implement the proposed changes will require the participation of the City, including the School Department, and the Charitable Trust Unit, the Trustees recommend that the City Council and the School Department approve the foregoing recommendations.

D. CONCLUSION

As Table 3 illustrates, the consolidation of the small, underfunded scholarship funds into community scholarship funds will increase the amount of principal available to generate income annually for scholarships by over \$280,000. The adoption of the new scholarship policies will prevent the reoccurrence of unproductive funds in the future.

Respectfully Submitted

Trustees of the Trust Funds

Thomas R. Watson, Chair
Dana S. Levenson
Peter G. Weeks

EXHIBIT A

<u>Date of Creation</u>	<u>Name of Trust Fund</u>	<u>Purpose of Scholarship Fund</u>
1834	Mary Clark Scholarship	Scholarship for a deserving child in public school
1872	Martha DeMerit Scholarship	Scholarships to Portsmouth residents with need and acceptance to college
1917	Annie Fields Scholarship	Scholarship for higher education and promising pupils
1934	Horace Haven Medals	Provides for academic medals awarded annually
1955	Gray Scholarship	Scholarship for promising youths seeking technical education
1971	M. P. Alkon Scholarship	Scholarship and medal awarded every 5 years
1971	Annie McIntosh Scholarship	Scholarships to prospective nursing students with financial need, then to others with need
1974	Barry Hodgdon Scholarship	Scholarship for high school graduate involved in athletics
1974	Edward Webster Brady Scholarship	Scholarship for needy vocational student showing promise
1980	James Sullivan Scholarship	Scholarship awarded to a person entering drama field
1980	Haven School Athletic Scholarship	Scholarship awarded to graduate entering athletics or physical education
1982	Demaris/Brooks Scholarship	Scholarships to high school graduates who have completed 1 year of college
1982	Alice M. Lee Scholarship	Scholarship for a needy student entering teaching field
1982	Bartlett Speaking Awards	Provides for cash awards for prize speaking at graduation
1982	Ermino A. Ricci Trades Scholarship	Scholarship for deserving high school graduate going to building trades school
1984	Ray Murphy Scholarship	Scholarship awarded to college bound graduating football player

1987	Sandra H. Rosen Scholarship	Scholarship to high school graduate who was in the Clipper Marching Band
1988	Clarence L. Sherwood Scholarship	Scholarship to two PHS male graduates of scholastic ability in need
1993	Donald Smith Scholarship	Scholarship to high school graduate who participated in sports and has needs
1994	Agnes C. Griffin Scholarship	Scholarship to high school graduate who plans to enter nursing field
1995	Walter Richards Scholarship	Scholarship to high school graduate who played basketball and is going to college
1994	Theresa Demaris Scholarship	Scholarship to high school student who plans to continue a career in music
1997	John J. Foley Scholarship	Scholarship to high school graduate
1999	Joseph H. Grilli Scholarship	Scholarship to PHS graduate in upper 50% of the graduating class
1998	Carrie Lee Mackali Scholarship	Scholarship to PHS female graduate attending college with financial need
1999	S. Michael Wentworth Scholarship	Scholarship to PHS graduate in good academic standing demonstrating leadership
2000	Joanne & Salvatore Grasso Scholarship	Scholarship to PHS graduate in top 35% going into a career in education
2000	Phillip Nelson Scholarship	Scholarship to PHS graduate who has been accepted into art school
2003	John J. Wholey Scholarship	Scholarship to PHS graduate who intends to follow a career in law or politics
2003	John & Olga Leary Scholarship	Scholarship to PHS graduate and has been a Portsmouth resident for at least 1 year
2003	William & Irene Mortimer Scholarship	Scholarship to PHS graduate who is attending a 2 or 4 year college
2008	Jhaimie S. Dye Scholarship	Scholarship to PHS graduate who is attending a college and played soccer
2008	Harold & Ruth Whitehouse Scholarship	Scholarship to PHS graduate who is attending a 2 or 4 year vocational college

2008	Lillian D. Goldin Education Scholarship	Scholarship to PHS graduate who is attending a college with intention of becoming a teacher
2009	Henry & Phyllis Coito Scholarship	Scholarships to PHS graduate who have completed 1 year of college
2009	Diane Lieberman Share Scholarship	Scholarships to PHS graduates who intend to go into elementary education
2011	Col Helen D. Maslanka Scholarship	Scholarships to PHS graduates who intend to go into elementary education
2011	Henry B. Margeson Scholarship	Scholarship to PHS graduate
2012	Patty Wojnar Award	Award to student entering workforce or trade
2012	Little Harbour Math Award Fund	Little Harbour graduate going to college & studying math
2013	John W. Durgin Memorial Scholarship	Scholarship to PHS graduate entering the field of engineering
2015	Barbara Potter Memorial Scholarship	Annual Scholarship – PHS Senior/ graduate entering field for nursing
2015	Tony Rahn Memorial Scholarship	Scholarships to PHS graduates who have completed 1 year of college
2015	William & Irene Mortimer II Scholarship	Annual Scholarship – Graduating SR-Higher Learning 4 YR Degree
2015	Bud Ricci II Memorial Scholarship	Annual Scholarship – Graduating SR-Higher Learning 4 YR Degree
2019	Erik Rappolt Scholarship	Annual Scholarship
	Futures Program	

EXHIBIT B

FMV @ 06/30/19

200	Mary Clark Scholarship	1,136.99
204	M. P. Alkon Scholarship	2,691.90
243	Little Harbour Math Award Fund Scholarship	3,616.20
201	Horace Haven Medals Scholarship	4,508.26
222	Agnes C. Griffin Scholarship	6,420.33
242	Patty Wojnar Award	7,032.45
239	Diane Leiberman Share Scholarship	8,998.79
237	Harold & Ruth Whitehouse Scholarship	9,588.69
221	Donald Smith Scholarship	10,113.19
209	Edward Webster Brady Scholarship	10,797.33
249	Erik Rappolt Scholarship	11,841.01
223	Walter Richards Scholarship	13,363.25
241	Henry B. Margeson Scholarship	13,874.96
211	Haven School Athletic Scholarship	14,174.50
210	James Sullivan Scholarship	15,312.51
216	Ray Murphy Scholarship	17,882.19
224	Theresa Demaris Scholarship	18,818.55
238	Henry & Phyllis Coito Scholarship	19,128.75
213	Alice M. Lee Scholarship	19,815.89
202	Annie Fields Scholarship	20,954.15
217	Sandra H. Rosen Scholarship	22,038.19
245	Barbara Porter Scholarship	22,170.42
235	Jhaimie S. Dye Scholarship	24,742.45
230	Phillip Nelson Scholarship	24,925.46
231	John J. Wholey Scholarship	27,220.99
228	S. Micahel Wentworth Scholarship	27,232.56
236	Lillian D. Goldin Scholarship	28,540.55
208	Barry Hodgdon Scholarship	34,127.67
225	John J. Foley Scholarship	34,500.44
227	Carrie Lee MacKail Scholarship	40,064.70
246	Tony Rahn Memorial Scholarship	43,068.38
248	Bud Ricci II Memorial Scholarship	47,956.13
218	Clerence I. Sherwood Scholarship	48,122.43
247	William & Irene Mortimer II Scholarship	51,099.83
214	Bartlett Speaking Awards Scholarship	53,167.48
244	John W. Durgin Memorial Scholarship	59,655.83
229	Joanne & Salvatore Grasso Scholarship	60,663.96

233	William & Irene Mortimer Scholarship	64,618.77
226	Joseph H. Grilli Scholarship	75,612.79
212	Demaris/Brooks Scholarship	96,347.91
215	Ermino A. Ricci Trades Scholarship	134,057.84
240	Col Helen Maslanka Scholarship	160,479.92
352	FUTURES Program	375,143.53
203	Gray Scholarship	837,102.80
232	John & Olga Leary Scholarship	1,255,171.31
206	Annie McIntosh Scholarship	1,968,351.54
205	Martha DeMeritt Scholarship	<u>1,970,894.14</u>

TOTAL FAIR MARKET VALUE

\$ 7,817,147.93

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, SEPTEMBER 16, 2019

PORTSMOUTH, NH
TIME: 7:00PM

At 5:00 p.m., an Anticipated Non-Public Session regarding the City Manager Search was conducted per RSA 91-A:3, II (b).

At 6:15 p.m., an Anticipated Non-Public Session was held regarding the Boyle Supreme Court Appeal per RSA 91-A:3, II (e).

I. WORK SESSION

(There is no Work Session this evening)

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

At 7:20 p.m., Mayor Blalock called the meeting to order.

III. ROLL CALL

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

ABSENT: Councilor Perkins

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 to the Flag.

VI. ACCEPTANCE OF MINUTES

(There are no minutes on for acceptance this evening)

VII. RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS

(There are no Recognitions or Volunteer Committee Reports this evening)

VIII. PUBLIC COMMENT SESSION

Paige Trace spoke regarding the sewer system matter on Sagamore Avenue. She said in the second modification of the consent decree it did not single out Sagamore Creek as a defendant and she spoke to the mitigation project.

Robin Husslage spoke to the idling of trains by Pan Am Railways. She said there our parking problems with no solution to the issues. She addressed the significant issues arising from idling trains and asked for the City Council's help with this matter.

Nicole LaPierre said she is tired because the train comes at 2:00 a.m. and the noise and air pollution are harmful to our health. She strongly urged the City Council to assist in this matter.

Mayor Blalock asked if the City has any way to deal with these issues. City Attorney Sullivan said it is a matter of federal law and the City cannot deal with any issues without appeals to our federal officials. Mayor Blalock stated he would call Senators Shaheen and Hassan regarding this matter and asked if there is anything we can do to assist the neighborhoods.

Councilor Denton moved to suspend the rules to take up Item XI. D.1. – Encouraging Pan Am to apply to the State Clean Diesel program for locomotive anti-idling technology. Seconded by Councilor Roberts and voted.

Councilor Denton said there are two grants that we could reach out and make necessary upgrades to older trains. He also spoke to a grant through the EPA that could deal with the air quality issues.

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

Public Hearing

A. Public Hearing on Chapter 3, Article IX – Distribution of Single-Use Disposables

ORDINANCE AMENDING CHAPTER 3, ARTICLE IX – DISTRIBUTION OF SINGLE-USE DISPOSABLES

• PRESENTATION

Councilor Denton stated that the ordinance would have the City of Portsmouth recognize that limiting the distribution of single-use disposables is necessary for the protection of both the environment of the municipality and the public health, safety, and welfare of its citizens. He spoke to differences between prohibited carryout bags and permitted carryout bags. He said that this would encourage people to bring their own bags or a customer would be charged a minimum of a ten cents Cost Pass-Through for each Single-Use Carryout Bag provided by the store on City property. Councilor Denton reported that compostable facilities are currently located in Maine. He also advised the Council under the ordinance Styrofoam would be banned City-wide. He addressed penalties and remedies and stated the amount of the fee that will accompany the citation will be determined by the Fee Schedule Study Committee. In addition, he announced that the ordinance would not become effective until December 31, 2020, which would allow for the Council to make any necessary amendments over the next year.

- **CITY COUNCIL QUESTIONS**

The City Council wanted to hear from speakers before asking questions.

- **PUBLIC HEARING SPEAKERS**

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

Brady Baum spoke in support of the ordinance and said it will effect public safety and health.

Sue Polidura spoke against the ordinance. She asked who would be enforcing the ordinance and said she is afraid of what comes next. She feels that the ordinance is micro-managing the residents and suggested making it a policy and not an ordinance.

Keith Tharp said we need an ordinance like this in the City. He spoke to Portland banning plastic cups and that this type of action is happening around the country. He stated that this country uses more plastic than anyone else because we send it overseas.

Cindi Rohwer said that Portsmouth is a leader in New Hampshire and we need to make our environment cleaner and supports the ordinance.

Christina Dubin said it is important to start at some point and there are businesses that are voluntarily doing this.

Petra Huda said she supports the ordinance in theory but she is concerned with how it would work. She stated she has many questions when looking at the ordinance, such as how will the ordinance be enforced and what is the costs to the residents. She asked how this would work on food trucks and what the costs benefits would be.

P. Leigh Woodbury spoke in support of the ordinance and said she uses recyclable bags, which can hold twenty pounds worth of items. She stated she would like the City to adopt the ordinance and be an example to other towns.

Missy Hudlin spoke in support of the ordinance and to take a stand where we can. She said it is important to consider our future generations.

David Meuse, State Representative, spoke on laws being considered on the State level. He said you seldom see litter in the City which will allow us to control one facet with the ordinance. He said three bills were considered by the State this year but no solution will come until 2020.

Valerie Rochon said the Chamber of Commerce polled more than 300 hospitality businesses and most are in support of the idea and a policy versus an ordinance. She stated more businesses are already heading towards single-use disposables but they would like to keep their inventory until 2020. She said it is critical that we educate the people on this matter.

Phoebe Luneau, Rye, NH, said plastic is the most dangerous threat to our waters. She stated 8 million tons are dumped into the ocean and this is responsible to 8% of our carbon footprint. She said pollution is causing ocean temperatures to rise and that means sharks are coming closer to the north.

Ella Doyle, PHS Eco Club, spoke in support of the ordinance. She said as a sustainable leader we have made such progress and we need to continue and take the next steps forward.

Gretchen Greene, PHS Eco Club, said this is an important step and ordinance. She urged the City Council to adopt the ordinance and to think about what the ban on these items would do and what would happen if we did not move forward.

Ms. Lewis spoke in support of the Ordinance and its adoption. She said the ocean temperatures are rising and will continue to do so if we do not do something to stop the littering of plastic in our oceans.

Erin Marsden & Victoria Watson spoke regarding the large amount of plastics found in a sperm whale's stomach. Ms. Marsden and Ms. Watson said that plastic is toxic and reported that 60 plastic bags will be used on four trips to the grocery store. Ms. Marsden and Ms. Watson said we need a plastic free revolution.

Melissa Paly spoke in strong support of the ordinance and for the reasons explained today. She said it is National Estuaries Week and urges Portsmouth to become a leader in prohibiting the use of plastics.

Steve Detrollo thanked Councilor Denton for his continued work and efforts on this matter. He said it is important to move forward and pass the ordinance.

Mark Brighton said he is more confused by what the ordinance does or what it doesn't do now than at the start of the meeting. He said 4 years ago he had a petition to stop the banning of plastic bags and collected 500 signatures against that ordinance which was not adopted. He said there are people that are against such regulations.

Charlie Griffin spoke opposed to the ordinance and said it is too complex when it comes to the implementation. He said a question should be can the average person determine what plastic container they could use in the City. He stated the ordinance raises questions on the cost factors. He urged the City Council to adopt a policy versus the ordinance.

With no further speakers, Mayor Blalock closed the public hearing.

- **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

Councilor Denton moved to pass second reading and schedule third and final reading of the proposed Ordinance at the October 7, 2019 City Council meeting. Seconded by Councilor Pearson.

Councilor Denton moved to amend second reading with Amendment 1, Amendment 2 and Amendment 3. Seconded by Assistant Mayor Lazenby.

Amendment 1: by the addition of a Single-Use Container Definition to Section 3.902: Single-Use Container: a container that is distributed for the purpose of transporting Prepared Food on a single occasion inside or outside of a Store.

Amendment 2: Clarifying Penalties and Remedies: Starting on line 20, on page 11, replace 'he/she will issue a written warning notice to the Operator of a Store on City property and the potential penalties that will apply for future violations' with 'a written warning that includes the potential penalties for future violations will be issued to the Operator.' So that sentence in Section 3.907 reads:

- 1. If the City determines that a violation of this Section has occurred, a written warning that includes the potential penalties for future violations will be issued to the Operator.**

Amendment 3: Clarifying Purpose

Starting on line 12, on page 1, replace the language of 3.901 with the following:

The City of Portsmouth 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.

Councilor Becksted said he agrees with many issues but we have not clarified some of the enforcement issues and the cost to enact the ordinance.

Councilor Dwyer said she would support the amendments. She stated she supports the intention but does not want to confuse ordinance versus policy versus resolution. She said the language is complex and how do we right size the issue to implement the items. Councilor Dwyer said she would support the Styrofoam ban which is ordinance worthy. She stated that a resolution speaks to larger issues.

Motion passed with Councilor Becksted opposed.

Councilor Denton moved to adopt amendment 4. Seconded by Councilor Pearson.

Amendment 4: Delay implementation until December 31, 2020

Starting on line 25, on page 6, replace 2019 Single-Use Plastic Bag inventory with 2020 Single-Use Plastic Bag inventory so that sentence in Section 3.903 B reads:

All Stores may distribute their remaining 2020 Single-Use Carryout Plastic Bag inventory.

Starting on line 21, on page 8, replace 2019 Single-Use Cup inventory with 2020 Single-Use Cup inventory so that sentence in Section 3.904 B. reads:

All Stores may distribute their remaining 2020 Single Use Cup inventory.

Starting on line 28, on page 9, replace 2019 Single-Use Container inventory with 2020 Single-Use Container inventory so that sentence in Section 3.905 B. reads:

All Stores may distribute their remaining 2020 Single-Use Container inventory

Starting on line 28, on page 10, replace 2019 Single-Use Straw inventory with 2020 Single-Use Straw inventory so that sentence in Section 3.906 B. reads:

All Stores may distribute their remaining 2020 Single-Use Straw inventory.

Starting on line 5, on page 12, replace December 31, 2019 with December 31, 2020, so the Effective Date section reads:

This ordinance shall take effect on December 31, 2020.

Mayor Blalock passed the gavel to Assistant Mayor Lazenby.

Mayor Blalock said we can do this through a policy. He stated we need to take a step forward and do the right thing and take time to implement things as there as many moving parts.

Assistant Mayor Lazenby return the gavel to Mayor Blalock.

Councilor Denton said that this was written to be amended city-wide and enact on City property. He said we have no idea if the new City Council would support the Ordinance. He stated the ordinance would not take effect until December 31, 2020, then adopt a policy to abide by parts of the policy and see how it works. He stated at the next meeting he would bring forward the policy if we get to third reading.

Motion passed with Councilor Becksted opposed.

Councilor Becksted moved to amend #5. Seconded by Councilor Denton.

Councilor Denton said if the PTA has bake sales you would not need to abide by the ordinance. He would not support the motion because he feels there is a year for implementation.

Councilor Becksted said he appreciates what Councilor Denton is doing.

Councilor Dwyer said she would vote against the motion to amend #5.

Councilor Becksted withdrew the amendment and Councilor Denton the second to the motion.

Councilor Dwyer said amendment #6 gets lost in the ordinance. She said would it make sense to have this be its own ordinance self-standing.

Councilor Denton said when it comes to citywide ban we are not sure if we have the right to adopt such an ordinance. He said he would like to move forward with a ban on Styrofoam.

Councilor Pearson asked who wrote the proposal. Councilor Denton said he wrote the entire ordinance.

Assistant Mayor Lazenby said he would support the ordinance as amended.

Councilor Dwyer moved to amend second reading with separating Amendment 6 Elimination of the citywide Styrofoam cup ban. Seconded by Councilor Roberts.

City Attorney Sullivan said since the ordinance is not going to become effective for a year can he carve out the motion that Councilor Dwyer wants to make and he would bring that back for the City Council at the next meeting.

Mayor Blalock passed the gavel to Assistant Mayor Lazenby.

Mayor Blalock said he would like to see us walk before we run. He is compelled to support the motion and would vote in favor. He said that he is now compelled by the individuals that spoke during the public hearing.

Assistant Mayor Lazenby returned the gavel to Mayor Blalock.

Councilor Dwyer moved to postpone motion regarding amendment 6 Elimination of the citywide Styrofoam cup ban. Seconded by Assistant Mayor Lazenby and voted. Councilors Denton and Pearson voted opposed.

Main motion passed, as amended. Councilor Becksted voted opposed.

Councilor Denton said he would bring a policy forward for the next meeting.

City Attorney Sullivan said the ordinance as amended will come forward for the next meeting and be available for adoption with a two-thirds vote.

At 9:12 p.m., Mayor Blalock declared a brief recess. At 9:27 p.m., Mayor Blalock called the meeting back to order.

- B. Third and Final reading of Ordinance amending Chapter 7, Article III, Section 7.328 – Limited Parking – Three Hours – Maplewood Avenue: Both Sides, Between Raynes Avenue and Vaughan Street

Councilor Becksted moved to pass third and final reading, as recommended by the Parking and Traffic Safety Committee. Seconded by Assistant Mayor Lazenby and voted.

Councilor Becksted moved to suspend the rules in order to take up Item XIII. A.1. & A.2. – Request for Approval of Agreement between the Portsmouth Fire Commission and the Portsmouth Professional Fire Officers Association & Request for Approval of Agreement between the Portsmouth Fire Commission and the Portsmouth Professional Fire Fighters. 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 Fire Commission and the Portsmouth Professional Fire Officers Association

City Manager Bohenko said we need a motion to approve the agreement and it has been on-line for the public to review.

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

- 2. Request for Approval of Agreement between the Portsmouth Fire Commission and the Portsmouth Professional Fire Fighters

City Manager Bohenko said it is a 4 year contract and on the website for 2 weeks.

Assistant Mayor Lazenby moved to approve the proposed Four (4) Year Agreement between the Portsmouth Fire Commission and the Portsmouth Professional Fire Fighters from July 1, 2019 to expire on June 30, 2023. Seconded by Councilor Becksted and voted.

- C. Third and Final Reading of Ordinance 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~~

Councilor Reynolds move to pass third and final reading, as recommended by the Parking and Traffic Safety Committee. Seconded by Assistant Mayor Lazenby and voted.

Assistant Mayor Lazenby moved to seal the minutes of the City Manager Search Non-Public Session. Seconded by Councilor Dwyer and voted.

Assistant Mayor Lazenby moved to seal the minutes of the Boyle Supreme Court Appeal Non-Public Session. Seconded by Councilor Dwyer and voted.

X. MAYOR BLALOCK

1. Appointments to be Voted:
 - 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

Assistant Mayor Lazenby moved the appointment of Maryellen Burke to the Board of Library Trustees until October 1, 2022; appointment of Janaki Fonseka to the Board of Library Trustees until October 1, 2022 and appointment of Lori Soloway to the Citywide Neighborhood Blue Ribbon Committee until December 31, 2019. Seconded by Councilor Becksted and voted.

2. City Manager Search (Not on Agenda)

Deputy City Manager Colbert Puff announced that the City Council has selected a group of semi-finalists for the City Manager Search and interviews will take place by the City Council on Tuesday, October 1, 2019 whereby two or three finalists will be selected. No action required.

XI. CITY COUNCIL MEMBERS

A. COUNCILOR ROBERTS

1. Parking and Traffic Safety Committee Action Sheet and Minutes of the August 1, 2019 meeting

Councilor Roberts moved to approve and accept the minutes of the August 1, 2019 Parking and Traffic Safety Committee meeting. Seconded by Assistant Mayor Lazenby.

Councilor Roberts explained the new way the minutes will be handled, they will be submitted to members and approved in three days.

Motion passed.

B. COUNCILOR PEARSON

1. Share the Square

Councilor Pearson announced that Share the Square will be held on Sunday, September 29th and Sunday, October 6th from 1:00 p.m. – 4:00 p.m. in Market Square.

FEE COMMITTEE

C. COUNCILOR DWYER & COUNCILOR RAYNOLDS

1. Report Back on Meeting with SIPP and Proposed Motion to Approve License Fees for Prescott Park License Agreements

Councilor Raynolds indicated that SIPP has not raised fees in many years and we discussed that issue and that swim teams never needed to pay. He stated SIPP agreed to proposal of the rates and the Recreation Department would affirm the rates.

City Manager Bohenko said SIPP implemented the rates and we met with them and came to an agreement on those rates.

Councilor Dwyer spoke to Prescott Park and the criteria for fees and what an increase in fees would be for year 2, fees would remain the same additional years would use the Boston based market for annual license fee increases.

Assistant Mayor Lazenby moved to accept the recommendation of the Fee Committee regarding annual license fees and any adjustments for years 2-5 of the License Agreements with the Prescott Park Arts Festival, the NH Art Association and the Gundalow Company. Seconded by Councilor Becksted and voted.

A. CITY MANAGER

3. Report Back Re: Contact Information (*Deferred Action at the September 3, 2019 City Council meeting*)

Councilor Person said we would like to extend the contact information to speakers. She said she would like to consult with City staff and report back at the next meeting.

Councilor Becksted said he would like to know what other communications do the speakers provide other than name and address to the Council.

4. Vaughan Street Hotel LLC Amendment to Easement Agreement

City Attorney Sullivan said Vaughan Street Hotel received an easement for a canopy over the sidewalk. He further stated that now land use approvals would erect a sign and approvals have been granted to provide the City Manager with authority to approve the sign.

Councilor Raynolds moved to grant the City Manager the authority to negotiate, execute and deliver a sign easement as requested by Vaughan Street Hotel, LLC, for recording. Seconded by Councilor Roberts and voted.

5. 799 South Street Sidewalk Easement

City Manager Bohenko stated this is an easement to the City by the Clews family.

Councilor Dwyer moved to accept a sidewalk easement for 799 South Street, as presented. Seconded by Assistant Mayor Lazenby and voted.

6. Polling Hours – November 5, 2019 Municipal Election

City Clerk Barnaby requested the polling hours be set from 8:00 a.m. to 7:00 p.m. for the Municipal Election. She indicated that she is aware of the City Council's desire to change the polling hours and she would prefer waiting until the September State Primary Election.

Councilor Denton moved to set the polling hours from 8:00 a.m. to 7:00 p.m. for the Municipal Election on Tuesday, November 5, 2019 and beginning with the September Primary Election in 2020 the polling hours would be set from 7:00 a.m. to 7:00 p.m. Seconded by Councilor Roberts and voted.

XIV. CONSENT AGENDA

(There are no items under the Consent Agenda this evening)

XV. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

A. Email Correspondence

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

B. Letter from Barbara Massar, Executive Director, Pro Portsmouth, regarding proposed Distribution of Single-Use Disposables Ordinance

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

C. Letter from Joshua P. Lanzetta, Counsel to the Surfrider Foundation, NH, regarding proposed Distribution of Single-Use Disposables Ordinance

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

XVI. CITY MANAGER'S INFORMATIONAL ITEMS

1. Household Hazardous Waste Day

City Manager Bohenko announced that Household Hazardous Waste Day will be taking place on October 5, 2019 from 8:00 a.m. to Noon.

2. Sagamore Sewer Project

City Manager Bohenko said we are gathering information on what level the City Council may set for appropriation from the sewer fund and that our consultant David Hyder is working on this matter.

Councilor Raynolds said the Sagamore Creek neighborhood are concerned with the project. He said we wanted to gather information on costs and have a policy decision by the City Council and allow public input. He said the meeting that was held was more about the construction of the project. He said residents would be charged to hook up with figures as high as \$50,000.00.

City Manager Bohenko said typically people do pay that kind of fee. He said he could come forward with apportion by the Sewer Department and not to apportion full costs.

Councilor Becksted said the City bonded \$4.5 million and some money should go towards this project. City Manager Bohenko said we need the appropriation to spend funds. He suggested that every house would pay a fee over 10 years with no interest. Councilor Becksted said he would like to know a base and a formula for what it would cost.

Mayor Blalock said residents are concerned and looked on the surface to bring the services to the resident, and if a pipe going down the street and you would need to consent when your sewer fails. He said the \$4.5 million will be spent to get the pipe to your area.

Councilor Roberts said he would like City Manager Bohenko to tell if other sewer extensions have come to this. City Manager Bohenko said look at the price for construction now and we would need to make sure we are on solid ground.

Councilor Dwyer said she would like a set of working principles for doing this. She would like to know what the principles are.

City Manager Bohenko said he would have David Hyder come to explain this matter to the City Council and come forward with a reasonable solution.

Councilor Denton announced that the Electric Vehicle Show will be held on Sunday from 9:00 a.m. to Noon.

Councilor Pearson announced that Logan was born to Rebecca Perkins Kwoka and baby and mom are fine.

XVII. MISCELLANEOUS BUSINESS INCLUDING BUSINESS REMAINING UNFINISHED AT PREVIOUS MEETING

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

At 10:10 p.m., Assistant Mayor Lazenby moved to adjourn. Seconded by Councilor Denton and voted.

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

KELLI L. BARNABY, MMC/CNHMC
CITY CLERK

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, OCTOBER 7, 2019

PORTSMOUTH, NH
TIME: 6:15PM

There were two tables for Public Dialogue Session – Table A

PRESENT: Mayor Blalock, Assistant Mayor Lazenby, Councilors Roberts, Pearson and Raynolds

City Manager Bohenko introduced City Attorney Sullivan, Deputy City Attorney Woodland, and City Engineer Desmarais. He apologized for how the Sagamore Creek Sewer Project was rolled out and said he wanted to make sure he had the right numbers to do what the City feels they could provide. He stated that a full presentation will be given during the City Council meeting and residents would not have to pay until they tie into the system. He reviewed a list of frequently asked questions (FAQ). He also indicated residents would not need to tie into the system until their own system fails. City Manager Bohenko said the proposed split is 80/20 at a cost of \$10,000.00 with a no interest loan, which will be the capital costs and more would be required after the tie into the system. He advised the residents that this would take place two to three years down the road. He said the \$10,000.00 is consistent with costs paid by other residents that have had to do this. City Manager Bohenko said that this is information at this point and the City Council would need to take action on this matter.

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

Gary Epler said that there is missing information and lack of opportunity to obtain the information. He suggested that there be a delay and no vote, in order to allow for further dialogue. He said other solutions need to be considered. He stated that City Manager Bohenko had stated there would be many opportunities for the public to speak regarding this matter and there have not been any. Mr. Epler said the ordinance requires the resident to tie in was before the low pressure system. He said a review of the ordinance is needed and to base the ordinance on new circumstances. He spoke to the consent decree and the City's failure to meet the commitments and the City will receive the benefits of residents tying into the system. He indicated that the final cost and design are needed and there is an issue of significant ledge that would need to be dealt with, which will no doubt increase costs. Mr. Epler said the term of a loan should be longer than 10 years and the costs should include more than just the capital costs.

Assistant Mayor Lazenby said he feels allowing more time makes sense. He stated we are working to get more information from staff and we may need more time as a community to get through this matter.

Rus Foster said technically he is accustom to a municipality putting in a pump station for a gravity system. He stated when the bridge was put in was the time to manage a real system pump station, now we have a band aid approach. He said this project will require thoughtful engineering.

Corrine Norris said this project is sudden and unexpected and was not part of the plan two years ago. She stated that this sets a precedence in the City. She stated that a delay is needed.

Assistant Mayor Lazenby said precedent is import to consider, it is very distinct and different.

Mr. Destisto said this is the first time that the City has brought costs to a targeted residence.

Deputy City Attorney Woodland said this is not an issue of targeting, this is part of environmental needs. She said this type of project is not uncommon and this is an opportunity.

Greg Desisto asked who pays for civil liabilities for a City.

Michael Bean said when you reviewed the FAQ you said residents would not have to pay until your system fails or you sell your home.

Ken Smith said residents on Pleasant Point Drive asked for the system and Sagamore Creek has not asked for this project.

Christina Kowlaski said she lives on Walker Bungalow Road and would like to know how the Sagamore Creek area was selected.

Joe Onosko said Currier's Cove is not part of this but is part of the Sagamore Creek neighborhood.

City Engineer Desmarais said the EPA identified Sagamore Creek as an area that needed to have a reduction in bacteria. He reported that Currier's Cove has sewer with a low pressure system and has a private sewer main which was part of the development.

Christina DeLAssandro asked about a waiver in 1985 and stated that the decision of this project needs to be extended.

Deputy City Attorney Woodland said there is not an occasion where we do not provide a waiver. She stated that the waiver is granted and codified.

Sandy Desisto asked if a hookup needs to take place soon.

Deputy City Attorney Woodland said the intention was to put the sewer line in the road and that was made clear at the beginning of the communication.

Joe Onosko said you need to hookup before you sell your home and it will be a loss of \$35,000.00 in the profits from the sale.

Bill Pingree said he has a high tech sewer system and if he sells his home he should not have to lose \$35,000.00 in the profit from the sale. He stated that the City is segregating this neighborhood from other parts of the City.

City Manager Bohenko said we are going to codify the ordinance to address many of these points made this evening.

Jane Zill said we have the Consent Decree which the EPA wants the City to extend sewer to this area.

Deputy City Attorney Woodland said the Consent Decree does not require you to hook in and grants waivers.

Kevin Eckhart asked if residents are going to have to pay to tie into the system.

City Engineer Desmarais said you don't pay for the tie in until you need to be part of the system. He stated the City Council needs to provide authority for the project and the City will be using SRF funds.

City Manager Bohenko said people have paid for the hookup and what we tried to do is have 80% paid by the City and 20% by home owners. He said there are other ways to address this.

David Witham said the City had a meeting a month ago and the home owners were paying 100% of the sewer line. He stated the City Council heard about this matter two weeks ago and why does the line keep moving on the costs.

City Manager Bohenko said the City Council wants to come back with a report. He stated that we have talked to our rate consultant and there are areas where recouping 100% is not required. He said the way we came up with the amount was to look at other projects in the City. He said we looked at the system and cost share of 80%/20%. City Manager Bohenko said costs are coming in 50% over the costs because of the economy and we don't know what the 20% would be. He said we want to keep costs at \$10,000.00 with an interest free loan and make this as painless as possible. City Manager Bohenko stated the City Council does not need to vote on this matter this evening and it would be up to the City Council to decide on the length of the loan. He stated the 50/50 was an example, and \$10,000.00 is what other residents have paid in the City.

At 7:10 p.m., Mayor Blalock closed the Public Dialogue Session.

Public Dialogue Session – Table B

PRESENT: Councilors Dwyer, Denton, Perkins, and Becksted.

(Due to the extensive number of residents wishing to speak, the discussion was moved to Conference Room A)

Robin Husslage, discussed the issue with idling trains and thanked city officials for reaching out to Pan Am Railways and the report back included on the agenda. She said that Pan Am had stated they would no longer idle trains above 43 degree weather, but that has not been the case. She continued that the new technology regarding idling may be great, but it will take at least a year and there needs to be more clarification on a resolution to the issue. Finally, she stated that they need a way to contact a city official during off-hours when there is an occurrence such as the Click and Fix option on the city website.

Councilor Dwyer suggested contacting staff at the parking garage as there is someone there 24/7.

Ms. Husslage continued that it has been frustrating communicating with Pam Am because they say they will do something, but then nothing gets done. She stated the neighborhood would like to see air and noise testing as well as an agreement with Pan Am that includes accountability. She stated the anti-idling technology has been done in Portland Maine and doesn't understand why it can't also be done here.

Councilor Dwyer asked if once the track repairs are completed, won't the trains no longer be parked in that area.

Nicole LaPierre – said the pad will still be there and feels they will be idling there October-May when whether is below 43 degrees as she hasn't heard any plans to move it.

Councilor Denton stated he has been in touch with the NHDES and staff and the NHDES contracts out their testing and feels that Pan Am should pay for it. He stated he also hasn't heard any plans to move the pad once repairs are completed.

Councilor Dwyer suggested that the Congressional Delegation would be the appropriate group to get involved regarding this issue as they are who the agencies answer to.

Ms. LaPierre stated this is a health issue with idling in a densely populated area and should be moved to a less dense area.

Councilor Denton stated he would like Ms. Husslages' updated information and will draft a letter from the City Council to the delegation regarding this issue.

State Legislator Cali-Pitts explained there have been other issues in the city that the DES has conducted testing and said that if the delegation is asked, they will follow up on this issue.

Councilor Perkins verbally requested Legislator Cali-Pitts to bring this to the delegation.

Councilor Dwyer stated that the State DOT is presenting their 10 year plan at the public library on October 8th and encouraged people to attend and give testimony.

Councilor Denton stated he encourages Pan Am to follow up on the NHDES grant.

Councilor Becksted stated that an Executive Councilor of the State will also be at that meeting.

Next, Peter Loughlin addressed the issue being presented by Councilor Perkins regarding Pease International Tradeport Strategic Planning Process and read a prepared statement regarding the resolutions' proposal to reexamine the tax structure at Pease in response to the Lonza expansion, but is concerned because the State is looking to reallocate Pease funds to other places. He stated he has read the negative issues that are being brought up in the Resolution, but hasn't seen where there have actually been issues.

Councilor Perkins stated she is not looking to alter the current business tax structure but the Pease Master Plan has not been updated in 30 years and feels this needs to be a regional discussion. She stated it is not an insult to the PDA's work, but is another chapter for Pease.

Councilor Dwyer stated at one point we didn't have enough local control and we also didn't want housing there, but would contribute to a housing trust. She stated she understands Mr. Loughlin's concerns with opening up the tax structure and asked if he feels that there is some responsibility of Pease regarding the impacts of traffic and housing etc.

Mr. Loughlin explained the history of the city representative being added to the PDA in 1990 and explained that this position has now been legislated out when his term expires in March of 2021 and stated he is concerned with opening up this discussion. He stated there is a perception that there is a lot of money at Pease and the State wants it, but he explained that the new terminal is touch and go as to whether PDA can afford it.

Councilor Becksted stated he agrees with Councilor Perkins that it has been 30 years and the taxpayers take on huge liability and responsibility for the tradeport and feels they need us more than we need them. He stated the companies that aren't paying the school portion of taxes should contribute in other ways, but maybe it won't be for housing.

Roy Helsel discussed the Sagamore Creek Sewer Project and the lack of notification and transparency regarding the issue. He stated that the Town of Kittery put this as a referendum question on their ballot.

Councilor Denton explained that we have a different structure as a City.

Mr. Helsel continued to discuss lack of transparency of other issues such as the McIntyre property process and does not feel City Manager Bohenko should be paid a consulting fee to advise the new City Manager. Finally, he stated he does not like the Public Dialogue Sessions and prefers the Public Comment sessions during regular meetings.

Councilor Dwyer explained to Mr. Helsel that all of these issues have been publicized and transparent and explained the various ways that information is available to the public.

Finally, regarding the Distribution of Single Use Disposables, Legislator Cali-Pitts stated she agrees that there needs to be education on disposing of things and explained that HB102 would empower the city to do what it is looking to do and is currently in committee. She feels that the ordinances should not be passed until this has finished at the State level.

