

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: WEDNESDAY, DECEMBER 14, 2022 TIME: 6:00 PM

Members of the public also have the option to join the meeting over Zoom, a unique meeting ID and password will be provided once you register. To register, click on the link below or copy and paste this into your web browser:

https://us06web.zoom.us/webinar/register/WN_mQ7L2354QHWPIP_bBxaoEA

6:00 PM – ANTICIPATED NON-PUBLIC SESSION IS BEING HELD IN CONFERENCE ROOM A

1. CONSIDERATION OF LEGAL ADVICE – RSA 91-A:3, II (I)
2. CONFIDENTIAL COMPETITIVE SELECTION PROCESS FOR AUDITOR – RSA 91-A:5 AND RSA 91-A:3, II (c)(d)(I)

AGENDA

**Regular portion of City Council meeting to begin at 7:00 p.m.*

- I. **WORK SESSION – THERE IS NO WORK SESSION THIS EVENING**
- II. **PUBLIC DIALOGUE SESSION [when applicable – every other regularly scheduled meeting] – N/A**
- III. **CALL TO ORDER [7:00 p.m. or thereafter]**
- IV. **ROLL CALL**
- V. **INVOCATION**
- VI. **PLEDGE OF ALLEGIANCE**



**Portsmouth Music and Arts Center
Brewery Big Band Holiday Music Performance**



- VII. **ACCEPTANCE OF MINUTES – (There are no minutes on for acceptance this evening)**
- VIII. **RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS**
- IX. **PUBLIC COMMENT SESSION (This session shall not exceed 45 minutes) – (participation may be in person or via Zoom)**
- X. **PUBLIC HEARINGS AND VOTE ON ORDINANCES AND/OR RESOLUTIONS**

Third and Final Reading of Ordinances:

- A. Third and final reading of Ordinance amending Chapter 12 and Chapter 15 – City's Building Code (**Sample motion – move to pass third and final reading of the ordinance as presented**)

- B. Third and final reading of Ordinance amending Chapter 5, Article I – Fire Department, Section 5.101 – Personnel and Article IX – Fire Code (***Sample motion – move to third and reading of the ordinance as presented***)

XI. CITY MANAGER’S ITEMS WHICH REQUIRE ACTION

A. CITY MANAGER CONARD

City Manager’s Items Which Require Action:

1. Greenleaf Recreation Center Concession Agreement with Operation Blessing, Inc.
2. Request for Public Hearing for Supplemental Appropriation regarding McIntyre Project
3. Temporary Construction License for 46 State Street
4. *Request for Work Session of the Disposition of Sherburne School

XII. CONSENT AGENDA

(Proper Motion for Adoption of Consent Agenda – move to adopt the Consent Agenda)

- A. Request from John Robert David & Anastasia Livingstone, Snap Quack Pop, to install a Projecting Sign at 123 Market Street Unit A (***Anticipated action – move to approve the aforementioned Projecting Sign License as recommended by the Planning Director, and further, authorize the City Manager to execute the License Agreement for this request***)

Planning Director’s Stipulations

- ***The license shall be approved by the Legal Department as to content and form;***
 - ***Any removal or relocation of projecting sign, for any reason, shall be done at 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 John Mortimer, Millennium Running, requesting permission to hold the St. Patty’s 5k & 10k on Saturday, March 11, 2023 (***Anticipated action – move to refer to the City Manager with Authority to Act***)
- C. Letter from John Mortimer, Millennium Running, requesting permission to hold the annual New Castle 10k on Sunday, April 30, 2023 (***Anticipated action – move to refer to the City Manager with Authority to Act***)

XIII. PRESENTATIONS AND WRITTEN COMMUNICATIONS

- A. Presentation Regarding Staff Recommendations for 2023 Outdoor Dining Season – Beverly Mesa-Zendt, Planning Director

XIV. MAYOR McEACHERN

1. Appointments to be Considered:
 - Reappointment of Dana Levenson to the Trustee of the Trust Funds
 - Reappointment of Phyllis Eldridge to the Zoning Board of Adjustment
 - Appointment of Alan Cohen to the Task Force to Study Private/Public Historical Archives Committee

2. *Appointments to be Voted to the Arts and Nonprofits Committee Cultural Plan Subcommittee:
 - Alan Chace
 - Jeffrey Cooper
 - Ellen Fineberg
 - Gerardo Gonzalez
 - Tom Kaufhold
 - Amanda Kidd-Kestler
 - Robin Lurie-Meyerkopf
 - John Mayer
 - Karen Rosania
 - Emma Stratton
 - Karen Battles (Alternate)
 - Suzanne Danforth (Alternate)
 - Ed Simeone (Alternate)

3. *Announcement of Appointment of Sean MacDonald and Anna Nuttall to the Skateboard Park Blue Ribbon Committee

4. *Holiday Lights Contest

XV. CITY COUNCIL MEMBERS

A. ASSISTANT MAYOR KELLEY & COUNCILOR BAGLEY

1. *Council Year in Review

XVI. APPROVAL OF GRANTS/DONATIONS

(There are no items under this Section of the Agenda this evening)

XVII. CITY MANAGER'S INFORMATIONAL ITEMS

(There is no items under this Section of the Agenda this evening)

XVIII. MISCELLANEOUS BUSINESS INCLUDING BUSINESS REMAINING UNFINISHED AT PREVIOUS MEETING

XIX. ADJOURNMENT [at 10:30 p.m. or earlier]

**Indicates verbal report*

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

Chapter 12: City of Portsmouth Building Code

SECTION 1201 TITLE ADOPTION / STATUTORY AUTHORITY

1201.1 The New Hampshire Building Code is hereby adopted, together with the local regulations and amendments contained within this Chapter and shall be known as the Building Code of the City of Portsmouth (“City Building Code”). (See RSA 155-A:1,IV; RSA 674:51, I; RSA 155-A:2,V and RSA 155-A:3, I, II).

SECTION 1202 SCOPE AND ADMINISTRATION

1202.1 Building Official. The Department of Building Inspection of the City of Portsmouth, New Hampshire is hereby created and the executive official thereof shall be known as the Chief Building Inspector. Other Building Officials include the assistant Building Inspectors, Electrical Inspectors and Plumbing/Mechanical Inspectors. The Chief Building Inspector and Building Officials are appointed by the City Manager based on qualifications established for each position by the City Manager. The Chief Building Inspector and Building Officials are authorized to receive, process and approve all building permits, issue building permits and certificates of occupancy, perform inspections necessary to assure compliance with the City Building Code, collect permit fees, maintain records of all applications and enforce all provisions of the City Building Code as more fully set forth below.

1202.2 Permits

1202.2.1 Required. New construction and general renovation work requires the issuance of a building permit. General renovation is defined as work which changes the overall size of a building or portions thereof or which involves the creation of rooms or spaces, which did not previously exist. Expansion of existing electrical, plumbing, mechanical or fire protection systems is also considered general renovation. Types of work, which may be so classified, are:

1. Additions of any size.
2. Enlarging existing structures, rooms or spaces.
3. Creating new rooms or spaces within a structure.
4. Structural changes or structural repairs.
5. Dormers.
6. Renovations to kitchens and bathrooms.
7. Demolition of all or part of a structure.
8. Changing exits or any components of the means of egress in any way.
9. New structures including sheds, gazebos, pools (above and below ground), decks, garages, carports, tents, awnings, etc.
10. Above or below grade flammable and combustible liquid tank removal or installation shall require separate mechanical and gas permitting.

11. Changes in Use or Occupancy.
12. Electrical work.
13. Plumbing or mechanical work.
14. Fire sprinkler or fire alarm systems
15. Roofing or re-roofing

NH Licensed trade persons shall secure permits for electrical, plumbing and fuel gas work when required under New Hampshire law.

1202.2.2 Work exempt from permits. Exemptions from permit requirements of this Code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of the City Building Code or any laws or ordinances of this jurisdiction. Permits shall not be required for the following:

Building:

1. Ordinary repairs as defined in Section 1202.2.3 provided the total of such non-structural repairs do not exceed \$3,000 in construction value.
2. Any painting or wall papering; and tiling when not part of a kitchen or bath remodel.
3. Fences not over 6 (six) feet high not located on corner lots of an intersection or not in the Historic District.
5. Sidewalks, driveways or patios constructed on grade with earth products so long as there is no change in elevation and/or drainage configuration.
6. Prefabricated (including air inflated) swimming pools, accessory to a Group R-3 occupancy which are less than 18 inches deep, do not exceed 5,000 gallons and are entirely above grade.
7. Swings and other playground equipment accessory to dwellings and which are erected or assembled from a kit.
8. Moveable cases and counters (typical in retail occupancies).
9. Cabinets, countertops and similar finish work when total construction value does not exceed \$3,000, including labor and materials.

Electrical:

1. Repairs and maintenance: Minor repair work, including the replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles in single family dwellings, or in facilities employing full time maintenance personnel, provided the work is performed or supervised by a licensed electrician employed by the facility owner. (See NH RSA 319-C)

Gas:

1. Portable heating appliances for one and two family occupancies.

Mechanical:

1. Portable heating appliances for one and two family occupancies.

1202.2.3 Ordinary Repairs. Application or notice to the building official is not required for ordinary repairs to structures. Ordinary repairs are defined as work which is associated with the

normal maintenance of a property and which affects only the surface or finish characteristics of a structure. Types of work, which may be so classified, are:

1. Painting and wallpapering, no matter what the cost. (\$3,000 exception does not apply.)
2. Replacing or repairing flooring or carpeting in-kind.
3. Replacing or repairing interior trim.
4. Repointing masonry unless located in the Historic District.

In general, for a work element to be considered a repair or replacement, the item, which is being repaired, must already exist. The above items are intended to represent individual replacement or repair work. When one or more of the above items are included in general renovations to structures, then all such items will be included in the construction cost and a permit is required.

Ordinary repairs do not include the cutting, removing or altering of any structural beam, joist, rafter or bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the egress requirements. Ordinary repairs also do not include additions to, alterations of, replacement or relocation of any fire protection system, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical equipment or other work affecting public health or general safety.

Exceptions: (i.e. permit is required.)

1. Repairs or renovations made to the exterior facade of structures in the Historic District shall require a building permit application review by the Planning Department. When it is determined that Historic District Commission approval is required, then a building permit shall also be required.
2. When the total cost of ordinary repair work exceeds three thousand dollars (\$3,000). (i.e., a permit is required when repair value is more than \$3,000 including materials and labor. Homeowner/property owner labor value to be included.)

1202.2.4 Action on application. Permits shall not be issued when there is found to be outstanding, non-inspected permit(s) already issued against a given property or when there are known non-conformances on the property. Only when outstanding permit(s) is (are) closed out and/or the non-conformances corrected, shall a new permit be issued.

Exception:

When permits are required to correct known non-conformances.

1202.2.5 Time limitation of application. An application for a permit shall be deemed to have been abandoned one year after the date of filing, unless such application has been diligently pursued or a permit has been issued, except that the building official may grant one (1) extension of time not exceeding twelve (12) months if there is reasonable cause and only when requested in writing prior to the application expiration date.

1202.2.6 By whom application is made. Application for a permit shall be made by the owner of the building or structure or by the authorized agent of either, or by the authorized contractor, registered design professional, employed by the owner, in connection with the proposed work. The full names and addresses of the owner, applicant and of the responsible officers, if the owner is a corporate body it shall be stated on the application. When the applicant is not the owner, it is assumed by the City that the owner is aware of the proposed work being applied for and that the applicant takes full responsibility for the information represented.

1202.2.7 Expiration. Every permit issued shall become invalid if the authorized work is not commenced within one year after issuance of the permit, or if the authorized work is suspended or abandoned for a period of one year after the time of commencing the work. The building official may grant one (1) extension of time not exceeding twelve (12) months if there is reasonable cause and only when requested in writing prior to the permit expiration date. Said extension will only be authorized when it does not conflict with any Federal, State or Local laws or ordinances. For a permit to be considered active, periodic inspections (no less than 6 months in between) must be requested and work progress documented by inspections. Work elements shall be items associated with the building permit scope of work.

1202.2.8 Minimum progress required to keep permit extension active. After an extension has been granted under 1202.2.7, work shall begin within the next twelve (12) month period and, shall have progressed such that a full foundation has been constructed and inspected in that same twelve (12) months. If the scope of work does not include a foundation, then within the same (first) twelve month period, framing shall be complete and inspected to a weather tight condition. When work involves a foundation, framing to a weather tight condition shall be complete and inspected within the next (second) twelve (12) month period. If the scope of work does not involve either a foundation or weather tight framing, work progress shall be at a final inspection stage within twenty-four (24) months from the date of granting the permit extension under 1202.2.7. Failure to achieve these milestones, shall cause the permit to become invalid.

1202.2.9 Placement of permit. The building permit field copy shall be posted in a window or other suitable location on site, such that said permit is visible from the primary city street. Where such posting is impracticable the building permit field copy shall be available on site for public viewing upon request. The building permit field copy may be removed once the certificate of occupancy has been issued or upon expiration of the building permit.

1202.2.10 Qualifications of persons doing trade work.

1202.2.10.1 Fuel Gas/Plumbing. Pursuant to RSA 153:36, licensing requirements shall not apply to a homeowner from making fuel gas fitting and plumbing installations in or about a single family residence owned and occupied by him or her or to be occupied by him or her as his or her bona fide personal abode.

An affidavit from the property owner confirming the address is the bona fide personal abode of the property owner proposing to perform the electrical work shall be provided by the applicant prior to permit approval.

1202.2.10.2 Electrical. Pursuant to RSA 319-C, licensing requirements shall not apply to a homeowner from making electrical installations in or about a single family residence owned and occupied by him or her or to be occupied by him or her as his or her bona fide personal abode.

An affidavit from the property owner confirming the address is the bona fide personal abode of the property owner proposing to perform the electrical work shall be provided by the applicant prior to permit approval.

1202.2.11 Submittal Documents

1202.2.11.1 Approval of construction documents. The building official shall review and approve all submitted documents. The permit holder is responsible for complying with the comments and notes added during the permit review process. Approved plans and documents shall be maintained as part of the official permit construction documents.

1202.2.12 Phased approval. A phased building permit shall not be issued until such time as the permit application is approved by the City Planning Department and all necessary bonds are posted.

1202.2.13 Fees

1202.2.13.1 Schedule of permit fees. Fees shall be determined by budget resolution in accordance with Chapter 1, Article XVI of the Ordinances of the City of Portsmouth, NH.

1202.2.14 Work commencing before permit issuance. Any person who is found to have demolished, constructed, altered, removed, or changed the use of a building or structure without the benefit of a building, electrical, plumbing, mechanical, or change in use permit shall, upon issuance of said permit(s), be assessed a fee as 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.

1202.2.15 Refunds. The building official shall authorize the refunding of fees as follows:

1. The full amount of any fee paid hereunder which was erroneously paid or collected.
2. Not more than 50% of the permit fee paid when no work has been done under a permit issued in accordance with this Code.

The building official shall only authorize a fee refund when a written request is filed by the original permittee not later than one year after the date of fee payment. Refunds shall not be issued on permits that have expired under the conditions of this chapter.

1202.2.16 City construction projects. Fees shall not be assessed for work associated with projects undertaken by the City of Portsmouth. These projects may also include contract work done by private contracting firms hired directly by the City. This exemption shall not apply to projects done by the State Department of Public Works, Pease Development Authority, State Port Authority or the Portsmouth Housing Authority.

1202.3 Inspections

1202.3.1 Inspection requests. The permit holder shall allow a minimum of three work days (72 hours) from the time the building official is notified to the time the inspection is scheduled.

1202.3.2 Re-inspection fee. If, upon being called for any inspection, the work is not in compliance with this Code, 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 re-inspect said deficiencies. When called to re-inspect, if these deficiencies have been corrected, no further action will be taken. However, if during the first re-inspection, the originally deficient work has not been corrected, there may be a re-inspection 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 re-inspection of the same deficiency or deficiencies, the same 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 re-inspections. Re-inspection fees will not be assessed for items newly found or for their first re-inspection. 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 re-inspection 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 re-inspection fees, until all outstanding fees are paid.

1202.4 Certificate of Occupancy

1202.4.1 Use and occupancy. A certificate of occupancy/completion shall be issued upon request, for completed work associated with a valid building permit.

1202.4.2 Fee for Certificate of Use and Occupancy. There shall be a fee assessed as determined by the adoption of fees by budget resolution of the City Council in accordance with Chapter 1, Article XVI, assessed to the holder of a permit for the issuance of a Certificate of Use and Occupancy when the following condition exists: When, during the final inspection phase, the building official is required to make a third inspection on a nonconforming item or items, a Certificate of Occupancy fee will be assessed for the third inspection, and each subsequent inspection for the same item(s). The fee will be paid prior to the building official performing the additional inspections. This procedure shall apply to building, electrical, plumbing, gas, mechanical, and fire inspections, independently.