Councilor Denton explained that there will be 3 separate actions taken at the Council meeting on the issue of disposables. He stated the first will be a city policy regarding single use disposables on city property which will be able to be in effect immediately. Secondly, the original ordinance will be divided into separate ordinances; one dealing with city property and the other one being city-wide with both going into effect 12/31/2020. He stated we have been waiting for a House Bill to be passed by the State for years and he has been advised by the Attorney General's office that if someone sues the city over the ordinance, then they will do their jobs accordingly.

Several students from the PHS Ecology Club, dressed in disposable bag costumes, asked that the Council support the ordinances as a starting point in addressing this important issue for the future.

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, Pearson, Dwyer, Denton, Perkins, Raynolds and Becksted

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 – SEPTEMBER 3, 2019

Assistant Mayor Lazenby moved to approve and accept the minutes of the September 3, 2019 City Council meeting. Seconded by Councilor Perkins and voted.

VII. RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS

There are no Recognitions and Volunteer Committee Reports this evening.

VIII. PUBLIC DIALOGUE SUMMARY

Mayor Blalock stated that two rooms were used this evening for the Public Dialogue Session, the City Council Chambers and Conference Room A.

Assistant Mayor Lazenby gave a brief summary of the topics discussed during Public Dialogue at Table A; Sagamore Creek Sewer Project. Councilor Denton reported at Table B the discussion was regarding Pan Am Railroad, PDA Resolution and Single-Use Disposable Ordinance.

IX. PUBLIC HEARING

A. Public Hearing regarding KENO within the City of Portsmouth

- **PRESENTATION**

There is no presentation this evening regarding KENO.

- **CITY COUNCIL QUESTIONS**

There were no questions by the City Council on the issue of KENO.

- **PUBLIC HEARING SPEAKERS**

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

Michael Griffin thanked the City Council for voting to put the issue on the ballot. He stated KENO will provide revenue to the City and will come back in the form of aid for education for full-time kindergarten. He said this is revenue that goes directly back to the City in local charities from the organizations that would allow KENO. He stated this is a win-win for the City.

Eli Sokorelis said he has KENO in his restaurant in Seabrook, which is a form of entertainment for his customers.

Bob O'Leary, Rochester, NH said organizations that offering KENO give back to the community through fund raisers and local sport organizations. He said this is a way to raise money and the funding goes back to the schools.

Frank Desper thanked the City Council for putting the issue on the ballot. He said they support the youth organizations and fund raisers for veterans.

With three calls and no further speakers, Mayor Blalock declared the public hearing closed.

- **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

Assistant Mayor Lazenby moved to suspend the rules to bring forward Item XIII. A.6. – Sagamore Avenue Area Low Pressure Sewer System – Cost Apportionment. Seconded by Councilor Denton and voted.

City Manager Bohenko said we heard a great deal from the neighborhood on how the project was not rolled out well. He said we do not have a firm opinion of costs and laid out what is being proposed and said a decision does not need to be made this evening. He stated the residents were never going to pay 100% and there was going to be a cost share. He said at the last meeting he put together an example and wanted to do some research and have our rate consultant look at other communities with Consent Decrees and some of the municipalities are at 75%/25% for repayment. City Manager Bohenko said that the City feels that this is fair and equitable. He said the City is open to delaying this matter and it was his thought that home owners wanted a clear definition. He said this is a staff recommendation and can be adjusted, however the City Council wants. City Manager Bohenko recommended tabling this matter until the City Council has time to discuss this in more detail with the residents and if there was recovery it would be with what we have had other neighbors do.

Councilor Raynolds moved to postpone taking action on this matter. Seconded by Councilor Denton.

City Attorney Sullivan said it is the end of this City Council term and action would need to come forward by the new Council.

Councilor Dwyer said everything needs to be captured in a FAQ, basic questions have come forward that need to be in writing. She stated we need to start with basic things, we need a process.

City Manager Bohenko said we did do a FAQ and we will expand upon it, looking at providing more information. He said we need to provide the City Council with as many items as they wish.

Councilor Pearson said there needs to be another formula proposed for the public to ask questions.

Councilor Becksted said he asked the City Manager if we had a number of bonds could we use the premium to pay what we are going to ask the residents to fund as well as how many premiums could we expect to receive.

City Manager Bohenko said we won't know until we use the bonds.

Councilor Perkins said there is time to work this out and we don't need to settle this matter this year.

City Manager Bohenko said there is precedent for cost sharing. He said some research was done and came forward with a number which you have heard this evening. He said you are not paying 100% and staff felt no more than \$10,000.00 from residents. City Manager Bohenko said we brought this forward to work the recommendation in. He said we won't know the cost for a couple of years and there is a great deal of work and effort on this matter and making the project successful.

Assistant Mayor Lazenby said this makes sense and feels that people are planning and want to know what is before them. He said we should not wait too long and do something before the City Council term is up.

Councilor Dwyer said model in some different areas and what is relative costs to replace a septic system in areas and know that will help with the City Council decisions. She said connecting would be less costly than replacing.

Motion passed.

Councilor Denton moved to suspend the rules to bring forward items XI. C.1. – Distribution of Single Use Disposables Policy. Seconded by Assistant Mayor Lazenby.

Councilor Becksted spoke opposed to suspending the rules to bring the policy before the ordinance. He said the Recreation Board knows nothing about the ordinance.

Councilor Denton said it makes sense to discuss the policy before the ordinance which would take effect today.

Motion passed. Councilor Becksted voted opposed.

C. COUNCILOR DENTON

1. Distribution of Single Use Disposables Policy

Councilor Denton move to adopt the Distribution of Single Use Disposables Policy, as presented. Seconded by Councilor Perkins.

Councilor Denton read the policy of what we are encouraging to be done with single use disposables.

Councilor Becksted said he does not know if a lot of thought has been put into this. He said the Recreation Board has not been notified.

Mayor Blalock asked Recreation Board Chair Carl Diemer to speak and expressed concerns with bans on City owned property. He said this proposal was not referred to the Recreation Board for feedback and review. He stated that the Recreation Board feels a study on feasibility should have been done. He indicated this would have a damaging impact on non-profit groups and damaging to organizations and restrict them from types of fundraising. Mr. Diemer stated this was also not discussed with the School Board and how this will impact them. He questioned how enforcement would be handled and what the penalties are. He stated this will impact Market Square Day, Pro Portsmouth, First Night and vendors will have a difficult time adhering to the ordinance. He said this would also effect the new Senior Center such as Meals on Wheels and service providers. He asked what the material guidelines are and said the ordinance is very confusing. Mr. Diemer reported that the Recreation Board unanimously voted to postpone the ordinance indefinitely, as the ordinance misses the mark.

Mayor Blalock asked Councilor Denton to answer some of the questions posed by Mr. Diemer.

Councilor Denton said the ordinance does not take effect for one year and the policy will address what works and what does not work. He said the School Board did look into the ordinance and are pleased to have a year to put items into effect. He stated the policy will be the City Manager working with staff and there are exceptions for non-profits.

Mayor Blalock said if the policy and ordinance passes, the effect would be using composting items and composting bins would need to be provided to establishments. He stated that restaurants are currently using composting alternatives and bins.

Councilor Dwyer said the policy is encouraging recycling. She stated that this policy is in-line with what the Recreation Board is currently doing.

Mr. Diemer spoke regarding the sale of water and Gatorade bottles which are plastic, which would create a hardship for the concession stands if they could no longer sell those items.

Councilor Raynolds said the policy is silent on the sale of plastic water bottles and Gatorade.

Councilor Denton said that is correct.

Councilor Raynolds said we have been discussing the ordinance for some time and the discussion has been the City move to be an eco-municipality and that we are doing things better for the future. It is our own schools using Styrofoam trays which would need to be addressed before the ordinance becomes effective.

Councilor Pearson supports the policy and we may not get everything right the first time but we need time to try things and get things right.

Councilor Becksted asked if there are any costs associated with the policy.

Councilor Denton said the policy is encouraging and there will be no fines.

Mayor Blalock said it would be self-policing.

Councilor Reynolds said every violation of the policy is a way to look at doing things better.

Assistant Mayor Lazenby requested that any organization requesting to use City property or an event be advised of the Single Use Disposable Policy.

Motion passed.

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

Councilor Denton moved to suspend the rules in connection with third and final reading of the proposed ordinance regarding Chapter 3, Article IX, Distribution of Single Use Disposables to allow that ordinance to be amended and divided at third reading. Seconded by Assistant Mayor Lazenby.

Councilor Denton spoke to the changes and splitting one ordinance into two.

Councilor Becksted asked City Attorney Sullivan to elaborate that there was no discussion of the City Council for second reading.

City Attorney Sullivan explained the suspension of the rules and making amendments at third reading. He said a definition that refers to the State of Maine will be removed and the other item will split the ordinance on regulating City property and regulating other parts of the City. City Attorney Sullivan said he and City Clerk Barnaby will review the text and put it into proper format.

Assistant Mayor Lazenby said he supports the motion.

On a roll call 8-1, voted to suspend the rules in connection with third and final reading of the proposed ordinance regarding Chapter 3, Article IX, Distribution of Single Use Disposables to allow that ordinance to be amended and divided at third reading. Assistant Mayor Lazenby, Councilors Roberts, Pearson, Dwyer, Denton, Perkins, Reynolds and Mayor Blalock voted in favor. Councilor Becksted voted opposed.

Councilor Denton moved that the definition of the “composting facility” contained in the Ordinance be amended by deleting the existing definition and replacing it with the definition that a composting facility is, “any solid waste compost facility certified to properly perform that function by the Director of Public Works of the City of Portsmouth.” Seconded by Councilor Perkins and voted. Councilor Becksted voted opposed.

Councilor Denton moved that the ordinance be amended and divided into two ordinances, the first of which will regulate distribution of single-use disposables on City property and the second of which will address the distribution of single-use disposables City-wide, each of which was presented in the memorandum dated October 7, 2019 from the City Attorney. Seconded by Councilor Pearson and voted. Councilor Becksted voted opposed.

Councilor Denton moved to pass third and final reading of the ordinance regarding distribution of single-use disposables on City property. Councilor Becksted voted opposed. Ordinance becomes effective December 31, 2020. Seconded by Councilor Perkins.

Councilor Denton said that this ordinance will be in place and effective in 2020 and no Styrofoam on City property.

Assistant Mayor Lazenby said he spoke to children who want this ordinance passed to set an example. He said it is time for the City Council to step up.

Councilor Reynolds said he agrees with Assistant Mayor Lazenby and said the schools could distribute information at sporting events to have the school comply with the ordinance.

Councilor Becksted said he would not support the ordinance.

Motion passed with Councilor Becksted voting opposed.

Councilor Denton moved to pass third and final regarding of the ordinance regulating distribution of polystyrene cups and containers City-wide. Councilor Becksted stepped down from the dais and was not present for this vote. Ordinance becomes effective December 31, 2020. Seconded by Councilor Dwyer.

Councilor Denton said the Chamber of Commerce spoke in favor of the ordinance and polled owners who support the ordinance. He said that Dunkin Donuts will need to abide by the ordinance.

Councilor Dwyer said surrounding States have to abide by this and Dunkin Donuts is changing their business model. We will have a report back on this matter from the legislature in January.

Councilor Becksted said we don't know the cost effects on this matter and the ordinance is not enforceable.

Councilor Becksted stepped down from the dais.

State Representative Jackie Cali-Pitts said this matter will pass through the legislature.

Councilor Denton said the solid waste statutes, sets up and mimics how to reduce recyclables.

Councilor Roberts said that this will not take effect until December 2020 and the legislature will make a decision on this matter before the ordinance goes into effect.

Motion passed. Councilor Becksted was not present for this vote.

X. MAYOR BLALOCK

1. Appointment to be Considered:
 - Jessica Blasko as a Regular member of the Conservation Commission

The City Council considered the appointment of Jessica Blasko as a Regular member to the Conservation Commission to be voted on at the next City Council meeting.

2. Appointment of Brian Goetz to the Drinking Water Commission

Assistant Mayor Lazenby moved to appoint Brian Goetz, Deputy Public Works Director to the Drinking Water Commission. Seconded by Councilor Dwyer and voted.

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

Mayor Blalock announced that Nathalie Morison has resigned from the Conservation Commission, effective immediately.

XI. CITY COUNCIL MEMBERS

A. COUNCILOR PEARSON

1. Contact Information

Councilor Pearson suggested allowing residents and members of Board and Commissions to opt out of making their addresses public. No action required as this is not a written policy or rule.

Mayor Blalock said he was not requesting specific addresses during the Public Dialogue Session or at the Public Hearing.

Councilor Becksted said he has concerns for land use boards not having an address listed. He said most people feel it is important, land use members provide their full address. He would like to continue the practice to provide full addresses.

Councilor Raynolds said he supports the practice that Councilor Pearson is proposing.

Councilor Becksted said land use abutters should provide their addresses.

Councilor Pearson said if someone is an abutter they should not list their address, just simply say that they're an abutter.

City Attorney Sullivan spoke to the matter from a land use board member and said the board should know the addresses of abutters.

Councilor Dwyer said the board Chair needs to ask for the address of individuals.

Councilor Becksted said the process has been followed through our boards, it is the most transparent way and it is a simple ask. He feels this will change things if we stop asking for the information.

Councilor Pearson said the Chair of land use boards could ask for the addresses, and it is not a policy.

B. COUNCILOR DWYER

1. Update Re: Transition for the 400th

Councilor Dwyer provided an update on the 400th Transition and announced that the governance and the decision was made to have the Library for the home of the 400th with the Co-Chairs being Steve Butzel, Library Director and Susan Labrie who will work on the ground work and raising funds. She said they will set up a trust for the 400th with the change in mission to celebrate rich history and lineage. She stated the formal launch will be in January with a series of talks at the Library.

Councilor Pearson said we are losing Councilor Dwyer, Mayor Blalock and City Manager Bohenko we should add a City Council liaison to keep things going for 2020.

C. COUNCILOR DENTON

2. Variances to allow dogs on a restaurant's patio or deck

Councilor Denton requested a report back on this matter at a future City Council meeting.

Deputy City Manager Colbert Puff reported dogs are not allowed on decks with the food code and we would need to find out if the prohibition covers NH laws and she will come back with a report on this matter.

D. COUNCILOR PERKINS

1. Pease International Tradeport – Strategic Planning Process

Councilor Perkins said that this concerns that the State initiate a planning process for Pease International Tradeport. She said the City Council should have a jump start on this. She spoke to a task force to look at housing at Pease and there are some legal regulatory hurdles to overcome. She stated Pease has not gone through a strategic planning process since the 1990's. She recommended asking that the State have a larger conversation on what happens at Pease. Councilor Perkins said this does not create alarm for current businesses at Pease. She said housing has become an important issue to the City and we can engage in conversation on the next chapter at Pease and the City is a large stake holder.

Councilor Perkins move to adopt the Resolution for the State of New Hampshire to form a task force to assess the strategic future of the Tradeport and the Pease Development Authority. Seconded by Councilor Denton.

Councilor Dwyer said in our group discussion Peter Loughlin made an argument to proceed with caution so we don't get swamped. She said how we would benefit as a City with a relationship with the PDA. She would rather not have a Resolution but we should have a conversation. She said back in 2007 we had some direction with the PDA to consider some options to contribute to our housing. She said a Resolution would lose some gains we made with PDA and Pease. She said having a task force would be an issue.

Councilor Becksted asked what City Manager Bohenko thought of the motion and matter being discussed.

City Manager Bohenko said there is always danger that it could morph into something else. He said we need to keep the Municipal Services Agreement sacred and unless we say we want to change it, it can't be changed. He said we need to evaluate the process and protect our revenues because anytime you open anything like this you create problems.

Mayor Blalock passed the gavel.

Mayor Blalock said he met with Councilor Perkins and it is important to have this conversation and not have an issue occur. He said he has not had time to digest Peter Loughlin letter on this matter and would like to do so before any action occurs.

Assistant Mayor Lazenby returned the gavel to Mayor Blalock.

Councilor Perkins said it is an important topic and if we need more time she has no issue with time. She wants to make sure we will have a seat at the table on some decisions. She said she welcomes a collaborative process.

Councilor Raynolds said he respects Councilor Perkins and supports the housing issue at Pease and is disappointed we weren't able to make more progress on this matter. He said he wants to learn more on potential ramifications on this matter. He would like more conversations.

Councilor Perkins moved to table discussion until the next City Council meeting on October 28, 2019. Seconded by Councilor Denton.

Councilor Roberts said it is time to realign the goals and does the community have the authority to sway the process with the State and maybe we get the State to start a Master Planning process.

Councilor Perkins said she will try and get as many details on the process before the next meeting.

Assistant Mayor Lazenby said he echoes Councilor Dwyer's comments on input on the PDA.

Councilor Pearson said she commends Councilor Perkins for bringing this matter forward.

Motion passed.

E. COUNCILOR RAYNOLDS

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

Councilor Raynolds requested a report back with a map on the number of accidents and incidents that have occurred on Middle Street due to the bike lanes. Councilor Roberts requested that the report back include the rates of speed and bike counts.

City Manager said he would have the information back for the October 28, 2019 City Council meeting.

At 9:20 p.m., Mayor Blalock declared a brief recess. At 9:30 p.m., Mayor Blalock called the meeting back to order.

XIII. CITY MANAGER'S ITEMS WHICH REQUIRE ACTION

A. CITY MANAGER

The City Council agreed to handle City Manager Action Items 1, 3, 7, 8 and 9 as Consent Agenda.

Councilor Perkins moved to adopt the City Manager's Consent Agenda as outlined with Anticipated Actions. Seconded by Assistant Mayor Lazenby and voted.

- **Request for First Reading Re: Amendments to Building, Life Safety and Health Codes** – *Anticipated action: a) move to authorize the City to 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.*
 - **Request for First Reading of a Minor Ordinance Change to Conservation Ordinance** – *Anticipated action: move to schedule first reading of the proposed amendments to Chapter 8, Article V at the October 28, 2019 City Council meeting.*
 - **2219 Lafayette Road Bicycle and Pedestrian Easement** – *Anticipated action: move to accept a bicycle and pedestrian easement for 2219 Lafayette Road.*
 - **299 Vaughan Street Request for License Term Extension** – *Anticipated action: 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 at 299 Vaughan Street.*
 - **Sale of Surplus Vehicles and Equipment** – *Anticipated action – 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.*
2. Request for First Reading of Floodplain Overlay District Zoning Amendments
 4. Request for First Reading on Wetlands Regulations Zoning Amendments

Planning Director Walker and outlined the State law and what happens if it effects more than 100 residents.

Councilor Becksted said he feels we need to do something more respectful.

City Manager Bohenko said he would give thought to that and see if we can do something or not on notifications.

Councilor Denton moved schedule first reading on the proposed amendments to the Floodplain Overlay District and Wetlands Protection section of the Zoning Ordinance for the October 28, 2019 City Council meeting. Seconded by Assistant Mayor Lazenby.

City Manager Bohenko said we will take about making some suggestions at first reading.

Motion passed.

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)

Councilor Roberts said he would like a presentation on this matter at the Public Hearing.

Planning Director Walker said this is to request to place on file the resident requests. She expressed what a zoning change would be. She said G3 is looking at something more residential.

Assistant Mayor Lazenby moved 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. Seconded by Councilor Dwyer and voted.

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***)

Assistant Mayor Lazenby moved to adopt the Consent Agenda. Seconded by Councilor Dwyer and voted.

XVI. CITY MANAGER'S INFORMATIONAL ITEMS

1. Report Back Re: Railroad Operations

City Manager Bohenko said that staff has done some research on this matter.

Councilor Dwyer inquired about quiet zones.

City Manager Bohenko said they need lighting and ability to stop traffic. The railway is willing to work with us. He reported anything above 43 degrees they would stop idling the train. He said we may want to look into grants.

Councilor Becksted reported that South Portland has taken steps regarding sound with the railways and suggested contacting South Portland to find out what measures were taken.

Councilor Denton suggested writing a letter to our Legislative Delegation outlining the concerns regarding railroad operations.

XV. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

A. Email Correspondence

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

B. Letter from Edward W. Richards regarding Bethel Assembly of God property, 200 Chase Drive

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

XVII. MISCELLANEOUS BUSINESS INCLUDING BUSINESS REMAINING UNFINISHED AT PREVIOUS MEETING

On behalf of the City Council, Assistant Mayor Lazenby presented a gift to Councilor Perkins and her family for the arrival of baby Logan.

XVIII. ADJOURNMENT

At 9:45 p.m., Councilor Denton moved to adjourn. Seconded by Assistant Mayor Lazenby and voted.



KELLI L. BARNABY, MMC/CNHMC
CITY CLERK

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, OCTOBER 28, 2019

PORTSMOUTH, NH
TIME: 7:00 PM

I. CALL TO ORDER

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

II. ROLL CALL

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

III. INVOCATION

Mayor Blalock asked everyone to join in a moment of silence.

IV. PLEDGE OF ALLEGIANCE

Mayor Blalock led the Pledge of Allegiance.

PROCLAMATION

1. The George R. Laderbush Memorial Bridge

Mayor Blalock read the proclamation rededicating the Woodbury Avenue Bridge as "The George Laderbush Memorial Bridge" to honor and remember the full measure of devotion that George R. Laderbush, Torpedoman's Mate, Second Class, gave to his country reminding us of the inspirational example he provided and of the service so many Portsmouth sailors gave, and continue to give, to the United States Navy. He announced the dedication ceremony will be held at the bridge site on November 11, 2019 at 10:00 a.m.

Michael Griffin, family friend, accepted the Proclamation and honor on behalf of the Laderbush family and explained the importance of remembering the service of our veterans.

Councilor Pearson moved to suspend the rules to move up City Manager Item 2, Odyssey (Michael Warhurst Sculpture) on the agenda. Seconded by Councilor Denton and voted.

2. Odyssey (Michael Warhurst Sculpture)

City Manager Bohenko reviewed the agreement for placing the sculpture in Prescott Park in an appropriate location based on the Prescott Park Master Plan in recognition of Michael Warhurst, who dedicated 42 years of service as Park Superintendent. He further explained the requirement of setting aside 10% for maintenance into the Trust, but because the group raised the \$100,000 themselves and are continuing to fundraise for \$2,500 towards the maintenance, he is requesting that the additional \$7,500 be taken from UDAG grant.

Assistant Mayor Lazenby moved to authorize the City Manager to execute a Letter of Agreement for acceptance of “Odyssey” and ultimately place it in a suitable location in Prescott Park in accordance with the Prescott Park Master Plan and further, to utilize \$7,500.00 from the UDAG Grant, seconded by Councilor Pearson.

Councilor Dwyer asked City Manager Bohenko to explain the UDAG grant.

City Manager Bohenko explained that this was a federal grant received in the 1980’s from the Sheraton Hotel which these funds have been used for various projects including the North Church Steeple, the African Burying Ground and other art-related projects and is administered by Nancy Carmer and is not tax dollars.

Motion voted.

Phyllis Eldridge, long-time Trustee of Trust Funds, stated that nobody deserves this honor more than Michael Warhurst for his 42 years of service and for representing the wishes of the Prescott sisters at every Trustee meeting.

Assistant Mayor Lazenby moved to suspend the rules to move up Mayor Blalock Item #1, Approval of Karen Sawyer Conard, new City Manager Employment Agreement. Seconded by Councilor Denton and voted.

Assistant Mayor Lazenby moved to approve the Employment Agreement of Karen Sawyer Conard as the new City Manager. Seconded by Councilor Becksted and voted.

Ms. Conard addressed the Council and audience, thanking them for appointing her as the new City Manager and stated the hiring process was respectful and respectable.

V. ACCEPTANCE OF MINUTES *(There were no minutes on for acceptance this evening)*

VI. RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS

VII. PUBLIC COMMENT SESSION

Roy Helsel – discussed the collective bargaining system stating he feels it is broken and although he doesn’t question the professionalism of the city workers, he does feel that the pay rate is extremely high.

Donna Garganta – thanked the Mayor and City Council for supporting the Friendship City resolution with Santarcangelo di Romagna, Italy which shares many similarities with Portsmouth and many family names.

Jeff Croteau – discussed the Sagamore sewer extension stating they are in favor of protecting Sagamore Creek but are concerned with the precedent being set with this policy. He continued with listing the various issues and concerns of the neighborhood and concluded that the city needs to look at the best design for the long-term health of Sagamore Creek.

Sheridan Lloyd – stated as a 20 year resident, she was told that a sewer would never go down in that area. She stated that she feels that the consent decree is a punishment to the city and that they are paying the price. She continued that people’s septic systems are all good and feels the data this is based on is 10 years old. She stated that there are still a lot of unknowns and wants the vote to be delayed. She concluded by stating that the city has promised more meetings with the residents, but that has not occurred.

Mayor Blalock asked City Manager Bohenko if a meeting has been scheduled.

City Manager Bohenko stated that he will speak with Public Works Director Rice after the meeting to set up a date and time and also set up a regular meeting schedule to keep residents informed. He stated that it is ultimately the City Council’s decision if there will be cost sharing, etc. and they will continue to look for ideas and work with the residents.

Gary Epler – stated City Manager Bohenko just addressed his concern regarding meeting with the residents and stated he had a good discussion with Assistant Mayor Lazenby on the issue and feels that the neighborhood isn’t looking to shirk the responsibility of stewardship of Sagamore Creek, but want answers.

City Manager Bohenko directed Public Works Director Rice to meet with the residents in the Portsmouth Room to determine a date for an upcoming meeting.

Andrea Amico – spoke in support of the October 22nd memo of Assistant Mayor Lazenby and Councilor Pearson suggesting a Safe Water Advisory Group to stay ahead of the rapidly evolving legislation regarding PFAS and other health issues. She also thanked Councilors Becksted and Reynolds for attending the recent meeting at Pease.

VIII. VOTE ON ORDINANCES AND/OR RESOLUTION

A. First Reading of Ordinance – Food Licensing and Regulations:

First reading of Ordinance amending Chapter 4, Article I, Sections 4.103 – Adoption of Specific Parts HE-P 2300, and Section 4.105 - License

Councilor Roberts moved to pass first reading and refer to a public hearing and Second reading at the November 12, 2019 City Council meeting, seconded by Councilor Dwyer.

Councilor Dwyer stated that Items A, B, C and D are all regarding updating the city code to reflect the State Codes and feels they can be grouped together.

Mayor Blalock stated that the City can’t be less restrictive than the State and they have now adopted the 2015 codes, which we are incorporating.

Councilor Roberts moved to pass first reading of Ordinances A, B, C and D as listed and refer to public hearings and second readings at the November 12, 2019 City Council meeting, seconded by Councilor Dwyer.

B. First Reading of Ordinance – Fire Codes:

First reading of Ordinance amending Chapter 5, Article VIII – Alarm Systems and Article IX – Adopted Fire Codes

C. First Reading of Ordinance – International Building Code & International Residential Code:

First reading of Ordinance amending Chapter 12, Part I – International Building Code, and Part II – International Residential Code

D. First Reading of Ordinance – International Plumbing Code, International Mechanical Code, Fuel Gas Installations and National Electrical Code:

First reading of Ordinance amending Chapter 15, Part I – International Plumbing Code, Part II – International Mechanical Code, Part III – Fuel Gas Installations, and Part IV – National Electrical Code

Councilor Becksted stated he is fine with the motion, but he would like to see all of these State Codes on the website. He stated the building inspectors do their best to explain when they are available, but feels this information should be on-line for easier access.

Deputy City Manager Colbert Puff explained that we aren't able to put these online due to licensing issues. She stated there will be an explanatory meeting of the code changes on October 31st at 9:00 a.m. at City Hall.

Councilor Becksted stated he would like to buy additional copies and make them more readily available.

City Manager Bohenko stated he will look into additional ways of making the information available.

Motion to pass first reading of Items A-D and refer to public hearings and second readings at the November 12, 2019 Council meeting passed.

E. First Reading of Ordinance – Zoning Ordinance – Flood Plain District:

First reading of Ordinance amending Chapter 10 – Zoning Ordinance, Article 6 – Overlay Districts and Article 15 – Definitions – Flood Plain District

Assistant Mayor Lazenby moved to pass first reading and refer to a public hearing and second reading at the November 12, 2019 City Council meeting, seconded by Councilor Roberts.

Councilor Becksted stated that there is a map missing from the Council packet.

Planning Director Walker stated she has received other inquiries regarding a map and explained that there is an informational meeting scheduled for October 29th and maps will be available for this meeting.

Councilor Becksted stated he would like the first reading of the ordinance postponed as there is a candidates' forum scheduled by the Friends of the South End at the same time as the informational meeting.

Councilor Becksted moved to postpone first reading to the November 12, 2019 City Council meeting, seconded by Councilor Raynolds.

City Manager Bohenko stated that changes and amendments can be made at Second reading and the public hearing will allow people to speak on it as well.

Councilor Becksted stated this is a communication issue and postponing first reading would send a message that we are willing to make changes for the benefit of the residents and that we value their concerns.

Councilor Denton agrees with Councilor Becksted's statement but feels that allowing public hearing at the next meeting gives people a chance to speak.

Councilor Pearson suggested scheduling an additional informational meeting to address the conflicting events.

Discussion ensued.

Motion to postpone first reading failed on a 2-7 vote, Councilors Becksted and Pearson voted in favor.

Motion to pass first reading and refer to a public hearing and second reading on November 12, 2019 passed on an 8-1 vote, Councilor Becksted voted opposed.

F. First Reading of Ordinance – Conservation Ordinance:

First reading of Ordinance amending Chapter 8, Article V – Conservation Ordinance

Assistant Mayor Lazenby moved to pass first reading and schedule a public hearing and Second Reading at the November 12, 2019 City Council meeting. Seconded by Councilor Dwyer and voted.

G. First Reading of Ordinance – Wetlands Protection:

First reading of Ordinance amending Chapter 10 – Zoning Ordinance, Article 10 – Environmental Protection Standards, Section 10.1010 – Wetlands Protection

Councilor Dwyer moved to pass first reading and schedule a public hearing and Second Reading at the November 12, 2019 City Council meeting. Seconded by Assistant Mayor Lazenby and voted.

IX. MAYOR BLALOCK

1. Approval of Karen Sawyer Conard, New City Manager Employment Agreement *(previously addressed)*
2. Acceptance of Resignation from Amy Schwartz of the Portsmouth Housing Authority

Councilor Dwyer moved to accept the resignation of Amy Schwartz from the Portsmouth Housing Authority with thanks and appreciation of service. Seconded by Assistant Mayor Lazenby and voted.

3. Appointment to be Considered:
 - Craig Jewett to the Portsmouth Housing Authority

The appointment of Craig Jewett to the Portsmouth Housing Authority was considered and will be voted at the November 12, 2019 City Council meeting.

4. Appointment to be Voted:
 - Jessica Blasko as a Regular member of the Conservation Commission

Assistant Mayor Lazenby moved to approve the appointment of Jessica Blasko as a regular member to the Conservation Commission filling the unexpired term of Nathalie Morison to April 1, 2020. Seconded by Councilor Roberts and voted.

5. Establish Sister City Mayor's Blue Ribbon Committee
 - Stephanie Seacord
 - Valerie Rochon
 - Steve Zadravec
 - Tammi Truax
 - Steve Butzel

Mayor Blalock explained that it was a recommendation of the previous Sister Cities Blue Ribbon Committee to establish a permanent committee, so he is establishing another Blue Ribbon Committee to get the ball rolling towards that goal.

Assistant Mayor Lazenby moved to accept and endorse the establishment of the Mayor's Sister City Blue Ribbon Committee and the appointment of the aforementioned members, seconded by Councilor Raynolds.

Councilor Dwyer asked why this can't be made a permanent committee instead of Blue Ribbon at this point.

City Attorney Sullivan explained that permanent boards and commissions must go through the ordinance process and there isn't enough time before the end of the Council term to do so.

City Manager Bohenko stated that Blue Ribbon Committees can be reconstituted in January by the new Council and they can also move forward with the process to make it a permanent board.

Motion voted.

6. Sister Cities International Friendship Agreement

Assistant Mayor Lazenby moved to authorize Mayor Blalock and the City of Portsmouth to enter into a Sister City Friendship Agreement with the City of Santarcangelo di Romagna, Italy. Seconded by Councilor Pearson and voted.

X. CITY COUNCIL MEMBERS

A. ASSISTANT MAYOR LAZENBY AND COUNCILOR PEARSON

1. Safe Water Advisory Group

Assistant Mayor Lazenby and Councilor Perkins explained that they would like to recommend that the next Mayor and City Council endorse the formation of an advisory group related to Safe Drinking Water due to the ongoing PFAS contamination issues and to support the work of Andrea Amico and Lyndsey Carmichael who have been working on this issue for several years.

Councilor Dwyer stated she feels that someone with a scientific background should be included on the membership listing as this is a complicated issue.

No action taken on this item.

B. COUNCILOR ROBERTS

1. Parking & Traffic Safety Committee Action Sheets and Minutes of the September 5, 2019 & October 3, 2019 meetings

Councilor Roberts moved to accept and approve the action sheet and minutes of the September 5, 2019 and October 3, 2019 Parking & Traffic Safety Committee meetings. Seconded by Assistant Mayor Lazenby and voted.

2. Foundry Garage Parking Fees

Councilor Roberts explained the reason for the proposal stating that in its first year of operation, Foundry Garage saw more than 70% of its parking spaces go unused. The long-term prospects for greater occupancy are good, but the City should revise its pricing in the near-term.

- 1) We're paying for the garage whether or not it is used.
- 2) The City has justified higher parking rates by citing high occupancy. The opposite also should apply: When spaces are freely available, rates should go down.
- 3) Lower rates will benefit employees, employers and businesses in the short run and will result in greater occupancy and higher revenue in the long run.

He further reviewed the proposed pilot program rates and the potential financial impacts as outlined in his memo dated October 24, 2019.

City Manager Bohenko stated he would like to see a date specified for beginning and ending of the pilot program as within 18 months there will be several projects completed that will utilize up to 400 parking spaces in the garage.

Councilor Roberts stated he would suggest June 1st 2020 as an end date and feels it doesn't need to go the Fee Committee for report back as it is a pilot.

City Manager Bohenko suggested a start date of November 15, 2019.

Councilor Roberts moved to create new rates for the Foundry Garage as outlined in Councilor Robert's memo dated October 24, 2019 as a Pilot Program beginning November 15, 2019 through June 1, 2020, seconded by Assistant Mayor Lazenby.

Councilor Becksted stated he will support this as it will generate some revenue and also educate people as to where the garage is located. He stated that the city does still need to implement a neighborhood parking program because there are still areas for people to park for free so they won't use the garage.

City Manager Boehenko clarified that this pilot is not intended to generate revenue and may actually lose some, but it will help get people in the habit of using the garage.

Mayor Blalock agreed that there could be a revenue loss, but feels it is good to give employees an incentive to park at the garage.

Councilor Raynolds commended Councilor Roberts for bringing this forward as he feels parking programs aren't about generating revenue but solving parking issues.

Assistant Mayor Lazenby agrees that this is a creative idea and likes starting it as a pilot program, but would also like to see an informational roll out step to let downtown employees and employers know this is happening. He stated he hopes this will help alleviate the parking issue in the Islington Creek neighborhood.

Councilor Pearson would like the Council to be informed of which employers use the programs and reward and highlight those businesses that use it.

Councilor Dwyer agrees with tracking who uses the program but feels it could be done more formally through the Chamber and also be able to find out if it doesn't work, why it didn't appeal to them.

Motion voted.

Councilor Denton moved to suspend the rules to move up on the agenda Item XIII, City Manager Item #3, Extending and Modifying Players' Ring Lease – Stewardship Agreement. Seconded by Assistant Mayor Lazenby and voted.

3. Extending and Modifying Players' Ring Lease – Stewardship Agreement

City Manager Bohenko explained that under a Lease Agreement with the City authorized by the City Council on September 3, 2013, the Players' Ring Company occupies a City property on Marcy Street identified as the Portsmouth Marine Railway building (or Heritage Museum). Under the provisions of that lease, the Players' Ring has utilized the building for theater purposes and has expended approximately \$150,000 over the term of that lease and its predecessor leases on building improvements such as preservation timber framing, roof and masonry work, and improvements to the exterior siding of the building. The current lease agreement would expire on September 3, 2023. He continued that The Players' Ring Company is now seeking a grant from the state Land and Community Heritage Investment Program (LCHIP) to do further work on the architectural, historic and cultural features of the Portsmouth Marine Railway building. A requirement of the receipt of that grant is that LCHIP and the City (as owner of the property) enter a five (5) year stewardship agreement with LCHIP. The five (5) years commences to run on the recording of the stewardship agreement at the Rockingham County Registry of Deeds. Even if such a stewardship agreement were recorded today, the term of the stewardship agreement would exceed the term of the Players' Ring lease.

City Attorney Sullivan explained that the stewardship agreement provides LCHIP with significant control over use of the property during its five (5) year term. This includes:

- The City and Players' Ring would assume detailed obligations with regard to maintenance of the property, avoidance of prohibitive activities and would be required to secure approval from LCHIP for performing any alteration of the premises.
- The City and Players' Ring would have restoration obligations to LCHIP in the event of casualty, damage or destruction.
- The City and Players' Ring would have to maintain insurance levels required by LCHIP.
- The City and Players' Ring would have to agree to indemnify LCHIP and its agents, trustees, directors, officers and employees and independent contractors for any risks arising out of or in connection with injury to any person or physical damage to the property, as well as certain environmental exposures.

Accordingly, in order for the Players' Ring Company to receive the grant from LCHIP and be able to comply with the detailed LCHIP requirements contained in the five (5) year stewardship agreement, it would be necessary for the term of the Players' Ring lease to be extended for the term of the LCHIP stewardship agreement. At a minimum, this would extend the lease until sometime late in the year 2024, depending upon the date on which the LCHIP stewardship agreement was placed on record.

Councilor Becksted moved that the City Manager be authorized to negotiate and execute a stewardship agreement with the Players' Ring Company and the state Land and Community Heritage Investment Program (LCHIP) as well as any amendments to the lease between the City of Portsmouth and the Players' Ring Company as required to secure a \$25,000 LCHIP grant for improvements to the Portsmouth Marine Railway building, seconded by Assistant Mayor Lazenby.

Councilor Becksted stated they have done an outstanding job and we are grateful for the restoration of this building.

Councilor Pearson agreed with Councilor Becksted and further stated that what happens inside of the building is very special as well as it offers local artists and performers a space to perform original works and is affordable.

Councilor Dwyer stated she doesn't remember this level of detail being required for LCHIP previously.

Peter Michaud, member of the Board of Directors – stated that this is common practice for LCHIP grants.

Motion voted.

XI. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Police Department Grant:
- NH Department of Safety – Highway Safety Initiatives - \$20,425.00

Assistant Mayor Lazenby moved to accept and approve the grant to the Portsmouth Police Department, as presented. Seconded by Councilor Roberts and voted.

- B. Acceptance of Grant from Great Bay Resource Protection Partnership

Councilor Denton moved to accept and approve a grant from the Great Bay Resource Protection Partnership, and further, authorize the City Manager to execute any documents which may be necessary for this grant contract. Seconded by Assistant Mayor Lazenby and voted.

- C. Acceptance of Moose License Plate Conservation Grant

Assistant Mayor Lazenby moved to accept and approve a grant from the New Hampshire State Library, as presented. Seconded by Councilor Roberts and voted.

City Manager Bohenko recognized Abby Mills of the Finance Department for her work in searching out the grants for records preservation.

XII. CITY MANAGER'S ITEMS WHICH REQUIRE ACTION

A. CITY MANAGER

1. School Department Teacher Retirement Incentive

School Superintendent Zadravec explained that this incentive was offered 2 years ago and resulted in significant savings and allows for the reorganization of positions. He stated it is important to put this offer out early in the year for people to be able to plan accordingly.

Councilor Dwyer asked if this can just become a standing practice for the School Department to offer if they want to do it.

City Manager Bohenko stated he is not sure if we can bind a future City Council but it would have to be offered in the same format.

Councilor Dwyer moved to approve the proposed School Department Teacher Retirement Incentive for FY20, as presented, and further, to allow the School Board, at its' discretion, to implement the incentive in future fiscal years. Seconded by Assistant Mayor Lazenby and voted.

2. Odyssey (Michael Warhurst Sculpture) (*previously addressed*)
3. Extending and Modifying Players' Ring Lease – Stewardship Agreement (*previously addressed*)
4. Easement for 119 International Drive, LLC Property Located at 15 & 19 Rye Street

Councilor Pearson moved to authorize the City Manager to accept an easement from 199 International Drive, LLC to allow the City to access water shutoffs, valves and other private water infrastructure. Seconded by Councilor Roberts and voted.

XIII. CONSENT AGENDA

Assistant Mayor Lazenby moved to adopt the Consent Agenda, as presented. Seconded by Councilor Roberts and voted.

- A. Acceptance of Fire Department Donation (***Anticipated action – move to accept the \$100.00 donation from Carolyn Hughes Marshall to the Portsmouth Fire Department, as presented***)
- B. Request for License to Install Projecting Sign for owner Ahmed R. Ahmed of DA Box White Box Jewelers for property located at 55 Congress Street (***Anticipated action - move to approve the aforementioned Projecting Sign License as recommended by the Planning Director, and further, authorize the City Manager to execute the License Agreement for this request***)

Planning Director's Stipulations

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

XIV. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

A. Email Correspondence

Assistant Mayor Lazenby moved to accept the e-mail correspondence and place on file. Seconded by Councilor Pearson and voted.

- B. Letter from Eric Chinburg, Chinburg Properties, requesting a fee waiver of building permit fees, water hookup fees and any impact fees for renovations of Carey Cottage

Councilor Denton recused himself from the discussion of this item and stepped down from the dais.

City Manager Bohenko reviewed the previous issue of the Carey Cottage and the ending result that the building will now be preserved and renovated. He stated that the benefactor is beginning the renovations and are asking the city to participate in the process by waiving fees.

Mayor Blalock passed the gavel to Assistant Mayor Lazenby.

Mayor Blalock moved to waive building permit fees, water hookup fees and any impact fees for renovations of the Carey Cottage, as requested, seconded by Council Roberts.

Mayor Blalock stated he feels this is the least we can do to help preserve this property and he is thrilled that this will be preserved and renovated.

Councilor Dwyer stated she feels we should request more preservation requirements on the property so that this can't happen again.

City Manager Bohenko stated we would need to look into what currently exists and go from there.

Councilor Perkins agrees with Mayor Blalock and is glad that we can find a way as a city to support the preservation of this property.

Councilor Pearson stated that people wanted the city to explore whatever we could do to save the property so this is a minor contribution.

Motion passed 8-0, Councilor Denton recused.

- C. Letter from Guy A. Pronesti requesting permission to remove sidewalk in front of 100 Pinehurst Road

Public Works Director Rice explained that this is an unusual request to remove sidewalk and after reviewing the area, he is comfortable with doing it, but wanted City Council approval as it is removing sidewalk.

City Manager Bohenko stated that this will be on record and documented as to what has transpired and will keep the easements clear.

Assistant Mayor Lazenby asked about the costs associated.

Public Works Director Rice stated the property owner will be removing it at their cost. He further stated that he had also required that there be neighborhood consensus, which there was, so we will try it.

Councilor Dwyer stated she understands this situation is different, but we have to also think about the larger good of the city as there have been other requests for this to prevent people walking in neighborhoods.

Public Works Director Rice stated that is a good point but we do have a policy in place to look at connectivity for both pedestrians and bicycles.

Councilor Roberts moved to authorize the City Manager to work with the property owners to remove the sidewalks at owner's expense. Seconded by Councilor Dwyer and voted.

XV. CITY MANAGER'S INFORMATIONAL ITEMS

- 1. PFAS in Artificial Turf

Councilor Becksted asked about the water system on the new fields and wants the plans put on-line.

Public Works Director Rice stated they will be on-line tomorrow.

City Manager Bohenko stated we will put a provision in the bid document to be PFAS-free certified.

Councilor Denton asked about a bid alternative for more organic materials.

City Manager Bohenko asked Public Works Director Rice to work with the Recreation Board for their recommendations.

2. Dogs on Decks
3. Preliminary Report Back Re: Traffic Crashes, Speeds, and Bike Lane Usage related to Implementation of Middle Street/Lafayette Road Bike Lanes

Councilor Raynolds thanked the Planning Director and City Manager for the report back on the Bike Lanes stating it was helpful and encouraging information.

4. Portsmouth Police Department Press Release

XVI. MISCELLANEOUS BUSINESS INCLUDING BUSINESS REMAINING UNFINISHED AT PREVIOUS MEETING

Councilor Becksted asked what has happened with the McIntyre Committee proposal since the vote, stating that there was supposed to be a report on the Binnie proposal.

Councilor Dwyer stated the application has been put in.

Councilor Roberts stated that Mr. Binnie didn't come forward to the committee.

Assistant Mayor Lazenby moved to go into a Non-Public Session per RSA 91-A:3 II (c) to discuss matters related to the City Manager's retirement. Seconded by Councilor Pearson and voted.

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

Following the Non-Public Session, Council reconvened in public meeting. Assistant Mayor Lazenby moved to adjourn at 9:20 p.m. Seconded by Councilor Becksted and voted.

XVIII. ADJOURNMENT

Valerie A. French, CNHMC
Deputy City Clerk

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.

**Proposed Zoning Ordinance Amendments
Flood Plain District
For December 2, 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. For the purposes of this Ordinance, only storage of equipment or materials that has the potential to increase flood levels is included in this definition.**

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 **January 1, 2020** ~~the effective date of this flood plain management regulation~~ and includes any subsequent improvements to such structure.

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~~ **at the time of** ~~to~~ the **submission of a building permit application for 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 10.623 – Building Permits as follows:

- 10.623.10 All proposed development in a special flood hazard area **or extended flood hazard area** shall require a building permit.

E. 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.

F. 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 10.626.30 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.”

G. 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.

H. 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 at least one (1) foot 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 at least one (1) foot 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 areas below one (1) foot above 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.**

I. In Section 10.629 – Variances and Appeals, make the following changes:

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 required~~ elevation ~~will~~**may** 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 ~~based flood required~~ elevation increases risks to life and property.

Such notification shall be maintained with a record of all variance actions.

J. 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

Existing Ordinance with Proposed Amendments

All changes to the existing ordinance are shown in **red**, additions are **underlined**, deletions are **stricken**
 Updates required by the FIRM program are shown in **red** only with no highlights
 Previously proposed local revisions (not required by FIRM) are highlighted **in yellow**
 New revisions (proposed for second reading) are highlighted **in grey**

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. For the purposes of this Ordinance, only storage of equipment or materials that has the potential to increase flood levels is included in this definition.

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 January 1, 2020 ~~the effective date of this flood plain management regulation~~ and includes any subsequent improvements to such structure.

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 ~~54~~ 40 percent of the market value of the structure. The market value of the structure should equal:

- (a) the appraised value ~~prior at the time of to the~~ submission of a building permit application for 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 or extended 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.
- 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. 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.”
- 10.626.40 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 ~~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 at least one (1) foot above the base flood elevation if in Zone A or AE.

10.628.~~4~~30 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 at least one (1) foot 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 areas below one (1) foot above 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(c)(6) of the Regulations~~ Section 10.628.60 of this ordinance.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

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 required~~ elevation ~~will may~~ 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 required~~ 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:

<ul style="list-style-type: none"> 100-year flood Area of special flood hazard area Base flood Base flood elevation (BFE) Basement Breakaway wall Building * Development Extended flood hazard area FEMA FIRM Flood insurance rate map Flood insurance study Flood or flooding Flood plain Flood-prone area 	<ul style="list-style-type: none"> Flood proofing Floodway Highest adjacent grade Historic structure Lowest floor Manufactured home Manufactured home park or subdivision Mean sea level New construction Regulatory floodway Recreational vehicle Special flood hazard area Start of construction Structure * Substantial damage Substantial improvement * Violation Water surface elevation
---	---

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 of 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, **20092015** 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

~~**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.~~

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-~~32947965~~
blidgecodebrd@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/energyppg.htm

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

NH ~~Labor~~ Department of ~~Labor~~
Boiler & Elevator Division
PO Box 2076
Concord, NH 03302-2076
(603) 271-~~25842585~~
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~~

70-14 -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, 20092015
(Adopted ~~12/04/2017~~–eff. 01/01/2018 _____)

The International Building Code, **20092015** 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]~~

~~*Add new sentence to end first paragraph in subsection:*~~

~~[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 101~~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 102~~930~~ EMERGENCY ESCAPE AND RESCUE

Change exception 1 in subsection to read as follows:

102930.1 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~~**7965**
blidgecodebrd@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/energyypg.htm
puc@puc.nh.gov

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

NH ~~Labor~~ Department of ~~Labor~~
Boiler & Elevator Division
PO Box 2076
Concord, NH 03302-2076
(603) 271-~~6294~~**2585**
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

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

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, ~~removeremote~~ 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.~~**R314.6 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-**32947965**

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/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 of **Labor**
Boiler & Elevator Division
PO Box 2076
Concord, NH 03302-2076
(603) 271-~~6294~~**2585**

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

~~APPENDIX G—SWIMMING POOLS, SPAS AND HOT TUBS~~

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

SEE 2015 INTERNATIONAL SWIMMING POOL AND SPA CODE

~~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 kitchens 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-~~329~~**47965**
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-~~150~~9**** National Fuel Gas Code 101.2, 102.8.2

Amend in the NFPA section the following referenced Standards:

Change 70-~~140~~**2** to **70-~~170~~**8**** 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 equipment or mechanical work and** a 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~~**7965**
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 1601.2	101.2, 102.8. 2 , 801.1, 1601.1 ,
70-17 05 -National Electric Code	102.8. 1

**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

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
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
295/2 0295-0002-0000	Ocean Rd	2156/0149	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>
295/3 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 28, 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.

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.

CITY OF PORTSMOUTH
PORTSMOUTH, NH
Office of the Mayor

Date: November 26, 2019
To: City Council Members
From: Honorable Mayor Blalock
Re: Market Street Gateway Park Sign

In 2008, with the help of the Economic Development Commission, the City undertook an initiative to improve the I-95 Exit 7 gateway to the City with the goal to create a memorable entrance to the city through streetscape improvements and public spaces with sweeping views of the waterfront.

This effort involved significant public input from abutters and residents. The design was included in the Master Plan and the first phase of sidewalk and lighting improvements from Deer St. to Russell St. was completed in 2010. The next phase occurred in 2017 between Kearsarge Way to Albacore Way. And this year, the final stage is being constructed between Albacore Way and Russell St.

In addition to the new lighting, sidewalks, bike lanes and environmentally friendly medians, the gateway includes two public parks that allow pedestrians and bicyclists a rest along the route. One is a pocket park on the shore of the North Mill Pond at Russell St. The other is a much larger park opposite the Albacore where the North Mill Pond flows in to the Piscataqua River.

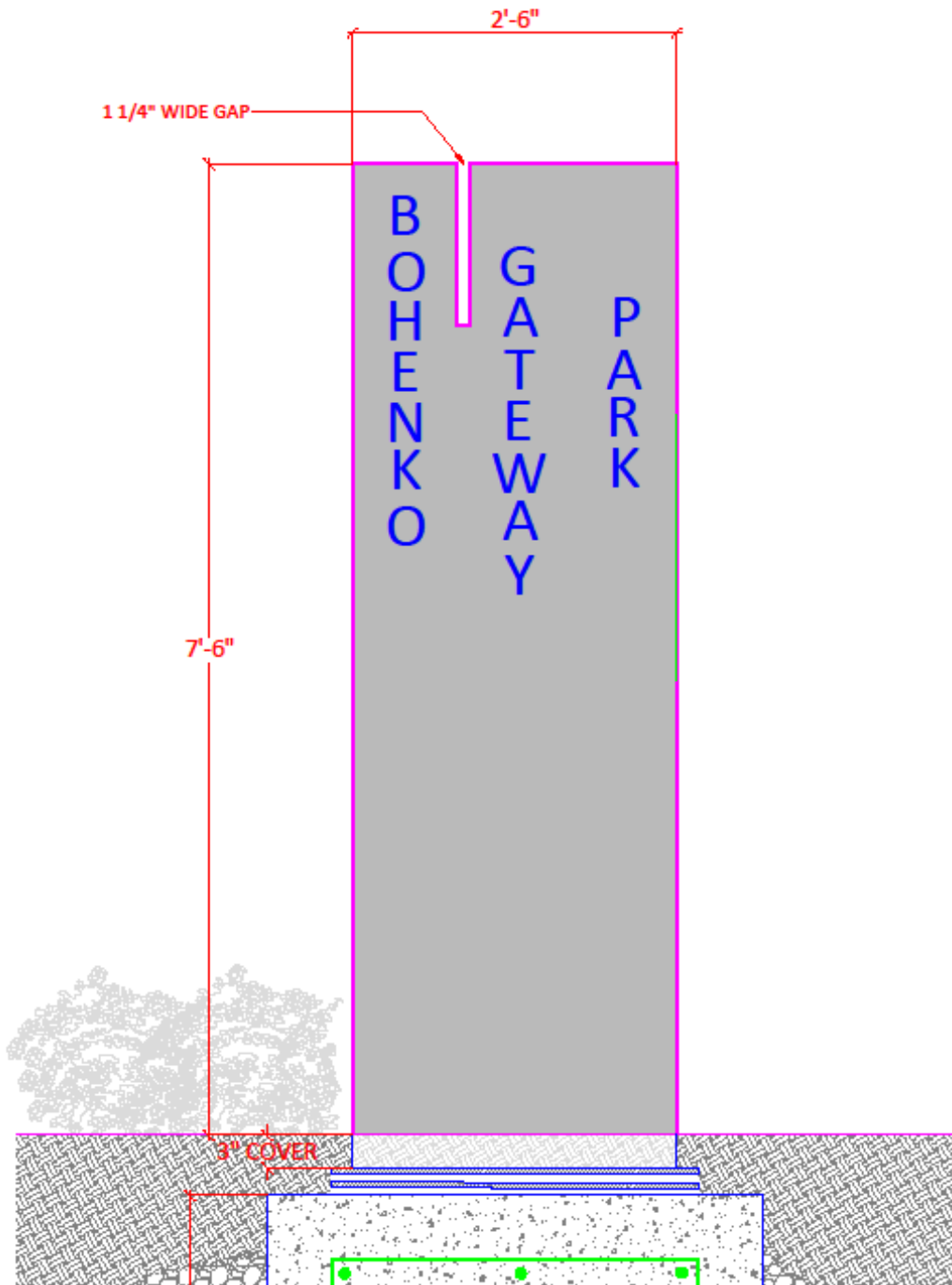
This larger park will allow pedestrian access to the waterfront from a paved path flanked by benches and native landscaping. It also features a large kiosk with lighting and interpretive signs about the City's maritime history. The name of this park is unspecified other than in the construction plans where the placeholder name for the park is "Riverfront Park."

In considering permanent names for the park, one option is to honor retiring City Manager John Bohenko and his dedication to improving the City's parks and recreation facilities as well as his accomplishments over his 22 years of service to the City. The construction plans call for two 7.5 foot tall park signs, at the north and south park entrances, constructed of corten steel and featuring a slight backward curve reminiscent of the waves in the waters of Portsmouth Harbor.

Images of the sign and park attached

Market Street Gateway Park





November 12, 2019

Dear City Council in Mendocino or George R. Ladner
Bridge Opening.

Thank you very much for coming out to honor
Lorraine and Bill Allen for George Ladner
on Veterans Day for the bridge opening.

Your presence at the event meant a lot to
us. Thank you for your work, your dedication
to the city, and for helping us honor Mr. Ladner
on this special Veterans Day.

Sincerely,

Michael Griffin - Margalou

ACTIONS

PARKING and TRAFFIC SAFETY COMMITTEE

8:00 A.M. – November 7, 2019
City Hall – Conference Room A

PRESENT: Chairman, Doug Roberts
Public Works Director, Peter Rice
Planning Director, Juliet Walker
Fire Chief, Todd Germain
Police Captain, Mike Maloney
Mary Lou McElwain
Steve Pesci
Jonathan Sandberg

ABSENT: Harold Whitehouse
Ralph DiBernardo

CITY STAFF PRESENT: Parking and Transportation Engineer, Eric Eby
Parking Director, Ben Fletcher

Action Items requiring an immediate ordinance during the next Council meeting:
None

Temporary Action Item requiring an ordinance during the annual omnibus:

- Hanover Street, eliminate four parking spaces on the east side of Hanover Street immediately north of Fleet Street. (VII.C.)
- Dearborn Street, prohibit parking in the last space next to water's edge. (VII.A.)
- South Street, to lower the speed limit on the section of South Street between Middle Road and Lafayette Road to 25 mph. (VIII.B.)

1. Member Ralph DiBernardo submitted his resignation effective today.
2. Accepted and placed on file financial report dated September 30, 2019.
3. Public Comment Session: eight speakers: Diane Schaefer (IX.D.), Molly Wilson (VIII.B.), Valerie Rochon, Chief Collaborator at Chamber Collaborative of Greater Portsmouth, (VII.C.), Charles Eldredge (VIII.B.), Brendan McNamara, designer for the 15 Middle Street project (VIII.A.), Elizabeth Bratter (VIII.A.), Susan Regan (VII.A.), and Kahl Stuart (VIII.B.)
4. Written Correspondences:
Marc Stettner (Maplewood Avenue and Edmond Avenue intersection)
Elizabeth Bratter (VIII.A.)
5. Presentation by COAST (Cooperative Alliance for Seacoast Transportation).
6. Hanover Street, request to eliminate four parking spaces next to Hanover Garage, to enlarge bus stop area, by COAST. – **Voted** to eliminate four parking spaces on the

east side of Hanover Street immediately north of Fleet Street to enlarge bus stop area.

7. Dearborn Street, request to prohibit parking in last space next to water's edge. – **Voted** to prohibit parking in last space next to water's edge on Dearborn Street.
8. Sagamore Avenue, south of Sagamore Grove, request for No Parking on west side of roadway. – **Voted** to refer to staff to notify abutters and report back at future meeting.
9. Report back: 15 Middle Street, request for valet parking on Porter Street. – **Voted** to table the request to allow the developer time to address the concerns presented by the Committee.
10. South Street, report back on traffic calming request. – **Voted** to lower the speed limit on the section of South Street between Middle Road and Lafayette Road to 25 mph and staff to report back on changing the speed limit on Middle Road.
11. Bike lane flex posts, bike corrals, and Zagster stations to be removed for winter prior to Thanksgiving. No action required by the Committee.
12. Woodbury Ave bridge to reopen November 11th. No action required by the Committee.
13. I-95 northbound on-ramp from Market Street to be closed until Memorial Day, as soon as Woodbury Ave bridge opens. No action required by the Committee.
14. Request for crosswalks across Middle Street between Lincoln Street and Cass Street. No action required by the Committee.
15. Quarterly Accident Report. No action required by the Committee.
16. PTS Open Action Items. No action required by the Committee.
17. Traffic Calming Program application is now available through the City's online permitting site at: <https://portsmouthnh.viewpointcloud.com/categories/1079/record-types/6450>
18. Economic Development Commission/Parking and Traffic Safety Committee Joint Meeting on November 8, 2019 at 8:00 a.m. No action required by the Committee.

Adjournment – At 9:21 a.m., **voted** to adjourn.
Respectfully submitted by:

Amy Chastain
Secretary to the Committee

MEETING MINUTES

PARKING and TRAFFIC SAFETY COMMITTEE

8:00 A.M. – November 7, 2019
City Hall – Conference Room A

I. CALL TO ORDER:

At 8:00 a.m., Chairman Doug Roberts called the meeting to order.

II. ROLL CALL:

Members Present:

Chairman, Doug Roberts
Public Works Director, Peter Rice
Planning Director, Juliet Walker
Fire Chief, Todd Germain
Police Captain, Mike Maloney
Member, Mary Lou McElwain
Member, Steve Pesci
Alt. Member, Jonathan Sandberg

City Staff Present:

Parking and Transportation Engineer, Eric Eby
Parking Director, Ben Fletcher

Absent:

Member, Harold Whitehouse
Member, Ralph DiBernado

Chairman Roberts announced Ralph DiBernado's resignation effective today.

III. ACCEPTANCE OF THE MINUTES:

There were no objections to the emailed minutes, so they were approved ahead of the meeting by the Committee members. The minutes were approved by the City Council on October 28, 2019.

IV. FINANCIAL REPORT:

Public Works Director Peter Rice moved to accept the financial report dated September 30, 2019, seconded by Mary Lou McElwain. **Motion passed 8-0.**

V. PUBLIC COMMENT:

Diane Schaefer, resident, spoke to agenda item IX.D. Ms. Schaefer requested crosswalks be installed on Middle Street between Cass Street and Lincoln Street. It is a busy area with a lot of traffic and pedestrians. The new developments that are being built in the area will only make it busier.

Molly Wilson, resident, spoke to agenda item VIII.B. Ms. Wilson talked about the neighborhoods concerns about traffic volumes and speed on South Street. Ms. Wilson spoke in favor of lowering the speed limit on South Street.

Valerie Rochon, Chief Collaborator at Chamber Collaborative of Greater Portsmouth, spoke to agenda item VII.C. Ms. Rochon spoke in favor of the COAST proposal to expand their bus route and eliminate 4 parking spaces near the Hanover Garage. Transportation is needed for downtown workers.

Charles Eldredge, resident, spoke to agenda item VIII.B. Mr. Eldredge spoke in favor of lowering the speed limit on that section of South Street.

Brendan McNamara, designer for the 15 Middle Street project, spoke to agenda item VIII.A. Mr. McNamara commented that the building is no longer viable for the current use, so the proposal is to create a 28-room hotel. The building will be preserved and utilized. The team has been working with the City to provide a plan with minimal traffic impacts. They have negotiated private parking locations for the valet service. The proposal also includes overflow queue spaces.

Elizabeth Bratter, property owner, spoke to agenda item VIII.A. Ms. Bratter commented that the 15 Middle Street intersection was tough because it is very busy. Ms. Bratter suggested that they provide a van that shuttles customers from a specific leased parking area to the hotel and back instead of valet. This option would encourage guests to walk more, and the van could transport more than one group of guests at a time.

Chairman Doug Roberts noted that he received a letter from Marc Stettner talking about the changes to Maplewood Avenue and Edmond Avenue. He also noted that Ms. Bratter had submitted a letter to the Committee, but it was not received in time for packet distribution.

Susan Regan, resident, spoke to agenda item VII.A. She stated the previous owner of the building put a fence on City property. The new owners were supposed to remove it, and they have not. The fence causes issues for Ms. Regan's tenants' parking. Ms. Regan supports agenda item VII.A.

Stuart Kahl, resident, spoke to agenda item VIII.B. Mr. Kahl noted that there was not a speed limit sign across from Spinney Road. That would be a good place to put in a speed limit sign.

VI. PRESENTATION:

A. COAST bus service changes for Hanover Street bus stop, by COAST.

Michael Williams, COAST Director of Operations, spoke to the proposed bus service changes. COAST currently operates 4 routes in the City, and the proposal would expand that to 7 routes. Approximately 124,880 rides started or ended in Portsmouth this year, and Portsmouth is a major contributor to COAST. The goal of the change is to speed up travel between the northern communities and Portsmouth. For example, it currently takes 90 minutes to get from Rochester to Portsmouth. The new plan would make it 45 minutes. All of the routes run hourly and come into some part of the downtown. The Hanover location is important because of all the connections that take place at that location. COAST currently uses Market Square for connections, but it is not large enough. COAST needs the current bus stop and 4 parking spaces on Hanover Street to accommodate 6 vehicles to make the convenient connections. Most COAST customers are using this transportation to get to their place of employment.

The goal is to make COAST an attractive mode of transportation to help alleviate congestion in the downtown. The Market Square stop would remain under this proposal, but it would not be used for connections.

Mary Lou McElwain requested more information about the new route going over to Kittery. Michael Williams responded that COAST runs limited shuttles to the Shipyard today. The new connection will run hourly from 6:30 a.m. to 7 p.m., Monday through Friday.

Steve Pesci questioned if there would be stops at Kittery Foreside and Badger's Island as well. Michael Williams confirmed there were several new proposed stops in Kittery, and they were meeting with the town officials to finalize them.

Jonathan Sandberg questioned if they considered micro-transit in their plans. Michael Williams responded in general micro-transit can be very expensive. COAST provides on-demand service for seniors and people with disabilities, but require them to make a reservation a day in advance. Planning Director Juliet Walker added that the presentation for micro-transit was not intending to replace or duplicate current services. The goal would be to have the micro-transit fill in gaps in the overall service.

Mary Lou McElwain supported the plan and thought it would increase ridership and reduce parking needs in the City. Mary Lou McElwain questioned how long buses would be idling on Hanover Street because that could be a concern. Michael Williams responded that they would not idle for any longer than a few minutes at the top of each hour. COAST abides by the New Hampshire idling laws and put a lot of care into maintaining the emissions controls on their vehicles.

Public Works Director Peter Rice moved to consider agenda item VII.C. out of order, seconded by Mary Lou McElwain. **Motion passed 8-0.**

Hanover Street, request to eliminate four parking spaces next to Hanover Garage, to enlarge bus stop area, by COAST. Chairman Doug Roberts supported the proposed plan.

Public Works Director Peter Rice commented that tax dollars do not go toward funding this program. It is supported by revenue from the parking fund. This transportation is part of the City's overall program. Supporting this proposal is consistent with the overall program.

Jonathan Sandberg suggested adding another bus shelter and a bike rack at the Hanover Street stop.

Steve Pesci supported the motion and recommended that the signage is clear that the corridor should be used by transit vehicles, and at least one sign should reference the state regulations for idling.

Mary Lou McElwain moved to eliminate four parking spaces on the east side of Hanover

Street immediately north of Fleet Street to enlarge bus stop area, seconded by Public Works Director Peter Rice. **Motion passed 8-0.**

VII. NEW BUSINESS:

A. Dearborn Street, request to prohibit parking in last space next to water's edge. Mary Lou McElwain commented that she supported removing the parking space and installing a No Parking sign.

Public Works Director Peter Rice moved to prohibit parking in last space next to water's edge on Dearborn Street, seconded by Planning Director Juliet Walker. **Motion passed 8-0.**

B. Sagamore Avenue, south of Sagamore Grove, request for No Parking on west side of roadway. Steve Pesci moved to refer to staff to notify abutters and report back at future meeting, seconded by Mary Lou McElwain. **Motion passed 8-0.**

VIII. OLD BUSINESS:

A. Report back: 15 Middle Street, request for valet parking on Porter Street. Eric Eby commented that he and Ben Fletcher met with the applicant in the field, and they made revisions to the plan as a result of that meeting. The revisions include the 3 additional parking spaces on Porter Street for traffic queuing. There are other concerns on Porter Street that are outside of the applicant's control.

Chairman Doug Roberts commented that he was concerned because it was a proposed 28-room hotel and restaurant. Crossing Middle Street can be difficult and there is a loading zone right next to the proposed valet parking.

Mary Lou McElwain was concerned about pedestrian traffic in that area especially when the Music Hall has events. It is also between two very busy traffic lights.

Jonathan Sandberg questioned if it would be possible to make it a no left turn from Middle Street on to Porter Street to help traffic circulation. Eric Eby responded that has not been discussed. Planning Director Juliet Walker added that it would be difficult to enforce without making structural changes to that intersection.

Steve Pesci was concerned because it was a hotel and they would be hosting a lot of out of town guests who would not be aware of all of the surroundings. It is a challenging site in a busy area, and that is concerning.

Fire Chief Todd Germain commented that the developer has addressed the fire access concerns at the site in the plan. Fire Chief Todd Germain was concerned about the potential queuing on Middle Street because that is a major corridor for the Fire Department to get to the north side of town. The applicants still need to work to address the queuing on Middle Street.

Police Captain Mike Maloney agreed with the Fire Chief's concerns about the queuing. The overall change to the building was not a concern.

Chairman Doug Roberts commented that he was sympathetic because it was a difficult building to find a use for, but still had concerns about the traffic problems that may arise.

Public Works Director Peter Rice commented that they should address the traffic concerns on Middle Street and the loading zone on Porter Street. The developer has made sincere efforts to address some of the concerns so far, but some are still outstanding.

Steve Pesci added that there were concerns about the Middle Street, Islington Street, and Congress Street intersection as well.

Chairman Doug Roberts noted that density reduction of the project may help.

Public Works Director Peter Rice moved to table the request to allow the developer time to address the concerns presented by the Committee, seconded by Planning Director Juliet walker. **Motion passed 8-0.**

B. South Street, report back on traffic calming request.

Public Works Director Peter Rice moved to lower the speed limit on the section of South Street between Middle Road and Lafayette Road to 25 mph, seconded by Planning Director Juliet Walker.

Eric Eby commented that they have been working on this with the neighbors in the area for a year. They measured speeds on the roadway and found that most cars were not exceeding the 30 mph speed limit. They were traveling in the 25 mph range. There is no sidewalk on one side and there is a school and park in the area, so there is justification to lower the speed limit. This change would go from the Middle Road and South Street intersection to the Lafayette Road and South Street intersection.

Planning Director Juliet Walker added that they discussed other traffic calming measures with the neighborhood that would be implemented in the long-term. This is one part of an overall solution.

Fire Chief Todd Germain questioned if there was a plan to make it a T-intersection in the future. Public Works Director Peter Rice responded that they would have to review it.

Mary Lou McElwain questioned if the speed limit on Middle Road should be lowered as well to be consistent. Eric Eby responded that they could report back on it.

Steve Pesci commented that the gateway points like this one should be consistent in speed to let people know they are entering the downtown area.

Chairman Doug Roberts amended the motion to lower the speed limit on the section of South Street between Middle Road and Lafayette Road to 25 mph and staff to report back on changing the speed limit on Middle Road, seconded by Planning Director Juliet Walker. **Motion passed 8-0.**

IX. INFORMATIONAL:

A. Bike lane flex posts, bike corrals, and Zagster stations to be removed for winter prior to Thanksgiving. No Committee discussion.

B. Woodbury Ave bridge to reopen November 11th. No Committee discussion.

C. I-95 northbound on-ramp from Market Street to be closed until Memorial Day, as soon as Woodbury Ave bridge opens. No Committee discussion.

D. Request for crosswalks across Middle Street between Lincoln Street and Cass Street. Chairman Doug Roberts noted that staff will report back on this item.

E. Quarterly Accident Report by Police Captain Mark Newport.

Police Captain Mike Maloney reviewed the report. The City is not trending any higher or lower with the motor vehicle categories. The City averages around 10-15 reportable accidents per week. A reportable accident is anything with damage more than \$1,000.00. The month of October was trending normal.

Chairman Doug Roberts questioned if the Department had any ideas on how to reduce the number of accidents. Police Captain Mike Maloney responded that is one of the Department's biggest goals every year. A lot of the additional patrols used for enforcement are funded by highway safety grants. The additional enforcement from 2018-2019 helped to reduce traffic accidents by 20% and reduced injuries in accidents by 13 accidents compared to previous years. Traffic enforcement and education are two main factors in reducing accidents. The Department did not get the same amount in highway safety grants for this year and part of the reason for that is because there was a reduction in injury crashes.

Jonathan Sandberg questioned if the Department had correlated the number of hours spent on enforcement and the reduction in crashes. Police Captain Mike Maloney responded that they have the data, so they could do that. Jonathan Sandberg commented that it could be used to help identify hot spots for enforcement. Police Captain Mike Maloney responded that a lot of the enforcement is focused on the downtown specifically for the hands-free enforcement. Speed is everyone's main concern, so enforcement is not confined to one area.

Steve Pesci added that the overall traffic is increasing, so seeing a reduction in accidents is even more impressive.

F. PTS Open Action Items. No Committee discussion.

X. MISCELLANEOUS:

Public Works Director Peter Rice acknowledged Ralph DiBernardo's outstanding service to the Committee and the City. His civic-mindedness and commitment to the City needs to be noted and is greatly appreciated.

Chairman Doug Roberts proposed requesting a budget line item to buy a stock of pedestrian flashers to have available for areas in the City when needed. This Committee could request that the administration make these available, so it can be a

decision based on safety not financing. Public Works Director responded that they have done that. They have looked at the budget and funding has been requested.

Mary Lou McElwain requested that the flashing speed limit signs also be included in budget requests. Public Works has installed some, and the Police Department has installed others. There should be coordination between the departments. They are effective. Public Works Director Peter Rice responded that has also been identified for potential funding. Physical cost is not the only factor. Staff time and maintenance also need to be considered.

Planning Director Juliet Walker highlighted the traffic calming program application. It will now be available online and go into the records system. That will hopefully encourage people to utilize the application more and create a document trail for the request. The application is available online here:
<https://portsmouthnh.viewpointcloud.com/categories/1079/record-types/6450>

Mary Lou McElwain commented that she had concerns about crosswalks in the City and requested that the Committee talk about it in a future meeting.

Planning Director Juliet Walker reminded the Committee that there was a presentation on micro-transit the next day. No immediate action was expected, but a joint taskforce may be formed as a result of the meeting. The meeting would be recorded and available online.

XI. ADJOURNMENT:

Public Works Director Peter Rice moved to adjourn at 9:21 a.m., seconded by Steve Pesci. **Motion passed 8-0.**

Respectfully submitted by:

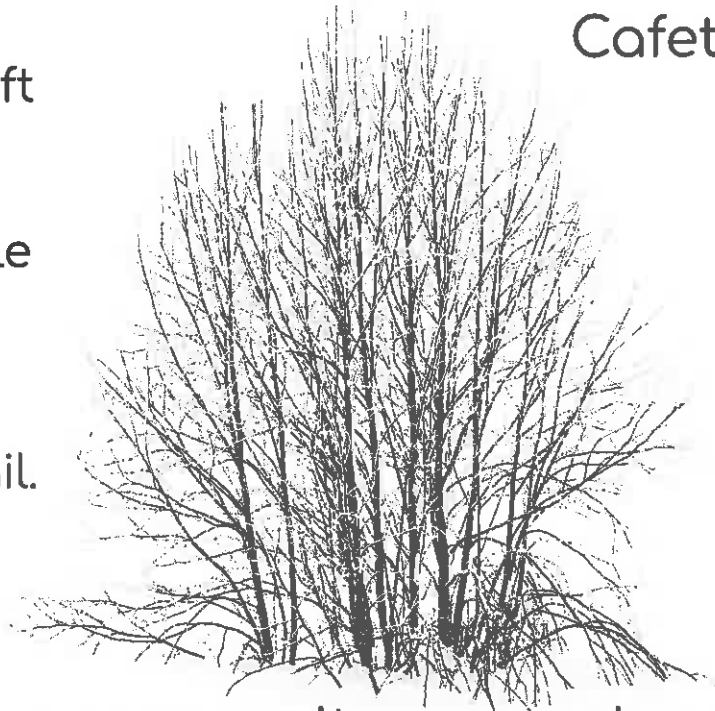
Becky Frey
PTS Recording Secretary

Holiday Craft Fair

Portsmouth High School

Located in
the PHS
Cafeteria


- ★ December 14, 2019
- ★ 9 AM - 3 PM
- ★ Student organized craft fair
- ★ Free Admission
- ★ Carnival games for little ones
- ★ More vendors are welcome! Contact ecoclubcraftfair@gmail.com



Profits go to supplying a permaculture greenhouse to PHS!!! Come support and have some fun!

**CITY OF PORTSMOUTH
PORTSMOUTH, NH 03801**

Office of the City Manager

Date: November 28, 2019
To: Honorable Mayor Jack Blalock and City Council Members
From: John P. Bohenko, City Manager 
Re: City Manager's Comments on December 2, 2019 City Council Agenda

6:00 p.m. – Work Session:

1. **Update Re: Prescott Park Master Plan.** A representative from Weston and Sampson will give an update to the City Council regarding the Prescott Park Master Plan.

Presentation:

1. **Report and Recommendations on Scholarship Funds Policies from Trustees of the Trust.** On Monday evening, Thomas Watson, Chair of the Trustees of the Trust, will make a presentation to the City Council regarding the Report and Recommendations for revision of scholarship fund policies. *Attached is a copy of the Report* outlining the Trustees of the Trust recommendations that include a policy. The Trustees of the Trust are looking for the City Council to adopt the recommendations of this Report.

Motion: Move to adopt the Trustees of the Trust recommendations regarding the attached Report.

Public Hearings & Votes on Ordinances and/or Resolutions:

1. **Public Hearing and Second Reading of Floodplain Overlay District Zoning Amendments (Public Hearing Continued from November 12, 2019 City Council Meeting).** As previously summarized, these proposed amendments to the Zoning Ordinance, Article 6 – Overlay Districts, Section 10.620 – Flood Plain District and Article 15 – Definitions include revisions for complying with National Flood Insurance Program

regulations, addressing impacts of climate change and projected sea level rise, and strengthening thresholds for when properties are required to come into compliance with Flood Plain standards for development.