1202.5 Violations

1202.5.1 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 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.

1202.6 Stop work order

1202.6.1 Unlawful continuance. Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to the fines outlined in Section 1202.5.1 of this chapter.

1202.7 Appeals

1202.7.1 Appeal process. The City of Portsmouth Building Code Board of Appeals will hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretation of the City Building Code. The appeal process is set forth in the Rules and Procedures adopted by the City's Building Code Board of Appeals which are incorporated by reference and adopted herein. See <https://www.cityofportsmouth.com/cityclerk/building-code-board-appeals>

SECTION 1203 COMMERCIAL AND RESIDENTIAL CONSTRUCTION

1203.1 Special inspections and tests

1203.1.1 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.

1203.1.2 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.

1203.2 Temporary Structures, as applicable

1203.2.1 General. Pursuant to the approval by the City's Planning Department, the building official may issue a permit for temporary structures or uses. Such permit will be limited to the regulations set forth in the City's Zoning Ordinance and the City Building Code. Any temporary structure shall be limited as to time of service, but shall not be permitted for more than 180 days. The building official is authorized to grant one (1), 180 day extension for demonstrated cause.

1203.3 Signs

1203.3.1 Zoning ordinance. The City's Zoning Ordinance, Chapter 10, Article 12 of the City's Ordinances, regulates all signs, permanent signs, sign size, letter size and sign illumination. Refer to that ordinance for all sign criteria.

1203.4 Historic Buildings

1203.4.1 Historic District. The City of Portsmouth has delineated a special Zoning Overlay Historic District, which regulates all work done to the exterior facade of structures within said district. All such work requires a City Building Permit. Refer to the City Zoning Ordinance Chapter 10, Article 6 for specific details.

1203.5 Design Criteria

Ground snow load: 50 pounds per square foot (PSF)
Wind speed: 100 miles per hour (MPH)
Seismic Design Category: C
Weathering: Severe
Frost Line Depth: 4 feet to bottom of footing.
Termite: Slight to Moderate
Winter Design Temp.: (-) 3 degree days
Ice Barrier Underlayment Required: Yes
Flood Hazard: Flood Insurance Rate Map May 17, 2005
Air Freezing Index: 1000
Mean Annual Temperature: 47 degrees F

1203.6 Automatic fire sprinkler systems

1203.6.1 Design and installation. Automatic residential fire sprinkler systems for townhouses shall be designed and installed in accordance with NFPA 13R or 13D as determined by the Authority Having Jurisdiction.

1203.7 Smoke alarms

1203.7.1 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 1204 PLUMBING

1204.1 Sewage disposal. Private sewage disposal systems shall meet the requirements of City ordinances, State Law and RSA 485-A:29-44.

1204.1.1 Floor drains. Floor drains shall be reviewed and approved by the City Engineer.

1204.2 General definitions.

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

Food service establishment. Any fixed or mobile restaurant, temporary food service establishment, coffee shop, cafeteria, short order cafe, luncheonette, grill, tearoom, sandwich shop, soda fountain, tavern, bar, cocktail lounge, night club, industrial food service establishment, catering kitchen, commissary and any other eating or drinking establishment where food or beverages are prepared or served; whether private, public, profit or non-profit.

1204.3 Protection of pipes and plumbing system components.

1204.3.1 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.

1204.3.2 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.

1204.4 Minimum water heater temperatures. Tank type water heaters and indirect fired hot water storage tanks shall be maintained at a minimum temperature of 140 degrees F (60 degrees C) and shall be equipped with a temperature controlling device conforming to ASSE 1017 to limit the maximum “hot water temperature” to faucets as required by this code. 1204.2 restricts the upper end temperature of hot water to 130 degrees Fahrenheit.

1204.5 Water Service.

1204.5.1 Size of water service pipe. The water service pipe shall be sized to supply water to the structure in quantities and at the pressures required in the City Building Code. The minimum diameter of water service pipe shall be 1 inch.

1204.5.2 Materials, joints and connections. For water service pipe up to and including 3 inches (3”) in diameter only type K copper or CT Pex shall be used. For water service pipe over 3 inches (3”) in diameter only cement lined ductile iron shall be used.

1204.6 Hot water supply systems.

1204.6.1 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).

1204.7 Protection of potable water supply.

1204.7.1 Portsmouth Water Department backflow prevention criteria. Backflow prevention at the water meter shall be accordance with 1204.7.1.1 through 1204.7.1.7.

1204.7.1.1 Multiple tenant spaces. All buildings that have more than three tenants or tenant spaces being served by one water service shall have two backflow preventers installed in parallel for uninterrupted service. When the building or tenant space does not have a known tenant, the water service to that building or tenant space shall have a reduced pressure zone backflow preventer installed on the building side of the water meter.

1204.7.1.2 Dual check valve assemblies. All new residential water services of less than or equal to 1 inch in size shall have at a minimum, a dual check valve backflow prevention assembly conforming to ASSE 1024. Said assembly shall be installed on the water distribution side of the water meter, without a water meter bypass feature. Thermal expansion of water shall be addressed per the New Hampshire Building Code.

1204.7.1.3 Existing water service. When replacing or upgrading an existing water distribution piping system, a dual check valve backflow prevention assembly shall be installed on the water distribution side of the water meter, without a water meter bypass feature. Thermal expansion of water shall be addressed per the New Hampshire Building Code.

1204.7.1.4 Double check-valve assemblies. All new residential water services greater than 1 inch in size shall have at a minimum, a double check-valve assembly in accordance with the City of Portsmouth Backflow Prevention Ordinance listed in Chapter 16.

1204.7.1.5 Bypass lines. Bypass lines around required backflow preventers shall be protected with a backflow preventer of the same type in the bypass line. Refer to the City of Portsmouth Backflow Prevention Ordinance listed in Chapter 16 for additional backflow prevention requirements.

1204.7.1.6 Auxiliary wells or water supplies. Whenever an auxiliary well or water supply serves property that also has a domestic water service, the domestic water service shall have a reduced pressure principle backflow preventer installed on the water distribution side of the water meter in accordance with the City of Portsmouth Backflow Prevention Ordinance listed in Chapter 16:

Cross Connections. No Cross Connection shall be permitted between the public water supply and any other water supply, or between the public water supply and any plumbing fixture, device, or appliance capable of contaminating the public water supply unless the connection is protected at the metering point by a backflow prevention device as required by this ordinance. The connection shall be approved by the Utility and the New Hampshire Department of Environmental Services, and shall satisfy in all respects the laws of the State of New Hampshire.

1204.7.1.7 Connection to lawn irrigation systems. The potable water supply to lawn irrigation systems shall be protected against backflow by a pressure-type vacuum breaker or a reduced pressure principle backflow preventer. Where chemicals are introduced into the system, the potable water supply shall be protected against backflow by a reduced pressure principle backflow preventer.

1204.8 Sanitary drainage.

1204.8.1 Sewer required. Every building in which plumbing fixtures are installed and all premises having drainage piping shall be connected to a public sewer where available or an approved private disposal system. A building is considered available to a public sewer when said building is within 150 feet of a public sewer line. When a private subsurface disposal system is provided, a site plan shall document its location on the lot. Subsurface systems shall meet the requirements of RSA 485-A:29-44. A backwater valve shall be added to existing structures undergoing remodels or adding/finishing basement levels.

1204.9 Vent connections and grades.

1204.9.1 Vent for future fixtures. Within a habitable or occupiable space at the lowest level of a structure where plumbing fixtures are not installed, there shall be made available an accessible

vent connection, not less than 2" inch diameter, which is properly connected to the vent system to provide for future venting.

1204.10 Interceptors and Separators.

1204.10.1 Approval. All interceptors and separators shall be of the type and capacity approved by the City Engineer. Each interceptor and each separator shall be designed and installed in accordance with the manufacturer's instructions and the requirements of this section based on the anticipated conditions of use. When exceptions are granted under the conditions of 1204.10.2, the applicant shall obtain in writing, approval from the City Engineer for said exceptions. Waste exempted from treatment by the City Engineer, shall not be discharged into separators or interceptors.

1204.10.2 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.

Exception 1: When adequate in-ground space is not available outside on the lot, a grease interceptor approved by the City Engineer and sized in accordance with the State Building Code shall be installed inside.

Exception 2: When the Health officer and City Engineer do not feel the type of food service establishment warrants such protection.

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 as listed in the New Hampshire Building Code.

1204.10.3 Oil separators required. The City Engineer shall approve all oil separator designs.

1204.10.4 Access and maintenance of interceptors and separators. All interceptors and separators shall be located to provide easy access for cleaning and inspection. Interceptors shall not be located in a pit below a slab on grade. Interceptors and separators shall be inspected cleaned and repaired regularly as needed by the building owner at their expense. The building owner shall be responsible for the proper removal and disposal by appropriate means of the captured materials and shall maintain records of the dates and means of disposal. Said records shall be subject to periodic review by the City Engineer, City Health Officer or Building Official. Only licensed waste disposal companies shall perform removal and disposal operations of the collected materials.

1204.11 Exterior showers.

1204.11.1 Exterior showers. Exterior showers require a roof and an enclosure that is approved by the Building Official.

1204.11.2 Rinse stations. Exterior rinse stations do not require a roof and shall not include a drain that discharges into the City sewer. The discharge of grey water while using a rinse station

is strictly prohibited. Greywater refers to laundry, dish, and bath/shower water; Greywater has adverse effects on aquatic life and public health by negatively impacting drinking water supplies, recreational activities, and wildlife.

SECTION 1205 MECHANICAL

1205.1 Equipment and appliance location.

1205.1.1 Equipment noise. Refer to the City of Portsmouth Zoning Ordinance, Chapter 10, Article 13 for the limitations of excessive noise from mechanical equipment operations. Noise from mechanical equipment shall not exceed the levels so stated.

1205.6 Exhaust system.

1205.6.1 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.

1205.7 Commercial kitchen hoods.

1205.7.1 Reserved.

1205.8 Chimneys and vents.

1205.8.1 Masonry chimneys. Masonry chimneys shall be constructed in accordance with the New Hampshire Building Code and New Hampshire Fire Code (NFPA 211, the Standard for Chimneys, Fireplaces, Vents, and Solid Fuel-Burning Appliances).

1205.9 Masonry fireplaces.

1205.9.1 General. Masonry fireplaces shall be constructed in accordance with the New Hampshire Building Code and the New Hampshire Fire Code (NFPA 211, the Standard for Chimneys, Fireplaces, Vents, and Solid Fuel Burning Appliances).

SECTION 1206 FUEL GAS

1206.1 Installation of piping.

1206.1.1 Reserved.

1206.2 Type of venting systems to be used.

1206.2.1 Through-the-wall vent termination. Through-the-wall vents for mechanical draft vented appliances shall terminate a minimum of 5 ft from property lines.

SECTION 1207 ELECTRICAL

1207.1 Definitions

1207.1.1 Townhouse. A single-family dwelling unit constructed in a group of three or more attached units in which each unit demising wall extends from foundation to roof and with a yard or public way on not less than two sides. The fire rated wall from the concrete basement floor or slab shall be unbroken to the underside of the roof sheathing without any electrical through penetration.

1207.1.2 Enclosed interior exit stairway (stair tower). Interior exit stairways not located in townhouses and one and two family dwellings serving as an exit component shall be enclosed and fire rated and lead directly to the exterior of the building. The stairway shall not be used other than for means of egress (i.e. storage, seating, etc.).

1207.2 NM/NMC (Romex)

1207.2.1 Uses permitted. Type NM and Type NMC cables shall be allowed in one- and two-family dwellings and townhouses, their attached or detached garages, and their storage buildings except as prohibited by NFPA 70.

1207.2.2 Uses not permitted. Type NM and Type NMC cables shall not be exposed within a dropped or suspended ceiling cavity in other than one and two family and townhouses

1207.3 SER/SE (service entrance cable)

1207.3.1 Uses permitted.

1207.3.1.1 Service-Entrance conductors. Service-entrance cable shall be permitted to be used as service-entrance conductors in townhouses and one and two family dwellings and shall be installed in accordance with NFPA 70

1207.3.1.2 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 in townhouses and one and two family dwellings.

1207.3.2 Uses not permitted.

1207.3.2.1 Service-entrance cable (SE). Service-entrance cable shall not be used in any type of building or structure other than townhouses and one and two family dwellings.

1207.4 GFCI protection

1207.4.1 Dwelling units. All 125-volt through 250-volt outlets and receptacles installed in the locations specified in NFPA 70 and supplied by single-phase branch circuits rated 150 volts or less to ground shall have ground-fault circuit-interrupter protection for personnel.

1207.4.2 Other than dwelling units. All 125-volt through 250-volt outlets and receptacles supplied by single-phase branch circuits rated 150 volts or less to ground, 50 amperes or less, and all receptacles supplied by three-phase branch circuits rated 150 volts or less to ground, 100 amperes or less, installed in the locations specified in NFPA 70 shall have ground-fault circuit-interrupter protection for personnel.

1207.4.3 General. The following appliances rated 120 thru 250 volts and 60 amperes or less, single- or 3-phase, shall be provided with class-A GFCI protection for personnel. Multiple class-A GFCI protective devices shall be permitted but shall not be required.

1. Automotive vacuum machines
2. Drinking water coolers and bottle fill stations
3. Cord-and-plug-connected high-pressure spray washing machines
4. Tire inflation machines
5. Vending machines
6. Sump pumps
7. Dishwashers
8. Ranges, ovens, and grills
9. Electric dryers
10. Mixers in commercial kitchens
11. Any cooking appliance in commercial kitchens
12. Hotplates, crock pots

1207.5 Arc fault protection. Reserved

1207.6 Identification of electrical systems.

1207.6.1 Emergency system. Emergency circuits shall be permanently marked **in yellow** so they will be readily identified as a component of an emergency circuit or system by the following methods:

1. All boxes and enclosures (including transfer switches, generators, and power panels) for emergency circuits shall be permanently marked **in yellow** as a component of an emergency circuit or system.

2. Where boxes or enclosures are not encountered, exposed cable or raceway systems shall be permanently marked **in yellow** to be identified as a component of an emergency circuit or system, at intervals not to exceed (10 ft).
3. Receptacles supplied from the emergency system shall have a distinctive color or marking on the receptacle cover plates or the receptacles identified **in yellow**.

Note: If a system for an existing building has a different color for the system than this section, then existing color shall be continued in the building

1207.6.2 Boxes, enclosures, raceways. In a building or at a structure where a critical operations power system and any other type of power system are present, all boxes and enclosures (including transfer switches, generators, and power panels) for critical operations power system circuits shall be permanently marked **in blue** so they will be readily identified as a component of the critical operations power system. All raceways must be permanently marked every 10' in blue so will be readily identified as a component of a critical operation power system.

1207.6.3 Receptacles. In a building in which critical operations power systems (COPS) are present with other types of power systems described in other sections in this article, the cover plates for the receptacles or the receptacles themselves supplied from the COPS shall have a distinctive **blue** color or marking so as to be readily identifiable. Non-locking-type, 125-volt, 15- and 20-ampere receptacles supplied from the COPS shall have an illuminated face or an indicator light to indicate that there is power to the receptacle

1207.6.4 Life safety and critical. The life safety branch and critical branch [of the essential electrical system] shall be kept independent of all other wiring and equipment. Raceways, cables, or enclosures of the life safety branch must be identified **in yellow** and critical branch shall be readily identified **in orange** as a component of the essential electrical system (EES). Boxes and enclosures (including transfer switches, generators, and power panels) shall be field- or factory-marked and identified as a component of the EES. Raceways and cables shall be field- or factory-marked as a component of the EES at intervals not to exceed (10 ft).

1207.6.5 Photovoltaic Unless located and arranged so the purpose is evident, the following wiring methods and enclosures that contain PV system AC and DC circuit conductors shall be marked with the wording PHOTOVOLTAIC POWER SOURCE or SOLAR PV DC CIRCUIT, or SOLAR PV AC CIRCUITS by means of permanently affixed labels or other approved permanent marking:

1. Exposed raceways, cable trays, and other wiring methods
2. Covers or enclosures of pull boxes and junction boxes
3. Conduit bodies in which any of the available conduit openings are unused

The labels or markings shall be visible after installation. All letters shall be capitalized and shall be a minimum height of 9.5 mm ($\frac{3}{8}$ in.) in white on a red background. Labels shall appear on every section of the wiring system that is separated by enclosures, walls, partitions, ceilings, or floors. Spacing between labels or markings, or between a label and a marking, shall not be more

than 3 m (10 ft). Labels required by this section shall be suitable for the environment where they are installed.