The Planning Board voted to recommend the amendments to the City Council at the September 19, 2019 meeting and the Planning Department held two public information meetings in November.

The Council held a public hearing on the proposed amendments on November 12, 2019 and voted to continue the second reading and public hearing to the December 2, 2019 Council meeting. At that time, staff was asked to address a few of the questions raised by the public during the public hearing.

When staff discussed some of the questions with the state of New Hampshire Floodplain Program Management staff, we learned that the 2015 Building Code (which was recently adopted by the state) includes a requirement that all construction in flood zones be raised 1-foot above the base flood elevation. The City's current zoning requires construction in the flood zone only be elevated to the base flood elevation, and the previously proposed amendments only required elevating above the base flood elevation for new construction. To make sure the Zoning Ordinance and the Building Code are consistent, staff is recommending that the minimum requirement in the special flood hazard area be increased to 1-feet above base flood elevation.

In response to public questions and discussion with the state floodplain program staff, City staff is recommending a few additional amendments for the Council to consider at second reading. The proposed amendments are individually listed in the [Ordinance document attached and a redlined version of the revisions to the existing Ordinance](#) is provided for reference as well. At Council's request, the redlined version has been color-coded to distinguish the changes required by the National Flood Insurance Program and the additional amendments proposed to address impacts of climate change. A summary of the proposed changes to the previous draft amendments is provided below:

Changes proposed to clarify and fine-tune amendments based on public input:

- Revise “substantial improvement” definition to remove the requirement that construction costs be calculated as cumulative costs over time and clarify that the appraised value is calculated at the time the building permit application is submitted.
- Revise “new construction” definition to apply only to projects started after January 1, 2020.
- Revise definition of development to clarify that storage of equipment and materials are only subject to the flood district regulations if they have potential to impact flood storage capacity.

Changes proposed for consistency with state building code:

- Raise minimum required elevation in special flood hazard areas from base flood elevation (BFE) to base flood elevation +1-foot.

	1 st Reading	2 nd Reading	2 nd Reading (revised)
New construction in Special Flood Hazard and Extended Flood Hazard Areas	2-feet above BFE	2-feet above BFE	2-feet above BFE
Substantial Improvement in Special Flood Hazard Area	BFE	BFE	1-foot above BFE

Staff will be prepared to further explain the proposed changes and elaborate on other questions discussed with NH Floodplain Program Management staff at the December 2, 2019 City Council meeting.

I recommend the City Council move to pass second reading on the proposed amendments as revised to the Flood Plain District sections of the Zoning Ordinance and schedule a third and final reading for the December 16, 2019 City Council meeting.

2. **Third and Final Reading Re: Amendments to Building, Life Safety and Health Codes.**

At the November 12, 2019 City Council meeting, the Council voted to pass second reading and schedule third and final reading for the December 2, 2019 meeting regarding amendments to the 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. The Inspection and Fire Departments held a public informational session on the Building and Fire Code updates on October 31, 2019. The Inspection and Fire Departments established a separate webpage on the Inspection Department’s website that contains the proposed amendments and code information. The Health Department held its

public information session on Food Code updates on Thursday, October 17, 2019 at 2:00 p.m., in Conference Room A and has established a webpage that contains the proposed amendments and state regulations. 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 pass third and final reading of amendments to Chapter 4 (Food Code);*
- b) *Move to pass third and final reading of the amendments to Chapter 5 (Fire Code); and,*
- c) *Move to pass third and final reading of the amendments to Chapter 12 and Chapter 15 (Building Codes).*

3. **Third and Final Reading of a Minor Ordinance Change to Conservation Ordinance.**

At the November 12, 2019 City Council meeting, the Council voted to pass second reading and schedule third and final reading for the December 2, 2019 meeting regarding a minor Ordinance change to the 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 one property to the list of protected properties (property located on Lois Street) 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.](#)

I recommend the City Council move to pass third and final reading on the proposed amendments to Chapter 8, Article V, as presented.

Consent Agenda:

1. **Request for License to Install Projecting Sign.** Attached is a request for a projecting sign license (see attached memorandum from Planning Director Juliet Walker):
 - Donald Gorvett, owner of Piscataqua Fine Arts for property located at 123 Market Street

I recommend the City Council move to approve the aforementioned Projecting Sign License as recommended by the Planning Director and authorize the City Manager to execute the License Agreement for this request.

City Manager's Items Which Require Action:

1. **3 Pleasant Street Community Space Easements.** On September 19, 2019, the Planning Board granted site plan review approval for an application from Dagny Taggart, LLC for property located at 3 Pleasant Street to construct a 4-story addition and new 4th floor on an existing building.

As permitted by Section 10.5A43.33 of the Zoning Ordinance, the Planning Board's approval allowed the project to exceed the maximum building height permitted in the zoning district by approximately 2 feet. Per the provisions of that section, the development is allowed up to one additional story in height (or up to 10 feet) if at least 20% of the property is assigned and improved as community space. Such community space, as defined by the Zoning Ordinance, must have permanent deeded access to the City of Portsmouth.

The community space, as approved by the Planning Board, is shown on the attached plans and includes a wide pedestrian sidewalk and a plaza accessed by pedestrian alleys from Daniel Street, Pleasant Street, and Penhallow Street. The developer has also proposed a future expansion of the development with the addition of a new building at the corner of Penhallow Street and Daniel Street, which will also include an increase in the community space to 30% of the property area. That proposed expansion is still pending land use approvals.

As there are three lots involved in the development and the community space crosses all three, there are three separate easement deeds required.

Furthermore, the City currently holds a restriction from a 1910 conveyance over the 3 Pleasant Street lot to the effect of the following: "the approaches and driveways around the old City Hall building on said premises shall be kept open and unencumbered" (the 1910 restriction). This existing restriction prevents construction of buildings on the two alleyways adjacent to 3 Pleasant Street.

The new easements described above will supersede and exceed the 1910 restriction because all the community space in all three parcels will be regulated similarly to a public sidewalk.

This increase in legal rights leads the Planning Board, and the Planning and Legal Departments, to recommend the City Council release any rights it holds on the 3 Pleasant Street parcel and to accept the three new easements. (See attached.)

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 grant authority for the City Manager to release the existing rights retained by the City in 3 Pleasant Street in the 1910 Deed.

And subsequently:

Move to grant authority for the City Manager to accept the Easement Deeds in a form similar to those attached.

2. **Market Street Property – Recommendation for Acceptance of Sewer Line Easement.**

The Department of Public Works is seeking to conduct needed repairs on an existing sewer line across a commercial lot located to the west of the intersection of Market Street and Russell Street. The City installed this sewer line over 100 years ago, but it is not within any recorded easement.

In August of 2019, the principles of North End Master Development, LP, came to an agreement with the City to execute and record an easement containing this sewer line. The Planning Board moved to recommend the City Council accept a sewer line easement from North End Master Development at the Planning Board meeting on August 15, 2019. However, prior to the City Council meeting on September 3, 2019, it was brought to the attention of the Legal Department that the underlying parcel was to be sold.

Port Harbor Land LLC has since purchased this parcel. The legal representatives of Port Harbor Land LLC have agreed to honor the previous agreement. [See the attached deed and the plan showing the location of the line.](#)

At the August 15, 2019 Planning Board meeting, the Planning Board moved to recommend the City Council accept a sewer line easement from North End Master Development LP.

I recommend the City Council move that the City Manager be authorized to negotiate, execute and accept a sewer easement from Port Harbor Land LLC.

3. **Lafayette Road Sewer Extension Into Rye.** For over a year, the City staff has been working intermittently with engineering and legal representatives of several Rye property owners who have been exploring a possible extension of Portsmouth's sewer system from the Portsmouth/Rye line on Lafayette Road up to Washington Road in Rye. The proposed extension would be at no cost to the City of Portsmouth or the Town of Rye, funded entirely

by the benefiting property owners. The extension would be built to City specifications and owned by the City once complete and operational.

There is general agreement that given the soils in that area and the Berry's Brook Watershed, a public sewer option along Lafayette would be preferable to additional septic systems. The City has since 1997 served the Adams Mobile Home Park on Lafayette Road in Rye following the failure of its septic system.

The Town of Rye voted by warrant article in March of 2019 to authorize the development of an Intermunicipal Agreement to facilitate a sewer extension ([see attached](#)). The property owners took this step with the Town of Rye early in the process not wishing to invest the engineering and legal resources to pursue this sewer line extension conversation with the Rye Sewer Commission and the City of Portsmouth if that hurdle could not be met.

Over the course of two meetings in November 2019, the Rye Sewer Commission approved a draft of an Intermunicipal Agreement between the Town of Rye and the City of Portsmouth. That [proposed Agreement is attached](#) and has been reviewed by the Legal Department. It is very similar to an Intermunicipal Agreement entered into in 2012 to extend the public sewer from Odiorne Point Road in Portsmouth along Sagamore Avenue to the roundabout with Elwyn Road in Rye. This sewer service serves the Atlantic Grill among other properties.

[Attached is a memorandum from Attorney Tim Phoenix providing additional details on the proposed sewer line extension and supporting documentation.](#)

Deputy City Attorney Suzanne M. Woodland and City Engineer Terry Desmarais, will be available to answer questions, as well as Attorney Tim Phoenix, representing the property owners.

I recommend the City Council move to bring forward for consideration at the December 16, 2019 City Council meeting an Intermunicipal Agreement between the City of Portsmouth and Town of Rye to extend sewer service at no cost to the City along a portion of Lafayette Road / Route 1 in Rye.

Informational Items:

1. **Board / Committee Input to the Guiding Parking Principles.** On March 25, 2019, the City Council held a joint work session with members of the Planning Board, Parking & Traffic Safety Committee and Zoning Board of Adjustment. The purpose of the work session was to provide an opportunity for elected and appointed officials who are involved with parking and transportation regulations and related policy decisions to have an opportunity to review and discuss the City's Guiding Parking Principles adopted by the Council in March 2012.

After a presentation from City staff, the attendees broke out into small group to review the guiding parking principles and discuss proposed modifications. As an outcome of the

work session, City staff prepared draft modifications to the Guiding Parking Principles based on these discussions, which were presented to the Council at the May 6, 2019 Council meeting. At that time, the Council requested that the proposed modifications be reviewed with each of the Boards / Committees that participated in the Work Session to provide input back to the Council.

Attached is a summary of the input received from each of the Boards / Committees and additional proposed changes discussed.

After recording return to:
City of Portsmouth
Planning Department
1 Junkins Ave
Portsmouth, NH 03801

EASEMENT FOR PUBLIC ACCESS AND USE OF COMMUNITY SPACE

THIS EASEMENT HEREIN IS GRANTED this ____ day of _____, 2019 by Dagny Taggart, LLC, a New Hampshire limited liability company having an address of 30 Penhallow Street, Suite 300 East, City of Portsmouth, County of Rockingham, State of New Hampshire 03801, (“Grantor”) and for consideration of One Dollar (\$1.00) paid by the City, and other good and valuable consideration, receipt of which is acknowledged by Grantor, grants unto the City of Portsmouth, a municipal corporation, 1 Junkins Avenue, Portsmouth, New Hampshire (“City”) with warranty covenants, and easement for public access to and use of certain community space as set forth herein as a plaza, pedestrian alley and wide pedestrian sidewalks.

WITNESSETH

WHEREAS, Grantor acquired a tract of land located at the corner of Daniel Street and Penhallow Street, City of Portsmouth, County of Rockingham, State of New Hampshire (the “Property”), by Warranty Deed of Jarbel Realty, LLC, dated April 5, 2019 and recorded at the Rockingham County Registry of Deeds at Book 5990, Page 1703; and

WHEREAS, reference is made to a plan entitled “Brick Market, Master Plan, Community Space, Tax Map 107, Lots 27, 31 & 42, Owners: Dagny Taggart, LLC & Coventry Assets, LTD., Property located at: 3 Pleasant Street, 30 Penhallow Street, 60 Penhallow Street, City of Portsmouth, County of Rockingham, State of New Hampshire,” prepared by Ambit Engineering, Inc., dated July 25, 2019, as revised, and recorded herewith at the Rockingham County Registry of Deeds (the “Easement Plan”); and

NOW THEREFORE, in consideration of the sum of One Dollar (\$1.00), to be paid by the City, and other good and valuable consideration, the receipt of which is hereby acknowledged by the Grantor, Grantor conveys the easements as follows, located in the City of Portsmouth, County of Rockingham, State of New Hampshire (hereinafter collectively referred to as the “Easements”):

:

1. Wide Pedestrian Sidewalk Easement. The Grantor hereby grants to the City and declares for the benefit of the public a permanent right to use and enjoy, as identified on the Easement Plan as a “Wide Pedestrian Sidewalk.”
2. Pedestrian Alley Easement. The Grantor hereby grants to the City and declares for the benefit of the public a permanent right to use and enjoy the Pedestrian Alley as identified on the Easement Plan as “Pedestrian Alley.”
3. Plaza Easement. The Grantor hereby grants to the City and declares for the benefit of the public a permanent right to use and enjoy the Plaza as identified on the Easement Plan as “Plaza.” Said area may be improved by the Grantor with permanent fixtures, such as public fountains, benches and other such landscaping features, at its sole expense, and as depicted in the Easement Plan. The construction of any permanent fixtures not depicted in the Site Plan shall be subject to a modified site plan approval by the Portsmouth Planning Board.

The Easement granted herein shall be subject to the following terms and conditions:

1. **Terms of Public Use:** The Public Use permitted by the Easements shall be governed and determined at the sole discretion of the City, as expressed by the City Manager or the highest ranking administrative officer of the City, subject to the terms and conditions of these easement. The City shall provide reasonable notice to the Grantor of an extraordinary event to be scheduled for the easement areas but failure to do so shall not be a breach of these easements.
2. **Rights to Private Property:** This easement does not convey any right to the public to access or utilize the private property of the Grantor outside the easement areas. Grantor’s use of the Easements shall be subject to and regulated through the City of Portsmouth’s rules and ordinances governing public sidewalks.
3. **Maintenance:** Maintenance of the easement areas shall be the sole responsibility of the Grantor, its successors or assigns. The City shall have the right, but not the obligation, to access the easement areas for the purpose of maintenance, repair or replacement, after providing reasonable notice to the Grantor of the scope and cost of such work, all as reasonably determined by the City. Such maintenance costs incurred by the City shall be at the sole expense of the Grantor, its successors or assigns.
4. **Encroachments:** The Easements are subject to all existing encroachments of utilities and improvements on, over and under the Easements.
5. **Covenants Run with the Land:** The Easements granted herein shall be perpetual in nature, shall run with the land and shall benefit and be binding upon the Grantor, its successors and assigns. The Easements shall be recorded in the Rockingham County Registry of Deeds.

6. **City Ordinance Application:** Any use, public or private, of the Easements shall be subject to and comply with the City Ordinances of the City of Portsmouth.

7. **Notices:** Any notice, demand, request, or other communication that either party desires or is required to give to the other under this Easement shall be in writing and either served personally or sent by United States mail, postage prepaid, certified, return receipt requested, and shall be mailed to the parties at the following addresses:

To Grantor:

Dagny Taggart, LLC
30 Penhallow Street, Suite 300 East
Portsmouth, NH 03801

(or as listed and at the address shown on the City's current Tax Records)

To City:

City Manager (or the highest ranking administrative officer)
City of Portsmouth, New Hampshire
1 Junkins Avenue
Portsmouth, NH 03801

8. **Amendment:** Grantor and Grantee may mutually agree to amend or modify this Easement, provided that any such amendment or modification is approved by the City Council at a noticed public hearing, in writing and signed by both parties, and is consistent with the purpose and intent of the Zoning Ordinance. No amendment or modification of this Easement shall take effect unless and until it is recorded in the Rockingham County Registry of Deeds.

9. **Costs and Liabilities:** Grantor agrees to bear all costs and liabilities of any kind related to the operation, upkeep, and maintenance of the Property, and to defend, indemnify, hold harmless and release the City of Portsmouth, from and against any and all actions, claims, damages, liabilities, or expenses that may be asserted by any person or entity, including Grantor, relating thereto. Without limiting the foregoing, the City of Portsmouth shall not be liable to Grantor or any other person or entity in connection with any entry upon the Property pursuant to this Easement, or on account of any claim, liability, damage, or expense suffered or incurred by or threaten against Grantor or any other person or entity, except as such claim, liability, damage, or expense is the result of the City of Portsmouth's, its agents or employee's negligence or willful misconduct.

10. **Applicable Law:** These Easements shall be construed and interpreted according to the substantive law of the State of New Hampshire.

11. **Community Space Easement to Bind Successors:** The provisions of these Easements shall be binding upon and insure to the benefit of Grantor and its successors and assigns. The

Easements shall be appurtenant to, and for the benefit of, Grantee and shall run with title to the Property and shall continue in perpetuity.

Meaning and intending to convey an easement over a portion of the Property conveyed to the Grantor by Quitclaim Deed of City of Portsmouth, County of Rockingham, State of New Hampshire, dated June 16, 1994 and recorded at the Rockingham County Registry of Deeds at Book 3057, Page 2440.

This is an exempt transfer pursuant to RSA 78-B:2(I).

IN WITNESS WHEREOF, Grantor and City have executed this Community Space Easement as set forth, below.

Grantor:

Dagny Taggart, LLC

By: _____
Mark A. McNabb, Manager

Grantee:

City of Portsmouth, New Hampshire

By: _____
John P. Bohenko, City Manager

ACKNOWLEDGEMENTS

STATE OF NEW HAMPSHIRE

COUNTY OF ROCKINGHAM

On this ____ day of _____, 2019, before me, the undersigned notary public, personally appeared Mark A. McNabb, Manager of Dagny Taggart, LLC, a New Hampshire limited liability company, proved to me through satisfactory evidence of identification, which was a valid driver's license, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Notary Public:
My Commission Expires:

STATE OF NEW HAMPSHIRE

COUNTY OF ROCKINGHAM

On this ____ day of _____, 2019, before: me, the undersigned notary public, personally appeared John P. Bohenko, Manager of the City of Portsmouth New Hampshire, proved to me through satisfactory evidence of identification, which was a valid driver's license, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it in his capacity as stated therein and voluntarily for its stated purpose.

Notary Public:
My Commission Expires:

After recording return to:
City of Portsmouth
Planning Department
1 Junkins Ave
Portsmouth, NH 03801

EASEMENT FOR PUBLIC ACCESS AND USE OF COMMUNITY SPACE

THIS EASEMENT HEREIN IS GRANTED this ____ day of _____, 2019 by Dagny Taggart, LLC, a New Hampshire limited liability company having an address of 30 Penhallow Street, Suite 300 East, City of Portsmouth, County of Rockingham, State of New Hampshire 03801, (“Grantor”) and for consideration of One Dollar (\$1.00) paid by the City, and other good and valuable consideration, receipt of which is acknowledged by Grantor, grants unto the City of Portsmouth, a municipal corporation, 1 Junkins Avenue, Portsmouth, New Hampshire (“City”) with warranty covenants, and easement for public access to and use of certain community space as set forth herein as a plaza, pedestrian alley and wide pedestrian sidewalks.

WITNESSETH

WHEREAS, Grantor acquired a tract of land located at 3 Pleasant Street, City of Portsmouth, County of Rockingham, State of New Hampshire (the “Property”), by Warranty Deed of Jarbel Realty, LLC, dated April 5, 2019 and recorded at the Rockingham County Registry of Deeds at Book 5990, Page 1701; and

WHEREAS, reference is made to a plan entitled “Brick Market, Master Plan, Community Space, Tax Map 107, Lots 27, 31 & 42, Owners: Dagny Taggart, LLC & Coventry Assets, LTD., Property located at: 3 Pleasant Street, 30 Penhallow Street, 60 Penhallow Street, City of Portsmouth, County of Rockingham, State of New Hampshire,” prepared by Ambit Engineering, Inc., dated July 25, 2019, as revised, and recorded herewith at the Rockingham County Registry of Deeds (the “Easement Plan”); and

NOW THEREFORE, in consideration of the sum of One Dollar (\$1.00), to be paid by the City, and other good and valuable consideration, the receipt of which is hereby acknowledged by the Grantor, Grantor conveys the easements as follows, located in the City of Portsmouth, County of Rockingham, State of New Hampshire (hereinafter collectively referred to as “Community Space Easement”):

:

1. Wide Pedestrian Sidewalk Easement. The Grantor hereby grants to the City and declares for the benefit of the public a permanent right to use and enjoy, as identified on the Easement Plan as a “Wide Pedestrian Sidewalk.”
2. Pedestrian Alley Easement. The Grantor hereby grants to the City and declares for the benefit of the public a permanent right to use and enjoy the Pedestrian Alley as identified on the Easement Plan as “Pedestrian Alley.”
3. Plaza Easement. The Grantor hereby grants to the City and declares for the benefit of the public a permanent right to use and enjoy the Plaza as identified on the Easement Plan as “Plaza.” Said area may be improved by the Grantor with permanent fixtures, such as public fountains, benches and other such landscaping features, at its sole expense, and as depicted in the Easement Plan. The construction of any permanent fixtures not depicted in the Site Plan shall be subject to a modified site plan approval by the Portsmouth Planning Board.

The Easement granted herein shall be subject to the following terms and conditions:

1. **Terms of Public Use:** The Public Use permitted by the Easements shall be governed and determined at the sole discretion of the City, as expressed by the City Manager or the highest ranking administrative officer of the City, subject to the terms and conditions of these easement. The City shall provide reasonable notice to the Grantor of an extraordinary event to be scheduled for the easement areas but failure to do so shall not be a breach of these easements.
2. **Rights to Private Property:** This easement does not convey any right to the public to access or utilize the private property of the Grantor outside the easement areas. Grantor’s use of the Easements shall be subject to and regulated through the City of Portsmouth’s rules and ordinances governing public sidewalks.
3. **Maintenance:** Maintenance of the easement areas shall be the sole responsibility of the Grantor, its successors or assigns. The City shall have the right, but not the obligation, to access the easement areas for the purpose of maintenance, repair or replacement, after providing reasonable notice to the Grantor of the scope and cost of such work, all as reasonably determined by the City. Such maintenance costs incurred by the City shall be at the sole expense of the Grantor, its successors or assigns.
4. **Encroachments:** The Easements are subject to all existing encroachments of utilities and improvements on, over and under the Easements.
5. **Covenants Run with the Land:** The Easements granted herein shall be perpetual in nature, shall run with the land and shall benefit and be binding upon the Grantor, its successors and assigns. The Easements shall be recorded in the Rockingham County Registry of Deeds.

6. **City Ordinance Application:** Any use, public or private, of the Easements shall be subject to and comply with the City Ordinances of the City of Portsmouth.

7. **Notices:** Any notice, demand, request, or other communication that either party desires or is required to give to the other under this Easement shall be in writing and either served personally or sent by United States mail, postage prepaid, certified, return receipt requested, and shall be mailed to the parties at the following addresses:

To Grantor:

Dagny Taggart, LLC
30 Penhallow Street, Suite 300 East
Portsmouth, NH 03801

(or as listed and at the address shown on the City's current Tax Records)

To City:

City Manager (or the highest ranking administrative officer)
City of Portsmouth, New Hampshire
1 Junkins Avenue
Portsmouth, NH 03801

8. **Amendment:** Grantor, or its successors and/or assigns, and City may mutually agree to amend or modify this Community Space Easement, provided that any such amendment or modification is approved by the City Council at a noticed public hearing, in writing and signed by both parties, and is consistent with the purpose and intent of the Zoning Ordinance. No amendment or modification of this Community Space Easement shall take effect unless and until it is recorded in the Rockingham County Registry of Deeds.

9. **Costs and Liabilities:** Grantor agrees to bear all costs and liabilities of any kind related to the operation, upkeep, and maintenance of the Property, and to defend, indemnify, hold harmless, and release the City of Portsmouth, from and against any and all actions, claims, damages, liabilities, or expenses that may be asserted by any person or entity, including Grantor, relating thereto. Without limiting the foregoing, the City of Portsmouth shall not be liable to Grantor or any other person or entity in connection with any entry upon the Property pursuant to this Community Space Easement, or on account of any claim, liability, damage, or expense suffered or incurred by or threatened against Grantor or any other person or entity, except as such claim, liability, damage, or expense is the result of the City of Portsmouth's, its agents or employee's negligence or willful misconduct.

10. **Applicable Law:** This Community Space Easement shall be construed and interpreted according to the substantive law of the State of New Hampshire.

11. Community Space Easement to Bind Successors: The provisions of this Community Space Easement shall be binding upon and insure to the benefit of Grantor and its successors and assigns. The Community Space Easement shall be appurtenant to, and for the benefit of, Grantee and shall run with title to the Property and shall continue in perpetuity.

Meaning and intending to convey an easement over a portion of the Property conveyed to the Grantor by Quitclaim Deed of City of Portsmouth, County of Rockingham, State of New Hampshire, dated June 16, 1994 and recorded at the Rockingham County Registry of Deeds at Book 3057, Page 2440.

This is an exempt transfer pursuant to RSA 78-B:2(I).

IN WITNESS WHEREOF, Grantor and City have executed this Community Space Easement as set forth, below.

Grantor:

Dagny Taggart, LLC

By: _____
Mark A. McNabb, Manager

Grantee:

City of Portsmouth, New Hampshire

By: _____
John P. Bohenko, City Manager

ACKNOWLEDGEMENTS

STATE OF NEW HAMPSHIRE

COUNTY OF ROCKINGHAM

On this ____ day of _____, 2019, before me, the undersigned notary public, personally appeared Mark A. McNabb, Manager of Dagny Taggart, LLC, a New Hampshire limited liability company, proved to me through satisfactory evidence of identification, which was a valid driver's license, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Notary Public:
My Commission Expires:

STATE OF NEW HAMPSHIRE

COUNTY OF ROCKINGHAM

On this ____ day of _____, 2019, before: me, the undersigned notary public, personally appeared John P. Bohenko, Manager of the City of Portsmouth New Hampshire, proved to me through satisfactory evidence of identification, which was a valid driver's license, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it in his capacity as stated therein and voluntarily for its stated purpose.

Notary Public:
My Commission Expires:

After recording return to:
City of Portsmouth
Planning Department
1 Junkins Ave
Portsmouth, NH 03801

EASEMENT FOR PUBLIC ACCESS AND USE OF COMMUNITY SPACE

THIS EASEMENT HEREIN IS GRANTED this ____ day of _____, 2019 by Coventry Assets, Ltd., a New Hampshire corporation having an address of 30 Penhallow Street, Suite 300 East, City of Portsmouth, County of Rockingham, State of New Hampshire 03801, (“Grantor”) and for consideration of One Dollar (\$1.00) paid by the City, and other good and valuable consideration, receipt of which is acknowledged by Grantor, grants unto the City of Portsmouth, a municipal corporation, 1 Junkins Avenue, Portsmouth, New Hampshire (“City”) with warranty covenants, and easement for public access to and use of certain community space as set forth herein as a plaza, pedestrian alley and pocket park easements.

WITNESSETH

WHEREAS, Grantor acquired a tract of land located at 30 Penhallow Street, City of Portsmouth, County of Rockingham, State of New Hampshire (the “Property”), by Quitclaim Deed of City of Portsmouth, County of Rockingham, State of New Hampshire, dated June 16, 1994 and recorded at the Rockingham County Registry of Deeds at Book 3057, Page 2440; and

WHEREAS, reference is made to a plan entitled “Brick Market, Master Plan, Community Space, Tax Map 107, Lots 27, 31 & 42, Owners: Dagny Taggart, LLC & Coventry Assets, LTD., Property located at: 3 Pleasant Street, 30 Penhallow Street, 60 Penhallow Street, City of Portsmouth, County of Rockingham, State of New Hampshire,” prepared by Ambit Engineering, Inc., dated July 25, 2019, as revised, and recorded herewith at the Rockingham County Registry of Deeds (the “Easement Plan”); and

NOW THEREFORE, in consideration of the sum of One Dollar (\$1.00), to be paid by the City, and other good and valuable consideration, the receipt of which is hereby acknowledged by the Grantor, Grantor conveys the easements as follows, located in the City of Portsmouth,

County of Rockingham, State of New Hampshire (hereinafter collectively referred to as the “Easements”):

:

1. Wide Pedestrian Sidewalk Easement. The Grantor hereby grants to the City and declares for the benefit of the public a permanent right to use and enjoy, as identified on the Easement Plan as a “Pocket Park”
2. Pedestrian Alley Easement. The Grantor hereby grants to the City and declares for the benefit of the public a permanent right to use and enjoy the Pedestrian Alley as identified on the Easement Plan as “Pedestrian Alley.”
3. Plaza Easement. The Grantor hereby grants to the City and declares for the benefit of the public a permanent right to use and enjoy the Plaza as identified on the Easement Plan as “Plaza.” Said area may be improved by the Grantor with permanent fixtures, such as public fountains, benches and other such landscaping features, at its sole expense, and as depicted in the Easement Plan. The construction of any permanent fixtures not depicted in the Site Plan shall be subject to a modified site plan approval by the Portsmouth Planning Board.

The Easement granted herein shall be subject to the following terms and conditions:

1. **Terms of Public Use:** The Public Use permitted by the Easements shall be governed and determined at the sole discretion of the City, as expressed by the City Manager or the highest ranking administrative officer of the City, subject to the terms and conditions of these easement. The City shall provide reasonable notice to the Grantor of an extraordinary event to be scheduled for the easement areas but failure to do so shall not be a breach of these easements.
2. **Rights to Private Property:** This easement does not convey any right to the public to access or utilize the private property of the Grantor outside the easement areas. Grantor’s use of the Easements shall be subject to and regulated through the City of Portsmouth’s rules and ordinances governing public sidewalks.
3. **Maintenance:** Maintenance of the easement areas shall be the sole responsibility of the Grantor, its successors or assigns. The City shall have the right, but not the obligation, to access the easement areas for the purpose of maintenance, repair or replacement, after providing reasonable notice to the Grantor of the scope and cost of such work, all as reasonably determined by the City. Such maintenance costs incurred by the City shall be at the sole expense of the Grantor, its successors or assigns.
4. **Encroachments:** The Easements are subject to all existing encroachments of utilities and improvements on, over and under the Easements.

5. **Covenants Run with the Land:** The Easements granted herein shall be perpetual in nature, shall run with the land and shall benefit and be binding upon the Grantor, its successors and assigns. The Easements shall be recorded in the Rockingham County Registry of Deeds.

6. **City Ordinance Application:** Any use, public or private, of the Easements shall be subject to and comply with the City Ordinances of the City of Portsmouth.

7. **Notices:** Any notice, demand, request, or other communication that either party desires or is required to give to the other under this Easement shall be in writing and either served personally or sent by United States mail, postage prepaid, certified, return receipt requested, and shall be mailed to the parties at the following addresses:

To Grantor:

Coventry Assets, Ltd.,
30 Penhallow Street, Suite 300 East
Portsmouth, NH 03801

(or as listed and at the address shown on the City's current Tax Records)

To City:

City Manager (or the highest ranking administrative officer)
City of Portsmouth, New Hampshire
1 Junkins Avenue
Portsmouth, NH 03801

8. **Amendment:** Grantor, or its successors and/or assigns, and City may mutually agree to amend or modify this Community Space Easement, provided that any such amendment or modification is approved by the City Council at a noticed public hearing, in writing and signed by both parties, and is consistent with the purpose and intent of the Zoning Ordinance. No amendment or modification of this Community Space Easement shall take effect unless and until it is recorded in the Rockingham County Registry of Deeds.

9. **Costs and Liabilities:** Grantor agrees to bear all costs and liabilities of any kind related to the operation, upkeep, and maintenance of the Property, and to defend, indemnify, hold harmless, and release the City of Portsmouth, from and against any and all actions, claims, damages, liabilities, or expenses that may be asserted by any person or entity, including Grantor, relating thereto. Without limiting the foregoing, the City of Portsmouth shall not be liable to Grantor or any other person or entity in connection with any entry upon the Property pursuant to this Community Space Easement, or on account of any claim, liability, damage, or expense suffered or incurred by or threatened against Grantor or any other person or entity, except as such claim, liability, damage, or expense is the result of the City of Portsmouth's, its agents or employee's negligence or willful misconduct.

10. Applicable Law: This Community Space Easement shall be construed and interpreted according to the substantive law of the State of New Hampshire.

Meaning and intending to convey an easement over a portion of the Property conveyed to the Grantor by Quitclaim Deed of City of Portsmouth, County of Rockingham, State of New Hampshire, dated June 16, 1994 and recorded at the Rockingham County Registry of Deeds at Book 3057, Page 2440.

This is an exempt transfer pursuant to RSA 78-B:2(I).

IN WITNESS WHEREOF, Grantor and City have executed this Community Space Easement as set forth, below.

Grantor:

Coventry Assets, Ltd.

By: _____
Mark A. McNabb, President

Grantee:

City of Portsmouth, New Hampshire

By: _____
John P. Bohenko, City Manager

ACKNOWLEDGEMENTS

STATE OF NEW HAMPSHIRE

COUNTY OF ROCKINGHAM

On this ____ day of _____, 2019, before me, the undersigned notary public, personally appeared Mark A. McNabb, President of Coventry Assets, Ltd., a New Hampshire corporation, proved to me through satisfactory evidence of identification, which was a valid driver's license, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

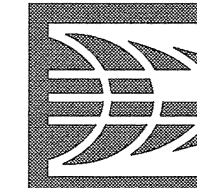
Notary Public:
My Commission Expires:

STATE OF NEW HAMPSHIRE

COUNTY OF ROCKINGHAM

On this ____ day of _____, 2019, before: me, the undersigned notary public, personally appeared John P. Bohenko, Manager of the City of Portsmouth New Hampshire, proved to me through satisfactory evidence of identification, which was a valid driver's license, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it in his capacity as stated therein and voluntarily for its stated purpose.

Notary Public:
My Commission Expires:



AMBIT ENGINEERING, INC.
Civil Engineers & Land Surveyors
200 Griffin Road - Unit 3
Portsmouth, N.H. 03801-7114
Tel (603) 430-9282
Fax (603) 436-2316

NOTES:

- 1) PARCELS ARE SHOWN ON THE CITY OF PORTSMOUTH ASSESSOR'S MAP 107 AS LOTS 27, 31 & 42.
- 2) OWNERS OF RECORD:
DAGNY TAGGART, LLC
30 PENHALLOW STREET, SUITE 300 EAST
PORTSMOUTH, NH 03801
5990/701 (LOT 31) & 5990/1703 (LOT 27)
C-7121, C-8101, & D-41408

COVENTRY ASSETS, LTD
30 PENHALLOW STREET, SUITE 300 E
PORTSMOUTH, NH 03801
3067/2440 (LOT 42)
C-28681 & C-28714
- 3) PARCELS ARE NOT IN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON FIRM PANEL 33015C0259E. EFFECTIVE DATE MAY 17, 2005.
- 4) EXISTING LOT AREAS:

MAP 107 LOT 27
23,279 S.F.
0.5344 ACRES

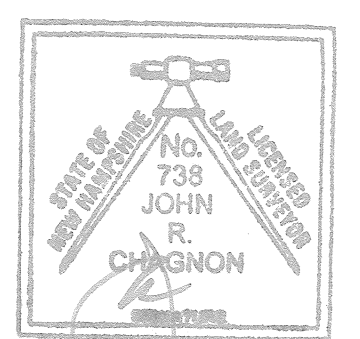
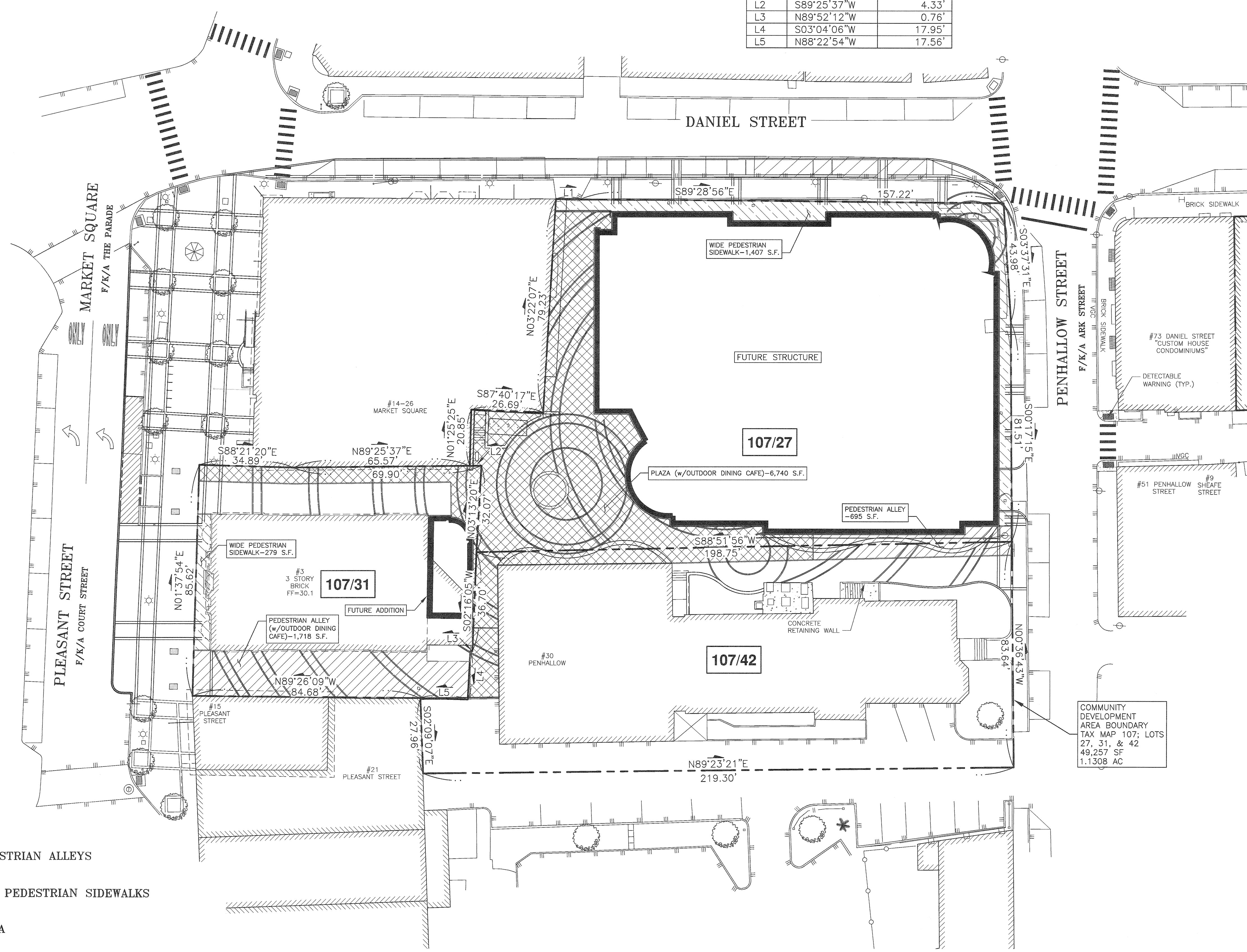
MAP 107 LOT 31
8,867 S.F.
0.2036 ACRES

MAP 107 LOT 42
17,111 S.F.
0.3928 ACRES
- 5) ASSESSOR'S MAP 107 LOTS 27 & 42 ARE LOCATED IN THE CHARACTER DISTRICT 4 (CD4) ZONING DISTRICT. ASSESSOR'S MAP 107 LOT 31 IS LOCATED IN THE CHARACTER DISTRICT 5 (CD5) ZONING DISTRICT. PARCELS ARE LOCATED WITHIN THE DOWNTOWN OVERLAY DISTRICT AND THE HISTORIC DISTRICT.
- 6) THE PURPOSE OF THIS PLAN IS TO SHOW THE LOCATION OF COMMUNITY SPACE EASEMENTS ON THE SUBJECT PARCELS.