1207.7 Definitions specific to 1207.6 thru 1207.6.4

1. Critical Branch.

A system of feeders and branch circuits identified in orange supplying power for task illumination, fixed equipment, select receptacles, and select power circuits serving areas and functions related to patient care that are automatically connected to alternate power sources by one or more transfer switches during interruption of the normal power source.

2. Equipment Branch.

A system of feeders and branch circuits identified in green arranged for delayed, automatic, or manual connection to the alternate power source and that serves primarily 3-phase power equipment.

3. Essential Electrical System.

A system comprised of alternate sources of power and all connected distribution systems and ancillary equipment, designed to ensure continuity of electrical power to designated areas and functions of a health care facility during disruption of normal power sources, and also to minimize disruption within the internal wiring system.

4. Life Safety Branch.

A system of feeders and branch circuits identified in yellow supplying power for lighting, receptacles, and equipment essential for life safety that is automatically connected to alternate power sources by one or more transfer switches during interruption of the normal power source.

1207.8 Generators.

1207.8.1 Location.

1. Generator shall not be installed within 5' of any building or structure without manufacturer's approval and as specified in the New Hampshire Fire Code.
2. Generator exhaust shall not be located within 5' of any building or structure.
3. Generator shall be located at least 10' from openings in walls. This section recognizes the potential danger of deadly carbon monoxide gas entering the structure and injuring the occupants. Building openings could be, but are not limited to, the following:
 1. Basement doors & bulkhead openings
 2. Basement windows
 3. Exit doors or sliding glass openings
 4. Operable windows
 5. Dryer vents
 6. Kitchen appliance vents
 7. Mechanical exhaust vents for heating or hot water appliances
 8. Air intake openings or screens

1207.9 Electrical system disconnecting means.

1207.9.1 Remote emergency shutdown. Generators with greater than 8 KW rating, other than cord connected portable generators shall be provided with a remote emergency stop switch to

shut down the prime mover. The remote emergency stop switch shall be located outside the equipment room or generator enclosure, an additional remote emergency shutdown device shall be installed next to the service disconnect, said device shall also meet the requirements of the NFPA 70.

1207.9.2 Emergency shutdown for One- and Two-Family dwelling units.

For other than cord-and-plug-connected portable generators, an emergency shutdown device shall be located outside the dwelling unit at a readily accessible location next to the service disconnect outside the dwelling, or next to the meter in existing dwelling where the service conductors enter the dwelling.

1207.9.3 Emergency disconnect - battery system. For one family and two family dwellings, a disconnecting means or its remote control for a stationary battery system shall be located at a readily accessible location outside the building next to the service disconnecting means or meter for emergency use. The disconnect shall be labeled “EMERGENCY DISCONNECT FOR BATTERY SYSTEM”

1207.9.4 Rapid shutdown of PV systems on buildings. PV system circuits installed on or in buildings shall include a rapid shutdown function to reduce shock hazard for firefighters in accordance with the NFPA 70. The rapid shutdown device shall be located at the service disconnect or meter location for a townhouse or one and two family dwelling.

1207.10 Device or equipment fill. For each yoke or strap containing large devices such as GFCI's, dimmer switches, motion sensors, and large 2-gang devices capable of containing one or more devices or equipment, 4 times the volume allowance.

1207.11 Marina protection. Where more than three receptacles supply shore power to boats, a leakage current measurement device shall be available (a meter specially designed for measuring leakage currents), and be used to determine leakage current from each boat that will utilize shore power. An automatic measuring device shall be installed on the docks that will trip the GFPE device feeding the docks. This device shall be installed in the water to measure the current introduced by the boats, and will disconnect the feeders from the utility source. This automatic device must run through a shunt trip breaker or other means that will disconnect the feeders to the docks. This device must be protected by a class-A GFCI for personal protection and shall not be installed on the shore power overcurrent device. The automatic measuring device must be protected from physical damage and be listed for its use. A visual strobe light and a horn shall be located on the device as this will warn personal that may be on the docks or in the water to the presence of electrical current. This device must be approved by the Building Official and installed in accordance with the manufacturers specifications.

1207.12 NFPA adoption. Pursuant to RSA 674:51-a, the City of Portsmouth, New Hampshire, hereby adopts the current final revised printed edition of the NFPA 70 / NEC, a Code promulgated by the International Code Conference.

**SECTION 1208
GREEN BUILDING**

1208.1 Incentives. This section is intended to incentivize and encourage the use of green building practices and materials.

1. Photovoltaic- Reserved
2. Electric Vehicle Chargers- Reserved
3. Mini-split Heat Pumps- Reserved
4. Insulation- Reserved
5. Water conservation including the use of reclaimed or recycled water- Reserved

1208.2 Allowance for future PV panels or EV charging station.

1208.2.1 New Construction- Reserved

1208.2.2 Existing Buildings- Reserved

SECTION 1209

SEPERABILITY Should any section, clause, or provision of this City Building Code be declared by a court of competent jurisdiction to be invalid, such invalidity shall not affect other provisions or applications of the City Building Code which can be given effect without the invalid provision or application, and to this end the provisions of the City Building Code are declared to be severable.

SECTION 1210 PROCEDURAL HISTORY OF ORDINANCE, CHAPTER 12

ADOPTED	YEAR	SECTION	AMENDED
7/09/90	1990		BOCA Basic Nat'l Bldg Code, 1990 Edition (replaces 1984 edition)
4/1/96	1996	114.3.1	Building Permit Fee Schedule
4/1/96	1996	2704.5	Electrical Permit Fees
5/5/97	1997		BOCA Nat'l Bldg Code, 1996 (replaces 1990 edition)
3/18/02	2002	112.31	Fees to be determined in accordance with Chapter 1, Article XVI or similar wording
3/18/02	2002	113.2.3	Fees to be determined in accordance with Chapter 1, Article XVI or similar wording
3/18/02	2002	116.6	Fees to be determined in accordance with Chapter 1, Article XVI or similar wording
3/18/02	2002	118.5	Fees to be determined in accordance with Chapter 1, Article XVI or similar wording
3/18/02	2002	2703.5	Fees to be determined in accordance with Chapter 1, Article XVI or similar wording
3/18/02	2002	2704.6	Fees to be determined in accordance with Chapter 1, Article XVI or similar wording
7/14/03	2003	Chapter 12	Amended Chapter 12 in its entirety and replaced with the 2000 International Building Code
10/4/04	2004	Chapter 12	Amend Chapter 12 by addition of a new sub-section R317 entitled Dwelling Unit Separation
10/19/09	2009	Chapter 12	Amend Chapter 12 Parts I in its entirety and replaced with 2006 International Building code
10/19/09	2009	Chapter 12	Amend Chapter 12 Part II in its entirety and replace with 2006 Residential Code
12/04/17	2017	Chapter 12	Amend Chapter 12 Parts I and II in entirety and replace with 2009 International Building Code
12/02/19	2019	Chapter 12	Update various sections in accordance with International Building Code 2015

SECTION 1210 PROCEDURAL HISTORY OF ORDINANCE, CHAPTER 15

ADOPTED	YEAR	SECTION	AMENDED
5/2/88	1988		Adopted 1987 Plumbing Code
4/1/96	1996	P114.0	Fees
5/5/97	1997		BOCA National Plumbing Code (1993) Part I, replaces the 1987 version; and International Mechanical Code (1996) Part II
3/18/02	2002	P113.2	Fees to be determined in accordance with Chapter 1, Article XVI or similar wording
3/18/02	2002	P114.5	Fees to be determined in accordance with Chapter 1, Article XVI or similar wording
7/14/03	2003	Chapter 15	Replaced Chapter 15 in its entirety with the 2000 International Plumbing Code, and 2000 International Mechanical Code
10/19/09	2009	Chapter 15	Replaced Chapter 15 in its entirety with the 2006 International Plumbing Code, and 2006 International Mechanical Code
12/04/17	2017	Chapter 15	Replace Chapter 15 in its entirety with 2009 Part I, Plumbing code and Part II Mechanical Code, Part II Fuel Gas Installations
12/04/17	2017	Chapter 15	Add Part IV, National Electrical Code 2017
12/02/17	2019	Chapter 15	Replace Chapter 15 in its entirety with 2015 International Plumbing Code, International Mechanical Code, National Fuel Gas Code, update Part IV National Electrical Code

ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That Chapter 5, 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):

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, 2015 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 “State Fire Code” as defined in NH RSA 153:1 VI-a, which includes the adoption by reference of the Life Safety Code NFPA 101 and the Uniform Fire Code NFPA 1, 2018 editions.

The City of Portsmouth **also** adopts the International Fire Code, **2015 2018** 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 101 GENERAL

Insert in blank space:

101.1 Title: “the City of Portsmouth, New Hampshire”

SECTION 102 APPLICABILITY

Add new subsections to read as follows:

102.7.3 Specific electrical code reference. 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.

102.7.4 Specific gas code reference. Wherever this Code references the *International Fuel Gas Code* the reader shall substitute that reference with the *National Fuel Gas Code*, NFPA 54.

Change section title to read as follows:

SECTION 103 BUREAU OF FIRE PREVENTION

Change subsection to read as follows:

103.1 General. The Bureau of Fire Prevention and Control is hereby created within the City of Portsmouth, New Hampshire Fire Department. It shall be the duty and responsibility of the Fire Chief, or any duly authorized representative, to enforce the provisions of this Code. The designated enforcement officer of this Code shall be referred to as the fire code official.

Add new sentence to end of subsection to read as follows:

103.3 Deputies. “Deputy officials shall include but not be limited to: the Deputy Fire Chief, **Assistant Fire Chiefs**, Fire Inspector, all Fire Officers, Chief Building Inspector, Assistant Building Inspector, Electrical Inspector, Plumbing/Mechanical Inspector, Public Works Director or City Engineer.”

SECTION 105 PERMITS

Change subsections to read as follows:

105.2.3 Time limitation of application. An application for a permit shall be deemed to have been abandoned one year after the date of filing, unless such application has been ~~diligently prosecuted~~ **completed** or a permit has been issued, except that the fire code official shall grant one (1) extension of time not exceeding twelve (12) months if there is reasonable cause and only when requested in writing prior to the application expiration date.

105.3.1 Expiration. An operational permit shall remain in effect until reissued, renewed, revoked or for such a period of time as specified on the permit. Construction/installation permits issued shall become invalid if the authorized work is not commenced within one year after issuance of the permit, or if the authorized work is suspended or abandoned for a period of one year after the time of commencing work

105.3.2 Extensions. The fire code official shall grant one (1) extension of time not exceeding twelve (12) months, if there is reasonable cause and only when requested in writing prior to the expiration date. Said extension will only be authorized when it does not conflict with any Federal, State, Local Laws or Ordinances.

105.4.1 Submittals. Construction documents and supporting data shall be submitted with each application for a permit and in such form and detail as required by the fire code official. The construction documents shall be prepared and stamped by a licensed professional engineer acceptable to the fire code official. **The requirement for stamped construction documents may be waived by the fire code official at his sole discretion on a case by case basis.**

~~105.4.6 Retention of construction documents. The fire code official shall mark up one (1) set of plans with the necessary comments. This set shall become the official permit plan set. It is the responsibility of the permit holder to transfer these comments to whatever medium he/she wishes. The permit holder is responsible for complying with the comments as shown on the official permit construction documents kept by the fire code official. Upon project completion, a complete set of "as built" construction documents will be provided to the fire code official in an approved electronic format.~~

~~105.6.32 Open Burning. The City of Portsmouth Fire Department shall issue open burning permits under the requirements of Section 307. Open burning permits shall be issued by New Hampshire Division of Forests and Lands or the City of Portsmouth Fire Department and shall comply with the requirements of section 307.~~

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

SECTION 408-109 BOARD OF APPEALS

Add sentence to end of subsection to read as follows:

~~408.1-109.1 Board of appeals established. Refer to Appendix A of this Code and Chapter 12 of the Portsmouth City Ordinances (International Building Code) for the establishment of the Board of Appeals. The City's Building Code Board of Appeals will hear and decide appeals or orders, decisions or determinations made by the fire code official relative to the application and interpretation of this code.~~

SECTION 409-110 VIOLATIONS

Change subsection to read as follows:

~~409.4-110.4 Violations 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 a building or structure in violation of an approved plan or directive of the code 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.~~

SECTION 307 OPEN BURNING

Change subsections to read as follows:

307.1 General All open burning shall conform to all applicable State Laws (RSA 227-L) and Administrative Rules of the NH Department of Resources and Economic Development, Division of Forests and Lands and any other Federal, State, Local laws or ordinances which are applicable.

Add subsection as follows:

307.1.1-307.1.2 Prohibited Open Burning. Due to narrow roadways, restricted access to rear yards, and the proximity of structures, open burning is prohibited in the “South End” of the City. This area is defined as south of State Street, east of Pleasant Street, east of Junkins Avenue, and north of South Street. Also included is the area along Marcy Street to New Castle Avenue.

307.2 Permit required. Open burning in accordance with state and local regulations shall be allowed after obtaining a permit from the ~~Fire Department~~ **New Hampshire Division of Forests and Lands or the City of Portsmouth Fire Department.**

~~Delete subsections 307.4 through 307.5 without substitution.~~

SECTION 503 FIRE APPARATUS ACCESS ROADS

Add new subsection to read as follows:

503.7 Fire Lanes. Fire lanes shall be maintained in areas so posted. All fire lanes shall conform to Chapter 7, Article XV, of the City Ordinances; ~~Vehicles, Traffic & Parking; Emergency Lanes.~~

~~SECTION 605 ELECTRICAL EQUIPMENT, WIRING AND HAZARDS~~

~~Change subsection to read as follows:~~

~~**605.11 Solar photovoltaic power systems.** Solar photovoltaic power systems shall be installed in accordance with Sections 605.11.1 through 605.11.2, the International Building Code, and NFPA 70.~~

~~**605.11.1.2 Solar photovoltaic systems for Group R-3 buildings.**~~

~~Delete Exception without substitution.~~

~~Change subsection to read as follows:~~

~~**605.11.1.2.2 Hip roof layouts.** Panels and modules installed on Group R-3 buildings with hip roof layouts shall be located in a manner that provides a 3.5-foot-wide (1067 mm) clear access pathway from the eave to the ridge on each roof slope where panels and modules are located. The access pathway shall be at a location acceptable to the fire code official.~~

~~Delete Exception and replace with the following:~~

~~Exceptions:~~

- ~~1. Access pathway requirement may be waived when the structure is protected by a code compliant automatic sprinkler system.~~
- ~~2. Where the strict application of this section is impractical, modifications in accordance with section 104.8 may be approved by the fire code official.~~

Change subsection to read as follows:

~~605.11.1.2.3 Single-ridge roofs. Panels and modules installed on Group R-3 buildings with a single ridge shall be located in a manner that provides one, 3.5-foot wide (1067 mm) access pathway from the eave to the ridge on each slope where panels and modules are located. The access pathway shall be at a location acceptable to the fire code official.~~

Delete Exception and replace with the following:

Exceptions:

- ~~1. Access pathway requirement may be waived when the structure is protected by a code compliant automatic sprinkler system.~~
- ~~2. Where the strict application of this section is impractical, modifications in accordance with section 104.8 may be approved by the fire code official.~~

Edit subsection as follows:

~~605.11.1.2.4 Roofs with hips and valleys.~~

Delete Exception without substitution.

SECTION 609-607 COMMERCIAL KITCHEN HOODS

Change subsection to read as follows:

[M] 609.1-607.1 General. Commercial kitchen exhaust hoods shall comply with the requirements of the *International Mechanical Code* and NFPA 96, *Ventilation Control and Fire Protection of Commercial Cooking Operations*.

SECTION 903 AUTOMATIC SPRINKLER SYSTEMS

Change subsection to read as follows:

903.2.1.1 Group A-1. An automatic sprinkler system shall be provided for fire areas containing Group A-1 occupancies and intervening floors of the building where one of the following conditions exists:

1. The fire area exceeds 10,000 square feet (928 m²)
2. The fire area has an occupant load of 300 or more.

3. The fire area is located on a floor other than a level of exit discharge serving such occupancies.
4. The fire area contains a multi-theater complex.

Change subsection to read as follows:

903.2.1.2 Group A-2. An automatic sprinkler system shall be provided for all Group A-2 occupancies and intervening floors of the building.

Change subsection to read as follows:

903.2.7 Group M. An automatic sprinkler system shall be provided throughout buildings containing a Group M occupancy where one of the following conditions exist:

1. A Group M fire area exceeds 5,000 square feet (464 m²)
2. A Group M fire area is located more than three stories above grade plane.
3. The combined area of all Group M fire areas on all floors, including any mezzanines, exceeds 10,000 square feet (928 m²).
4. A group M occupancy used for the display and sale of upholstered furniture or mattresses exceeds 2,500 square feet (232 m²)

Change subsection to read as follows:

903.2.9 Group S-1. An automatic sprinkler system shall be provided throughout all buildings containing a Group S-1 occupancy where one of the following conditions exists:

1. A Group S-1 fire area exceeds 10,000 square feet (928 m²)
2. A Group S-1 fire area is located more than three stories above or any number of stories below grade plane.
3. The combined area of all Group S-1 fire areas on all floors, including any mezzanines, exceeds 20,000 square feet (1856 m²)
4. A Group S-1 fire area used for the storage of commercial motor vehicles where the fire area exceeds 5,000 square feet (232 m²)
5. A Group S-1 occupancy used for the storage of upholstered furniture or mattresses exceeds 2,500 square feet (232 m²)

Change subsection to read as follows:

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 905 STANDPIPE SYSTEMS

Add new subsection to read as follows:

905.42-905.13 Threads. Threads provided for fire department connections to standpipe systems shall be compatible with equipment used by the Portsmouth Fire Department. Hand line hose threads for 2-1/2" diameter hose shall be

National Standard thread. Hand line hose threads for 1-1/2" or 1-3/4" diameter hose shall be Iron Pipe thread.

SECTION 907 FIRE ALARM AND DETECTION SYSTEMS

Edit subsection as follows:

907.2.1 Group A.

Delete Exception without substitution.

Change subsection to read as follows with Exception remaining unchanged:

907.2.1.1 System initiation in Group A occupancies with an occupant load of 300 or more. Activation of the fire alarm in Group A occupancies with an occupant load of 300 or more shall initiate a signal using an emergency voice/alarm communications system in accordance with Section 907.5.2.2.

Edit subsection as follows:

907.2.2 Group B.

Delete Exception without substitution.

Edit subsection as follows:

907.2.3 Group E.

Delete Exception 3 and 4 without substitution.

Edit subsection as follows:

907.2.4 Group F.

Delete Exception without substitution.

Edit subsection as follows:

907.2.6.1 Group I-1.

Delete Exception 1 without substitution.

Edit subsection as follows:

907.2.6.2 Group I-2.

Delete Exceptions 1 and 2 without substitution.

Edit subsection as follows:

907.2.6.3.3 Automatic smoke detection system.

Delete Exceptions 2 and 3 without substitution.

Edit subsection as follows:

907.2.7 Group M.

Delete Exceptions 1 and 2 without substitution.

Edit subsection as follows:

907.2.8.1 Manual fire alarm system.

Delete Exception 2 without substitution.

Add new subsection to read as follows:

907.2.8.2.1 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 device.

Change subsection to read as follows:

907.2.9.1 Manual fire alarm system.

3. The building contains more than 11 dwelling units or sleeping units.

Exceptions:

1. *This exception remains unchanged.*
2. *Delete this exception without substitution.*
3. *This exception remains unchanged.*

Change subsection to read as follows:

907.2.9.3 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.

Change Add item 4 of to subsection to read as follows:

~~907.2.11.4~~907.2.10.1 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 alarms in common areas shall be interconnected but shall not be interconnected with guest room smoke ~~detectors~~ alarms.

Change item 4 of subsection to read as follow:

~~907.2.11.2~~907.2.10.2 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 alarms** in common areas shall be interconnected but shall not be interconnected with dwelling unit smoke **detectors alarms**. In some Group R-2 or R-3 occupancies, as determined by the fire official, additional single-or multiple-station smoke alarms may be required in the basement, interconnected with a dwelling unit(s) alarm(s).

Change-Add subsection and Exception to read as follows:

~~907.2.11.2.1~~ **907.2.10.2.1 Groups E, I-2 and I-4.** Single-or 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 Section 202.

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

~~SECTION 915 CARBON MONOXIDE DETECTION~~

Change subsection to read as follows:

~~915.1 General. Carbon monoxide detection shall be installed in new buildings in accordance with Section 915.1.1 through 915.6 and Saf-C 6015. Carbon monoxide detection shall be installed in existing buildings in accordance with Section 1103.9 and Saf-C 6015.~~

SECTION 3310 ACCESS FOR FIREFIGHTING

Change subsection to read as follows:

3310.1 Site access and hydrant operation. When roads are created or extended during the construction of new developments and subdivisions, adequate site access for emergency vehicles shall be maintained at all times during construction. The fire department will be the determining agency when evaluating the adequacy of site access. As construction progresses, water hydrants required by the site plan shall be installed, activated, tested and maintained with adequate hydrant access as determined by the fire department. The City of Portsmouth reserves the right to "call" the site bond at any time during construction, when the owner refuses to provide adequate site access and water supply, as deemed necessary by the fire department, for the protection of life and property.

SECTION 5601 GENERAL

Amend subsection as follows:

5601.1.3 Fireworks. *Delete exception 4 with remainder of subsection unchanged.*

Change subsection to read as follows:

5601.2.4.1 Blasting. Blasting operations are regulated in Chapter 5, Article VII, Section 5:70~~2~~**1** of the Portsmouth City Ordinances. Refer to this ordinance for additional blasting regulations and the permitting process.

SECTION 5608 FIREWORKS DISPLAYS

Add sentences to end of subsections to read as follows:

5608.1 General. The display, sale and discharge of 1.4G fireworks is prohibited within the City of Portsmouth, NH. The display and discharge of 1.3G fireworks shall meet the requirements of all Federal, State, Local Laws, Ordinances and Administrative Rules.

~~3308.2.1-5.608.2.1~~ **5.608.2.1 Outdoor displays.** Application for fireworks displays shall be made in writing at least 15 working days in advance of the date of the display or discharge of 1.3G fireworks, on the current version of the State of NH approved form. The discharge of fireworks shall be lawful under the terms and conditions approved. Approval granted hereunder shall not be transferable, nor shall any approval be extended beyond the dates set out therein.

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) 271-7965
blgcodebrd@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)

New Hampshire Energy Code

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

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

NH Department of Labor
Boiler & Elevator Division
PO Box 2076

Concord, NH 03302-2076
(603) 271-2585

Amend in the NFPA Section the following referenced Standards:

~~54-15~~ **54-18** National Fuel Gas Code

~~70-17~~ **70-20** National Electric Code

~~96-14~~ **96-17** Ventilation Control and Fire Protection of Commercial Cooking Operations

APPENDIX A - BOARD OF APPEALS

Appendix A is adopted as part of this ordinance subject to the following amendments:

Delete all subsections and replace with the following subsection to read as follows:

SECTION A101 GENERAL

A101.1 Scope. Refer to City Ordinance Chapter 12, ~~Section 1202.7~~ **Part 1, Appendix B as amended, (City Building Code)**, for the establishment of the Board of Appeals.

APPENDIX B – FIRE-FLOW REQUIREMENTS FOR BUILDINGS

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

APPENDIX C – FIRE HYDRANT LOCATIONS AND DISTRIBUTION

Appendix C is not adopted as part of this ordinance. New water hydrant locations are regulated through the City Planning / Site Development process.

APPENDIX D - FIRE APPARATUS ACCESS ROADS

Appendix D is adopted as part of this ordinance.

APPENDIX E – HAZARD CATEGORIES

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

APPENDIX F – HAZARD RANKING

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

APPENDIX G – CRYOGENIC FLUIDS-WEIGHT AND VOLUME EQUIVALENTS

Appendix G 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:

Deaglan McEachern, Mayor

ADOPTED BY COUNCIL:

Kelli L. Barnaby, City Clerk



CITY OF PORTSMOUTH

City Hall, One Junkins Avenue
Portsmouth, New Hampshire 03801
kconard@cityofportsmouth.com
(603) 610-7201

Karen S. Conard
City Manager

Date: December 8, 2022

To: Honorable Mayor McEachern and City Council Members

From: Karen S. Conard, City Manager *KSC*

Re: City Manager's Comments on City Council Agenda of December 14, 2022

X. Public Hearings and Votes on Ordinances and/or Resolutions:

A. Third and Final Reading of Ordinance Amending Chapter 12 and Chapter 15, the City's Building Code:

The City's building code ordinance was last amended in December of 2019. At that time, the City Council adopted amendments to our building code ordinances (Chapters 12 and 15) to reflect the current version of the State Building Code and to update our local regulations and amendments to those codes. This version consists of 55 pages in two separate Chapters.

The Inspection Department has received complaints from the public that the City's existing building code ordinances are too long and are not user friendly. When the public cannot find local requirements and Code amendments, the building code ordinance is more difficult to administer. This is caused in part because our current ordinances track and amend different sections of the State Building Code that repeat the same language.

In July of 2022, the State of New Hampshire adopted the 2018 version of the International Codes and other national codes ("State Building Code"). The adoption of these new codes create an opportunity for the City to update and revise our existing building code ordinance.

This proposed amendment, as presented, removes Chapter 15 in its entirety, resulting in one completely revised building ordinance – a new Chapter 12 consisting of approximately 20 pages. Chapter 12, as rewritten, will be the City Building Code which adopts the current State Building Code as well as our local regulations and amendments to the State Building Code, which are permitted when they are stricter than the State Building Code.

The statutes governing local amendments to the State Building Code will be amended as of January 1, 2023. The current statute requires only that local building code ordinances be filed with the State Building Code of Review ("Board").

The amended statute creates a complicated process whereby all local building code amendments must be reviewed by the Board prior to passage in order to verify that the local requirements do not “conflict” with the current State Building Code. There is no definition of “conflict” in the amended statute, thus calling into question the ability of municipalities to make any local regulations and amendments to the State Building Code.

At the City Council’s December 5, 2022 City Council meeting, Shanti Wolph, the City’s Building Inspector, provided a presentation on these amendments.

I recommend that the City Council move to pass third and final reading of the ordinance as presented.

B. Third and Final Reading of Ordinance Amending Chapter 5, Article I – Fire Department, Section 5.101 - Personnel and Chapter 5, Article IX – Fire Code:

The City’s fire code ordinance was last amended in December of 2019. In July of 2022, the State of New Hampshire adopted the State Fire Code, which adopts by reference the Life Safety Code, NFPA 101, 2018 edition, and the Uniform Fire Code NFPA 1, 2018 edition. When the State Fire Code is updated, the Fire Department reviews and makes housekeeping amendments to Chapter 5. The City does not adopt any amendments to the State Fire Code. However, in addition to the adoption of the State Fire Code, the City also adopts the International Fire Code.

The Fire Department is recommending that the City [amend Chapter 5, Article I – Section 5.101 and Chapter 5, Article IX](#) to adopt the current State Fire Code and the updated version of the International Fire Code, 2018 Edition. The amendments are primarily housekeeping edits to reference the correct section of the International Fire Code, 2018 edition. Some local amendments have been deleted as they are now included within the published codes and are no longer necessary. Additionally, we have deleted the local amendments regarding solar installations as the State has amended these requirements within the State Fire Code.

I recommend that the City Council move to pass third and final reading of the ordinance as presented.

XI. City Manager’s Items which Require Action:

1. Greenleaf Recreation Center Concession Agreement with Operation Blessing, Inc.:

The Greenleaf Recreation Center Concession Agreement with Operation Blessing, Inc. has expired. The [proposed renewal Agreement is attached](#).

The Agreement is based on terms required by the federal government that authorize the use by Operation Blessing, Inc. of the City’s facility located on Greenleaf Avenue for operation of a recreation facility. The programming at the Greenleaf Recreation Center serves persons with disabilities, youth recreation and out of school programs and adult programming, including the use of the facilities for residential groups. The location of the Greenleaf Recreation Center is in close proximity for residents of Portsmouth Housing Authority’s Wamesit Place.

The use of the Greenleaf Recreation Center will continue as in prior years, with activities that include but are not limited to:

- Recreation and socialization programs for young adults with disabilities;
- Various types of youth programs, including play groups, out of school programs, exercise programs, recreational activities and trips; and
- Support groups and life skill programing for adults and families.

Changes to the Agreement include making it more consistent with other City leases/licenses by permitting Operation Blessing, Inc. to terminate the Agreement, extending the term from 2 years to 5 and reducing the limits of liability to be consistent with other leases to \$2,000,000 from \$5,000,000. Operation Blessing, Inc. has updated its list of programs and will now provide the City with Annual Participation Reports relative to public participation in its programs and a copy of its Strategic Plan. These reports and plan will assist the City and Operation Blessing, Inc. in evaluating and evolving programs for the benefit of the community.

I recommend that the City Council move to accept the renewal extension of the Greenleaf Recreation Center Concession Agreement with Operation Blessing, Inc. as presented.

2. **Request for Public Hearing for Supplemental Appropriation Regarding McIntyre Project:**

In April of 2022, the City and SoBow Square, LLC (SoBow) executed a Settlement Agreement that resolved a law suit brought by SoBow against the City, related to the McIntyre project. Over the last seven months, the City, SoBow, and its partners completed a design for what is commonly referred to as the “Community Plan.”

The preliminary cost estimates for construction of the Community Plan vary widely. As discussed at the December 5th City Council meeting, the City requested and was granted an extension of the License with (GSA) for the McIntyre building, and for the submission of its application to the National Park Service (NPS) for an additional ninety days.

During the next three months, the City will engage in discussions and negotiations with SoBow regarding the design, the division of capital contributions to the project, the division of the expected revenue returns, and other pending elements of the project. The City will contract with qualified consultants to assist in these negotiations.

The expected expenses are estimated to be up to \$50,000 per party per month. [A copy of the supplemental appropriation for \\$150,000](#) is attached and recommended to pay for these costs.

I recommend that the City Council move to schedule a public hearing at the January 9, 2023 City Council regarding the proposed supplemental appropriation.

3. **Temporary Construction License for 46 State Street:**

Applicant, Auger Building Company, Inc., under Encumbrance Permit ENCM 22-77, is performing exterior brickwork improvements to property located at [46 State Street](#), shown on the City of Portsmouth Assessor’s Map as Tax Map 0105, Lot 0011 (“Subject Property”).

Applicant has encumbered the sidewalk and three parking spaces in front of the Subject Property for 30 working days. The encumbrance permit expires on December 15, 2022 and [the Applicant is seeking a license to extend the encumbrance beyond 30 days](#) due to delays caused by unanticipated repairs required for exterior walls. The Applicant seeks to encumber three parking spaces and the sidewalk in front of the Subject Property for another 75 days (December 16, 2022 through February 28, 2023). The sidewalk encumbrance will be in two phases; for the first 30 days the sidewalk will be encumbered and public access will be prohibited, and for the remaining 45 days of the requested term there will be pass through staging and public access to the sidewalk.

Licenses are subject to the “License Fee for Encumbrance of City Property” policy. Under this policy, a daily fee is calculated per square foot of encumbered sidewalk at .05 per square foot per day and \$50 a day per parking space. The Applicant has requested to encumber three parking spaces in front of the Subject Property. The license fee for the parking spaces is \$11,250 (3 x \$50 = \$150 x 75 days = \$11,250). The Applicant also has requested to encumber 280 square feet of sidewalk in two phases. The first phase will be for 30 days (December 16, 2022 through January 14, 2023) without public access. The license fee to complete phase one is \$420 (280 square feet x .05 = \$14 day x 30 days = \$420). For the second phase for the remaining 45 days of the requested license term the Applicant will erect pass through staging (\$14 day x 45 days = \$630). The total license fees for the three parking spaces and both phases of the sidewalk encumbrance equals \$12,300. However, when the public has access to sidewalks with pass through staging, license fees are typically waived. The total license fee waiving the portion of the license fee when the public has access through pass through staging is \$11,670.

The Legal and Planning Departments have reviewed and approved the form of [the attached License](#).

If the Council agrees to grant the temporary construction license to encumber the sidewalk and three parking spaces that abut 46 State Street, an appropriate motion would be:

Move that the City Manager be authorized to execute and accept the temporary construction license to encumber the sidewalk and three parking spaces that abut 46 State Street as requested.

4. Request for a Work Session Regarding Disposition of Sherburne School:

In regards to a request made by the Council at the October 24th City Council meeting, I would like to request a work session on the disposition of the Sherburne School be scheduled for January 12, 2023 at 7:00 p.m.

I recommend that the City Council move to schedule a work session regarding the disposition of the Sherburne School on January 12, 2023 at 7:00 p.m.