LENGTH TABLE

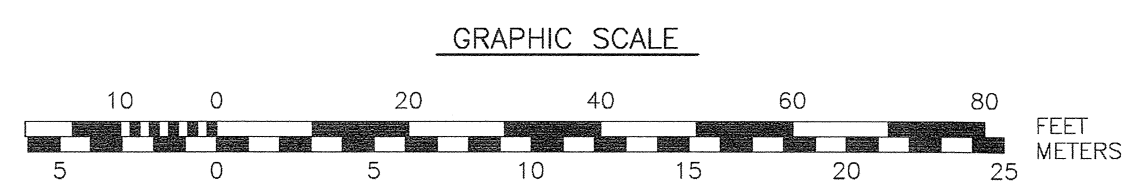
LINE	BEARING	DISTANCE
L1	S89°30'55"E	9.00'
L2	S89°25'37"W	4.33'
L3	N89°52'12"W	0.76'
L4	S03°04'06"W	17.95'
L5	N88°22'54"W	17.56'

2000
MAGNETIC
N
R.C.R.D. PLAN
C-28714



- 2,413 S.F. OF PEDESTRIAN ALLEYS
- 1,686 S.F. OF WIDE PEDESTRIAN SIDEWALKS
- 6,740 S.F. OF PLAZA

6,494 S.F. COMMUNITY SPACE FROM MAP 107 LOT 27
2,829 S.F. COMMUNITY SPACE FROM MAP 107 LOT 31
1,516 S.F. COMMUNITY SPACE FROM MAP 107 LOT 42
10,839 S.F. TOTAL OF COMMUNITY SPACE, 22.0% OF COMMUNITY DEVELOPMENT AREA



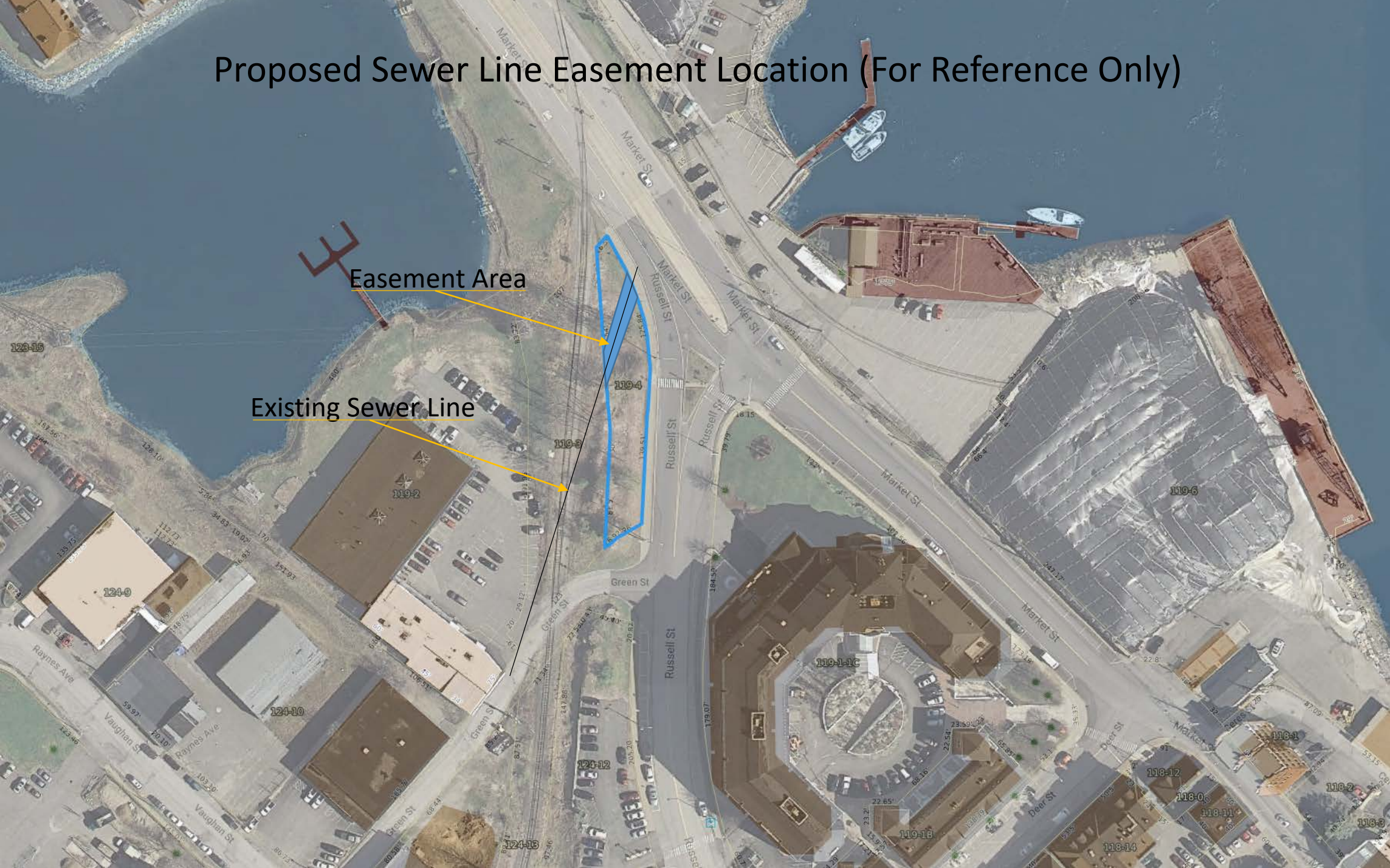
APPROVED BY THE PORTSMOUTH PLANNING BOARD

CHAIRMAN _____ DATE _____

NO.	DESCRIPTION	DATE
3	REMOVE OUTDOOR DINING AREA	11/21/19
2	ISSUED FOR RECORDING	10/29/19
1	ADD COMMUNITY SPACE AREA	8/28/19
0	ISSUED FOR COMMENT	7/25/19

**BRICK MARKET
MASTER PLAN
COMMUNITY SPACE
TAX MAP 107
LOTS 27, 31 & 42**
OWNERS:
**DAGNY TAGGART, LLC &
COVENTRY ASSETS, LTD.**
PROPERTY LOCATED AT:
3 PLEASANT STREET,
30 & 60 PENHALLOW STREET
CITY OF PORTSMOUTH
COUNTY OF ROCKINGHAM
STATE OF NEW HAMPSHIRE

Proposed Sewer Line Easement Location (For Reference Only)



Easement Area

Existing Sewer Line

After Recording Return to:

SEWER LINE EASEMENT

This SEWER LINE EASEMENT AGREEMENT is dated as of November 7th, 2019 (this "Agreement") by and between PORT HARBOR LAND LLC, a New Hampshire Limited Liability Company with a mailing address of 1000 Market Street, Building One, Portsmouth, New Hampshire 03801 ("Grantor"), and the CITY OF PORTSMOUTH, a municipal corporation, having an address and principal place of business at 1 Junkins Avenue, Portsmouth, New Hampshire 03801 ("Grantee").

WHEREAS, Grantor owns certain real property in the City of Portsmouth, County of Rockingham, and State of New Hampshire as described in a deed to Grantor from North End Partners LP recorded in the Rockingham County Registry of Deeds in Book 6044, Page 14 (the "North End Property");

WHEREAS, Grantee has an existing sewer line situated on a portion of the North End Property identified as Parcel 2A in said deed (also being a portion of Tax Map 124, Lot 12);

WHEREAS, Grantee desires to acquire, and the Grantor has agreed to grant to Grantee, a sewer line easement on that specific portion of the North End Property where the aforesaid sewer line currently exist, upon the terms and conditions set forth herein.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which the parties do hereby acknowledge, Grantor grants to Grantee, a perpetual sewer line easement over portions of the North End Property, together with appurtenant rights thereto, to install, lay, construct, reconstruct, maintain, repair, inspect and operate sanitary sewer pipes, together with such appurtenant equipment as may be required and together with the right to enter upon said easements with vehicles, equipment and on foot for said purposes (the "Sewer Line Easement"). The location of the Sewer Line Easement is shown as "Sewer Easement" on a plan entitled "Sewer Easement Plan Tax Map 119 Lot 4 Property of North End Master Development LP Green, Market & Russell Streets, Portsmouth, New Hampshire County of Rockingham" prepared by MSC, a division of TFMoran, Inc. dated July 18, 2019 and is recorded at the Rockingham County Registry of Deeds as Plan # _____, and more particularly described on Exhibit A attached hereto and incorporated herein by reference, (the "Sewer Line Easement Area").

Grantor reserves the right to require the Grantee to relocate the Sewer Line and the Sewer

Easement Area on the North End Property upon reasonable notice to the Grantee, provided that:

- (a) the new location is reasonably acceptable to Grantee;
- (b) Grantor grants Grantee an easement for the new location reasonably acceptable to Grantee;
- (c) upon recording of the new easement and location plan at said Registry of Deeds, the new easement and plan shall affect the land of the Grantor only to the extent described therein and the location shown on said plan and, upon completion of the relocation of the said equipment and/or facilities, the easement rights contained herein shall be released;
- (d) Grantor reimburses Grantee for all reasonable costs related to the relocation, including design, legalities, management and construction; and
- (e) Grantor obtains for Grantee all authorizations required for installation of said equipment or facilities in the new location. Grantee agrees to undertake such relocation reasonably and

The foregoing provisions of clauses (a) through (e) are applicable only in the event Grantor requires the Grantee to relocate this existing sewer line and the Sewer Line Easement Area.

The Grantee also hereby agrees as follows:

- (a) Grantee shall be responsible for any damage caused to any portion of the Grantor's land, the improvements thereon or its contents arising from its use of the Sewer Line Easement rights.
- (b) Any materials used or debris generated by Grantee, its agents, licensees, invitees or employees in the exercise of its use of the Sewer Line Easement Area will be cleaned and removed no less frequently than daily, except for any temporary staging or similar apparatus used in the proper exercise of Grantee's rights under this Agreement.
- (c) Grantee shall not deposit or scatter or allow the depositing or scattering of any type of waste, broken equipment, used cans or containers, or other debris, but shall keep the Sewer Line Easement Area free and clear of all such refuse.
- (d) All work done in the exercise of the Sewer Line Easement Area, shall be in accordance with all federal, state and local laws, with all applicable permits and approvals having been obtained by the Grantee doing the work in advance of any such work.
- (e) All work done in connection with the Sewer Line Easement shall be in a safe manner and in such a manner as not to pose a health or safety risk to either the Grantor or the Grantee, and their respective invitees, licensees, guests and the like, or to the public.
- (f) All work done in connection with the Sewer Line Easement shall be done with minimal interference with the business of the Grantor or the owner of the Sheraton Hotel situated across the street from the North End Property, and their respective tenants, invitees, licensees, guests, customers, clients and the like.
- (g) Any and all destruction of, damage to, or disturbance of the Sewer Line Easement Area shall be repaired, replaced or restored to its original condition at the sole

cost of Grantee.

- (h) Grantor shall not be liable to Grantee for any cost, damages, liabilities, losses or expenses relating to or arising from Grantee's use of the Sewer Line Easement Area.

Nothing contained herein shall preclude Grantor from (i) constructing within the Sewer Line Easement Area, lighting fixtures, utilities, drainage lines, landscaping and similar improvements, and the use thereof, or (ii) using the surface and subsurface of the Sewer Line Easement Area for other utility easements, so long as such construction and utility easements do not materially interfere with the easement rights herein granted.

[End of Page/ Signature Pages Follow]

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed as of the date first above written.

WITNESS:

[Signature]

Port Harbor Land LLC

By: [Signature]

Print: Richard C. Ade

Its: Manager

WITNESS:

CITY OF PORTSMOUTH

By: _____

Print: _____

Its: _____

STATE OF NEW HAMPSHIRE
COUNTY OF ROCKINGHAM

Personally appeared the above-named Richard C. Ade as manager of Port Harbor Land LLC, and acknowledged the foregoing instrument to be his/her free act and deed in his/her said capacity, before me this 21st day of Nov, 2019.

[Signature]

Notary Public

Print Name: THOMAS M. KEANE, Notary Public

My Commission Expires: State of New Hampshire
My Commission Expires December 6, 2022

STATE OF NEW HAMPSHIRE
COUNTY OF ROCKINGHAM

Personally appeared the above-named _____, as _____ of the City of Portsmouth, and acknowledged the foregoing instrument to be his/her free act and deed in his/her said capacity, before me this _____ day of _____, 2019.

Notary Public

Print Name: _____

My Commission Expires: _____

CONSENT OF MORTGAGEE

EASTERN BANK, a Massachusetts trust company, holder and owner of that certain Commercial Mortgage, Security Agreement and Assignment of Leases and Rents, dated January 6, 2016, from North End Master Development, LP, a Delaware limited partnership, as mortgagor, for the benefit of EASTERN BANK, as mortgagee, and recorded in the Rockingham County Registry of Deeds in Book 5683, Page 0999 ("Mortgage"), with respect to certain property located at or near (and bounded by) Deer Street, Market Street, Maplewood Avenue and Russell Street in Portsmouth, Rockingham County, New Hampshire, as more particularly described therein (the "Mortgaged Property"), hereby consents to, and subordinates the lien of the Mortgage to the foregoing Easement granted to the City of Portsmouth, New Hampshire, for the purpose of a non-exclusive, perpetual sewer line easement, at the location described therein (the "Sewer Line Easement"). The undersigned mortgagee hereby agreeing that its lien under the Mortgage shall be subject to the provisions of the Sewer Line Easement, and agreeing that in the event of the foreclosure of the Mortgage, or other sale of the Mortgaged Property under judicial or non-judicial proceedings, the same shall be sold subject to the Sewer Line Easement.

Dated as of __, _____ 2019

EASTERN BANK

By: _____
Name: _____
Title: _____

STATE OF NEW HAMPSHIRE
COUNTY OF ROCKINGHAM

_____, 2019

Personally appeared the above-named _____, the _____ of Eastern Bank, and acknowledged the foregoing instrument to be his/her free act and deed in his/her said capacity and the free act and deed of Eastern Bank.

Before me,

Notary Public
Print Name: _____
My Commission Expires: _____

Exhibit A
(Sewer Line Easement Area)

COMMENCING at a concrete bound set on the southwesterly corner of the Grantor's parcel, thence along the southeasterly line of land of Boston & Maine Corp. N 01°02'19" E a distance of 129.05 feet to the POINT OF BEGINNING;
thence along land of Boston & Maine Corp. N 05°17'50" W a distance of 56.77 feet to a point, said point being located N 03°05'22" E a distance of 243.93 feet from an iron rod;
thence through said land of Grantor N 15°19'57" E a distance of 78.49 feet to a point on the southwesterly sideline of Market Street;
thence along said sideline of Market Street on a curve to the right with a radius of 200.00 feet, an arc length of 32.70 feet, a chord bearing of S 22°25'05" E and a chord length of 32.67 feet to a point;
thence through said land of Grantor S 15°19'57" W a distance of 105.78 feet to the point of BEGINNING.

Containing: 1,857 square feet (0.04 acres), more or less.

LEGEND

	CONCRETE
	GRAVEL
	SEWER EASEMENT
S	SEWER LINE
⊙	SEWER MANHOLE
N/F	NOW OR FORMERLY ROCKINGHAM COUNTY REGISTRY OF DEEDS
RCRD	LENGTH
L	RADIUS
R	DELTA ANGLE
Δ	EDGE OF PAVEMENT
EP	CHORD BEARING
CB	CHORD LENGTH
CL	

PURSUANT TO NEW HAMPSHIRE REVISED STATUTES ANNOTATED 676:1B, 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 JANUARY 2015 & VERIFIED IN FEBRUARY 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 _____



PROPERTY LINE TABLE

LINE	BEARING	LENGTH
PL1	S57°44'11"W	26.00'
PL2	S51°48'58"W	16.92'

CURVE TABLE

CURVE	CENTRAL ANGLE	RADIUS	LENGTH	CHORD BEARING	CHORD LENGTH
C1	19°33'08"	200.00'	68.25'	S07°57'26"E	67.92'
C2	9°22'09"	200.00'	32.70'	S22°25'05"E	32.67'
C3	7°07'26"	200.00'	24.87'	S30°39'52"E	24.85'

MAP 119 LOT 3
 N/F
 BOSTON & MAINE CORP.
 IRON HORSE PARK
 BILLERICA, MA 01862

MAP 119 LOT 4

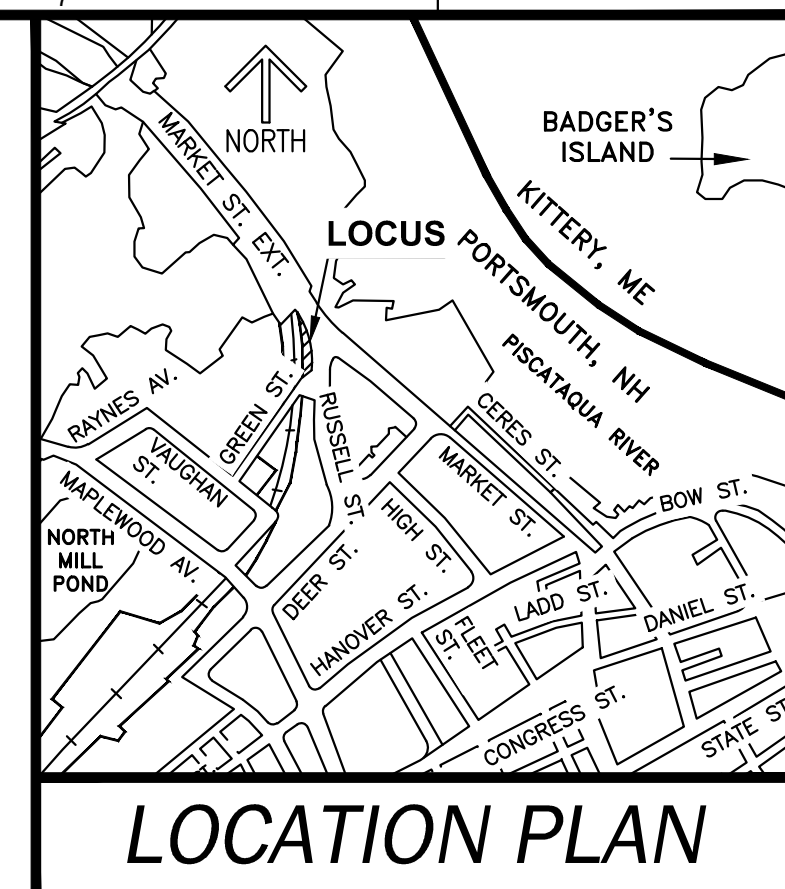
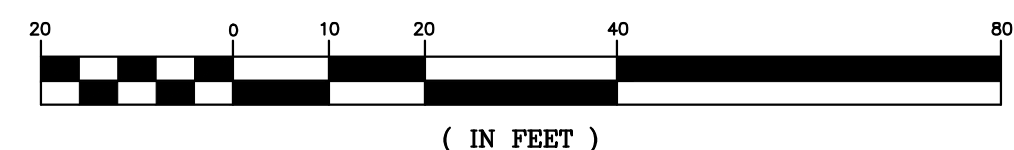
MAP 119 LOT 5
 N/F
 NH STATE PORT AUTHORITY
 PO BOX 506
 PORTSMOUTH, NH 03802

MAP 124 LOT 12
 N/F
 NORTH END MASTER
 DEVELOPMENT LP
 501 DANFORTH STREET
 PORTLAND, ME 04102
 RCRD BK.#5569 PG.#2553

"SHERATON HOTEL"
 MAP 119 LOT 1-1C
 N/F
 HARBORSIDE ASSOCIATES
 581 DANFORTH STREET
 PORTLAND, ME 04243

- NOTES:**
- THE PARCEL IS LOCATED IN THE CHARACTER DISTRICT 5 (OD5) ZONING DISTRICT AND THE DOWNTOWN & HISTORIC OVERLAY DISTRICTS.
 - THE PARCEL IS SHOWN ON THE CITY OF PORTSMOUTH ASSESSOR'S MAP 119 AS LOT 4.
 - THE PARCEL IS LOCATED IN FLOOD ZONE X AS SHOWN ON FLOOD INSURANCE RATE MAP, ROCKINGHAM COUNTY, NEW HAMPSHIRE, PANEL 259 OF 681, MAP NUMBER 33015C0259E, EFFECTIVE DATE: MAY 17, 2005.
 - OWNER OF RECORD:**
 MAP 119 LOT 4
 NORTH END MASTER DEVELOPMENT LP
 501 DANFORTH STREET
 PORTLAND, ME 04102
 RCRD BK.#5569 PG.#2553
 - THE PURPOSE OF THIS PLAN IS TO DEPICT A SEWER EASEMENT ON MAP 119 LOT 4 FOR THE BENEFIT OF THE CITY OF PORTSMOUTH.

- PLAN REFERENCES:**
- "LOT CONSOLIDATION PLAN, MAP 118 LOT 28, MAP 124 LOT 12 & MAP 125 LOT 21 PROPERTY OF NORTH END MASTER DEVELOPMENT LP, DEER STREET, GREEN STREET, MAPLEWOOD AVENUE & RUSSELL STREET, PORTSMOUTH, NEW HAMPSHIRE, COUNTY OF ROCKINGHAM" BY MSC CIVIL ENGINEERS & LAND SURVEYORS, INC. DATED DECEMBER 15, 2014.
 - "EXISTING FEATURES PLAN, MAP 118 LOT 28, MAP 119 LOT 4, MAP 124 LOT 12 AND MAP 125 LOT 21 PROPERTY OF NORTH END MASTER DEVELOPMENT LP, DEER STREET & RUSSELL STREET, PORTSMOUTH, NEW HAMPSHIRE, COUNTY OF ROCKINGHAM" BY MSC CIVIL ENGINEERS & LAND SURVEYORS, INC. DATED NOVEMBER 27, 2013.
 - "LOT LINE RELOCATION PLAN MAP 124 LOTS 12 & 13, MAP 118 LOT 28 PROPERTY OF HARBORCORP LLC AND BOSTON & MAINE CORPORATION DEER, RUSSELL, VAUGHAN & GREEN STREETS PORTSMOUTH, NEW HAMPSHIRE COUNTY OF ROCKINGHAM" BY MSC, INC. DATED APRIL 24, 2014 WITH REVISION 2 DATED 05/19/14. RCRD PLAN #D-38256.



DESCRIPTION	CHECKED BY: JCC
REV. DATE	DRAWN BY: IID
SEWER EASEMENT PLAN TAX MAP 119 LOT 4 PROPERTY OF NORTH END MASTER DEVELOPMENT LP GREEN, MARKET & RUSSELL STREETS PORTSMOUTH, NEW HAMPSHIRE COUNTY OF ROCKINGHAM	
Civil Engineers Structural Engineers Traffic Engineers Land Surveyors Landscape Architects Scientists	PROJECT NO.: 47116.01 DATE: JULY 18, 2019 SCALE: 1" = 20' (22°x34') 1" = 40' (11°x17')
MSC A division of TFMoran, Inc.	170 COMMERCE WAY SUITE 102 PORTSMOUTH, NH 03801 PHONE: 603-431-2222 FAX: 603-431-0910 www.tfmoran.com

HOEFLE, PHOENIX, GORMLEY & ROBERTS, P.A.

ATTORNEYS AT LAW

127 Parrott Avenue, P.O. Box 4480 | Portsmouth, NH, 03802-4480
Telephone: 603.436.0666 | Facsimile: 603.431.0879 | www.hpgrlaw.com

MEMORANDUM

To: John Bohenko, City Manager
From: R. Timothy Phoenix, Counsel for Ciborowski
Re: Proposed City of Portsmouth sewer line serving Rye residents
Lafayette Road, Rye/Portsmouth line to Washington Road
Date: November 26, 2019

Dear Mr. Bohenko:

Please allow this memorandum to advise the Portsmouth City Council of the status of efforts by individual Rye landowners, their technical and legal representatives, and Rye representatives including the Rye Sewer Commission to investigate and pursue the privately funded construction of a sewer line essentially from the Portsmouth/Rye line on Lafayette Road up to Washington Rd. in Rye. For over a year, this group has been working with State Department of Transportation (DOT) officials, and City of Portsmouth legal and technical staff to develop the necessary plans and documents to progress this effort. Upon completion of the new sewer line, ownership of the sewer line and related improvements would be transferred to the City of Portsmouth which would own and operate the line in return for connection and use fees paid by those connecting to the line.

1. It is agreed generally that the Rye homes and businesses along the Lafayette Road corridor between the Rye/Portsmouth town line and Washington Road are in a sensitive environmental area. Most of those parcels are served by septic systems. It is generally agreed that providing sewer service to those lots will be a benefit to the lots, as well as to the environment.

DANIEL C. HOEFLE
R. TIMOTHY PHOENIX
LAWRENCE B. GORMLEY
STEPHEN H. ROBERTS

R. PETER TAYLOR
JOHN AHLGREN
KIMBERLY J.H. MEMMESHEIMER
MATTHEW G. STACHOWSKE

KEVIN M. BAUM
SAMUEL HARKINSON
MONICA F. KIESER
GREGORY D. ROBBINS

OF COUNSEL:
SAMUEL R. REID

For example, the area in which the sewer line is proposed is in the environmentally sensitive and valuable Berry's Brook watershed. The soils in that area are not well suited for septic systems. Environmental concerns exist given the location in the watershed, particularly as existing septic systems fail over time. We understand that the Adams mobile home park septic system failed some years ago leading to an agreement by which the mobile home park was permitted to connect to the Portsmouth sewer. Attached as **EXHIBIT 1** is a plan of the area to be served produced by Altus Engineering.

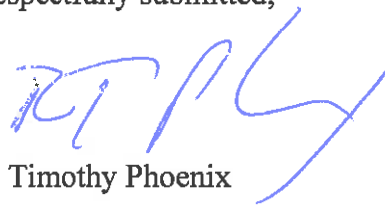
2. The Town of Rye authorized the sewer line at the March, 2019 town meeting, conditioned upon there being no cost to the town. **EXHIBIT 2**
3. The lead property owners are my client Carolyn Beaulieu, on behalf of the Ciborowski family, owners of several parcels along that corridor, and developer Joe Falzone. Carolyn and Joe are undertaking efforts to contact and gain financial commitments from property owners along that corridor, whose property(ies) will be significantly benefited by a public sewer connection. Carolyn and Joe are prepared to commit significant contributions to the estimated \$2,700,000.00 cost of the project.
4. We have had meetings attended by town of Rye Selectboard member Bill Epperson, Rye Planning Board members, State DOT representatives, Tom Severino of Severino construction, the likely contractor, and potentially contributing landowners. Eric Weinrieb, of Altus Engineering is our lead technical advisor. He has met with DOT representatives and Tom Severino on-site and have determined the probable path of the sewer line and where it will cross Lafayette Road. It is my understanding that DOT is on board with the plan. Eric has been working with Portsmouth City Engineer Terry Desmarais. A preliminary sewer plan and profile has been provided to the City Engineer. **EXHIBIT 3**. At no cost to the City, CMA Engineers is conducting a capacity analysis of the Rye line wastewater pump station and downstream sewers.
5. I have been working with Deputy City Attorney Suzanne Woodland and Rye Sewer Commission Attorney Michael Donovan to draft an Intermunicipal Agreement and New Hampshire Public Utilities Commission petition using as a template the forms used

several years ago when the Portsmouth sewer line was extended along Sagamore Road to the roundabout and the Atlantic Grill. New Hampshire Attorney General approval will also be required.

6. We met with the Rye Sewer Commission on November 7, and obtained consent to proceed.
7. We are in process of inquiring of the Rye Water District how the connection fees, monitoring and use fees might best be accomplished.

Our goal is to place this matter on the City Council's December 2, 2019 agenda simply for initial discussion/ comment followed by review and requested approval by the City Council on December 16, 2019. Meanwhile, I and any others of the interested parties would be most happy to meet with you or other appropriate city representatives to further discuss.

Respectfully submitted,



R. Timothy Phoenix

RTP/msw
Encl.

cc: Michael Donovan, Esq.
Suzanne Woodland
Carolyn Beaulieu

LOTS UNDER CONSIDERATION:

TAX MAP 10, LOT 5
ELAINE M. CIBOROWSKI TRUST
C/O CIBOROWSKI ASSOC.
PO BOX 443
CONCORD, NH 03302

TAX MAP 10, LOT 6
HENRY J. CIBOROWSKI
PO BOX 322
RYE, NH 03870

TAX MAP 10, LOT 7
135-137 ROUTE ONE RYE, LLC
PO BOX 8048
SALEM, MA 01971
R.C.R.D. BOOK 5483, PAGE 2964

TAX MAP 10, LOT 8
LINDA A. SAMPSON &
RICHARD JOHN REDZINSKI
PO BOX 141
RYE, NH 03870
R.C.R.D. BOOK 5423, PAGE 1755

TAX MAP 10, LOT 9
HELEN MARKS
728 LAFAYETTE ROAD
HAMPTON, NH 03842
R.C.R.D. BOOK 5948, PAGE 1304

TAX MAP 10, LOT 10
101 LAFAYETTE, LLC
PO BOX 8048
SALEM, MA 01971
R.C.R.D. BOOK 5620, PAGE 507

TAX MAP 10, LOT 13
ADAMS MOBILE HOME PARKS, INC.
324 DEN QUARRY ROAD
LYNN, MA 01904
R.C.R.D. 2519, PAGE 1355

TAX MAP 10, LOT 14
ROSEWOOD REALTY TRUST
150 LAFAYETTE ROAD
RYE, NH 03870
R.C.R.D. BOOK 2972, PAGE 2654

TAX MAP 10, LOT 15
RICKERT INVESTMENT
REAL ESTATE, LLC
6 AIRFIELD DRIVE
RYE, NH 03870

TAX MAP 10, LOT 15-3
RYE AIRFIELD RCD1, INC.
C/O ALLIANCE ASSET MANAGEMENT
105 LOUDON ROAD
CONCORD, NH 03301

TAX MAP 10, LOT 15-4
RICKERT INV REAL ESTATE, LLC
6 AIRFIELD DRIVE
RYE, NH 03870
R.C.R.D. BOOK 3579, PAGE 2955

TAX MAP 10, LOT 16
RICKERT INV REAL ESTATE, LLC
6 AIRFIELD DRIVE
RYE, NH 03870
R.C.R.D. BOOK 3579, PAGE 2955

TAX MAP 10, LOT 17
200 LAFAYETTE RD RE, LLC
2025 WOODBURY AVENUE
PORTSMOUTH, NH 03801
R.C.R.D. BOOK 4608, PAGE 1127

TAX MAP 10, LOT 18
ELVA S. CARPENTER REV. TRUST
6 WHITE OAK DRIVE
EXETER, NH 03833
R.C.R.D. BOOK 5809, PAGE 1941

TAX MAP 10, LOT 19
ELVA S. CARPENTER REV. TRUST
6 WHITE OAK DRIVE
EXETER, NH 03833

TAX MAP 10, LOT 22
ALFRED FESTA REV. TRUST
35 MANSFIELD ROAD
LYNNFIELD, MA 01940
R.C.R.D. BOOK 5338, PAGE 1139

TAX MAP 14, LOT 5
CIBOROWSKI REALTY TRUST
PO BOX 322
RYE, NH 03870
R.C.R.D. BOOK 3325, PAGE 2734
R.C.R.D. BOOK 3325, PAGE 2732

TAX MAP 14, LOT 6
RYE PORT PROPERTIES, LLC
18 PINEWOOD DRIVE
STRATHAM, NH 03885
R.C.R.D. BOOK 5083, PAGE 763

TAX MAP 14, LOT 7
MARK H. BRENNER REV. TRUST &
JAMILA ZAMRIK-BRENNER REV. TRUST
278 PLEASANT STREET
ELIOT, MA 03803
R.C.R.D. BOOK 5909, PAGE 2160

TAX MAP 14, LOT 8
HENRY J. CIBOROWSKI
PO BOX 322
RYE, NH 03870

TAX MAP 14, LOT 9
HENRY J. CIBOROWSKI
PO BOX 322
RYE, NH 03870

TAX MAP 14, LOT 10
123 LAFAYETTE ROAD, LLC
437 PORTSMOUTH AVE. UNIT 2
GREENLAND, NH 03840
R.C.R.D. BOOK 5378, PAGE 2250

TAX MAP 14, LOT 11
EUGENE SKOROPROWSKI &
CHRISTOPHER BOUCHER
348 FAIRWAY POINTE CIRCLE
ORLANDO, FL 32828
R.C.R.D. BOOK 3267, PAGE 2801

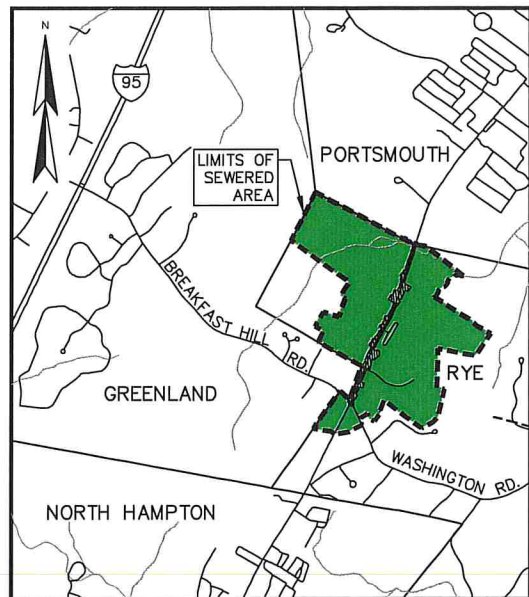
TAX MAP 14, LOT 12
ONDY A. KATZ
PO BOX 734
RYE, NH 03870
R.C.R.D. BOOK 5777, PAGE 2308

TAX MAP 14, LOT 13
TOWN OF RYE
C/O RYE CONSERVATION COMM.
10 CENTRAL ROAD
RYE, NH 03870

TAX MAP 14, LOT 16
ONDY A. KATZ
PO BOX 734
RYE, NH 03870
R.C.R.D. BOOK 5777, PAGE 2308

TAX MAP 14, LOT 17
EUPHORIA, LLC
13 SEABORNE DRIVE
YARMOUTH, ME 04096
R.C.R.D. BOOK 5891, PAGE 2598

TAX MAP 14, LOT 18
BLACK DOG DIVERS, INC
195 WEST ROAD
PORTSMOUTH, NH 03801
R.C.R.D. BOOK 5706, PAGE 259



LOCATION MAP (n.t.s.)



LEGEND
 - - - - - APPROXIMATE TOWN LINE PER GIS
 ——— APPROXIMATE PROPERTY LINE PER GIS
 ——— PROPOSED LOTS SERVED WITH MUNICIPAL SEWER

MAP KEY
(SCALE 1" = 250')

ENGINEER:

 133 COURT STREET PORTSMOUTH, NH 03801
 (603) 433-2335 www.ALTUS-ENG.com

1

ISSUED FOR: CLIENT REVIEW

ISSUE DATE: SEPTEMBER 5, 2019

NO.	DESCRIPTION	BY	DATE
0	INITIAL SUBMISSION	EDW	09/05/19

DRAWN BY: _____ RLH
 APPROVED BY: _____ EDW
 DRAWING FILE: 4989 SEWERED AREA.DWG

SCALE:
 24" x 36" - 1" = 250'
 11" x 17" - NOT TO SCALE

PROJECT:
 LAFAYETTE ROAD
 SEWER
 EXTENSION

TITLE:
 PROPOSED
 SEWERED
 AREA
 PLAN

SHEET NUMBER:
 1 of 1

THE SEWER LAYOUT AND TOWN LINE INFORMATION SHOWN ON THIS DRAWING IS BASED ON GIS DATA PROVIDED BY THE TOWN OF RYE AND GREENLAND, NH. THE CLIENT HAS BEEN ADVISED THAT THIS INFORMATION IS NOT GUARANTEED BY THE ENGINEER.



ABSENTEE OFFICIAL BALLOT ANNUAL TOWN ELECTION RYE, NEW HAMPSHIRE MARCH 12, 2019

BALLOT 1 OF 6

Norah M. Pelletier TOWN CLERK

INSTRUCTIONS TO VOTERS

- A. TO VOTE, completely fill in the OVAL to the RIGHT of your choice(s) like this:
B. Follow directions as to the number of candidates to be marked for each office.
C. To vote for a person whose name is not printed on the ballot, write the candidate's name on the line provided and completely fill in the OVAL.

Grid of election categories: SELECTMAN, TRUSTEE OF THE TRUST FUNDS, PLANNING BOARD, CEMETERY TRUSTEE, BUDGET COMMITTEE, ZONING BOARD OF ADJUSTMENT, LIBRARY TRUSTEE, PLANNING BOARD, SEWER COMMISSIONER. Includes names and vote counts like BILL EPPERSON 1353, TIM DURKIN 1243, etc.

ARTICLES

ARTICLE 03. To see if the Town will vote to amend the Rye Zoning Ordinance as petitioned by the Board of Selectmen as follows:
Are you in favor of the adoption of Amendment 1 as petitioned by the Board of Selectmen, as follows:
Amendment 1: Amend Section 505.3 to add the ±14 acres town owned Tax Map 23/Parcel 1 located at 0 Port Way to the Wireless Facilities Telecommunications District?
(The Planning Board recommends approval of this amendment).