XII. Consent Agenda:

A. Projecting Sign Request for 123 Market Street Unit A:

Permission is being sought to install a projecting sign at [123 Market Street Unit A](#) that extends over the public right of way, as follows:

Sign dimensions: 36" x 36"

Sign area: 9 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 signs, 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.*

XIII. Presentations and Written Communications:

A. Presentation Regarding Staff Recommendations for 2023 Outdoor Dining Season:

Beverly Mesa-Zendt, the City's Planning Director, will provide a presentation on the City's recommendations for the 2023 outdoor dining season at this evening's meeting.

If the City Council wishes to take action on outdoor dining for next season at this evening's meeting, I recommend that the City Council move to adopt the recommendations outlined on page 8-10 of [the 2023 Outdoor Dining Season Report](#).

Greenleaf Recreation Center Concession Agreement

This Concession Agreement, hereinafter referred to as the "Agreement" is made and entered into this ____ day of _____, 2022, between the City of Portsmouth, a municipal corporation with a principal place of business at 1 Junkins Avenue, Portsmouth, County of Rockingham and State of New Hampshire 03801 hereinafter referred to as the "City", and Operation Blessing, Inc. a non-profit 501(c)(3) corporation with a principal place of business at 600A Lafayette Road, Portsmouth, County of Rockingham and State of New Hampshire 03801, hereinafter called the "Concessionaire."

Witnesseth:

Whereas, the City, owns certain land totaling 3.51 acres, obtained by the City from the United States of America (hereinafter referred to as the "USA"), as surplus property, known as the Greenleaf Recreational Center (hereinafter the "Premises"), and deeded to the City on August 17, 1999 by quitclaim deed which is attached and hereinafter referred to as Exhibit A; and

Whereas, Condition No. 3 of said Deed provides that the City "will not sell, lease, assign or otherwise dispose of the premises, except to another eligible government agency. However, nothing in this provision shall preclude the City from providing related recreational facilities and services compatible with the approved application, through concession agreements entered into with third parties, provided prior concurrence to such agreements is provided in writing by the Secretary of the Interior or his/her delegated representative."

Whereas, the City and Concessionaire desire to provide a recreational facility on a portion of the Premises for the use and benefit of the general public.

Whereas, the City is satisfied that provision of additional services and facilities at the Premises is in the City's best interest;

NOW, THEREFORE, for the reasons set forth above, and in consideration of the mutual covenants and agreements as hereinafter set forth, the City agrees to allow Concessionaire to provide recreational services and facilities hereinafter to be described upon a portion of the real property shown on Exhibit B attached hereto and incorporated herein by this reference.

1. **Location**: The City does hereby assign to the Concessionaire the use of the Premises, excluding any of the skateboard park as shown on Exhibit B.
2. **Use of Premise**: Concessionaire shall use, occupy and maintain the premises/portion of Premises subject to this Agreement in a business like, careful, clean and non-hazardous manner for the sole purpose of providing a recreational facility as described in Exhibit C in strict accordance with all terms and provisions imposed by the Department of the Interior as set forth in Exhibit A. Written approval by the City and written concurrence by the Secretary of the Interior or his/her delegated representative, NPS (National Park Service), shall be required for any other proposed use in conjunction with or in addition to those specified above.

The general public will be allowed to use the Premises for park and recreational use at all times, except when any area of the Premises is actively being used by the Concessionaire or the Concessionaire has closed the entirety of the Premises.

Concessionaire shall provide an Annual Participation Report to the City Manager on January 1st of each year of the term of this Agreement in order to provide statistics relative to public participation in the programs offered in Exhibit C. This Annual Participation Report will be incorporated into this Agreement as Exhibit D. Concessionaire shall also provide the

City Manager with a Strategic Plan within six (6) months after the execution of this Agreement. The Strategic Plan will be incorporated into this Agreement as Exhibit E.

3. **Term:** The term of this agreement shall extend from December 15, 2022 to December 31, 2027.
4. **Concession Payments:** Concessionaire shall pay the City the total sum of \$1 per year payable on the execution of this Agreement and each annual year of that date.
5. **Concessionaire's records and documents:** With respect to all matters covered by this Agreement Concessionaire's records and documents shall be subject at all times to inspection, review or audit by the City. Concessionaire will supply City any documentation that may be needed by the City to file required compliance reports to the Secretary of the Interior or his/her delegated representative, NPS.
6. **Operations and Maintenance:** Concessionaire shall be responsible for all operation and maintenance of the Premises as described in this Agreement during the term of the Agreement except:
 - A. The City shall provide snow plowing services to the Premises.
 - B. The City shall provide tree and shrubbery removal/maintenance on the Premises, as determined necessary by the City.
 - C. Quarterly, on a date to be determined by the City, the City shall reimburse the Concessionaire the sum of up to \$2,500.00 based on proven expenditures in complete satisfaction of the City's obligation towards maintenance or utility expenses in any kind concerning the Premises.
7. **Licenses and Permits:** All necessary licenses and permits to operate concession must be obtained from the appropriate offices before operation may begin. All licenses are subject to all applicable local, state and federal law.
8. **Non-discrimination:** The City and Concessionaire agree to comply with all federal laws relating to nondiscrimination in connection with any use, operation, program, or activity on or related to the previously described property, including, but not limited to:

All requirements imposed by or pursuant to the non-discrimination regulations of the U.S. Department of the Interior (43 C.F.R. Part 17);

Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d-1)¹ which prohibits discrimination on the basis of race, color, or national origin;

The Age Discrimination Act of 1975, as amended (42 U.S.C. § 6101 et seq.), which prohibits discrimination on the basis of age;

Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicap;

The Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151), which requires facilities located on the property to be accessible to the physically handicapped; and

The Americans with Disabilities Act of 1990 (42 U.S.C. 12181), which requires that no otherwise qualified handicapped individual shall, solely by reason of his or her handicap, be excluded from the participation in, be denied benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance.
9. **Alterations and Improvements:** Concessionaire may not make alterations or improvements to the Premises subject to this Agreement without written consent of the City

Manager of the City of Portsmouth.

10. **Reversion:** Concessionaire acknowledges that the Premises are subject to the possibility of reversion *with improvements without compensation* by the USA should there be a material breach or noncompliance by the City or the Concessionaire caused by not adhering to covenants and agreements contained within Exhibit A.
11. **Maintenance, Repair and Trash:** The Concessionaire shall at its sole cost and expense maintain the assigned property in good condition, dispose of trash and recyclables, and perform such repairs that become necessary from time to time during the term of this Agreement and any renewals hereof as set forth herein. There shall be no trash dumpster located on the Premises. Concessionaire shall keep Premises lawn regularly mowed and grounds clean.
12. **Inspection of Concession Areas:** Concessionaire shall allow the City Manager of the City of Portsmouth or his designee and/or the Secretary of the Interior's designated representative, NPS, at any and all reasonable times to inspect any facility operated under this Agreement.
13. **Indemnity:** Concessionaire hereby expressly agrees to indemnify, save and hold harmless, and defend the City against all fines, claims, damages, losses, judgments, and expenses arising out of, or from, any omission or activity of such person, organization, its representatives, or employees in any way connected with this Agreement.
14. **Insurance:** Concessionaire shall, at its own expense, provide such public liability insurance that will protect Concessionaire and the City from all claims for damages to property and persons, including death, and particularly the use of products prepared, and/or sold, which may arise in the operation of the activities conducted under this Agreement or anyone directly or indirectly employed by Concessionaire. All policies shall name the City as a named insured. The public liability insurance shall provide limits of not less than \$2,000,000 per occurrence. Property damage liability insurance shall provide a limit of not less than the full replacement value of the building located on the Premises as determined by the Public Works Director of the City.

Concessionaire agrees at all times to provide evidence to the City that insurance is current based on subsequent renewal information.

15. **Assignment and Subletting:** Concessionaire shall not assign this Agreement or any interest therein, nor let or sublet the said Premises or any part thereof or any right or privilege appurtenant thereto, nor permit the occupancy or use of any part thereof by any other person. Said let or underlet shall be grounds for termination of Agreement by the City or possible reversion by the USA.
16. **Amendment to Concession Agreement:** This Agreement contains all the terms and conditions between the parties, and no alteration, amendment, or addition shall be valid unless in writing and signed by both parties with written concurrence by the Secretary of the Interior or his/her delegated representative, NPS.
17. **Laws and Regulations:** Concessionaire is aware of and agrees that it will use the assigned Premises so as to conform with deeded environmental and usage controls and not violate any laws, regulations and /or requirements of the United States of America and/or State of New Hampshire and/or any ordinance, rule or regulation of the City now or hereafter made, relating to the use of the Premises.
18. **Signage:** Concessionaire shall place no sign or advertisement upon any location of the Premises unless prior written approval has been granted by the City Manager of the City of Portsmouth. The City shall have the right, without first notifying Concessionaire, to remove at the expense of Concessionaire, any sign or signs that may be erected without prior

approval.

19. **Surrender: Waste:** Concessionaire agrees that upon expiration of this Agreement or earlier termination thereof, it shall surrender the assigned Premises to the City in as good or better condition as they were in at the time of execution of this document, ordinary wear excepted.
20. **Liens:** Concessionaire shall keep the assigned Premises free from any and all liens arising out of any work performed, materials furnished, or obligations incurred by Concessionaire during the term of this Agreement or any extension or renewal thereof.
21. **Waiver:** Failure of either party to complain of any act or omission on the part of the other party, no matter how long the same may continue, shall not be deemed to be a waiver by said party of any of said party's rights hereunder. No waiver by either party at any time, expressed or implied, of any breach of any provision of this Agreement shall be deemed a waiver of breach of any other provision of this Agreement or a consent to any subsequent breach of the same or any other provision. If any action by either party shall require the consent and approval of the other party, the other party's consent to or approval of such action on any one occasion shall not be deemed to be a consent to or approval of said action on any subsequent occasion. Any and all rights and remedies which either party may have under this Agreement, upon any breach, shall be distinct, separate and cumulative and shall not be deemed inconsistent with each other; and no one of them, whether exercised by said party or not, shall be deemed to be an exclusion of any other.
22. **Termination:** This Concession Agreement shall terminate automatically upon the occurrence of any of the following events:
 - a. The City or Concessionaire unilaterally terminate the Agreement upon thirty (30) days written notice for any cause whatsoever or without cause and specifying the date of termination.
 - b. Concessionaire materially violates any provision of the Agreement.
 - c. The expiration of the term of this Agreement or any renewal thereof.
23. **Acknowledgement:** This Agreement and the obligations of the parties hereto are subject to the terms and conditions set forth in the deed from the United States of America to the City of Portsmouth attached hereto as Exhibit A and the current Program of Utilization which governs the use of the assigned property. Violations of the said terms and conditions may be grounds for reversion to the United States of America, at its discretion and termination of this Agreement. Concessionaire owned personal and real property improvements associated with the real property, may be subject to seizure, without compensation, by the USA.
24. **Notice:** Any notice by either party to the other shall be in writing and shall be deemed to be given only if delivered personally or mailed by registered or certified mail as follows:

City:	Karen Conard City Manager City of Portsmouth 1 Junkins Avenue Portsmouth, NH 03801
-------	--

Concessionaire:	Operation Blessing, Inc. 600A Lafayette Road Portsmouth, NH 03801
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Other addresses may be established as the parties hereto may designate by written notice to the other party and delivered in accordance with the provisions of this paragraph.

IN WITNESS WHEREOF, the City has authorized its City Manager representing the City to sign this Agreement and Concessionaire has approved the Agreement and signed as of the date first noted above.

WITNESS:

CITY OF PORTSMOUTH

By: _____
Karen Conard
City Manager

By authorization of the City Council
on _____.

1 Junkins Avenue
Portsmouth, NH 03801

WITNESS:

OPERATION BLESSING, INC.

By: _____
Dennis H. Hoskin, President

600A Lafayette Road
Portsmouth, NH 03801

0 7 1 0 1 1 0 1



QUITCLAIM DEED

ROCKINGHAM COUNTY
REGISTRY OF DEEDS

0059541

The UNITED STATES OF AMERICA, hereinafter referred to as Grantor, acting by and through the Assistant Director for Recreation and Conservation, National Park Service, with offices at 1849 C Street, N.W., Washington, D.C., pursuant to authority delegated by the Secretary of the Interior, and as authorized by the Federal Property and Administrative Services Act of 1949, as amended, 40 U.S.C. § 484(k)(2), and regulations and orders promulgated thereunder, for and in consideration of the use and maintenance of the property herein conveyed exclusively for public park or public recreation purposes in perpetuity by the City of Portsmouth, hereinafter referred to as Grantee, does hereby remise, release and quitclaim to Grantee, its successors and assigns, subject to the reservations, exceptions, restrictions, conditions and covenants hereinafter set forth, all right, title and interest of the Grantor in and to the following described property situated in Portsmouth, Rockingham County, New Hampshire, and more particularly described as follows:

All that certain tract, piece or parcel of land, situated and being in the City of Portsmouth, Rockingham County in the State of New Hampshire, together with the buildings and improvements thereon, situated in the said City of Portsmouth, as illustrated on a plan entitled "Plan of Land for State of New Hampshire -- Greenleaf Avenue and Holiday Drive -- Portsmouth, New Hampshire" by K.E. Moore, January 1983, and more particularly bounded and described as follows:

Beginning at a railroad spike at the southwest corner of the intersection of Greenleaf Avenue and Holiday Drive; thence S 29° 38' 00" E a distance of 539.18 feet along the westerly sideline of Holiday Drive to an iron rod; thence S 75° 44' 10" W a distance of 288.52 feet to an iron rod; thence N 88° 57' 05" W a distance of 22.71 feet to an iron rod, the last two courses being along the northerly boundary of a sewer easement; thence N 29° 49' 20" W a distance of 485.55 feet to an iron rod in the southerly sideline of Greenleaf Avenue, the last course being along land now or formerly of Arthur & Carol Cole; thence N 71° 30' 00" E a distance of 72.00 feet to an iron rod; thence N 66° 30' 00" E a distance of 75.62 feet to a railroad spike; thence N 65° 00' 00" E a distance of 154.00 feet to the point of beginning, the last three courses being along the southerly sideline of Greenleaf Avenue. Containing 3.51 acres, more or less.

Meaning and intending to describe the premises conveyed to the Grantor by the State of New Hampshire by deed dated May 31, 1983, and recorded in Rockingham County Registry of Deeds Volume 2446, Page 1173, and representing Portsmouth Tax Map R-43, Lot 4. The Grantor hereby conveys to the Grantee all the right, title, and interest of the Grantor in and to the use of any alleys, streets, ways, and gores abutting or adjoining the land.

AUG 17 3 37 PM '99.

Bk 4 | 6 PG | 162

TOGETHER WITH the appurtenances and improvements thereon, and all the estate and rights of the Grantor in and to said premises, but

SUBJECT TO any and all outstanding reservations, easements and rights-of-way, recorded and unrecorded, for public roads, railroads, pipelines, drainage ditches, sewer mains and lines, and public utilities affecting the property herein conveyed.

TO HAVE AND TO HOLD the above premises, subject to the following specified easements, exceptions, restrictions, conditions, covenants, and reservations reserved in and to the United States of America, herein enumerated and set forth, unto the Grantee, its successors and assigns, forever.

Pursuant to authority contained in the Federal Property and Administrative Services Act of 1949, as amended, and applicable rules regulations and orders promulgated thereunder, the General Services Administration determined the property to be surplus to the needs of the United States of America and assigned the property to the Department of the Interior for conveyance to Grantee. It is understood and agreed by and between the Grantor and Grantee, and Grantee by acceptance of this deed does acknowledge that it fully understands the terms and conditions set forth herein and does further covenant and agree for itself, and its successors and assigns, forever, as follows:

1. The property shall be used and maintained exclusively for public park and recreation purposes in perpetuity as set forth in the program of utilization and plan contained in Grantee's application submitted by Grantee dated March 10, 1999, which program and plan may be amended from time to time at the request of either the Grantor or Grantee, with the written concurrence of the other party, and such amendments shall be added to and become a part of the original application.
2. The Grantee shall, within six months of the date of this deed, erect and maintain a permanent sign or marker near the point of principal access to the conveyed area indicating that the property is a park or recreational area and has been acquired from the Federal Government for use by the general public.
3. The property shall not be sold, leased, assigned, or otherwise disposed of except to another eligible governmental agency that the Secretary of the Interior agrees in writing can assure the continued use and maintenance of the property for public park or public recreational purposes subject to the same terms and conditions in the original instrument of conveyance. However, nothing in this provision shall preclude the Grantee from providing related recreational facilities and services compatible with the approved application, through concession agreements entered into with third parties, provided prior concurrence to such agreements is obtained in writing from the Secretary of the Interior.
4. From the date of this conveyance, the Grantee, its successors and assigns, shall submit biennial reports to the Secretary of the Interior setting forth the use made of the property during the preceding two-year period, and other pertinent data establishing its continuous use for the purposes set forth above, for ten consecutive reports and as further determined by the Secretary of the Interior.