1294 YES
NO
274

ARTICLE 04. To see if the Town will vote to amend the Rye Zoning Ordinance in accordance with the recommendation of the Rye Planning Board, as follows:
Are you in favor of the adoption of Amendment 1, as follows:
Amendment 1.
Re: Correction of Erroneous References/Indexing

Amend Section 1000 Amendment to add the following new paragraph:
Where a previously adopted amendment has resulted in an incorrect reference in another section of this ordinance or incorrect indexing of sections or when typographical errors are discovered, the planning board may make the corrections in the ordinance after a public hearing pursuant to RSA 675:3, without putting the corrections on the town warrant and ballot for approval.
Explanation
The Rye Zoning Ordinance is a 118 page ordinance with numerous cross references contained therein. When the planning board prepares amendments, it tries to identify and amend any references in other sections of the ordinance (or indexing) which may be affected by the amendment. Inevitably though, some are missed. The amendment provides a simple way of correcting the ordinance where a cross reference or indexing change has been overlooked or typographical errors discovered without taking up space on the town warrant and ballot for what is, in essence, a ministerial correction.

1305 YES
NO
230

ARTICLE 4 CONTINUED ON BACK OF BALLOT

TURN BALLOT OVER AND CONTINUE VOTING



ABSENTEE
OFFICIAL BALLOT
ANNUAL TOWN ELECTION
RYE, NEW HAMPSHIRE
MARCH 12, 2019

BALLOT 4 OF 6

Suzanne DeCotis
TOWN CLERK

ARTICLES CONTINUED

ARTICLE 19. To see if the Town will vote to accept as town roads, Autumn Lane and Signature Drive in the Stoneleigh Preserve Subdivision as shown on a plan entitled "Subdivision Plan of Stoneleigh Preserve (Rye Tax Map 4, Lots 25, 27, 21 & 32) for WNRV, LLC South Road, Rye New Hampshire", recorded in the Rockingham County Registry of Deeds as Plan No. D-40857. This acceptance is conditioned upon the final approval of the Public Works Director, the Board of Selectmen and the Planning Board. The Planning Board has approved the subdivision creating Autumn Lane and Signature Drive as identified on the above-referenced plan. (Majority vote required.)

983
YES
NO
598

This article is recommended by the Selectmen (3-0)

ARTICLE 20. Shall the town vote to adopt the provisions of RSA 36-A:4-a, I, (a) to authorize the Conservation Commission to expend funds to purchase interests in land outside the boundaries of our municipality, subject to the approval of the local governing body?

981
YES
NO
629

This article is recommended by the Conservation Commission.

This article is recommended by the Selectmen (3-0)

ARTICLE 21. To see if the Town will vote pursuant to RSA 41:11-a to ratify a lease agreement negotiated by the Board of Selectmen between the Town and Cellco Partnership d/b/a Verizon Wireless for lease of an area of 10,000 square feet of town owned land Tax Map 23/Parcel 1 for use as a cell tower site and compound. The town owned parcel is ±14 acres in size.

1325
YES
NO
305

This article is recommended by the Selectmen (3-0)

ARTICLE 22. To see if the Town will vote to retain, pursuant to RSA 80:80 V, the ±14 acres Tax Map 23/Parcel 1, which was acquired by the Town of Rye by tax deed in 2011, for the purposes of lease of a 10,000 square feet cell tower site to Cellco Partnership d/b/a Verizon Wireless and for open space preservation and further to authorize the Board of Selectmen to convey the parcel to the Conservation Commission for open space preservation subject to the cell tower lease.

1334
YES
NO
285

This article is recommended by the Selectmen (3-0).

ARTICLE 23. To see if the Town will vote pursuant to RSA 674:40, to approve the Board of Selectmen's layout as a town road of a ± 75 feet long by 25 feet wide section of Starboard Way (which is currently a private way). This section of Starboard Way runs northerly from Parsons Road and includes the easterly half of the present 50 feet wide private right-of-way. The layout is necessary to allow legal access to town owned land Tax Map 23/Parcel 1 on which a cell tower site is proposed. (Majority vote required).

1265
YES
NO
304

The Planning Board has approved this article.

This article is recommended by the Selectmen (3-0).

ARTICLE 24: If Article 23 above is approved, to see if the Town will vote to raise and appropriate the sum of up to four thousand dollars (\$4000) for payment of any damages sustained by all owners of land taken for such road as required by RSA 231:15 which may be assessed as a result of the road layout approved by Article 23. This article is in addition to the operating budget. (Majority vote required).

1219
YES
NO
386

This article is recommended by the Selectmen (3-0).

This article is recommended by the Budget Committee (11-0).

ARTICLE 25: To see if the Town will vote in favor of the expansion of the City of Portsmouth sewer system (at no cost to the Town of Rye and pursuant to an intermunicipal agreement to be negotiated between the Rye Sewer Commission and the City of Portsmouth) in order to provide public sewer service by the City of Portsmouth from the Rye/Portsmouth boundary on Route 1 ending at the Route 1/Washington Road intersection.

1449
YES
NO
175

This article is recommended by the Selectmen (3-0).

TURN BALLOT OVER AND CONTINUE VOTING



3
PRELIMINARY

THIS DRAWING HAS NOT BEEN RELEASED FOR CONSTRUCTION
 ISSUED FOR: CLIENT REVIEW
 ISSUE DATE: AUGUST 22, 2019
 REVISIONS
 NO. DESCRIPTION BY DATE
 0 INITIAL SUBMITTAL EDW 07/12/19
 1 CITY COMMENTS EDW 08/22/19

DRAWN BY: COB
 APPROVED BY: EDW
 DRAWING FILE: 4989.dwg

SCALE:
 24" X 36" - 1" = 40'

OWNER/APPLICANT:
 CIBOROWSKI ASSOCIATES
 C/O CAROLYN BEAULIEAU
 1247 WASHINGTON ROAD
 RYE, NH

MUNICIPALITIES:
 CITY OF PORTSMOUTH, NH
 DEPT OF PUBLIC WORKS
 680 PEVERLY HILL ROAD
 PORTSMOUTH, NH 03801
 TOWN OF RYE, NH
 DEPT OF PUBLIC WORKS
 309 GROVE ROAD
 RYE, NH 03870

PROJECT:
 LAFAYETTE ROAD
 (US ROUTE 1)
 SEWER EXTENSION
 PORTSMOUTH & RYE, NH

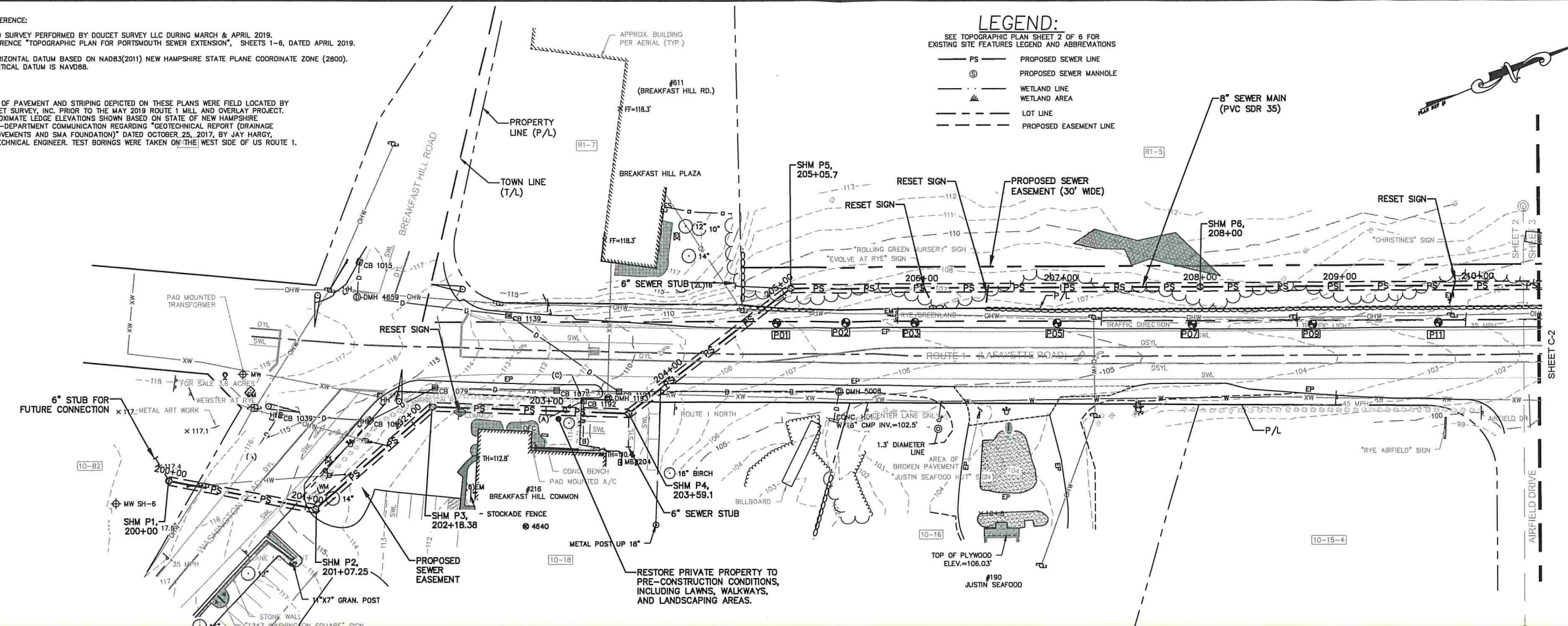
TITLE:
 SEWER PLAN
 AND PROFILE

SHEET NUMBER:
 C-1

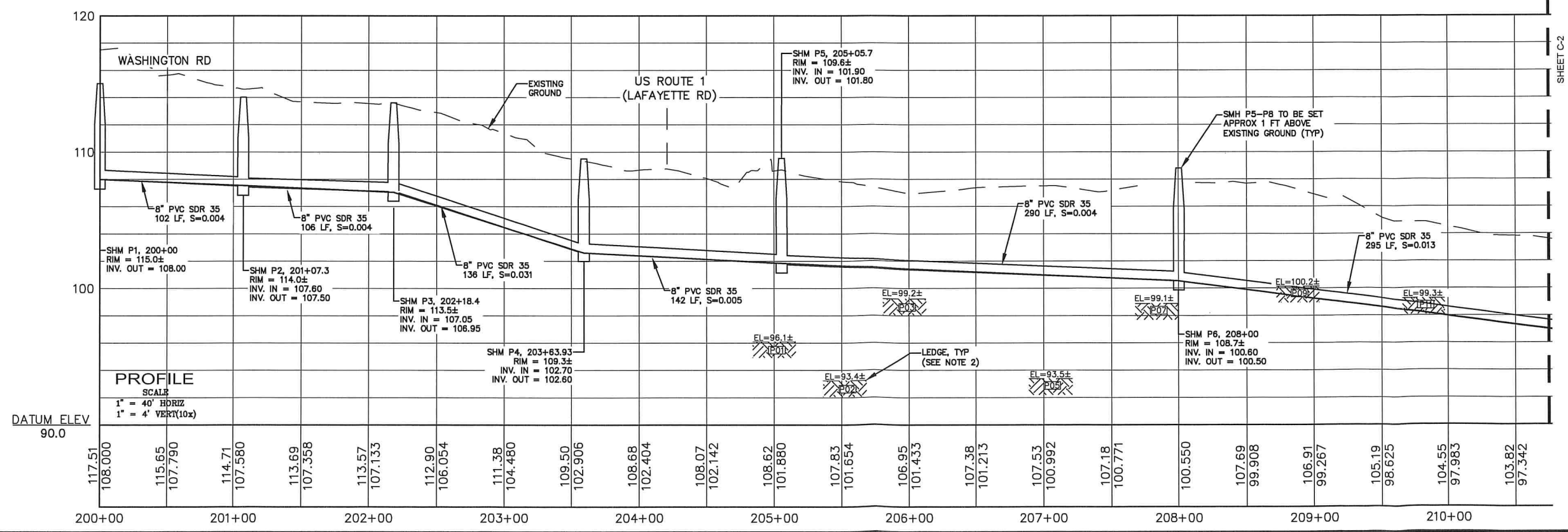
PLAN REFERENCE:
 1. FIELD SURVEY PERFORMED BY DOUCET SURVEY LLC DURING MARCH & APRIL 2019.
 REFERENCE "TOPOGRAPHIC PLAN FOR PORTSMOUTH SEWER EXTENSION", SHEETS 1-6, DATED APRIL 2019.
 • HORIZONTAL DATUM BASED ON NAD83(2011) NEW HAMPSHIRE STATE PLANE COORDINATE ZONE (2800).
 • VERTICAL DATUM IS NAVD83.

NOTES:
 1. EDGE OF PAVEMENT AND STRIPING DEPICTED ON THESE PLANS WERE FIELD LOCATED BY DOUCET SURVEY, INC. PRIOR TO THE MAY 2019 ROUTE 1 MILL AND OVERLAY PROJECT.
 2. APPROXIMATE LEDGE ELEVATIONS SHOWN BASED ON STATE OF NEW HAMPSHIRE INTER-DEPARTMENT COMMUNICATION REGARDING "GEOTECHNICAL REPORT (DRAINAGE IMPROVEMENTS AND SMA FOUNDATION)" DATED OCTOBER 25, 2017, BY JAY HARGY, GEOTECHNICAL ENGINEER. TEST BORINGS WERE TAKEN ON THE WEST SIDE OF US ROUTE 1.

LEGEND:
 SEE TOPOGRAPHIC PLAN SHEET 2 OF 6 FOR EXISTING SITE FEATURES LEGEND AND ABBREVIATIONS
 PS PROPOSED SEWER LINE
 S PROPOSED SEWER MANHOLE
 WETLAND LINE
 WETLAND AREA
 LOT LINE
 PROPOSED EASEMENT LINE



PLAN
 (SCALE IN FEET: 1" = 40')

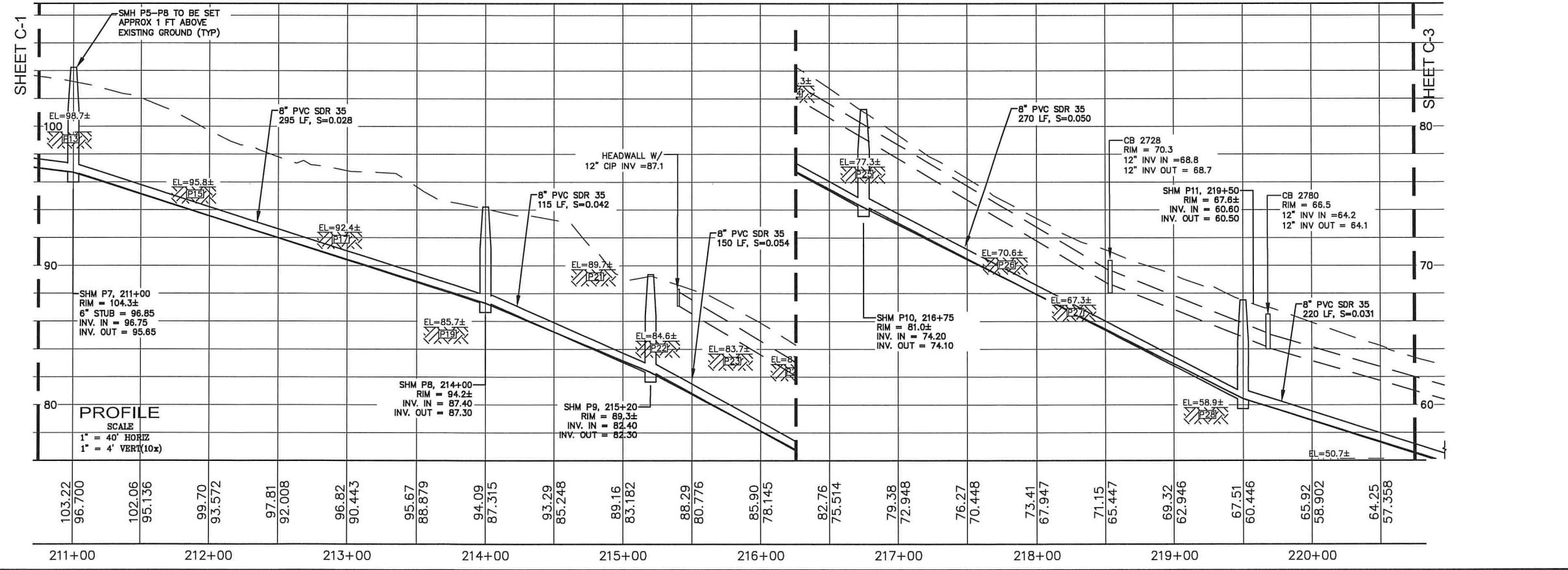
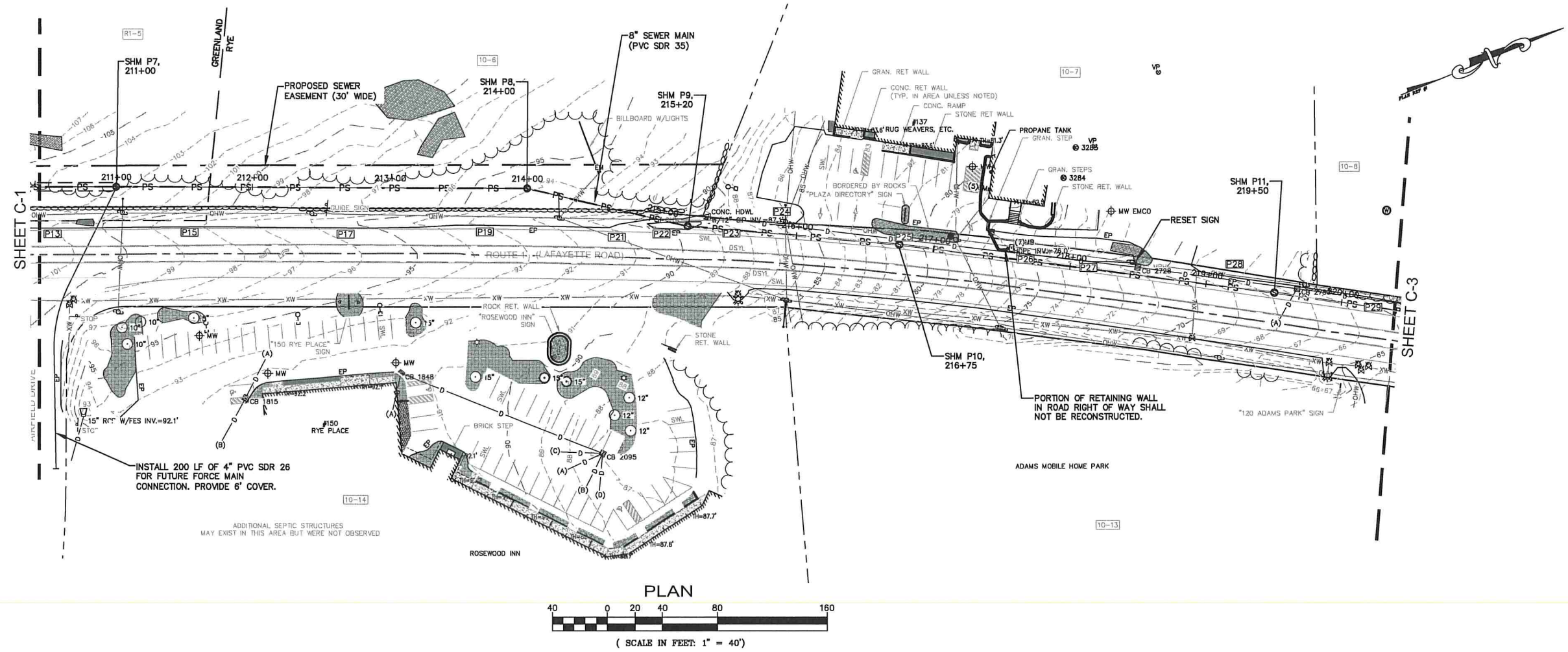


P4989

PRELIMINARY

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 ISSUED FOR: CLIENT REVIEW
 ISSUE DATE: AUGUST 22, 2019
 REVISIONS
 NO. DESCRIPTION BY DATE
 0 INITIAL SUBMITTAL EDW 07/12/19
 1 CITY COMMENTS EDW 08/22/19

DRAWN BY: CDB
 APPROVED BY: EDW
 DRAWING FILE: 4989.dwg
 SCALE: 24" X 36" - 1" = 40'
 OWNER/APPLICANT: CIBOROWSKI ASSOCIATES
 C/O CAROLYN BEAULIEAU
 1247 WASHINGTON ROAD
 RYE, NH
 MUNICIPALITIES: CITY OF PORTSMOUTH, NH
 DEPT OF PUBLIC WORKS
 680 FEVERLY HILL ROAD
 PORTSMOUTH, NH 03801
 TOWN OF RYE, NH
 DEPT OF PUBLIC WORKS
 309 GROVE ROAD
 RYE, NH 03870
 PROJECT: LAFAYETTE ROAD
 (US ROUTE 1)
 SEWER EXTENSION
 PORTSMOUTH & RYE, NH
 TITLE: SEWER PLAN AND PROFILE
 SHEET NUMBER: C-2



PRELIMINARY

THIS DRAWING HAS NOT BEEN RELEASED FOR CONSTRUCTION

ISSUED FOR: CLIENT REVIEW

ISSUE DATE: AUGUST 22, 2019

REVISIONS

NO.	DESCRIPTION	BY	DATE
0	INITIAL SUBMITTAL	EDW	07/12/19
1	CITY COMMENTS	EDW	08/22/19

DRAWN BY: CDB
 APPROVED BY: EDW
 DRAWING FILE: 4989.dwg

SCALE: 24" X 36" - 1" = 40'

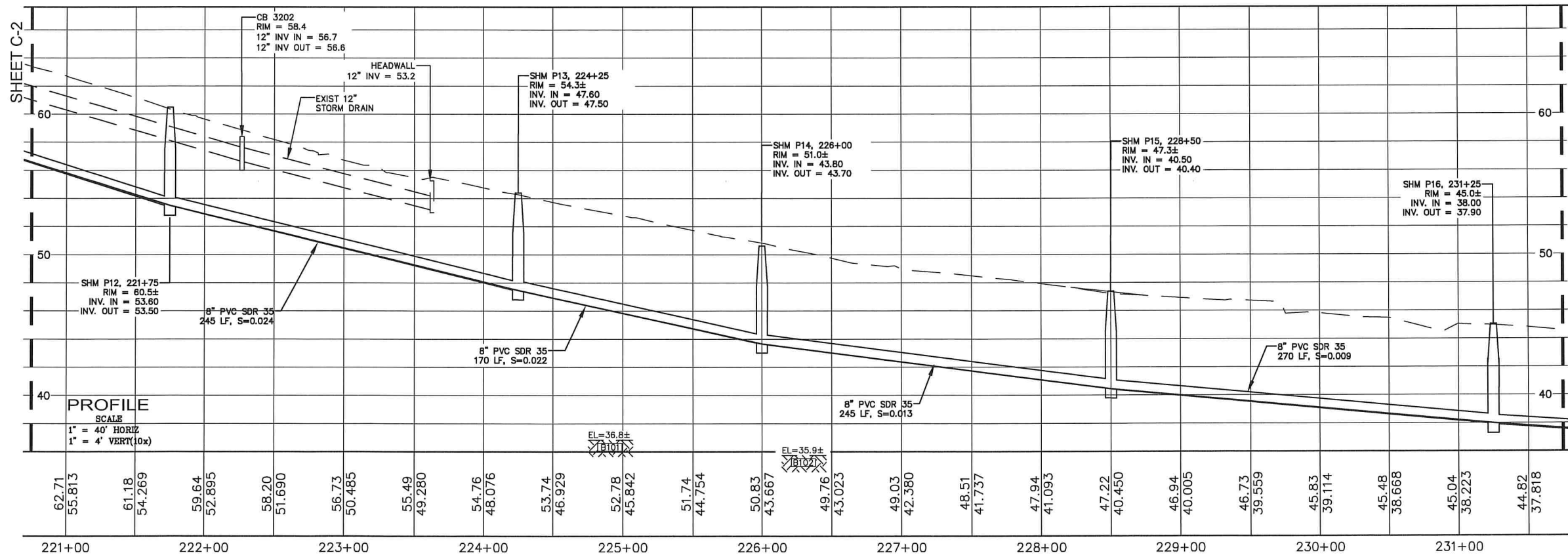
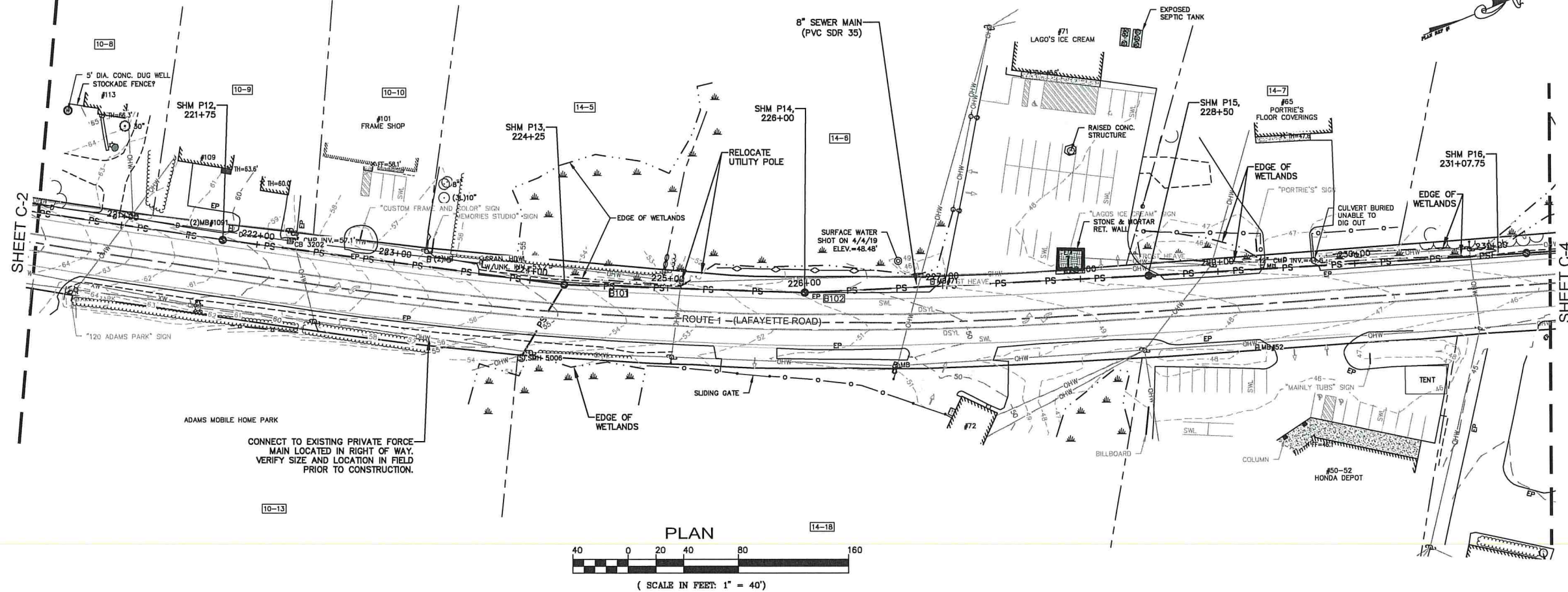
OWNER/APPLICANT:
 CIBOROWSKI ASSOCIATES
 C/O CAROLYN BEAULIEAU
 1247 WASHINGTON ROAD
 RYE, NH

MUNICIPALITIES:
 CITY OF PORTSMOUTH, NH
 DEPT OF PUBLIC WORKS
 680 PEVERLY HILL ROAD
 PORTSMOUTH, NH 03801
 TOWN OF RYE, NH
 DEPT OF PUBLIC WORKS
 309 GROVE ROAD
 RYE, NH 03870

PROJECT:
 LAFAYETTE ROAD
 (US ROUTE 1)
 SEWER EXTENSION
 PORTSMOUTH & RYE, NH

TITLE:
 SEWER PLAN AND PROFILE

SHEET NUMBER:
C-3



PRELIMINARY

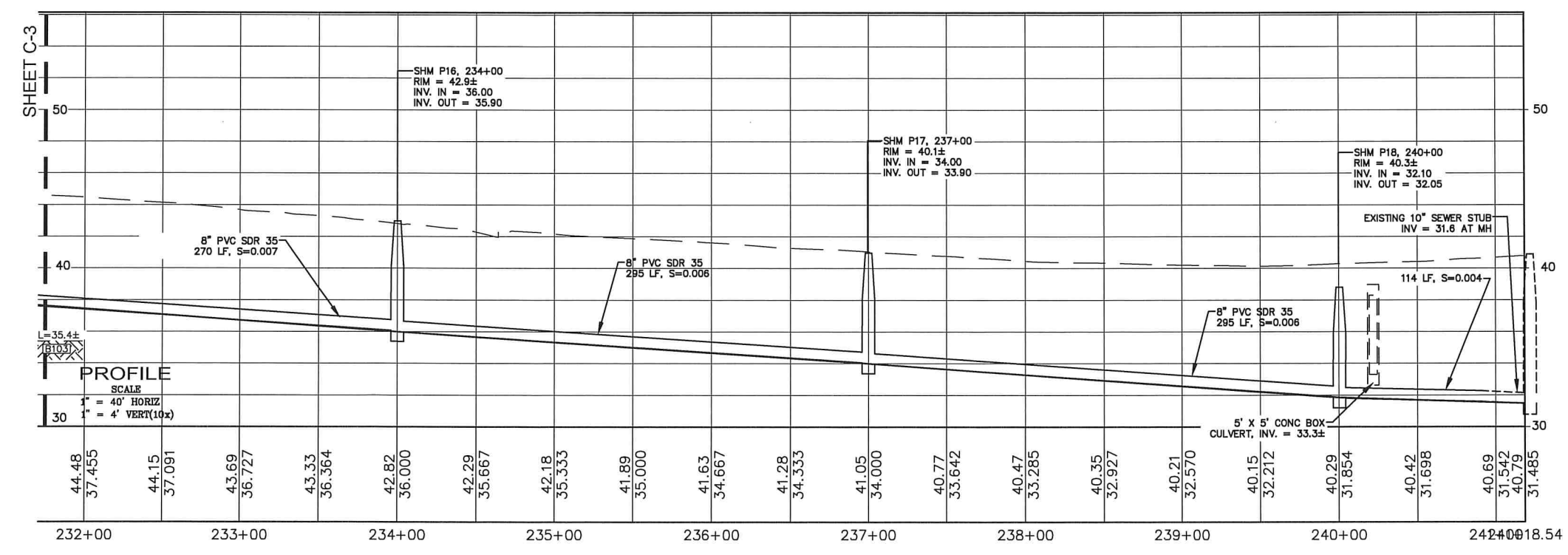
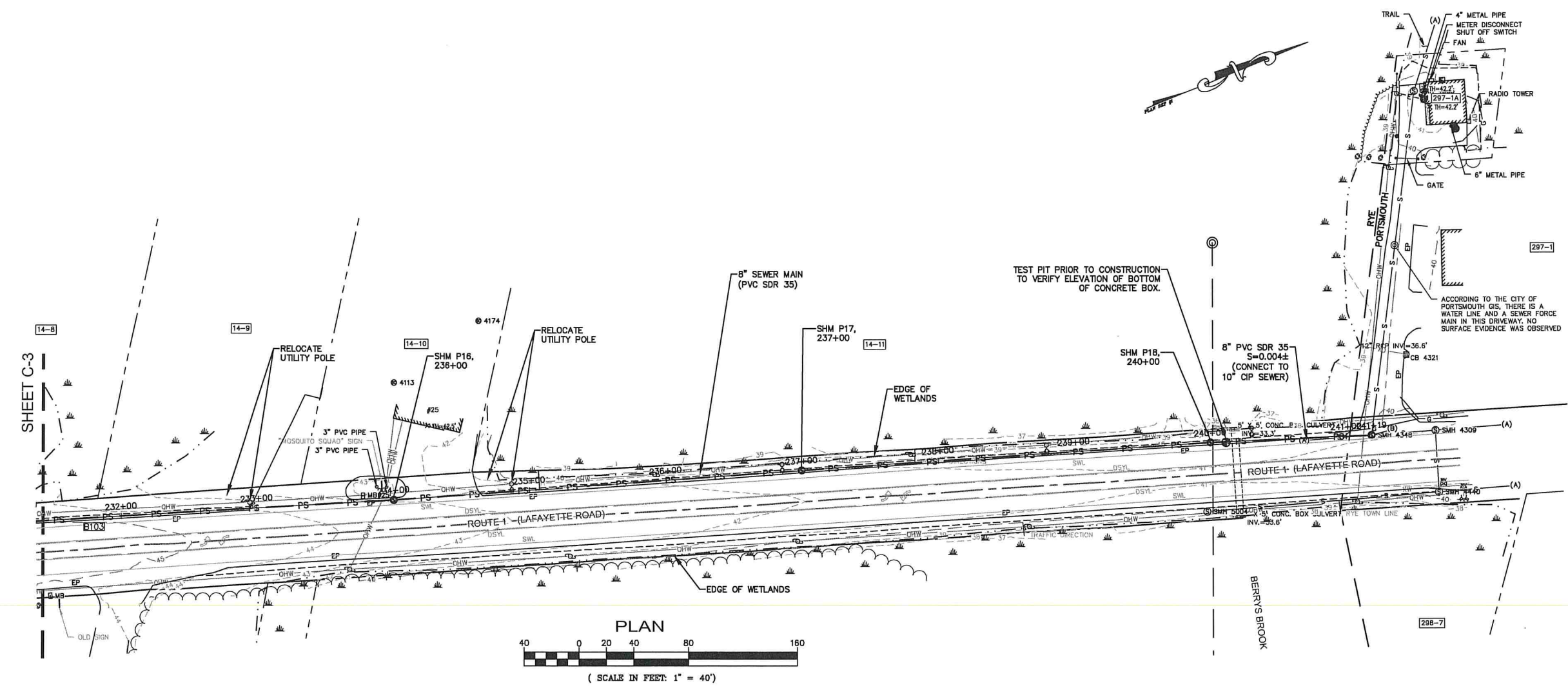
THIS DRAWING HAS NOT BEEN RELEASED FOR CONSTRUCTION
 ISSUED FOR: CLIENT REVIEW
 ISSUE DATE: AUGUST 22, 2019
 REVISIONS
 NO. DESCRIPTION BY DATE
 0 INITIAL SUBMITTAL EDW 07/12/19
 1 CITY COMMENTS EDW 08/22/19

DRAWN BY: CDB
 APPROVED BY: EDW
 DRAWING FILE: 4989.dwg
 SCALE:
 24" X 36" - 1" = 40'
 OWNER/APPLICANT:
 CIBOROWSKI ASSOCIATES
 C/O CAROLYN BEAULIEU
 1247 WASHINGTON ROAD
 RYE, NH
 MUNICIPALITIES:
 CITY OF PORTSMOUTH, NH
 DEPT OF PUBLIC WORKS
 680 PEVERLY HILL ROAD
 PORTSMOUTH, NH 03801
 TOWN OF RYE, NH
 DEPT OF PUBLIC WORKS
 309 GROVE ROAD
 RYE, NH 03870

PROJECT:
**LAFAYETTE ROAD
 (US ROUTE 1)
 SEWER EXTENSION
 PORTSMOUTH & RYE, NH**

TITLE:
**SEWER PLAN
 AND PROFILE**

SHEET NUMBER:
C-4



INTERMUNICIPAL AGREEMENT
BETWEEN THE CITY OF PORTSMOUTH, NEW HAMPSHIRE
AND THE TOWN OF RYE, NEW HAMPSHIRE
FOR LAFAYETTE SEWER LINE EXTENSION

This agreement made this ____ day of _____, 2019 between the City of Portsmouth, New Hampshire, a duly organized municipality of the State of New Hampshire, having a principal place of business at 1 Junkins Avenue, Portsmouth, New Hampshire 03801 (hereinafter "Portsmouth") and the Town of Rye acting through the Rye Sewer Commission (hereinafter "Rye" or "Rye Sewer Commission"), a duly organized municipality of the State of New Hampshire having a principal place of business at 10 Central Road, Rye, NH 03870, for the extension of Portsmouth's municipal sewer system as provided for under RSA 53-A:3 et seq.

PORTSMOUTH SEWER SYSTEM

WHEREAS, Portsmouth currently provides sewer services to approximately 6500 total customers;

WHEREAS, Portsmouth's residents and businesses are served by the operation of approximately 90 miles of sewer pipe, 19 wastewater pumping stations and the Peirce Island Wastewater Treatment Facility ("WWTF"), currently a 4.8 mgd advanced primary plant at Peirce Island which is in the final year of a four-year upgrade to a 6.1 mgd facility with secondary treatment;

WHEREAS, pursuant to an Agreement between Portsmouth and the Pease Development Authority, Portsmouth also maintains and operates for the benefit of Pease tenants approximately 12 miles of pipe, 1 wastewater pump station and a 1.2 mgd secondary wastewater treatment facility at the Pease International Tradeport;

WHEREAS, Portsmouth's wastewater system users are regulated by local ordinance; rates and fees being set during the annual budget process and consistent with recommendations made by its rate consultant;

WHEREAS, Portsmouth also serves two Greenland NH properties at 108 Ocean Road and 1450 Greenland Road, pursuant to a Public Utility Commission Order Nisi dated June 20, 2008, but no other Greenland properties notwithstanding a 10-year inter-municipal agreement in 2013 entered into for the purpose of allowing for further extensions;

WHEREAS, Portsmouth also accepts wastewater from the Town of New Castle sewer system at the Peirce Island WWTF pursuant to a wholesale agreement;

WHEREAS, Portsmouth is not a "public utility" pursuant to RSA 362:4, III (a) as it serves customers outside its municipal boundaries using the same rates as those charged to customers within its boundaries;

PORTSMOUTH AND RYE SEWER SERVICES

WHEREAS, Portsmouth has, by Intermunicipal Agreement, since 1997 accepted wastewater generated from the Adams Mobile Home Park in Rye through a privately maintained sewer line along Lafayette Road;

WHEREAS, in 2012 Portsmouth and Rye entered into an Intermunicipal Agreement to allow for the extension of the Portsmouth's municipal sewer system, at no cost to Portsmouth or Rye, from the Rye/Portsmouth boundary on Sagamore Road ending at Pioneer Road at Foyes Corner in Rye to serve the commercial and other properties along the route and that new sewer line is now operational and generating user fees as anticipated;

WHEREAS, Rye now wishes Portsmouth to extend municipal sewer services along Lafayette Road from the existing Portsmouth Sewer Line near the Rye/Portsmouth town line to the intersection of Lafayette Road and Washington Road in Rye ("Lafayette Extension");

WHEREAS, the Lafayette Extension will help ensure that sewage from residential and commercial properties is disposed of in an environmentally responsible manner and that public health is maintained; and

WHEREAS, in March, 2019 the citizens of the Town of Rye voted in favor of the expansion of the City of Portsmouth sewer system (at no cost to the Town of Rye and pursuant to an intermunicipal agreement to be negotiated between the Rye Sewer Commission and the City of Portsmouth) in order to provide public sewer service by the City of Portsmouth from the Rye/Portsmouth boundary on Route 1 ending at the Route 1/Washington Road intersection.

ACCORDINGLY, in consideration of the mutual covenants and agreements set forth below, the parties agree as follows:

1. **Purpose:** Portsmouth and Rye hereby enter into this Agreement to extend, as conditions set forth herein are met, Portsmouth's sewer system to certain portions of Rye. The portions of Rye to which the Portsmouth system may be extended during the term of this Agreement are shown on the attached map identified as Exhibit A.
2. **Conditions for Extension:**
 - a. Portsmouth shall accept an extension of its sewer system as users in Rye make funds available for such extensions. Portsmouth shall have no obligation to extend into any area described in Paragraph 1 unless extension costs are born by the new users. Neither Rye nor Portsmouth have any obligation whatsoever to make funds available for such extensions.

b. This Agreement allows a third party (or parties) to extend the sewer line under such terms and conditions that are consistent with this Agreement and negotiated with Portsmouth and Rye. Such party will design and construct a sewer line extension at its cost to Portsmouth's specifications. In no case shall the City be required to bond or otherwise advance or loan funds for an extension.

c. Before beginning construction, all engineering studies required by the City of Portsmouth shall be completed, and all plans and specifications shall be approved by the City and by the Rye Sewer Commission (for that part of the sewer extension located in Rye) and New Hampshire Department of Environmental Services. All costs of design, engineering, permitting, rights-of-way acquisitions, construction of the new line and any necessary upgrades to the Rye Line Wastewater Pumping Station and downstream capacity improvements, insurance costs and testing related to the sewer extension line shall be borne solely by the third party and the costs shall be agreed upon by Portsmouth, Rye Sewer Commission and such third party. Additionally, filing fees necessary for PUC review and approval shall be paid for by such third party.

d. Unless Rye and Portsmouth otherwise agree to a different transfer date, within sixty (60) days of substantial completion of the construction of the sewer line extension as determined by Portsmouth, ownership of the sewer line shall be transferred to Portsmouth by the third party. Also transferred shall be any and all necessary easements and other property rights to enter property to allow Portsmouth to operate and maintain such sewer line extension. Portsmouth shall have no obligation to accept sewage from the sewer line extension until such time as the line is transferred to Portsmouth. Thereafter, Portsmouth will own the sewer line extension, and the responsibilities for and cost of operation, maintenance and repair and replacement shall remain with Portsmouth pursuant to Portsmouth sewer regulations and the franchise approval by the New Hampshire Public Utilities Commission. Portsmouth's ownership in any infrastructure and any easement and other property rights acquired by any accepted sewer line extension shall survive the termination of this Agreement.

e. Rye shall not bear any responsibility and shall not bear any costs for construction, maintenance and repair or replacement of the sewer extension line or for administrative, legal or operational costs after the sewer line is conveyed to the City of Portsmouth.

f. Portsmouth generally bills sewer usage monthly based upon metered municipal water usage. Remedies for non-payment are exercised through the termination of water services. Portsmouth does not provide municipal water in the area of the proposed sewer extension, consequently, the Town of Rye through its Sewer Commission, and Portsmouth will examine options and reach agreement for metering, billing and terminating service prior to the City accepting any wastewater from the new line. Options may include sharing of Rye Water District

metering information, private well metering and estimating of bills. The billing method established shall not result in any expense or undue administrative burden for the Rye Sewer Commission

3. **Meetings and Administration of Agreement:** No separate legal or administrative entity is created to administer this Agreement. Once Portsmouth acquires ownership of any sewer line, pump station or other infrastructure constructed as part of this Agreement, Portsmouth shall be solely responsible to operate and maintain the sewer line, pump station(s) or other infrastructure and to finance these operations. Portsmouth shall own any and all real and personal property necessary to implement this Agreement to the extent not inconsistent with the terms of this Agreement; Rye customers shall have the same rights and responsibilities as Portsmouth customers; this includes, for example, Portsmouth's right to require pre-treatment of wastewater through the issuance of an Industrial Discharge Permit and pre-treatment/control for Fats, Oils and Grease. Portsmouth and Rye, through their representatives, the City Manager and the Rye Sewer Commission, respectively, shall serve as administrators of this Agreement and may meet at such times and places as are mutually convenient to discuss issues of mutual concern including but not limited to connections along the sewer extension line and any possible further expansion of the sewer line into other areas. Once a sewer line extension has been accepted by Portsmouth, Portsmouth shall serve as an administrator for purposes of RSA 53-A subject to its obligations described in this Agreement, any order of the Public Utilities Commission, and such applicable federal, State and local ordinances including Portsmouth's Sewer Ordinance that govern the provision of sewer service.
4. **Cost:** Sewer line construction, including independent engineering oversight of the work acceptable to the City of Portsmouth, and related costs shall be borne entirely by third parties intending to connect. Any property owner (other than the property owner(s) who construct(s) the line) who wishes to connect to the public sewer line will pay all such connection charges and fees to Portsmouth as may be required by the Portsmouth Sewer and Water Ordinances along with any applicable Capacity Use Surcharge.
5. **Sewer Connections:** Rye shall retain authority within Rye to grant waivers for Rye properties connections otherwise required pursuant to RSA 147:8 and to order private property owners to connect to any municipally owned sewer line as may be lawful and appropriate.
6. **Future Expansion of the Franchise:** It is recognized that Rye may request in the future to expand the Lafayette Extension to the Rye/North Hampton town line. Portsmouth and Rye retain the authority to negotiate future expansion of the sewer extension. Any further expansion in Rye to properties beyond service to properties in the area depicted on Exhibit A shall require approval of the Rye Sewer Commission; a favorable vote of the Rye Town Meeting; and amendment of this agreement.

7. **Term:** Any third party seeking to extend the Portsmouth sewer system to areas described herein must complete construction and transfer ownership to Portsmouth within five (5) years from the date of this Agreement. All rights, powers and obligations to provide and regulate public sewer service shall continue to exist after expiration of the five (5) year time period for construction and transfer.
8. **Amendment:** This Agreement may be amended only by written Agreement signed by both parties.
9. **Public Utility Commission Approval:** The parties understand that any extension of Portsmouth's system within Rye is conditioned upon the New Hampshire Public Utilities Commission having granted a final, non-appealable order so authorizing such franchise extension, such order to be on terms acceptable to Rye and to Portsmouth.
10. **Notices:**
- For Town of Rye**
- Rye Sewer Commission
10 Central Road
Rye, NH 03840
- With a copy to:
Michael Donovan, Esq.
PO Box 2169
Concord, NH 03302-2169
- For the City of Portsmouth**
- City Manager
1 Junkins Avenue
Portsmouth, NH 03801
- With a copy to:
City Attorney
1 Junkins Avenue
Portsmouth, NH 03801
11. **Governing Law:** This Agreement shall be governed by and interpreted in accordance with the provisions of the laws of the State of New Hampshire.
12. **Authorization:** This Agreement is authorized by the City of Portsmouth, pursuant to a City Council vote of _____ and the Town of Rye,

pursuant to a vote taken on Article 25 at the March 12, 2019 Town Meeting; and pursuant to a vote of the Rye Sewer Commission at its December 14, 2018 meeting.

CITY OF PORTSMOUTH

By its City Manager

_____ Dated: _____

TOWN OF RYE

By its Sewer Commission

_____ Dated: _____
David Kohlhase
Chairman Rye Sewer Commission

M E M O R A N D U M

TO: John Bohenko, City Manager

FROM: Juliet T. H. Walker, Planning Director *JTW*

DATE: November 12, 2019

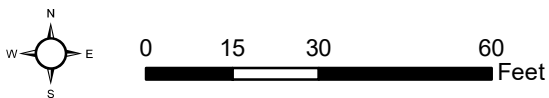
RE: City Council Referral – Projecting Sign:
Address: 123 Market Street
Business Name: Piscataqua Fine Arts
Business Owner(s): Donald N. Gorvett

Permission is being sought to install a projecting sign that extends over the public right of way, as follows:

Sign dimensions: 42" x 41"
Sign area: 12 sq. ft.

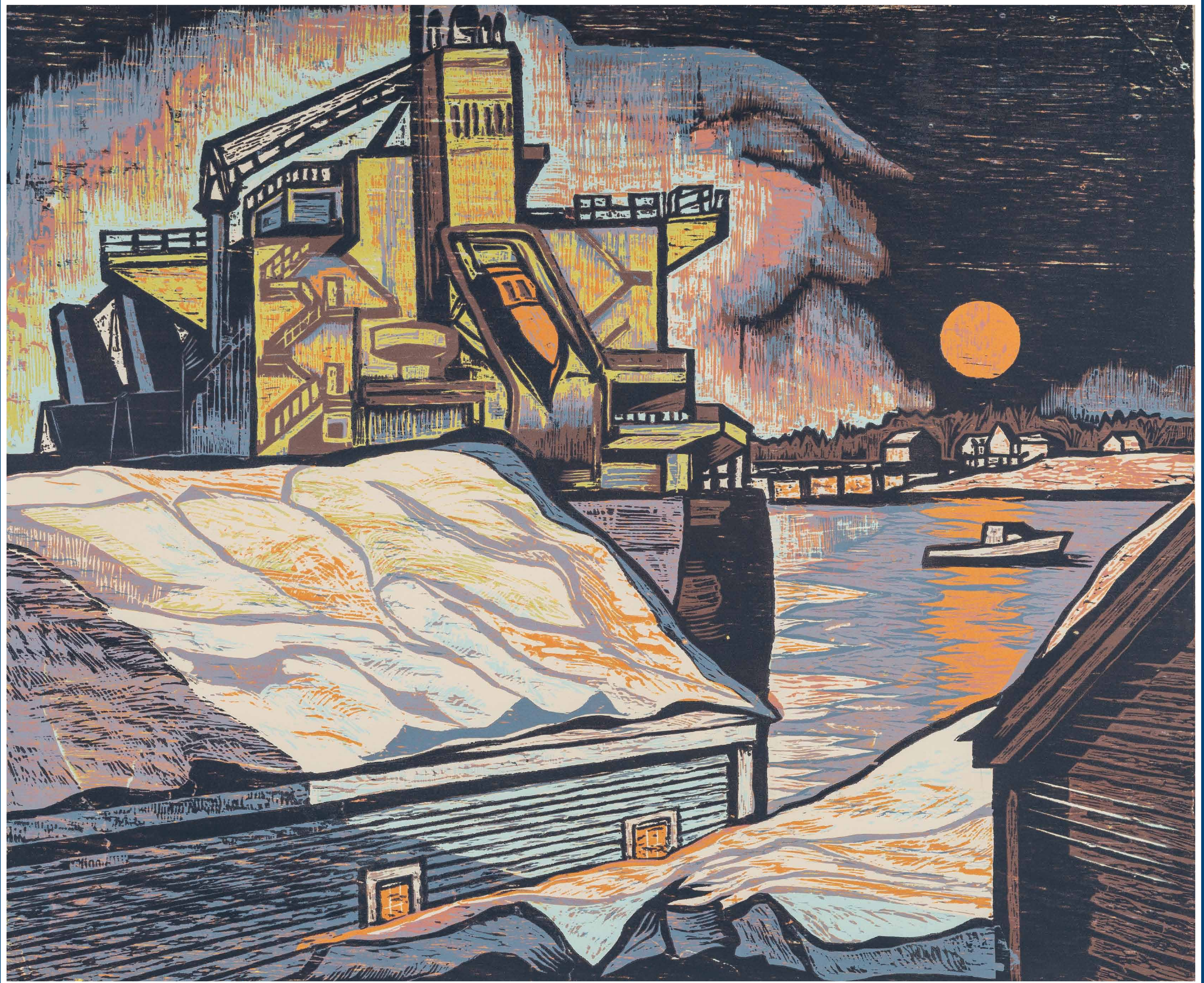
The proposed sign complies with zoning requirements. If a license is granted by the City Council, no other municipal approvals are needed. Therefore, I recommend approval of a revocable municipal license, subject to the following conditions:

1. The license shall be approved by the Legal Department as to content and form;
2. Any removal or relocation of the sign, for any reason, shall be done at no cost to the City; and
3. Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the 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.



**Request for license
123 Market Street**

DON GORVETT



GALLERY

DON GORVETT



GALLERY

158"

45"

113"



To Portsmouth City Council:

I am requesting to hold the fifth annual Race To Educate on Sunday, May 24, 2020 at 12:30pm. All proceeds from the race will benefit the organization, Education For All Children (EFAC). I have held this race for four years, raising almost \$30,000.

My goal is to have about 150-200 participants at the triathlon. It will be a 'fun' triathlon for children and families. I have gotten permission from Mr. Wilson to use the Portsmouth Indoor Pool and to hold the run in the trails behind Portsmouth High School. Ideally, for the bike ride, I would like to hold a 7.5-mile bike ride through Portsmouth, New Castle, and Rye.

I understand I need permission from the City Council and if granted the permission I will work with the police department and the other towns (New Castle and Rye) to ensure it's a safe event.

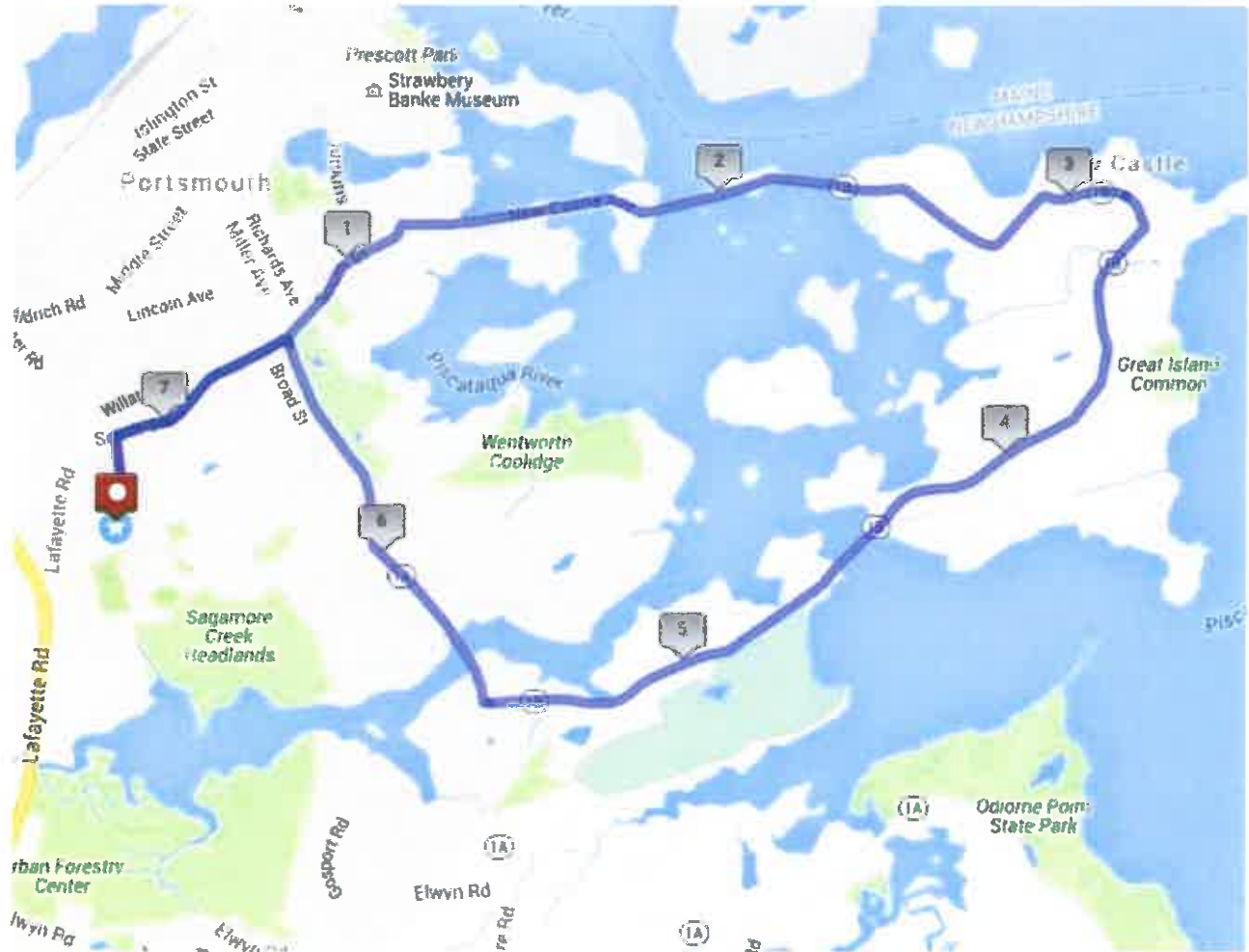
Please call or email me with questions. Lilia Potter-Schwartz, (603) 553-4632, efactri@gmail.com.

About EFAC

The organization, Education For All Children (EFAC), sponsors children in Kenya so they are able to attend secondary school and university. This organization was founded by Rye, New Hampshire residents, Nancy and Rod Van Sciver. EFAC is currently helping over 400 Kenyan students by sponsoring them through secondary school and university, as only 40% of children in Kenya are able to attend secondary school (high school). EFAC is helping to raise this number. One hundred percent of EFAC graduates have scored at the qualifying level for a post-secondary degree, compared to 28 percent nationally. With proceeds from the past four triathlons, I have had the opportunity to sponsor seven young women named Cecilia, Sadia, Scholastica, Loise, Gelshap, Fatuma, and Felician. These seven young women are from modest families who struggle to pay rent and put food on the table. They are now doing well in secondary school and hope to attend university upon completion of secondary school. Hopefully, with your help along with many others, I will be able to sponsor another two young, Kenyan students this year, so they also have the opportunity to attend secondary school.

Swim: Portsmouth Indoor Pool

Bike Ride:



Run: In trails behind high school

CITY COUNCIL E-MAILS

November 13, 2019 – November 27, 2019 (8:00 a.m.)

December 2, 2019 Council Meeting

Below is the result of your feedback form. It was submitted by Barbara Jenny (workingstiff@comcast.net) on Thursday, November 14, 2019 at 09:55:42

address: 81 Lincoln Ave

comments: memo

To: Portsmouth Planning Dept., Portsmouth Planning Board From: Barbara Jenny & Matthew Beebe

CC: Portsmouth City Council and Council elect

Date: November 14, 2019

Re: Feedback on "Homeshares and Short-Term Rentals, Proposed Amendments to the Zoning Ordinance, Draft 10/17/2019

Comments: Given our in-depth experience with the intricacies of short-term rental (STR) regulations and management locally, and our expansive knowledge and research of various STR booking sites and regulations world-wide, we would like to share our impressions regarding this first-draft proposal. Overall, we feel this proposal is a step in the right direction towards creating a clear and fair ordinance for short-term rentals (STRs) and renters in the City.

Categories: We appreciate the two-pronged approach, dividing "owner-occupied" and "non-owner occupied" rentals into separate categories; for the sake of clarity, we suggest both categories fall under the title of "Short-Term Rentals (STRs)," with explicitly defined sub-categories of "Homeshare (owner-occupied)" and, say, "Vacation Rental (non-owner-occupied)" rentals. (The latter sub-category is referred to as "entire space" by Airbnb.)

Parking: off-street parking rules should not be different than those required for residential use as potential occupancy numbers are the same for long-term and short-term occupancies. The City has a history of minimizing parking requirements for large developers; City residents wanting to share their homes should not have to bear a greater burden.

Permitting vs. Special Exception: If a homeowner meets the requirements to rent their property short-term, and can thus obtain a permit or "Certificate of Use" (as drafted for 10.817.30) from the Planning Department for such, then being required to engage in the Special Exception process is both redundant and burdensome for both the home owner and the City. Such is the process for seeking and obtaining a building permit in the City: the property owner/builder does not have to go through a Planning Board process if the project falls within defined parameters, and they can literally check all the boxes on the permit application. Requiring a Special Exception for STRs would open up the process to a potentially discriminatory review and the 'whims' of individual volunteer board members, as well as the influence of neighbors' opinions—versus objective review of the property's ability to meet the requirements of the STR ordinance and "Certificate of Use."

Please also consider:

Residency requirements: to meet concerns regarding property and rental management as well as Portsmouth's housing supply, we suggest a requirement that STR properties be owned by residents of Portsmouth or residents from a defined geographic area—for instance, a 10 mile radius from Market Square, or from specific surrounding towns.

Enforcement issues: current City employees have claimed that online review of STR listings is simply not possible due to time constraints. We found the addresses and property owners of all the Portsmouth Airbnb listings in one-hour, with a simple map search on Airbnb, noting each listing's owners, and then cross-

referencing via the City's mapgeo page, all on a laptop, sitting at a desk. We suggest training be provide for the City's code enforcement officer in order to provide a more equitable approach to enforcement, by minimizing the reliance on the 'neighbor complaint' factor.

Sub-lets: the issue of long-term renters "Homesharing" their rental is perhaps not clearly addressed in this draft, in so much as a lease may give permission to a long-term renter to swap out roommates for, say, a college term or a summer, or sub-let all or part of their rental for an indeterminate amount of time.

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by John Fraser (jfrasernh@icloud.com) on Friday, November 15, 2019 at 11:10:31

address: 30 Franklin St Portsmouth NH 03801

comments: It is my understanding that a number of Portsmouth board appointments are on the agenda for this year's remaining Council meetings. As all are multi-year appointments, acting on them by the current Council would be extremely improper, handcuffing in many ways both the newly elected Council and the incoming City Manager.

Most important, such late term appointments would solidify the distrust and rancor that Portsmouth citizens would like to see end.

Respectfully, John Fraser

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Lawrence Cataldo (larrycataldo@yahoo.com) on Friday, November 15, 2019 at 11:38:38

address: Portsmouth

comments: Members of the City Council,
Out of respect to the new City Council members beginning their term in January, I ask you to consider not voting this year to approve John Fornella and Arthur Parrott to the Board of Zoning Adjustment. Instead, please allow the new City Council to do so in January.

Sincerely
Lawrence Cataldo
Portsmouth

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Eric R Korth (Eric.korth@gmail.com) on Friday, November 15, 2019 at 12:17:59

address: 17 TAFT RD

comments: Good Afternoon Mayor Blaylock and current city council members,
I'm writing to respectfully ask that the current city council hold off on making any appointments to the 5 open positions until the new council take their seat in Jan. It's clear that the citizens of Portsmouth have chosen to steer the city in a different direction based on the latest election results. I can't see a situation in which delaying the appointments 6 weeks would negatively affect our city. However, filling the vacant

seats in haste would serve to divide our city more than it already is. When considering my ask, please think about how the exiting council members want to be remembered. Do they want to continue with the narrative that they are right and the citizen are wrong, or do they want to leave their seats conforming to the will of the citizens that elected them.

Thank you for your consideration with this matter, -Eric Korth

includeInRecords: on

Engage: Submit

Below is the result of your feedback form. It was submitted by Rebecca Lucy (lucy.rebecca@gmail.com) on Friday, November 15, 2019 at 12:39:16

address: 401 State Street, Unit P310

comments: Please defer all voting on board and committee appointments until the new Council takes office. This was a watershed year signaling a desired change and additional appointments should be consistent with that.

includeInRecords: on

Engage: Submit

Below is the result of your feedback form. It was submitted by Kathryn Brandin (kbrandin@comcast.net) on Friday, November 15, 2019 at 12:59:17

address: 495 Middle Road

comments: Giving the overwhelming turnover of incumbents in the most recent city council election, I implore the current council members to withhold voting to fill open committee positions as doing so surely reeks of 'stacking the deck' before leaving office. Allow the new Council members, who clearly support the majority of residents' views--particularly regarding development in the city--fill the open seats. Ignoring the public's clear desire for a new direction regarding city development by seating two people with a 5-year term on the zoning board would indicate a clear 'smack in the face' to the voting public.

includeInRecords: on

Engage: Submit

Below is the result of your feedback form. It was submitted by frances elsemore (f.elsemore@gmail.com) on Friday, November 15, 2019 at 13:00:52

address: 28 beechstone

comments: The results of the November 5 election indicate that Portsmouth voters desire a change in the direction the city has been moving. Prolonging the control of the current Council would be an underhanded strategy to maintain policies that voters have rejected.

includeInRecords: on

Engage: Submit

Below is the result of your feedback form. It was submitted by Diana Frye (dfryz@yahoo.com) on Friday, November 15, 2019 at 14:16:05

address: 217 Myrtle Ave

comments: Please consider not voting on new appointments until January. The five appointments to boards and committees that are up for consideration should be decided by the newly elected Mayor and Councilors. Please wait until January to vote on these appointments and thus most fairly represent the city's population. Thanks, ~ Diana Frye

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Argeris Karabelas (Jerrykarabelas@carecapital.com) on Friday, November 15, 2019 at 14:18:26

address: 461 Court St

comments: I respectfully request that all vacant department board seats like BOA and Parking be held open until the new council is seated in January. The current council has few members returning so I think it only fair for the new council members to approve candidates for open board seats.

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Sandy O'Brien (sandyobrien777@gmail.com) on Friday, November 15, 2019 at 16:59:13

address: 20 Brigham lane Portsmouth NH

comments: I would like to respectfully request that the votes for 5 appointments, including 2 on the zoning board of adjustments be allowed to be appointed by the new mayor and city council in January. There is no rush to appoint them now.

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Bernice Richards (Batkr@comcast.net) on Friday, November 15, 2019 at 17:39:42

address: 435 Cutts Ave.

comments: Please postpone your December vote and allow the incoming Mayor and City Councilors to have the opportunity to vote on any vacancies to be filled on various boards. This would seem the prudent thing to do as these new appointees will be working with the newly elected Councilors for the next two years.

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Cara Collymore (caracolymore@yahoo.com) on Saturday, November 16, 2019 at 05:40:20

address: 450 Cutts Are

comments: The appointment of any board vacancies should wait until the recently elected council members take office.

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Anne Donaldson (Donaldsonanne@aol.com) on Saturday, November 16, 2019 at 08:25:30

address: 42 Orchard St.

comments: Please allow the new Council to vote on the Board. Vacancies.

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Elizabeth Storm (elizabeth.knies.storm@gmail.com) on Saturday, November 16, 2019 at 09:46:12

address: 24 Osprey Dr

comments: Dear Mayor-elect Becksted and councilors,

I am writing to request the five vacancies on boards and committees not be filled until after the new council members step up in January. With thanks to all outgoing councilors for your service...

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Blair (blairjanmcc@msn.com) on Saturday, November 16, 2019 at 11:51:20

address: 212 Pleasant Street

comments: Please allow the new city council to vote on any new appointees to various committees. You should let the newly elected council have a say since the appointments last so long.

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Rhonda Young (youtoleo@gmail.com) on Sunday, November 17, 2019 at 09:28:11

address: 470 Cutts Ave

comments: Please postpone your December vote and allow the incoming Mayor and City Councilors to have the opportunity to vote on any vacancies to be filled on various boards. This would seem the prudent thing to do as these new appointees will be working with the newly elected Councilors for the next two years. Please postpone your December vote and allow the incoming Mayor and City Councilors to have the opportunity to

vote on any vacancies to be filled on various boards. This would seem the prudent thing to do as these new appointees will be working with the newly elected Councilors for the next two years.

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Dianne Chalifour (dmchalifour@yahoo.com) on Sunday, November 17, 2019 at 11:47:57

address: 411 Cuts Ave, Portsmouth

comments: Dear City Councilors,

In the recent City Council meeting, there were 5 appointments to boards and committees up for consideration [2 of which are to the Zoning Board of Adjustment, which are five-year terms; this is an area of extreme importance to many of Portsmouth's residents].

I would like to respectfully request that you refrain from voting these vacancies in December, and instead, allow the new and incoming Mayor Becksted and Councilors to have the opportunity to vote on these vacancies since they will be working with those that fill the positions.

Thank you for your consideration.

Sincerely,
Dianne Chalifour

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Jerry Zelin (gmzelin@yahoo.com) on Sunday, November 17, 2019 at 18:44:43

address: 70 Kensington Road, Portsmouth, NH 03801

comments: Dear Mayor Blalock and city councilors, Thank you for your public service.

I urge you to refrain from filling openings on the land use boards until January, when the new mayor and councilors take office.

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Cate Jones (catej@comcast.net) on Monday, November 18, 2019 at 13:00:40

address: 40 Dodge Avenue

comments: Please consider leaving the process of filling any current vacancies of boards, etc. to the incoming City Council. That should be part of their duties as new City Councilors. Thank you.

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Bernice Brody (brodyb_98@yahoo.com) on Monday, November 18, 2019 at 18:48:14

address: 3 Hillside Dr Portsmouth, NH 03801

comments: Dear City Council,

Iâ€™ve heard you are getting requests to delay board appointments and renewals until the new council is in office. I find that disturbing and sets a very bad precedent for the city. You are our elected officials until year end and you are responsible for these appointments as they occur before end of year. Please act upon these appointments on December 2 council meeting.

includeInRecords: on

Engage: Submit

Below is the result of your feedback form. It was submitted by Jeffrey Brody (Jeffreybrody3@comcast.net) on Monday, November 18, 2019 at 18:56:09

address: 3 Hillside Dr, Portsmouth NH

comments: Board members,

I have heard that there is a request that you not do any appointments or renewals to the end of the current term. I would like you to do your elected duty and follow through with any appointments or city renewals required by law for the rest of your term. Not doing your elected duty sets a poor precedents for future elected officials. Thank you for your service to the city.

includeInRecords: on

Engage: Submit

Below is the result of your feedback form. It was submitted by Dixie Tarbell (dixiemcleantarbell@gmail.com) on Monday, November 18, 2019 at 19:41:36

address: 25 Driftwood Lane

comments: Dear City Councilors,

I was disappointed with most of the election results and I hope you who are also disappointed will continue using your expertise in other capacities for the benefit of our Portsmouth community! ...But for now, you are still our wonderful Councilors, and I hope you will continue your mission for the benefit of Portsmouth right up until the last moment. Please vote in these appointments at the December 2, 2019 City Council meeting:

- John Formella reappointment to the Zoning Board of Adjustment
- Arthur Parrott reappointment to the Zoning Board of Adjustment
- Dana Levenson reappointment to the Trustees of the Trust Funds
- Jonathan Sandberg appointment as regular member to the Parking & Traffic Safety Committee
- Erica Wygonik appointment as an Alternate to the Parking & Traffic Safety Committee

Thank you for all your excellent work!
Dixie McLean Tarbell

includeInRecords: on

Engage: Submit

Below is the result of your feedback form. It was submitted by Jane Zill (janezill@comcast.net) on Monday, November 18, 2019 at 20:26:08

address: 27 Shaw Road

comments: Dear City Councilor,

This is in regard to the Sagamore Avenue Sewer Extension Project.

On September 4th the residents were told that updates on the project would be posted on the DPW website dedicated to the Sagamore Avenue Sewer Extension Project. Residents have been patiently waiting for updates to be posted there, such as meeting notices and other information.

Terry Desmarais collected email addresses on Sept.4, 2019; the DPW has a method to directly contact impacted residents.

As many of you know, at the public dialog session on Oct. 7th the city manager apologized for the lack of communication and collaboration with residents and promised to do better. Residents were also promised a work session.

At the full city council meeting on Oct. 28th, after residents made public comment, again, the city manager apologized for the poor communication about the project and lack of collaboration with residents; again, they were promised a work session.

Peter Rice was stationed in the lobby to talk with residents as they left the city council meeting and reassured them the DPW was ready to work with them.

Residents have been patiently waiting to be notified of the date and time of the promised work session.

Today my neighbor forwarded information she had received through a neighborhood newsletter (she had signed up for) about a DPW presentation on the Sagamore Avenue Sewer Extension Project scheduled for Nov. 25th, the Monday of Thanksgiving week.

The Nov. 25th meeting announcement is not posted on the DPW website dedicated to the Sagamore Avenue Sewer Extension Project, but instead is listed under "things to know" as a DPW press release.

It's also not on the municipal meeting calendar. Impacted residents have not been individually notified on the meeting as they were for the September 4th meeting, even though Mr. Desmarais has resident emails.

This is inexcusable, especially after the city manager's apologies for the extremely poor communication about this project, and unfortunately, it continues to negatively impact the Council and residents.

If I were currently a city councilor, I'd be furious with the city manager for his disregard for your time, effort, and political aspirations. His lack of communication with you and the community is inexcusable.

If you plan to run again in two years, please take opportunity to win back community goodwill by letting public know the handling of the Sagamore Sewer Extension Project remains unacceptable.

Best wishes,
Jane Zill

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Justin Richardson (jclaw@gmail.com) on Wednesday, November 20, 2019 at 11:25:51

address: 586 Woodbury Avenue

comments: Mayor Blalock and Councilors:

Thank you all for your service to the City of Portsmouth. I hope that the recent elections do not overshadow the many good things that each of you have accomplished and brought before the council in order to make Portsmouth a better place for all.

I write to ask that you consider terminating the letter of intent between the city and Redgate Kane in order to allow Portsmouth to move forward. The citizens have spoken and need you now more than ever to lead the way to a better vision for the property.

It is unfortunate that the Redgate Kane McIntyre Project divided the city to the extent that it did. Many of us, myself included, felt that it was a bad project and, when all else failed, our only choice was to vote as we did. However, the divide in our community has deepened, but it should not be one that cannot be bridged. Both those who supported the RedGate Kane plan and those who opposed it did so because they wanted what is best for the city and its residents. We have more in common than we realize.

This moment is an opportunity to lead and show that we care about our community more than any one issue or cause. Listening to the voice of the people would send a message that the community's goals and vision are what matter most of all to all of us. Waiting for the council to change in 2020 would have the opposite effect and keep us divided.

I hope that you will consider this and take the first step toward a new vision for our community.

Thank you.

Justin Richardson

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Marya Danihel (mdanihel@comcast.net) on Thursday, November 21, 2019 at 10:49:10

address: 55 Gates St.

comments: Hello, I understand there are 5 vacancies on boards and committees. I'm writing to ask that you not vote on these appointments in December, but that you allow the new council to make the appointments, especially since there are so many new people on the council.

Thank you.

includeInRecords: on
Engage: Submit



Temple Israel
Portsmouth, New Hampshire

To: Portsmouth City Council

From: Temple Israel Board of Directors, Rabbi Ira Korinow

Re: Request to display a Hanukkah menorah in Market Square

Date: November 20, 2019

Temple Israel has made our home in downtown Portsmouth for over a hundred years, during which time we have enjoyed and appreciated a warm and cooperative relationship with the city of Portsmouth and the Seacoast community at large. We appreciate that you asked for our opinion regarding the request to place a menorah in Market Square; we understand that the decision is yours to make.

We feel that religious observance belongs on our property and not in the public square. This belief is shared by the majority of American Jewry. Jewish law and tradition mandate that we light Hanukkah candles in our homes and in our synagogue and that we place our lit menorahs in our windows for all to see. This ancient custom is meant to celebrate and publicize the miracles that took place nearly 2,200 years ago when the Jews successfully fought for religious freedom. At Temple Israel, in addition to lighting candles, we place an electric menorah in our sanctuary balcony window overlooking State Street for all to see.

Since 2011, we have also invited the public to share in the joy of Hanukkah by joining us in lighting our unique Hands of Hope menorah. At that event, clergy of the Portsmouth Ministerium, in which our current and previous rabbis have actively participated, come together to express prayers for world peace. This community Hanukkah candle lighting has become an important Portsmouth event. All members of the Seacoast community are welcome to join us for the candle lighting, followed by singing and enjoying sufganiot (jelly-filled doughnuts), a traditional Hanukkah treat.

We invite you to join us at our celebration this year. For more information, please contact the temple office at 603-436-5301.

An Engaging, Diverse Jewish Community

October 29, 2019

To: Nancy Colbert Puff, Deputy City Manager

Dear Nancy,

The request of this email is based on the Supreme Court's decision of July 3, 1989 (NOS. 87-2050 - 88-90 - 88-96) that a Chanukah Menorah Display is constitutional on Government/ Public property. Quoting from the Supreme Court's decision "Simply put, it would be a form of discrimination against Jews to allow (Pittsburgh) to celebrate Christmas as a cultural tradition while simultaneously disallowing the acknowledgment of Chanukah as a contemporaneous cultural tradition".

The Court also recognized that Chanukah contains a universal message for all people of all faiths - a message of freedom, of good over evil, of light over darkness. As you know, a Menorah is a nine-branch candelabrum which obtained particular significance to the Jewish people during their rebellion nearly 2500 years ago. While many, particularly those outside the Jewish faith, believe that the Menorah is uniquely a religious symbol, the Menorah symbolizes much more. It symbolizes - the liberty to express oneself ethically, culturally, and -- religiously. As such, it is an indication of the diversity and - pluralism which are so important to our society. Its display during the holiday season would remind us of these precious liberties secured by our Constitution.

We are requesting permission to place a nine-foot Menorah at the Market Square in Downtown Portsmouth wherever space allows. Along with the Menorah, we will supply you with a professionally made sign acknowledging the "Universal Message of the Chanukah Lights." I have attached pictures of Menorahs across the United States, as well a picture of the nine-foot Menorah we would like to place Downtown.

We would like to put up the Menorah on Sunday, December 22nd and we will have it removed Sunday, December 30th.

We hope that you will favorably consider this request.

Please call 603-205-6598 with questions or to confirm the above or email Office@JewishSeacoast.com

Sincerely,

Hannah
Seacoast Chabad Jewish Center

forum area it is customary for individuals wishing to engage in Constitutionally protected expressive conduct to stand or parade and carry signs. Very notably, material sidewalk obstructions have not been allowed in front of the North Church.