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5. The Grantee further covenants and agrees to comply with the 1977 Amendments to the Federal Water Pollution Control Act (Clean Water Act of 1977), and Executive Order 11990 (May 24, 1977) for Protection of Wetlands and Executive Order 11988 (May 24, 1977) for Flood plain Management, where and to the extent said Amendments and Orders are applicable to the property herein conveyed, and Grantee shall be subject to any use restrictions issued under said Amendments and Orders.

6. The Grantee acknowledges that the property hereby conveyed may contain asbestos-containing materials and lead paint and further covenants and agrees to assume all responsibility for compliance with all Federal, State, and local laws relating to asbestos and lead paint.

7. The Grantee further covenants and agrees for itself, its successors and assigns, to comply with the requirements of Public Law 90-480 (82 Stat. 718), the Architectural Barriers Act of 1968, as amended by Public Law 91-205 of 1970 (84 Stat. 49) and regulations and orders promulgated thereunder, to assure that development of facilities on the property makes such facilities accessible to the physically handicapped; and further assure in accordance with Public Law 93-112, the Rehabilitation Act of 1973 (87 Stat. 394), and Public Law 101-336, the Americans With Disabilities Act of 1990 (104 Stat. 337), that no otherwise qualified handicapped individual shall, solely by reason of his or her handicap, be excluded from the participation in, be denied benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance.

8. If, at any time, the United States of America shall determine that the premises herein conveyed, or any part thereof, are needed for the national defense, all right, title and interest in and to said premises or part thereof determined to be necessary to such national defense, shall revert to and become the property of the United States of America.

9. As part of the consideration for this deed, the Grantee covenants and agrees for itself, its successors and assigns, that: (1) the program for or in connection with which this deed is made will be conducted in compliance with, and the Grantee, its successors and assigns, will comply with all requirements imposed by or pursuant to the regulations of the Department of the Interior as in effect on the date of this deed (43 C.F.R. part 17) issued under the provisions of Title VI of the Civil Rights Act of 1964; (2) this covenant shall be subject in all respects to the provisions of said regulations; (3) the Grantee, its successors and assigns, will promptly take and continue to take such action as may be necessary to effectuate this covenant; (4) the United States shall have the right to seek judicial enforcement of this covenant; and (5) the Grantee its successors and assigns, will: (a) obtain from each other person (any legal entity) who, through contractual or other arrangements with the Grantee, its successors or assigns is authorized to provide services or benefits under said program, a written agreement pursuant to which such other persons shall, with respect to the services or benefits which he is authorized to provide, undertake for himself the same obligations as those imposed upon the Grantee, its successors and assigns, by this covenant, and (b) furnish a copy of such agreement to the Secretary of the Interior or his successors; and that this covenant shall run with the land hereby conveyed, and shall, in any event, without regard to technical classification or designation, legal or otherwise, be binding to the fullest extent permitted by law and equity for the benefit of and in favor of the Grantor and enforceable by the Grantor against the Grantee, its successors and assigns.

10. NAVIGABLE AIRSPACE: Pursuant to the provisions of House Report No. 95-1053 this conveyance is subject to the following condition to protect navigable airspace:

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No structure or facility of any kind shall be constructed or altered upon the said property unless a determination in writing issued by the Federal Aviation Administration in accordance with Title 14 Code of Federal Regulations Part 77, entitled "Objects Affecting Navigable Airspace," or under the authority of the Federal Aviation Act of 1958, as amended.

11. ENVIRONMENTAL CONSIDERATIONS: Pursuant to Section 120(h)(4) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. § 9620(h)(4), the Property has been identified as real property on which no hazardous substance or petroleum products or their derivatives, as defined by said Act, were stored for one year or more, known to have been released, or disposed of by the United States. The United States of America covenants and warrants that, in the event that any response action or corrective action is found to be necessary pursuant to the CERCLA after the date of this conveyance, for contamination caused by the United States of America and existing on the property prior to the date of conveyance, such response or corrective action shall be conducted by the United States in accordance with the terms and provisions of CERCLA.

12. In connection with the obligations herein before described, the Grantor reserves a right of access to any and all portions of the property conveyed for the purposes of environmental investigation, remediation, or other corrective action. This reservation includes the right of access to and use of, to the extent permitted by law, available utilities at reasonable cost. These rights shall be exercised solely in any case in which remedial action, response action, or corrective action is found to be necessary pursuant to CERCLA after the date of conveyance of the property for contamination of the property prior to the date of such conveyance and caused by the United States, or such access is necessary to carry out such remedial action, response action, or corrective action on adjoining property. Pursuant to this reservation, the United States and its officers, agents, employees, contractors, and subcontractors shall have the right (upon reasonable notice to the Grantee or the then owner of the property) to enter upon the property and conduct investigations and surveys, which may include, without limitation, drillings, test pitting, borings, data and/or record compilation, and other activities related to environmental investigation, that are necessary to carry out remedial or removal actions required to be conducted by the United States pursuant to the terms of the immediately preceding paragraph herein including, but not limited to, monitoring wells, pumping wells, and treatment facilities.

13. CONDITION OF THE PROPERTY: Grantee by its acceptance hereof certifies that it has inspected, is aware of and accepts the condition and state of repair of the property. It is understood and agreed that the property is conveyed "as is" and "where is" without any representation, warranty or guarantee of any kind or nature, express or implied, including, without limitation, any representation, warranty or guarantee as to quantity, quality, character, condition, size or kind, or that the same is in any particular condition, or fit to be used for any particular purpose. Grantee acknowledges that Grantor has made no representation or warranty of any kind concerning the condition or state or repair of the property which has not been fully set out in the deed.

14. COVENANT AGAINST DISCRIMINATION: The Grantee, by acceptance of this deed, covenants that it shall not discriminate upon the basis of race, color, religion, or national origin in the use, occupancy, sale, or lease of the property, or in its employment practices conducted

BK 416 PG 1155

thereon. This covenant shall not apply, however, to the lease or rental of a room or rooms within a family dwelling unit, nor shall it apply with respect to religion for premises used primarily for religious purposes. The Grantor shall be deemed a beneficiary of this covenant without regard to whether it remains the owner of any land or interest therein in the locality of the property hereby conveyed and shall have the sole right to enforce this covenant in any court of competent jurisdiction.

15. In the event there is a breach of any of the conditions and covenants herein contained by the Grantee, its successors and assigns, whether caused by the legal or other inability of the Grantee, its successors and assigns, to perform said conditions and covenants, or otherwise, all right, title and interest in and to the said premises shall revert to and become the property of the Grantor at its option which, in addition to all other remedies for such breach, shall have the right of entry upon said premises, and the Grantee, its successors and assigns, shall forfeit all right, title and interest in said premises and in any and all of the tenements, hereditaments and appurtenances thereunto belonging; provided, however, that the failure of the Secretary of the Interior to require in any one or more instances complete performance of any of the conditions or covenants shall not be construed as a waiver or relinquishment of such future performance, but the obligation of the Grantee, its successors and assigns, with respect to such future performance shall continue in full force and effect:

IN WITNESS WHEREOF, the Grantor has caused these presents to be executed in its name and on its behalf this 17th day of August, 1999.

Attesting Witness:

John T. Kelly

UNITED STATES OF AMERICA

By: D. Thomas Ross

D. Thomas Ross
Assistant Director,
Recreation and Conservation
National Park Service
1849 C Street, N.W.
Washington, D.C.

STATE OF NEW HAMPSHIRE)
)ss
County of Rockingham)

On this the 17th day of August, 1999, before me, the subscriber, personally appeared D. Thomas Ross, to me known and known to me to be the Assistant Director for Recreation and Conservation, National Park Service, of the United States Department of the Interior, a governmental agency of the United States of America, with offices at 1849 C Street, N.W., Washington, D.C., and known to me to be the same person described in and who executed the foregoing instrument as such Assistant Director for Recreation and Conservation aforesaid, as the act and deed of the United States of America, for and on behalf of the Secretary of the Interior, duly designed, empowered, and authorized so to do by said Secretary, and she acknowledged that he

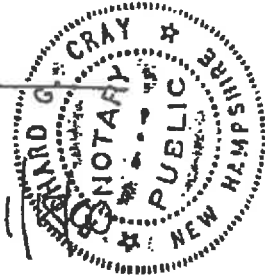
BK 3416 PG 1166

executed the foregoing instrument for and on behalf of the United States of America, for the purposes and uses therein described.

[Handwritten Signature]

NOTARY PUBLIC

My Commission expires: (



The foregoing conveyance is hereby accepted and the undersigned agrees, by this acceptance, that the City of Portsmouth shall assume and be bound by all the obligations, conditions, covenants, and agreements therein contained.

CITY OF PORTSMOUTH

By:

[Handwritten Signature]

John P. Bohenko
City Manager
City of Portsmouth
1 Junkins Avenue
Portsmouth, New Hampshire

STATE OF NEW HAMPSHIRE)
)ss
County of Rockingham)

On this the 17th day of August, 1999, before me, the subscriber, personally appeared John P. Bohenko, to me known, and known to me to be the individual described herein and who executed the foregoing instrument, and he thereupon acknowledged to me that he executed the same on behalf of the City of Portsmouth.

[Handwritten Signature]

NOTARY PUBLIC

My Commission expires:

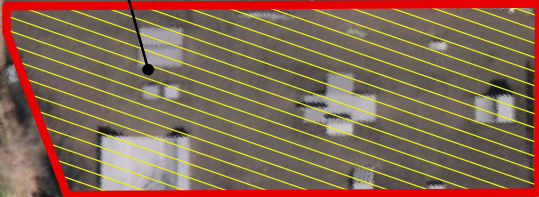


GREENLEAF AVE

Exhibit B



Skateboard Park Area
Not part of premises to be assigned



195

HOLIDAY DR

GREENLEAF WOODS DR

Exhibit A - Premises - 195 Greenleaf Avenue

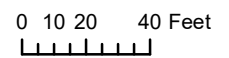
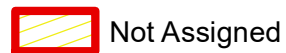


Exhibit C

Operation Blessing, Inc. Program of Utilization

Greenleaf Recreation Center 195 Greenleaf Avenue Portsmouth, New Hampshire

- Operation Blessing, Inc. (OB), an independent non-profit organization, will continue to manage and operate the Greenleaf Recreation Center, which will be open to the general public. The Center will be specifically geared to fill a gap in the services not presently offered to at-risk teens and their families. The Greenleaf Recreation Center will be extremely useful by providing recreation programs for teens, providing assistance in meeting personal challenges and a community volunteer program to teach them self-worth and pride in their accomplishments.
- OB will locate its Outreach Department at the Greenleaf Center and will coordinate the usage of the facility with the other organizations currently using it, as well as organizations partnering with OB to serve community needs. The organizations currently using the facility provide the following programming:
 - Recreation and socialization program for young adults with disabilities
 - Youth exercise classes
 - Portsmouth Housing Authority out-of-school-time programs
 - Art classes
 - Support groups (various)
 - Play groups
 - Portsmouth Recreation Department
- The OB Outreach Department will establish a recreation program and schedule for the community and personally reach out to the youth and families to attend and participate. Examples of these new program offerings will include:
 - Activities (basketball programs, game nights, and related)
 - Activity trips and outings (outdoors trips, camping and cultural venues)
 - Seacoast Adopt A Block, a program of OB, will be based out of the Center, which will encourage volunteerism in our community and allow people to get involved and take ownership of their community.
 - Life skill programming by OB based out of the Center to provide support to families seeking help.
 - Transportation for youth to participate in selected recreation activities, activity trips and outings.
- OB with the assistance of user fees and other funding will maintain the facility, make city approved improvements and cover utility costs to operate the center. Each organization using the facility will be required to provide an insurance binder covering the liability during their usage time.

**CITY OF PORTSMOUTH, NEW HAMPSHIRE
SUPPLEMENTAL APPROPRIATION
FOR THE FISCAL YEAR ENDING JUNE 30, 2023**

RESOLUTION # -

A RESOLUTION AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE UNASSIGNED FUND BALANCE FOR THE DESIGN AND ENGINEERING OF ALTERNATE PLANS FOR THE REDEVELOPMENT OF MCINTYRE FEDERAL BUILDING AND SURROUNDING PROPERTY.

RESOLVED:

BY THE CITY COUNCIL OF THE CITY OF PORTSMOUTH, NEW HAMPSHIRE ASSEMBLED AS FOLLOWS:

THAT, the City Council has determined that the sum of **ONE Hundred FIFTY Thousand (\$150,000) Dollars** is to be appropriated from Unassigned Fund Balance to defray the expenditures for the design and engineering of alternate plans for the redevelopment of McIntyre Federal Building and surrounding property for the Fiscal Year ending in June 30, 2023.

THAT, to meet this appropriation, the City Manager is authorized to transfer these funds from Unassigned Fund Balance.

APPROVED BY:

DEAGLAN MCEACHERN, MAYOR

ADOPTED BY THE CITY COUNCIL:

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

SECTION 7.14-AMENDMENTS TO BUDGET AFTER ADOPTION

No appropriation shall be made for any purpose not included in the annual budget as adopted unless voted by a two-thirds (2/3) majority of the Council after a public hearing held to discuss said appropriation. The Council shall, by resolution, designate the source of any money so appropriated.



CM Action Item #3

December 7, 2022

Karen Conard
City Manager
1 Junkins Avenue
Portsmouth, NH 03801

Dear Ms. Conard,

On Behalf of Russ and Judy Sabanek of 46 State Street, Auger Building Company is requesting a license to continue on with the process of the rebricking project. Due to unforeseen repairs, we are requesting a license that will start December 16th until February 28, 2023.

We request that you please put this matter on the City Councils agenda for the next meeting for review. The Encumbrance permit associated with this request is ENCM-22-77

Should there be any questions or concerns in the meantime, please feel free to contact me at (978) 904-1277 to discuss.

Sincerely,

Carly Baker
Project Manager, Auger Building Company

255 Portsmouth Avenue
Greenland, NH 03840
V (603) 430-9004 • F (603) 430-9002
info@augerbuildingcompany.com

LICENSE AGREEMENT
46 STATE STREET

The City of Portsmouth (hereinafter "City"), a municipal corporation with a principal place of business of 1 Junkins Avenue, Portsmouth, New Hampshire 03801, for good and valuable consideration as set forth herein, hereby grants this Revocable License to Auger Building Company, Inc. (hereinafter "Licensee") with a principal place of business 255 Portsmouth Avenue, Greenland, New Hampshire, 03840 pursuant to the following terms and conditions:

1. **Areas of License and Use:** The Licensee is requesting a License for work at property with buildings and other improvements located in the City of Portsmouth, Rockingham County, State of New Hampshire, at 46 State Street shown on the City of Portsmouth's Assessor's Map as Tax Map 0105, Lot 0011 ("Subject Property").

The City authorizes Licensee to temporarily use the sidewalks and three parking spaces that abut the Subject Property along 46 State Street. There will be two separate License Areas for the project.

License Area A: License Area A is the three parking spaces that abut the Subject property shown on Exhibit A.

License Area B: License Area B is 280 square feet of sidewalk abutting the Subject Property along State Street as shown on Exhibit A.

Use: Licensee shall make use of the License Areas for the purpose of repairing exterior brickwork for property located at 46 State Street.

2. **Term:** The license for both License Areas shall be from December 16, 2022 through February 28, 2023, for a total of 75 days.

Licensee may terminate this License prior to the end of the term by returning License Areas to safe and effective use by the public prior to the expiration of the term of this License. The Licensee shall contact the Director of Public Works for a determination that the License Areas have been temporarily returned to safe and effective use. Failure to remove all vehicles, barriers, materials and equipment and to return the License Areas to the City in the manner prescribed under this License at the end of the term may result in enforcement action by the City.

3. **Notice:** Licensee shall provide notice to the City's Director of Public Works when Licensee assumes control and use of the License Areas and again when it returns the License Areas to the City's control and use.
4. **License Fees:** Licenses are subject to the City license fees in accordance with City Council Policy No. 2018-02 entitled "License Fee for Encumbrance of City Property". A license is required when the licensed area has been encumbered beyond 30 days. The License Fee Policy provides that the Licensee will be charged a daily fee of \$0.05 per square foot of encumbered sidewalk and \$50 per day per encumbered parking space.