What this means is that even without City Council approval, the Seacoast Jewish Center or anyone else could peacefully utilize the sidewalk area in front of the North Church for First Amendment protected expressive conduct, as long as the sidewalk is not obstructed and public peace and safety is not disturbed. Thus, the Seacoast Jewish Center would be protected by the Constitution if it chose to engage in a Hanukkah celebration in front of the North Church without obstructing pedestrian passage of the sidewalk. However, the placement of a nine-foot Menorah in that location and for that purpose would not be a Constitutionally protected activity because the construction of similarly large sidewalk obstructions in that location has not been allowed in the past.

Two specific points addressed by Rabbi Slavaticki should be addressed.

First, he begins his email with a quote from a U.S. Supreme Court decision reading as follows:

“Simply put, it would be a form of discrimination against Jews to allow (Pittsburgh) to celebrate Christmas as a cultural tradition while simultaneously disallowing the acknowledgement of Chanukah as a contemporaneous cultural tradition.”

The foregoing quotation is a correct statement of law. However, it is not applicable to the situation in Portsmouth. While the quotation is accurate when applied to a public forum, there is no public forum in Market Square which has allowed expressive conduct and obstruction of the sidewalk **in the manner requested by the Seacoast Jewish Center**. If such a public forum existed, then not only could Jewish people, but any other religious or cultural tradition, utilize it for the purposes of expressive public conduct, including the erection of large structures, entirely free from content regulation by the City.

Secondly, the Seacoast Jewish Center suggests that they might be allowed to place the nine-foot Menorah “wherever space allows.” We believe that the City Council has the legal authority to grant such a request if it chooses to do so. However, for the reasons discussed in this memorandum, the Council is not Constitutionally obligated to grant the request. Moreover, if the Council should grant the request, then it will be either permanently altering the nature of the public forum in front of the North Church or creating a new public forum at any different location which it chooses for the Menorah. Thereafter, any group that desired to construct a large structure for expressive conduct purposes would have a Constitutional right to do so, entirely notwithstanding the content of the structure.

To be blunt, but literally accurate, if the City allows a nine-foot tall Menorah to be constructed in some location, the City could not thereafter deny the construction of a nine-foot tall swastika at that same location. Thus, the Council is urged to utilize extreme care in considering whether or not to exercise its authority in this regard.

cc: Rabbi Berel Slavaticki

Durbin Law Offices, P.L.L.C.
144 Washington Street
P.O. Box 1222
Portsmouth, NH 03802
www.durbinlawoffices.com



Derek R. Durbin, Esq.
603.287.4764
derek@durbinlawoffices.com
**Also admitted in MA*

BY: FIRST CLASS MAIL

November 13, 2019

RECEIVED

NOV 13 2019

CITY MANAGER
PORTSMOUTH, NH

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

RE: Release of Interest in Tax Map 206, Lot 1 (Off Brackett Lane)

Dear Mayor Blalock and City Councilors,

Please accept the following request from my client, Bryan C. Pappas, Trustee of the Bryan C. Pappas Living Trust u/d/t 9/23/2013, for the City to release any interest it may have in a portion of a strip of land located behind 2 Brackett Lane in Portsmouth. As Trustee, Mr. Pappas owns the property at 2 Brackett Lane. In support of the request, I have included the following documents for your review and consideration:

1. Tax Map Image of Lots 206-1 and 206-9 – depicting and identifying the Pappas property and the portion of land that is the subject matter of the release request;
2. Monumentation Sketch from James Verra and Associates;
3. Vision Appraisal Card – 2 Brackett Lane – Tax Map 206, Lot 9;
4. Vision Appraisal Card – Tax Map 206, Lot 1;
5. Deed Recorded in R.C.R.D. at Book 560, Page 144 to Herman A. Brackett to Lot 206-1 (1897);
6. Deed Recorded in R.C.R.D. at Book 1358, Page 236;
7. Labeled Photographs.

As shown on the Vision Appraisal record for Lot 206-1, the “owner” of the land is listed as “unknown”. The property value is assessed as \$0.00. There is no deed reference contained in the assessing records for the property. Cates Jones, a local title abstractor and resident of Portsmouth, did extensive title research on the strip of land at my request earlier this year. Cate could not find any deed from Herman A. Brackett, the original owner of the strip of land, conveying the land to anyone else. Herman Brackett’s deed, which is recorded in the Rockingham County Registry of Deeds at Book 560, Page 144 is the last known deed to the property. Cate’s research found one additional deed that appears to reference the subject strip of land, which deed is recorded at Book 1358, Page 236. However, this deed pertains to a conveyance of a different property altogether. The reference in the deed, which I underlined in the copy enclosed, is to “land conveyed by the heirs of Herman A. Brackett to the said City of Portsmouth by deed dated May 5, 1955.” While I believe this reference *may* be to the strip of land that is the subject of Mr. Pappas’s request, in speaking to the Planning Department and Attorney Sullivan, the City is not aware of any deed to the land having ever been conveyed to the City by the Heirs of Herman A. Brackett.

Moreover, no such deed could be found during Cate Jones' title research, thus confirming my belief.

Mr. Pappas's request only pertains to that section of Lot 206-1 that is directly located to the right (north) side of his property. This portion of Lot 206-1 has been exclusively occupied by the owners, past and present, of 2 Brackett Lane, for decades. It is assimilated into Bryan Pappas's yard and is fenced off from the properties shown on Tax Map 111 as Lots 14 and 15, as shown in the photographs enclosed herewith. These are the properties that abut the subject strip of land, the title to which appears to have remained with the Heirs of Herman A. Brackett.

Mr. Pappas acquired his property from Craig and Molly Sieve in 2011. The Sieves owned the property from 1995-2011. In April 2012, Mr. Pappas replaced an old dilapidated fence on the property that is believed to have been constructed prior to the Sieves ownership of the property. The fence sits on top of an old wooden retaining wall that forms a natural physical boundary with abutting properties. The retaining wall existed prior to the Sieve's ownership of the property. In fact, in speaking to long-time residents of the neighborhood, the retaining wall has been in its current location for as long as anyone can remember. As shown in the photos submitted with this request, there is a row of arborvitaes that Mr. Pappas planted in front of the fence and retaining wall that are within the strip of land formerly owned by the Brackett family, further demonstrating the assimilation of this strip of land into the Pappas property.

Obtaining a Release Deed from the City pertaining to any interest it may have in the subject strip of land will assist Mr. Pappas in clearing title to the land. Mr. Pappas intends to simultaneously commence a legal proceeding naming the Heirs of Herman A. Brackett to quiet title to the land given the adverse interest that he and his predecessors in title have in it.

It is my understanding that the City's procedure for addressing these requests is to refer them to the Planning Board for a recommendation. At this level, the City staff will perform their own research on the subject land and formulate an opinion in assisting the Planning Board with its recommendation. The request will then be taken up for a formal vote by the City Council at one of its regularly scheduled meetings. If I am mistaken in this understanding or additional information is needed to immediately move this request forward, please let me know at your earliest convenience. Otherwise, if you could please let me know when the City Council will be initially addressing this request and/or referring it to the Planning Board, that would be appreciated.

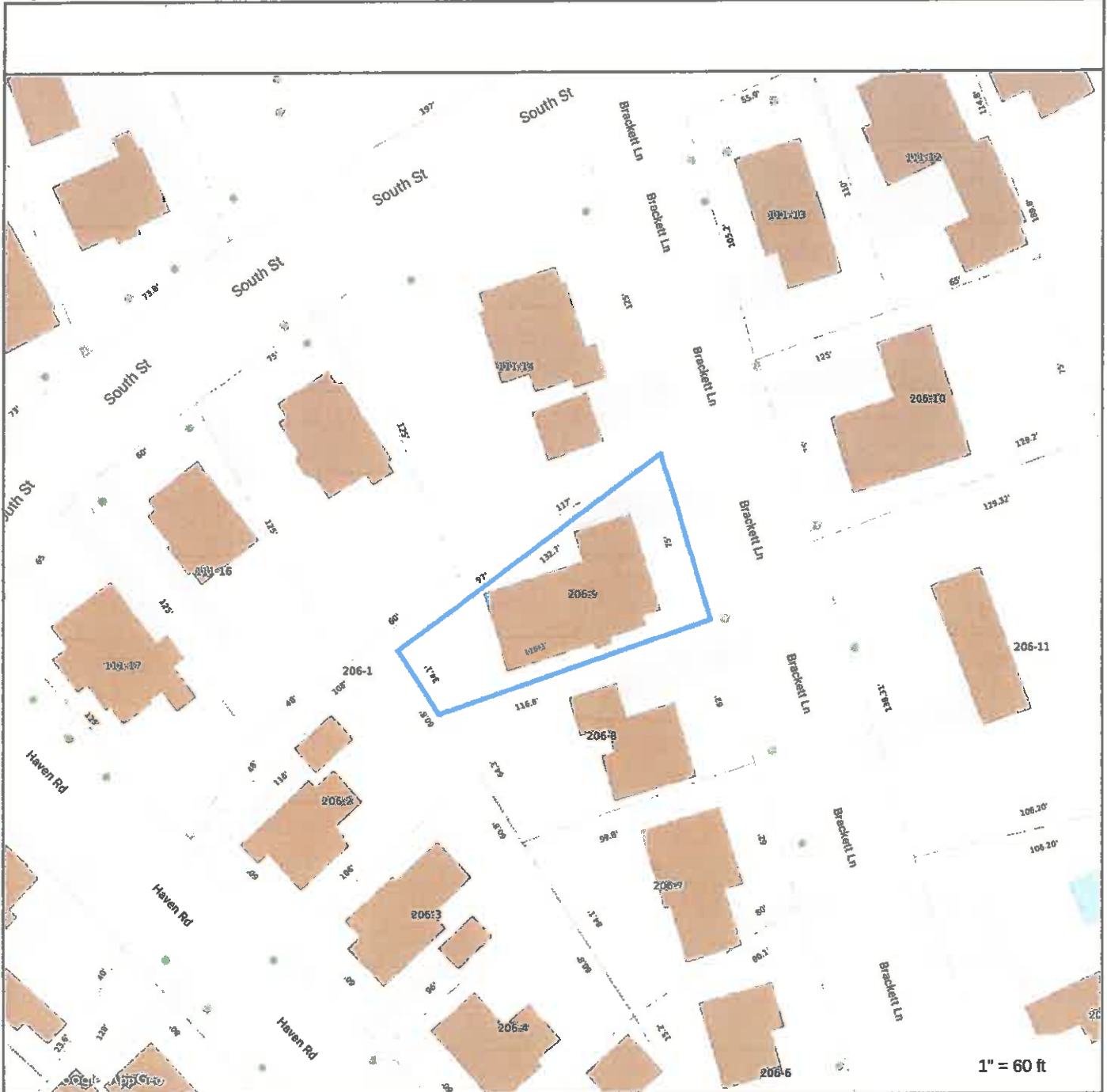
Mr. Pappas and I appreciate the Council's consideration of this request and hope that it will ultimately be approved.

Sincerely,



Derek R. Durbin, Esq.

Enclosure(s)



Property Information

Property ID 0206-0009-0000
 Location 2 BRACKETT LN
 Owner PAPPAS BRYAN C LIVING TRUST



**MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT**

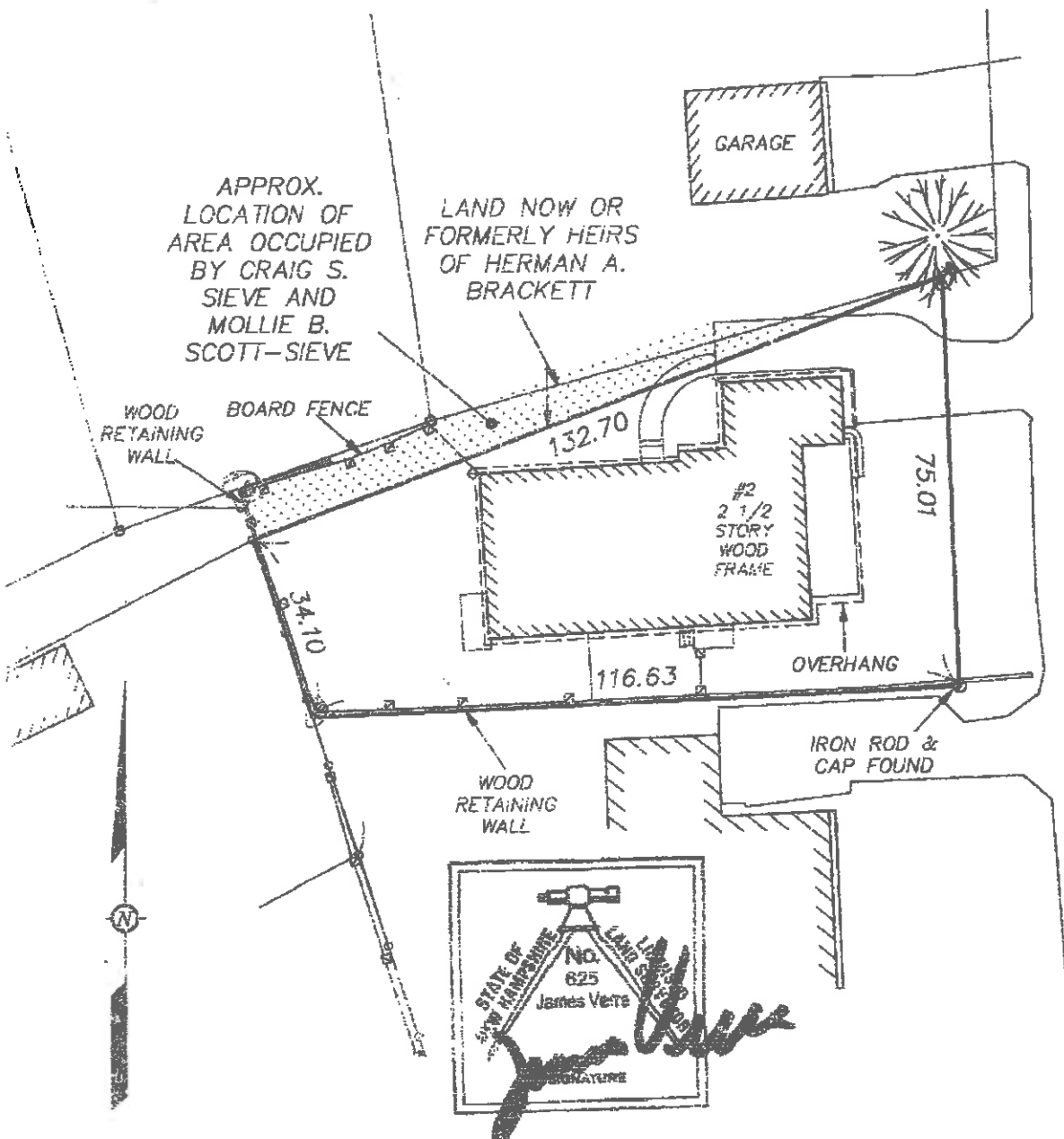
City of Portsmouth, NH makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Geometry updated 4/1/2019
 Data updated 7/17/2019

James Verra and Associates, Inc.

101 CHAFFUCK WAY, SUITE 8, NEWINGTON, NH, 03801-7876 : 603.436.3557 : (c) 2008 by James Verra and Assoc., Inc.

BRACKETT LANE
(A PUBLIC WAY)



OWNER OF RECORD: CRAIG S. SIEVE & MOLLIE B. SCOTT-SIEVE
 DEED REFERENCE: BK 3112 PAGE 1190 ROCKINGHAM COUNTY REGISTRY OF DEEDS
 ASSESSOR'S TAX SHEET/LOT #: 206-009.
 EASEMENTS OF RECORD, IF ANY, ARE NOT SHOWN HEREON.

THE PURPOSE OF THIS SKETCH IS TO SHOW THE MONUMENTS SET/FOUND AND IS NOT INTENDED FOR RECORDATION OR FOR SUBMITTAL TO ANY REGULATORY AGENCY.



Monumentation Sketch
2 Brackett Lane, Portsmouth, N.H.
 for: **Mollie B. Sieve**

DATE:	7-18-2008
JOB NO.	23196
PLAN NO.	23195SKH
SCALE:	1" = 30'

2 BRACKETT LN

Location 2 BRACKETT LN

Mblu 0206/ 0009/ 0000/ /

Acct# 28634

Owner PAPPAS BRYAN C LIVING TRUST

PBN

Assessment \$712,000

Appraisal \$712,000

PID 28634

Building Count 1

Current Value

Appraisal			
Valuation Year	Improvements	Land	Total
2019	\$362,000	\$350,000	\$712,000

Assessment			
Valuation Year	Improvements	Land	Total
2019	\$362,000	\$350,000	\$712,000

Owner of Record

Owner PAPPAS BRYAN C LIVING TRUST
Co-Owner PAPPAS BRYAN C TRUSTEE
Address 2 BRACKETT LN
 PORTSMOUTH, NH 03801

Sale Price \$0
Certificate
Book & Page 5563/2924
Sale Date 09/30/2014
Instrument 44

Ownership History

Ownership History					
Owner	Sale Price	Certificate	Book & Page	Instrument	Sale Date
PAPPAS BRYAN C LIVING TRUST	\$0		5563/2924	44	09/30/2014
PAPPAS BRYAN	\$559,000		5225/2896	00	06/30/2011
SIEVE CRAIG S	\$0		3112/1190		08/03/1995

Building Information

Building 1 : Section 1

Year Built: 1944
Living Area: 1,752
Replacement Cost: \$423,099
Building Percent 83
Good:

Building Photo

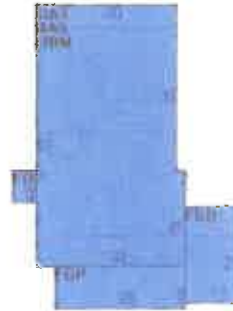
Replacement Cost
Less Depreciation: \$351,200

Building Attributes	
Field	Description
Style	Bungalow
Model	Residential
Grade:	B
Stories:	1
Occupancy	1
Exterior Wall 1	Wood Shingle
Exterior Wall 2	
Roof Structure:	Gable/Hip
Roof Cover	Asph/F GlS/Cmp
Interior Wall 1	Drywall/Sheet
Interior Wall 2	
Interior Flr 1	Hardwood
Interior Flr 2	Ceram Clay Til
Heat Fuel	Gas
Heat Type:	Hot Water
AC Type:	None
Total Bedrooms:	3 Bedrooms
Total Bthrms:	2
Total Half Baths:	0
Total Xtra Fixtrs:	2
Total Rooms:	6
Bath Style:	Avg Quality
Kitchen Style:	Avg Quality
Kitchen Gr	
WB Fireplaces	1
Extra Openings	1
Metal Fireplaces	0
Extra Openings	0
Bsmt Garage.	



(<http://images.vgsi.com/photos2/PortsmouthNHPhotos/\00\00>)

Building Layout



(<http://images.vgsi.com/photos2/PortsmouthNHPhotos//Sketch>)

Building Sub-Areas (sq ft)			Legend
Code	Description	Gross Area	Living Area
BAS	First Floor	1,752	1,752
FGR	Garage, Attached	252	0
FOP	Porch, Open	287	0
UAT	Attic	1,752	0
UBM	Basement, Unfinished	1,752	0
		5,795	1,752

Extra Features

Extra Features				Legend
Code	Description	Size	Value	Bldg #
REC	REC ROOM	556 S.F.	\$10,800	1

Land

Land Use

Use Code 1010
Description SINGLE FAM MDL-01

Land Line Valuation

Size (Acres) 0.15
Frontage

Zone SRB
Neighborhood 103B
Alt Land Appr Category No

Depth
Assessed Value \$350,000
Appraised Value \$350,000

Outbuildings

Outbuildings	Legend
No Data for Outbuildings	

Valuation History

Appraisal			
Valuation Year	Improvements	Land	Total
2018	\$323,700	\$318,200	\$641,900
2017	\$323,700	\$318,200	\$641,900
2016	\$285,100	\$249,600	\$534,700

Assessment			
Valuation Year	Improvements	Land	Total
2018	\$323,700	\$318,200	\$641,900
2017	\$323,700	\$318,200	\$641,900
2016	\$285,100	\$249,600	\$534,700

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HAVEN RD

Location HAVEN RD

Mblu 0206/ 0001/ 0000/ /

Acct# 38075

Owner UNKNOWN

PBN

Assessment \$0

Appraisal \$0

PID 38075

Building Count 1

Current Value

Appraisal			
Valuation Year	Improvements	Land	Total
2019	\$0	\$0	\$0

Assessment			
Valuation Year	Improvements	Land	Total
2019	\$0	\$0	\$0

Owner of Record

Owner UNKNOWN

Sale Price \$0

Co-Owner

Certificate

Address HAVEN RD

Book & Page

PORTSMOUTH, NH 03801

Sale Date

Ownership History

Ownership History				
Owner	Sale Price	Certificate	Book & Page	Sale Date
UNKNOWN	\$0			

Building Information

Building 1 : Section 1

Year Built:

Building Photo

Living Area: 0

Replacement Cost: \$0

Building Percent

Good:

Replacement Cost

Less Depreciation: \$0

Building Attributes	
Field	Description
Style	Variant Land

Model	
Grade:	
Stories:	
Occupancy	
Exterior Wall 1	
Exterior Wall 2	
Roof Structure:	
Roof Cover	
Interior Wall 1	
Interior Wall 2	
Interior Flr 1	
Interior Flr 2	
Heat Fuel	
Heat Type:	
AC Type:	
Total Bedrooms:	
Total Bthrms:	
Total Half Baths:	
Total Xtra Fixtrs:	
Total Rooms:	
Bath Style:	
Kitchen Style:	
Kitchen Gr	
WB Fireplaces	
Extra Openings	
Metal Fireplaces	
Extra Openings	
Asmt Garage	



(<http://images.vgsi.com/photos2/PortsmouthNHPhotos/\00\0>)

Building Layout

(<http://images.vgsi.com/photos2/PortsmouthNHPhotos/Sketch>)

Building Sub-Areas (sq ft)	Legend
No Data for Building Sub-Areas	

Extra Features

Extra Features	Legend
No Data for Extra Features	

Land

Land Use

Use Code 9030
Description MUNICIPAL MDL-00
Zone SRB
Neighborhood 103B
Alt Land Appr No
Category

Land Line Valuation

Size (Acres) 0.05
Frontage
Depth
Assessed Value \$0
Appraised Value \$0

Outbuildings

Outbuildings	Legend
No Data for Outbuildings	

Valuation History

Appraisal			
Valuation Year	Improvements	Land	Total
2018	\$0	\$0	\$0
2017	\$0	\$0	\$0
2016	\$0	\$0	\$0

Assessment			
Valuation Year	Improvements	Land	Total
2018	\$0	\$0	\$0
2017	\$0	\$0	\$0
2016	\$0	\$0	\$0

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560/144
PAGE
DEED

Know all Men by these Presents,
That **John W. Emery** of **Portsmouth** in the County of **Rockingham** and State of **New Hampshire**

Emery
to
Brackett

for and in consideration of the sum of **One Dollar**
to my hand before the delivery hereof, well and truly paid by
Herman A. Brackett of said Portsmouth

Delivered to
Calvin Sage
by

have received, released and forever quitclaimed, and by these presents do remise, release and forever quitclaim unto the said
Herman A. Brackett and his heirs and assigns forever.

A certain tract of land in said Portsmouth lying upon the southerly side of South Road or South Street and bounded and described as follows, viz, beginning on the south side of South Road or South Street at the northwesterly corner of land of James N. Sanborn and running southeasterly by said street to the northwesterly corner of the gravel pit of the City of Portsmouth, thence running southeasterly four hundred and twenty two feet more or less, thence westerly two hundred twenty seven feet more or less, all by said gravel pit, thence southeasterly one hundred seventy seven feet more or less by said gravel pit, and thence westerly by said gravel pit and Cotton's Burying Ground three hundred and eighty one feet more or less to the Proprietors Burying Ground, thence by said last named Burying Ground six hundred and eighty four feet more or less to Harmony Grove Cemetery, thence easterly by said Cemetery, three hundred and seventy feet more or less to Piscataqua River or an inlet thereof, thence by said River or inlet northerly and easterly to land of the Heirs of Francis Marden, thence northerly and westerly by said Marden's land to Balls Burying Ground thence southwesterly by said Burying Ground and land owned or occupied by Richard T. Ball three hundred and ninety nine feet more or less and thence northerly by said Ball's land and said Sanborn's land two hundred and ninety nine feet more or less to the point begun at, all as the division lines now stand. The premises I intend to convey are the same that are conveyed to me by the deed of William W. Rollins, Charles F. Shillaber and John S. Rand, all of Portsmouth, Executors of the wills of **Eliza W. Haven**, **Eliza A. Haven** and **Charlotte M. Haven**, dated this day,

To HAVE and to HOLD the said premises, with all the privileges and appurtenances thereto belonging, to the said **Herman A. Brackett** and his heirs and assigns forever; and I do hereby covenant with the said **Brackett** that I will warrant and defend the said premises to him the said **Brackett** and his heirs and assigns, against the lawful claims and demands of any person or persons claiming by, from or under me -

And I, **Mary E. Emery** wife of said **John W. Emery** for the consideration aforesaid, do hereby release by right of dower in said premises And we, the said **Emery** with of said **Emery**

in consideration aforesaid, do hereby grant and release to said all the right, title, interest, claim or demand which we, or either of us have in or to the above described premises, by virtue of an act of the Legislature of the State of New Hampshire, entitled "An act to exempt the Homestead of Families from attachment and levy or sale on execution," passed July 4, 1861.

And we and each of us do hereby release, discharge and waive all such rights of exemption from attachment and levy or sale on execution, and such other rights whatsoever in said premises, and in each and every part thereof, as are reserved or secured to us, or either of us, by the Statute of the State of New Hampshire, passed July 4, 1861, entitled "An act to exempt the Homestead of Families from attachment and levy or sale on execution," or by any other Statute or Statutes of said State.

In presence witness that we have onto our hand and seal, this **twenty third** day of **July** in the year of our Lord 1897.

WITNESSES AND DELIVERED IN PRESENCE OF US:
Calvin Sage } **John W. Emery**
John W. Bartlett } **Mary E. Emery**
Mary M. Deane }

State of New Hampshire, **Rockingham**, ss. **July 23rd** A. D. 1897.

Personally appeared the above named **John W. Emery** and acknowledged the foregoing instrument to be his voluntary act and deed.

Before me:
Calvin Sage Justice of the Peace.
William Merrill Register.

Received and Recorded, **July 23. 7 P.M.** 1897.

1358
236

211
T. Linn
U.S. Post
Stamp
8?



Book 1358 Page 0236

1358 236

KNOW ALL MEN BY THESE PRESENTS

That we, CHESTER A. BRACKETT, of Methuen, in the County of Essex and Commonwealth of Massachusetts; GUY H. BRACKETT, of West Springfield, in the County of Hampden and Commonwealth of Massachusetts; CHARLES E. BRACKETT, of Manchester, in the County of Hillsborough and State of New Hampshire, and VIOLET B. PRESCOTT, of Portsmouth, in the County of Rockingham and State of New Hampshire, for and in consideration of the sum of ONE DOLLAR to us in hand, before the delivery hereof, well and truly paid by RAYMOND COTILLO and HELEN E. COTILLO, of Kittery, in the County of York and State of Maine, the receipt whereof we do hereby acknowledge, have given, granted, bargained, sold, and by these presents do give, grant, bargain, sell, alien, enfeoff, convey and confirm unto the said RAYMOND COTILLO and HELEN E. COTILLO, and their heirs and assigns forever:

A certain parcel of land with the buildings thereon, situate in South Street, in Portsmouth, in the County of Rockingham and State of New Hampshire, bounded and described as follows, viz:

NEVER RECORDED

BEGINNING in said South Street at land of David L. Conyer, formerly of John E. Harmon, thence running Easterly by said Street to land conveyed by the heirs of Herman A. Brackett to the said City of Portsmouth by deed dated May 5, 1955, thence turning and running southerly by said land of said City one hundred and twenty-five (125) feet to land of said heirs; thence turning and running westerly by said last named land to said land of said Conyer; thence turning and running Northerly by said land of said Conyer one hundred and twenty-five (125) feet to said South Street to the point begun at; the Northerly and Southerly lines of said lot being one hundred seventeen (117) feet, more or less.

BEING the same premises described in the Covenant to Stand Seized Herman A. Brackett with Virginia V. Brackett, dated March 27, 1941, and recorded in Rockingham County Registry of Deeds, Book 983, Page 178; and a narrow strip of land between the same and said land of said City, which the grantors convey as the heirs of Herman A. Brackett.

Taxes for the year 1955 are to be apportioned between the grantors and grantees as of June 1, 1955.

K



Right side yard view of arborvitae in front of Pappas fence taken from back yard of Pappas property (arborvitae are located within the subject strip of land)



Right side yard view of entrance to Pappas fence taken from right front corner of Pappas property (shows strip of land fenced in and incorporated into right side yard of Pappas property)



Rear view of Pappas fence and wood retaining wall running along property boundary with rear abutter taken from back right corner of Pappas property (location of retaining wall shown on Monumentation Sketch by James Verra submitted with release request)



View of right side of Pappas back yard (arborvitae are located in front of wooden fence and retaining wall within the subject strip of land)

REVISED DRAFT WITH COMMITTEE/BOARD COMMENTS

Proposed changes from Boards and Committees are shown in **red** – additions are underlined, deletions are ~~stricken~~. Abbreviations inserted in brackets [] after the proposed changes indicate which Board / Committee supported the proposed change (PB = Planning Board, PTS = Parking & Traffic Safety Committee, EDC = Economic Development Commission, BOA = Zoning Board of Adjustment). Some additional comments from Board / Committee members are included in the document and additional general comments are summarized at the end of the document.

GUIDING PARKING PRINCIPLES

Time Frame: 2019-2024

Overall Principles:

A balanced mix of retail/restaurant, office, and residential uses is key to downtown and commercial/mixed use [PB] center vitality.

A parking supply that is ~~convenient~~data-driven [or evidence-based] [PB], viable and central to downtown and commercial/mixed use [PB] center destinations is key to the short-term and long-term health of the City's retail, restaurant and office economy.

Parking should aim to reduce congestion and contribute to traffic safety. [PTS]

Parking management should encourage alternate modes of travel to reduce demand for parking and dependence upon single occupancy motor vehicles. [PTS]

Portsmouth's strength is its historic layout as a walkable city. As Portsmouth strives to improve accessibility and mobility it must also preserve this historic character and ensure that all transportation initiatives first enhance the walking environment - which is the final connection of visitor to the city. Parking principles should fully integrate and enhance this walking City priority. [PTS]

Parking is part of Portsmouth's overall transportation system that accommodates private and shared vehicles, transit, bike and pedestrian activities in an integrated, safe and effective system reflecting best mobility, environmental and landscape protection practices. [PTS]

1. ~~Ensuring an adequate supply of p~~Parking [PTS] for retail/restaurant and office users in the downtown / mixed use centers is a shared ~~responsibility~~partnership [PTS] between the City and employers. New development should incorporate parking and [PTS] transportation demand management strategies to decrease demand for parking.

Comment: These principles should advance the message that the City's public parking inventory is currently confined to the existing public garages and surface lots and therefore the City wants to work with businesses and landowners to meet parking demand. [EDC]

2. Parking for residential development in downtown ~~and/~~ mixed use centers is primarily a private responsibility with residents wanting ~~convenient~~data-driven [or evidence-based] [PB] parking ~~right where they live.~~ [PTS]

3. We need to plan for future reuse, redevelopment and full occupancy of buildings in ~~the~~ downtown ~~and other/~~ [PB] mixed use centers. If it is too difficult, expensive or unpleasant to ~~find~~ parking access their destination [PTS, PB], retail/restaurant/cultural destination customers may prefer to visit elsewhere and offices may prefer to locate elsewhere. This includes making Portsmouth difficult to walk in by incorporating too much parking. [PB]

4. The City should play a lead role in developing and managing parking facilities:

- Parking management and supply decisions are interconnected and a comprehensive, unified approach to decision-making is needed.
- The value of private parking facilities should be recognized as a resource. ~~These resources are not part of the public parking supply under the City's long term control and opportunities to manage private lots are limited.~~ [PTS]
- Existing parking supply should be optimized by encouraging shared parking, expanding public-private partnerships, and improving access.

Comment: We agree that the document should state that Portsmouth will actively manage a supply of public parking as a foundational resource. Further, private parking should require integration with City regulations and principles. [PTS]

5. Address peak parking demand needs in order to avoid perfect Friday/Saturday night storm when residents/customers can't ~~find~~ parking access their destination [PB]:

- Manage parking at the garage ~~(for example, flat rate pricing for special events) in~~ accordance with data-driven, best practice pricing principles. [PB]
- Continue to expand access to a supply of ~~convenient~~ data-driven [or evidence-based] public parking. [PB]
- Provide parking options that offer a park once/walking connection to the downtown / mixed use centers and their businesses, attractions and residences.

6. Parking should support economic development including businesses (office, retail, restaurant), tourism and access to natural and historic resources and sites and visitors/customers.

Comment: Consider deleting, goes without saying. [PTS]

7. The City's parking resources should be priced and managed to support 85% ~~occupancy~~ rates utilization rate during peak hours. [PTS]

8. The primary reasons for parking revenues are to be able to ~~provide~~ fund a ~~n-adequate~~ data-driven [or evidence-based] supply of safe, convenient parking, access to transportation options, and other parking and transportation related activities to support the vitality of the City. Pricing structures should be simple and easy for customers to understand.

9. Parking management strategies should recognize that there is a difference between the needs of long-term parkers who may be more likely to use a parking garage or use parking immediately adjacent to downtown ~~and other/~~ [PB] mixed use centers, and short-term parkers running a quick errand.

10. Price and manage more desirable on street parking spaces to favor users who are highly motivated to use them. Give customers and residents the option to stay and pay.

Comment: Need to clarify what “stay and pay” means. [PB]

11. Information on parking options should be easily accessible to parking users, including through technology options.

12. Parking planning should take a comprehensive, sustainable and big picture approach by taking a broad range of costs and benefits into account when making decisions, including the most recent best practices, urban planning for density, and data around parking usage.[PB]

13. All parking resources should place value on aesthetics, security, accessibility and ~~user information~~ease of use. [PB]

14. ~~If cost effective, Incentivize~~ incentivize [BOA] use of off-street public parking located more than ½ mile from destinations in the downtown and other mixed use centers by providing reliable public transportation options to allow people to park one and connect easily to their final destinations.

15. Surface parking lots should be located at the periphery of the downtown/mixed use centers and should not be allowed to create a “dead zone” barrier to comfortable pedestrian movement.

16. Parking management programs should take into consideration the different needs of workers in the hospitality, retail, and office industries.

17. Incentives for residents should be provided at the parking garages, but shouldn’t compromise best practices.

Comment: Need to clarify what this means. [PB]

18. Parking resources should be provided to support downtown/mixed use center activity (streets are for people as well as cars) and should therefore be designed and located in such a manner that recognizes the following:

- Parking resources should enhance – not detract from – downtown and mixed use center vitality, walkability and the pedestrian experience;
- Parking resources should accommodate pedestrians (bump-outs, plazas), bicycles (bike parking) and transit (space to pull over);
- Parking structures should be incorporated into the commercial streetscape; and

- The needs of an aging population should be taken into account when it comes to parking.
- Provision of parking should never take priority over or be done at the expense of maintaining our public spaces and historical sites.[PTS]

19. Parking revenues should be used to fund an integrated transportation system that includes parking, transit, pedestrian and bicycle infrastructure – linking all modes to ensure maximum mobility and accessibility.~~the operation of the City’s parking program and related parking and transportation strategies.~~ [PTS]

20. Parking management plans should recognize the short-term parking needs of retail and hospitality industry for loading zones.

Comment: Wherever possible, new loading zones should not remove on-street parking. This should be addressed as part of the land use approval process for new development. [PTS]

21. ~~Encourage~~Enhance connections to and support of public transit and encourage other transportation modes, but recognize strong customer/ resident preference for personal vehicle use ~~as well as very limited regional public transit infrastructure.~~

22. On-street parking located in residential neighborhoods should primarily serve residential demand for the immediate neighborhood. Parking for other users should only be considered when and where there is excess supply and capacity.

Comment: Revise, “On-street parking located in residential neighborhoods should serve all taxpayers of Portsmouth and should prioritize the needs of an aging population.” [PB]

Delete, not appropriate for the city to allocate shared public resources for the exclusive use of a limited subset of private property owners who presumably understood what parking deficits their properties had when they purchased them unless there were to be a fee for the permits high enough to offset the cost of maintaining and plowing their private parking areas. [BOA]

Anticipate resident vs. visitor parking in neighborhoods will continue to be a concern to residents and employees and may warrant further ideas for consideration. [EDC]

GENERAL COMMENTS

Board of Adjustment

- Not in favor of neighborhood parking permits.
- By objectively reviewing whether a policy/procedure/rule, etc., is working as intended, future changes to the same are likely to be better for all concerned. The people who make the "rules", whether elected or staff, deserve, benefit from and appreciate such

feedback. The people who are supposed to obey the rules take careful notice regarding levels of enforcement and act accordingly. This suggestion may look like some extra work for staff and in the short run it may be, but it will pay dividends in more realistic and enforceable rules, build public respect for all city regulations and actually save staff time. The above is based upon both my work and volunteer experience. It is not based upon any particular city function, department or rule.

Economic Development Commission

- Broaden the narrow view that exists on parking needs and address future transportation modes in the principles.
- Proactively use the City's position of holding the majority of the City's downtown parking inventory to develop a comprehensive parking and transportation strategy that informs policies.
- Consider additional price reductions for City residents and employees to encourage accessing downtown.
- Address within the principles the need to avoid the potential of additional surface lots in the downtown and recognize the reality that some existing surface lots will disappear for redevelopment of the parcel.
- Integrate and sync parking principles into the zoning ordinance.
- Take a more comprehensive position on looking at the movement of people and access to business/retail/hospitality/etc. than currently appears in this document. Much is likely to change vis a vis preferences and demand during the next 5 years, driven by demographics as well as technology.
- Be more explicit regarding the connection of transportation and access to parking as well as the creation of additional sources of spaces. Anticipate that the demand on places to put vehicles for short- or longer- term parking may well change, and we may be able to drive that change (in a good way for business and quality of life) by being proactive in our view of parking.