License Fee Area A: The cost per parking space along State Street is \$50 per space per day, for a total of \$150 for three spaces per day. The License Fee for Area A is **\$11,250** (\$150 per day x 75 days = \$11,250).

License Fee Area B: License Area B includes the sidewalk in front of the Subject Property calculated at 7 feet x 40 feet for a total of 280 square feet of sidewalk. $280 \times \$0.05 = \14 per day. The sidewalk will be encumbered in two phases. The first phase will be for 30 days for a total cost of **\$420** ($\14×30 days). The second phase will be for the remaining 45 days of the term and Licensee will construct pass through staging for public access. $\$14 \times 45$ days = \$620. However, when the public has access to the License Area through pass through staging, license fees are typically waived.

The total License Fees excluding the second phase for License Area B due to pass through staging is **\$11,670**.

Because it is in the City's interest that the Licensed Areas be returned to the public use as soon as possible, if the License Areas are returned to the City prior to the end of the License Term, the City will refund the Licensee the portion of the License Fee paid but not used.

5. **Indemnification:** Licensee agrees to indemnify and hold harmless the City of Portsmouth for any and all property damage, bodily injury or personal injury which arises as a result of its utilization of the License Areas. This obligation survives termination or revocation of this Agreement.

6. **Insurance:** At all times the Licensee shall maintain insurance for bodily injury and property damage in the amount of at least \$1,000,000 per occurrence. Licensee will provide proof of insurance to the City during the term of this Agreement and the City will be named as an additional insured.
7. **Maintenance of Area:** During the term of this Agreement, Licensee shall maintain the License Areas in a safe, neat and orderly fashion and shall take such actions as are necessary to protect the public safety. The Licensee shall secure the perimeter of the License Areas and take such other measures as may be necessary for pedestrian and vehicular safety during use of the Licensed Areas.
8. **Damage:** Licensee agrees to remedy any damage to the License Areas caused by the Licensee's activities. The work will be performed by Licensee to City specifications and survive the terms of this License Agreement. The City may elect to accept reasonable reimbursement from the Licensee in lieu of remedy.
9. **Compliance with Other Laws:** This Agreement does not relieve Licensee from compliance with any other local, state or federal laws or regulations or conditions imposed by any local board. Failure to abide by any local, state or federal laws or regulations or any condition of site plan and may at the City's discretion, result in revocation.
10. **Revocation:** The City may terminate this Agreement or any provision contained in this agreement on 72 hours written notice if Licensee fails to meet the terms and conditions of this License or if the public interest requires such termination. No 72 hour written notification is required by the City if it is an emergency.
11. **Contractor and Subcontractor Parking:** Licensee understands and agrees that its contractors and subcontractors for the project shall not use on-street parking. Language will be inserted in Licensee's vendors and suppliers Purchase Orders and Trade Subcontracts that make the prohibition against parking on City streets mandatory. Contractor shall limit/ manage construction vehicles and deliveries to avoid disruption to businesses, particularly during the holiday season. Contractor may use loading zones for active loading and unloading of materials, equipment and tools.

Dated this _____ day of _____, 2022.

City of Portsmouth

By: _____
Karen Conard
City Manager

Pursuant to vote of the City Council

Dated this _____ day of _____, 2022.

Auger Building Company, Inc.

By: _____
Print name and title; _____

h/jferrini/license/46statestreet

46 STATE STREET ENCUMBRANCE SKETCH

TAX MAP SHOWING LOCATION OF PROPERTY AND SCAFFOLDING
WITH ALTERNATE PEDESTRIAN ROUTE



MEMORANDUM

TO: Karen Conard, City Manager

FROM: Beverly Mesa-Zendt, Planning Director *Beverly Mesa-Zendt*

DATE: December 6, 2022

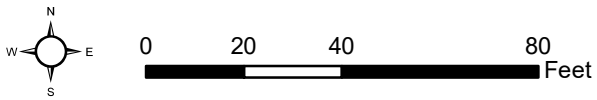
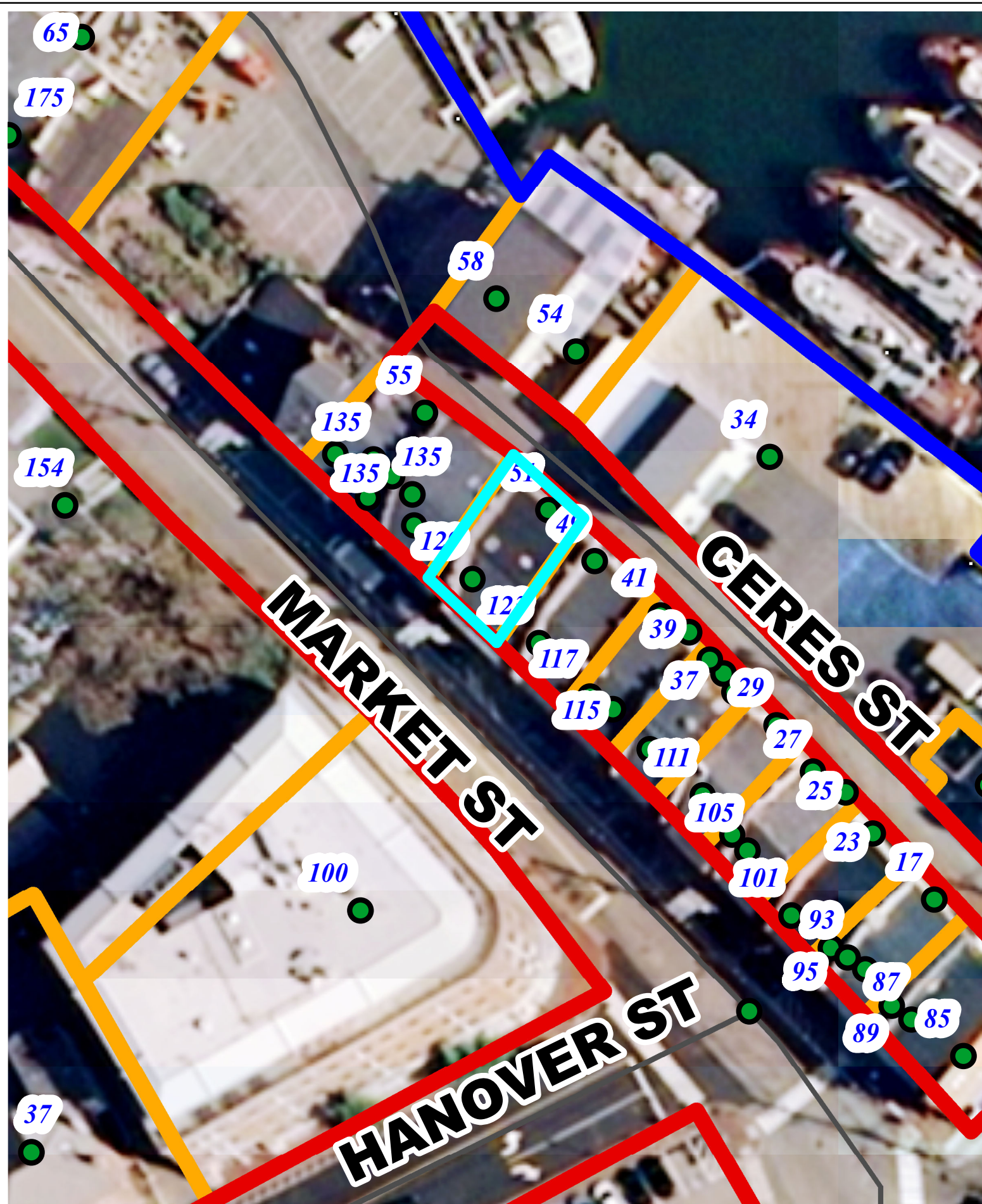
RE: City Council Referral – Projecting Sign
Address: 123 Market Street Unit A
Business Name: Snap Quack Pop
Business Owner: John Robert David & Anastasia Livingstone

Permission is being sought to install a projecting sign that extends over the public right of way, as follows:

Sign dimensions: 36" x 36"
Sign area: 9 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 signs, 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
PISCATAQUA FINE ARTS



SEABASS

HANDMADE TOYS
AND ACCESSORIES
FOR KID'S SALES
OPENING

176

1100 All Gallery
OPEN

Gifts
Internships
Workshops

NO PARKING

NOW HERE
MON-FRI
10-5



Millennium Running
138 Bedford Center Road
Bedford, NH 03110
www.millenniumrunning.com

December 6, 2022

Karen S. Conard, Town Manager
City of Portsmouth
1 Junkins Avenue
Portsmouth, NH 03801

Dear Ms. Conard,

I am writing you, on behalf of Millennium Running and with the permissions of the Pease Development Authority, for the City of Portsmouth's approval for the **St. Patty's 5k & 10k** to be held at Pease Tradeport on **March 11, 2023**.

Just as we do for other events in the City of Portsmouth and in the State of NH, we will work in complete cooperation with our local municipal Police and Fire Departments and venue partners to ensure a safe event.

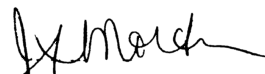
The St, Patty's 5k & 10k has a start and finish at 200 & 222 International Blvd and will be run entirely within the Pease Tradeport. All permissions have been granted by our venue partner's ownership and management group as well as the Pease Development Authority.

The course map can be viewed at <https://connect.garmin.com/modern/course/90918991>

This event will be making charitable donations to our official charity, to be named in January of 2023, as well as numerous local high school organizations from Exeter, Winnacunnet, Oyster River, and Portsmouth High Schools. To date, Millennium has distributed over \$1.3 Million to local organizations from our signature events. We look forward to producing safe, first-class events for our running community while raising funds for our charitable partners.

Further information on the race can be found at <http://www.millenniumrunning.com/stpattys> or by contacting me directly with any questions and/or concerns.

Thank you,



John Mortimer
Millennium Running, owner & founder



Millennium Running
138 Bedford Center Road
Bedford, NH 03110
www.millenniumrunning.com

December 6, 2022

Karen S. Conard, Town Manager
City of Portsmouth
1 Junkins Avenue
Portsmouth, NH 03801

Dear Ms. Conard,

I am writing you, on behalf of Millennium Running and with the permissions from the Town of New Castle, for the City of Portsmouth's approval for the annual **New Castle 10k** to be held on **Sunday, April 30, 2023**.

Just as we do for other events in the City of Portsmouth and in the State of NH, we will work in complete cooperation with our local municipal Police and Fire Departments and venue partners to ensure a safe event.

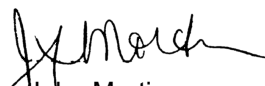
The New Castle 10k has a start and finish at Great Island Common in New Castle, NH. A 1.7 mile portion of the famous 6.2 mile course runs through the City of Portsmouth using Sagamore Avenue, South Street, and New Castle Avenue.

The course map can be viewed at <https://connect.garmin.com/modern/course/86903275>

This event will be making charitable donations to our official charity, to be named in January of 2023, as well as numerous local high school organizations from Exeter, Winnacunnet, Oyster River, and Portsmouth High Schools. To date, Millennium has distributed over \$1.3 Million to local organizations from our signature events. We look forward to producing safe, first-class events for our running community while raising funds for our charitable partners.

Further information on the race can be found at <https://www.millenniumrunning.com/newcastle> or by contacting me directly with any questions and/or concerns.

Thank you,



John Mortimer
Millennium Running, owner & founder



2022 Outdoor Dining End of Season Report

City of Portsmouth, New Hampshire

Outdoor Dining Working Group

Beverly Mesa-Zendt Planning Director; **Shanti Wolph** Building Official **Patrick Howe** Deputy Fire Chief; **Eric Eby** City Engineer; **Kristin Shaw** Deputy Health Officer; **Jason Page** Zoning Enforcement Officer; **Synthia Ravell** Legal Administrator; **Stefanie Casella** Planner I



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BACKGROUND

The COVID-19 pandemic and the corresponding Governor's State of Emergency Declaration had a profound impact on local restaurants by imposing significant limitations on indoor dining. Portsmouth responded by inviting businesses to extend dining service into the public realm (streets, sidewalks, and parking areas) to create opportunities for local restaurants to recover from the loss of revenue and provide a safer dining experience to the public. The outdoor dining experience continues to be a popular option during suitable months in the spring, summer, and fall. There is reason to believe that this preference will continue well beyond pandemic-related restrictions, as public anxiety over indoor dining persists and the general preference for outdoor dining continues to grow in popularity.

Transitional Year

In 2022, the City launched a transitional outdoor dining season to provide an opportunity for local drinking and dining establishments to slowly transition to permanent programmatic requirements. In 2022, key new programmatic components included:



1. An interdepartmental working group to administer the program;
2. The adoption of the following fees:
 - \$10/SF in sidewalks and non-parking streets;
 - \$1,500 per parking space (estimated revenue from parking space is \$5,700 per space prorated); and
3. Abutter approval

Staff proposed the discontinuance of use of the travel way for outdoor dining in 2023. 2022 would serve as a transitional year allowing local restaurants, who have utilized this option, to prepare and adjust their location and business model if needed. Fees were introduced and City Council asked for recommendations for permanent fees to follow with the end of the year report.

End of the Year Report

At the February 22, 2022, City Council meeting, staff was directed to provide an end of the year report. For that report, City Council asked that staff:

- Survey restaurants to better understand customer demand for outdoor spaces.
- Survey local businesses within 100 feet of all outdoor cafes to better understand impacts to and concerns of surrounding businesses.
- Maintain database of reported concerns, conflicts, or outdoor related dining issues reported by residents, businesses, and the Police and Fire Departments.

SEASON IN REVIEW

The following is a summary of participation for the 2022 Outdoor Dining Season.

Participant Submittal Data

- 47 outdoor dining applications were submitted.
- 43 applications were approved.
- 2 applications were withdrawn as they were not needed for outdoor dining.
- 2 applications were never completed.

Café License Summary

- 21 licenses were approved for street locations
- 2 licenses were for both the street and the sidewalk
- 20 licenses were approved for the sidewalk only

Street Licenses

- 5 were in travel way
- 12 were in parking spaces
- 2 were in the travel way necessitating conversion of parking for traffic
- 2 were in the loading zone
- 1 was in the loading zone necessitating conversion of parking for loading

Revenue

- Street License: \$8,760
- Sidewalk License: \$37,945
- Parking Service Agreement: \$51,900
- Total Revenue: \$98,605

Composting

Six outdoor dining participants participated in composting, receiving a \$200 discount for providing evidence of food composting.

ABUTTERS SURVEY

From November 1 through November 23, the City surveyed abutting businesses and residents. 139 abutters responded. Of the respondents:

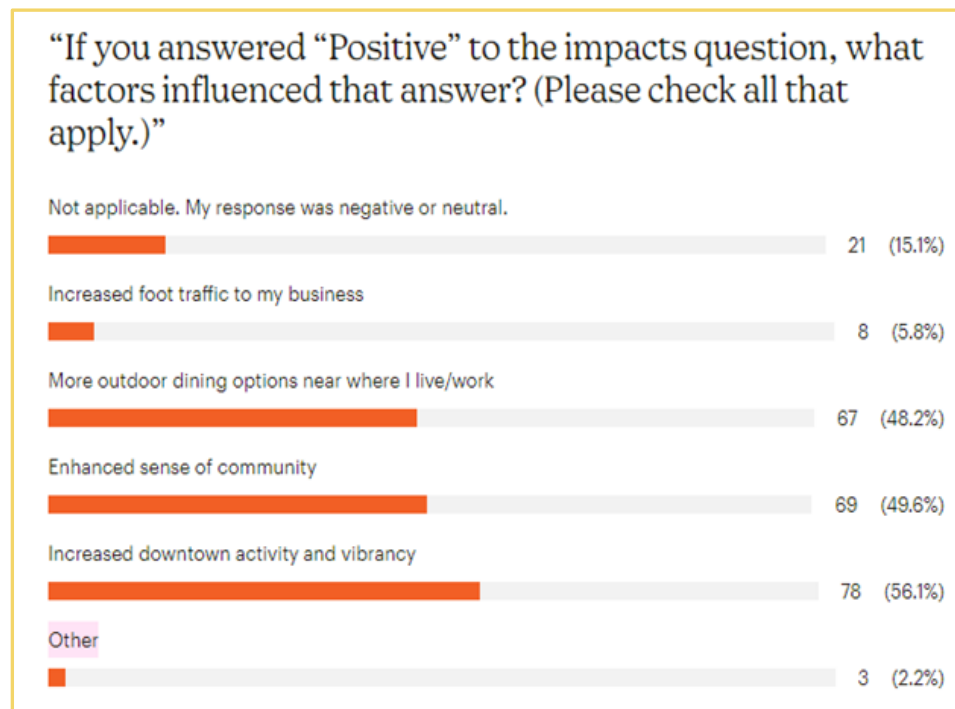
- 95 (68.3%) were residents
- 16 (11.5%) were retail business abutters
- 16 (11.5%) were office or non-retail abutters
- 6 (4.3%) were dining or drinking establishments
- 6 (4.3%) identified as other

When asked to describe their experience as an outdoor dining abutter:

- 88 (63.8%) indicated that their experience was positive
- 12 (8.7%) indicated that their experience was neutral
- 38 (27.5%) indicated that their experience was negative

Positive Responses

Those responding that the experience was positive cited increased downtown activity and vibrancy and an enhanced sense of community as the main reason for the positive response.

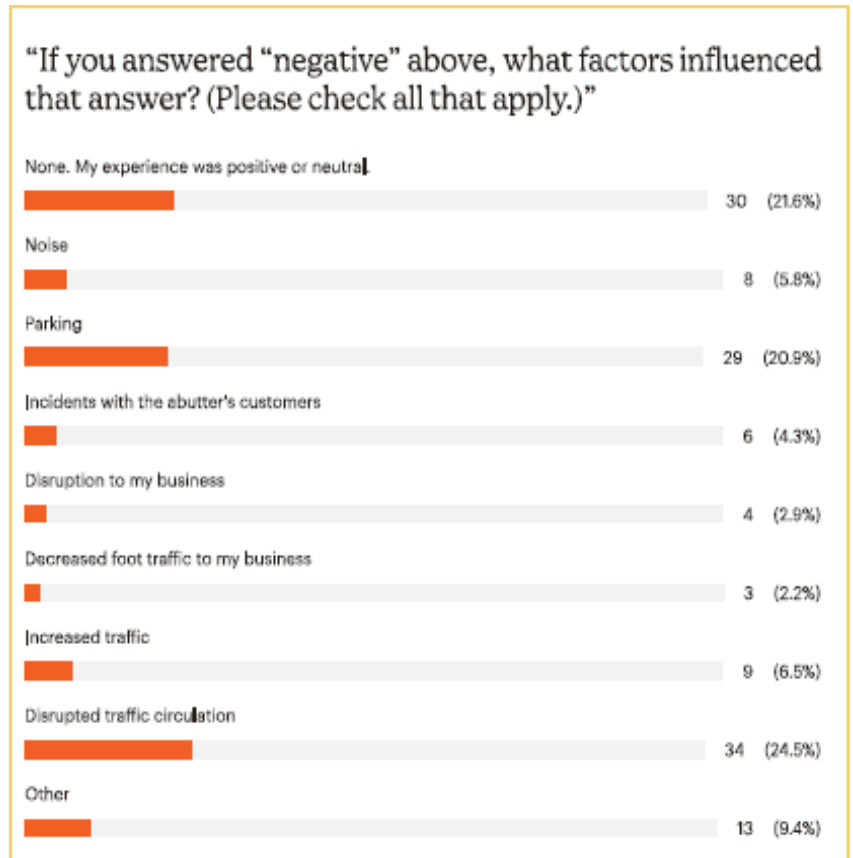


“I think an additional benefit is the increased value of my residence due to the positive life and vibrancy of downtown Portsmouth.”

Negative Responses

Those responding that the experience was negative cited loss of parking, impacts to abutting businesses, and disrupted traffic circulation as the main reason for their negative response.

“Outdoor dining blocks sidewalks, even when it is unused, which is often, it offers limited benefits for a few businesses at the expense of other business, pedestrian traffic, parking spaces, delivery spaced (UPS etc.) and vehicular traffic.”



Abutter Recommendations

Abutters responding to the survey offered a variety of suggestions. Below is a summary of some programmatic recommendations:

- Provide standards for barriers to provide more uniformity and use materials that are easy to clean and aesthetically pleasing.
- Fewer outdoor dining locations selected by lottery would preserve parking.
- Move tables near restaurant entrances and away from residential entrances.
- Consider impacts to traffic and turning visibility. Do not allow forced one-way streets.
- Shorten the season from May to November.
- Create a pedestrian-only zone in Market Square.
- Impose and enforce noise ordinances after 9:00 pm.

PARTICIPANT SURVEY

On November 10, 2022, the City launched a survey of all outdoor dining participants. Below is a summary of the seven participant responses.

Importance of Outdoor Dining and Overall Experience

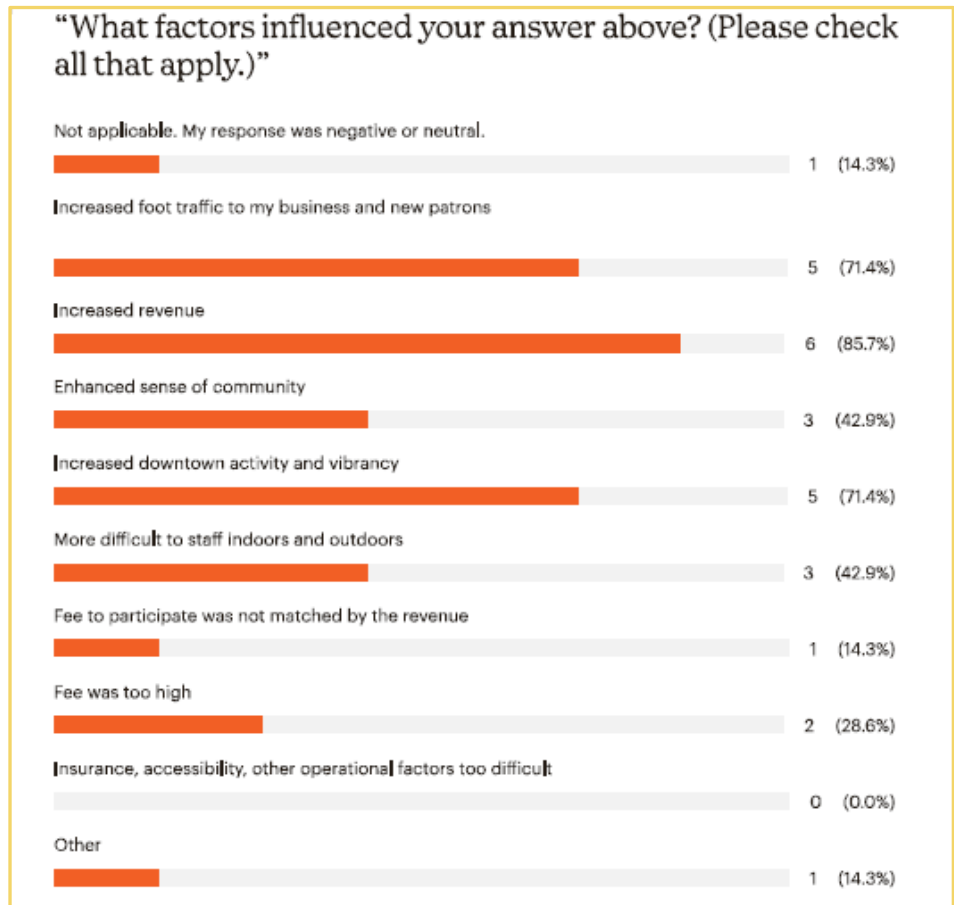
On a scale of 1 to 5, respondents rated the importance of outdoor dining 4.7. Similarly, respondents rated the experience as a 4.7 indicating an overall positive experience.

When asked to further elaborate on their experience, respondents identified increased revenue and foot traffic, and increased downtown activity and vibrancy as the main reasons for rating the experience positively.

Fees

When asked how increases in fees would affect a decision to participate, the average respondent rating was 3.2 on a scale of 1 to 5.

"I don't think you should increase the fee. Restaurants have a hard enough time with staffing, getting items to cover menu needs."



STAFF RECOMMENDATIONS

Traffic and Circulation

Staff recommends that future outdoor dining be restricted to parking spaces, sidewalks, and loading zones - only when a parking space is available to offset the loss of the loading zone. This recommendation is based, in part, on public feedback but is also based on safety issues experienced during the season.

Restricting traffic or creating a one-way street on an established two-way street proved problematic in 2022. Drivers, accustomed to two-way traffic, often did not notice or chose to ignore the “do not enter” sign. The closing of streets or lanes at signalized intersections required changes to the signal operations that often resulted in inefficiencies in traffic and pedestrian flow. Additionally, established solid waste pick up locations on newly created one-way streets resulted in cars stacking behind solid waste trucks, generating complaints from drivers, residents, and business owners.

It is staff's recommendation that applications, that result in a significant impact to the traffic pattern or that result in a change to the directional pattern of the street, should not be considered.

Parking Fees

The annual revenue for each parking space is approximately \$5,700 (weighted for partial year and based on 2021 summer revenues). A total of 67 parking spaces were repurposed for outdoor dining. The approximate normal/seasonal revenue generated for those spaces is \$384,278. The fees per parking space were approved for \$1,500 for the 2022 season. Recognizing that there is value to the community through increased visitation, activity, and vibrancy and local business patronage in the downtown and throughout the City, full cost of recovery is not recommended. *Staff recommends a fee of \$3,000 per parking space. This would include loading zones where on-street parking has been used to replace the loading zone that is repurposed for outdoor dining.*

Sidewalk Fees

Staff recommends that sidewalk fees remain the same at \$10 per square foot.

Barriers

Implementing a standardized approach to enforcing barrier restrictions has been time consuming and difficult. Ambiguous definitions for opaqueness and approvable materials invites a range of options resulting in inconsistent outcomes and varying levels of compatibility with surrounding properties.

Staff recommends that some level of uniformity be established for outdoor dining participants.



1. **Option 1:** Barriers should be limited to three (3) feet except for an additional foot for planters. This would include the City jersey barriers and those that might be constructed on sidewalks. No additional barriers or separators will be allowed for on-street dining. Flexibility could still occur for sidewalk barriers and separators provided that they meet the 3 foot height limitation.
2. **Option 2:** Barriers should be limited to three (3) feet except for an additional foot for planters. This would include the City jersey barriers and those that might be constructed on sidewalks. Standardized barriers would need to be selected and approved for sidewalk dining. All standardized barriers would need to provide a high level of transparency and be constructed of durable and aesthetically appropriate materials.
3. **Option 3:** Standardized barriers, selected and approved for on street dining, that are higher than three (3) feet but no more than five (5) feet could be considered for on-street dining. Standardized barriers would need to be selected and approved for sidewalk dining as well. All standardized barriers would need to provide a high level of transparency and be constructed of durable and aesthetically appropriate materials.

Abutter Notice

This year, any applicant that proposed utilization of area beyond the extended boundaries of their storefront and into the parking, street, or sidewalk area in-front of abutting businesses was required to provide a signed consent form from abutting businesses. *Staff recommends continuance of this programmatic requirement and the extension of this requirement to include abutting residences as well.*

ADA Compliance

Anne Weidman, Biz Dev / Community Engagement for ACCESS Navigators, recommends that, in addition to meeting the minimum ADA requirements, the following requirements be adopted.

1. *Every outdoor dining space should be accessible, at least for some portion of the tables.*

2. *Platforms that are flush-with-sidewalk situation are recommended.*
3. *Platforms with a step should not be permitted. A portable ramp can be provided as an accommodation but should be promptly removed to avoid being a trip hazard.*
4. *Dining areas in parking spaces that have no available curb cut should use rubber threshold mats as a fix for curbing up to 4", this curb height is common in Portsmouth.*

Outdoor Dining Season

This year City Council approved the following outdoor dining season dates:

- February 23, 2022 - Application Period Opens
- March 4, 2022 (weather permitting) - Use of sidewalks and public realm open (not travel lanes or parking spaces)
- Starting the Week of April 7, 2022 (weather permitting) - Barriers are placed by DPW, use of travel lanes and parking spaces open
- November 27, 2022 - Outdoor dining ends

Staff recommends the following outdoor dining season dates for 2023:

- February 24, 2023 - Application Period Opens
- Starting the Week of May 1, 2023 - Outdoor Dining Begins
- Barrier Placement begins week of May 1, 2023
- November 12, 2023 - Outdoor dining ends

Barbara Massar, Executive Director Pro Portsmouth, Inc. provided the following recommendation.

Applicants approved for dining in parking spaces, on Pleasant Street between State and the Square may not begin outdoor dining until after Market Square Day.

Attached:

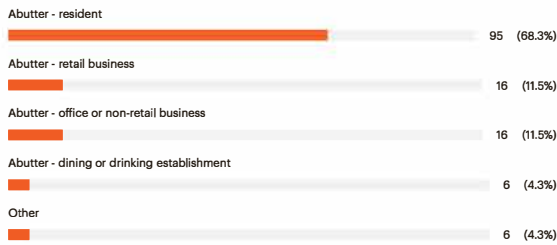
- Abutter Survey Results
- Participant Survey Results
- Public Comment

Outdoor Dining 2022 Survey - Abutters

All Responses

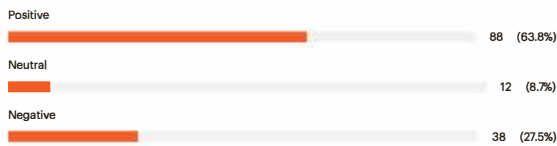
Question 1 has 139 answers (Radio Buttons)

“What is your relationship to the outdoor dining participant?”



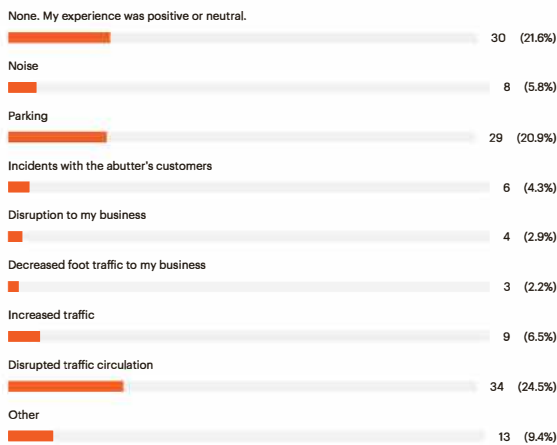
Question 2 has 138 answers (Radio Buttons)

“How would you describe your experience as an outdoor dining abutter?”



Question 3 has 72 answers (Checkboxes)

“If you answered “negative” above, what factors influenced that answer? (Please check all that apply.)”



Question 4 has 21 answers (Open Text)

“If you answered “Other” above — what other negative impacts did you experience?”

Unknown contact said:

“The traffic congestion caused by many food trucks and Fed Ex/UPS/Amazon delivery trucks making their deliveries on streets that have given up parking and delivery zones to outdoor dining has impacted the downtown adversely. There are not enough spaces for delivery trucks even without the added pressure of taking parking spaces away or relocating delivery zones due to outdoor dining. The increased pressure of outdoor dining taking parking/delivery zones causes delivery trucks to double park (to get close to their destination) on narrow streets which in turn causes difficult navigation and congestion. ”

Unknown contact said:

"Restaurant is closed all day on certain days and is closed until 5pm everyday. The parking could be utilized during that time but for the barriers and tables. Same is true for many parking spots dedicated to diners when there are no diners if the restaurant is closed! What a waste of precious downtown parking. Fewer outdoor dining locations selected by a lottery would lighten the impact on the parking scarcity downtown. Also requiring full use of the dedicated dining area (open all day every day) would help justify commandeering the parking spot away from retail shoppers and delivery trucks. "

Unknown contact said:

"Regular customers avoid coming into Portsmouth to shop because there is such limited parking."

Unknown contact said:

"Too disruptive. More litter. Unsightly. My taxes support this is not right"

Unknown contact said:

"Trash piled around area and unsightly set up. Also took up a loading zone that is very helpful to all businesses "

Unknown contact said:

"Cancel it. It was intended to be temporary. It is very disruptive to our quality of life for those of us who live in the downtown district. Increase in vandalism to our buildings with graffiti, overturned floral displays, owners of dogs should be banned from walking them in the downtown area as they use our streets and gardens as bathrooms and do not pick up after them. The smell on hot and humid days is horrendous.

Those who ride bicycles and those dangerous one wheel electric motorized 'vehicles' do not follow the altered downtown road patterns and frequently seen going too fast for the conditions and not following the proper rules of the road. Every person who owns one should have to take a course on the Rules of the Road and carry a permit from the City for a Fee of \$50.00 per month for road usage. They are often seen going the wrong way up one-way streets.

Keep Fleet Street Open as it is the sole cross street in the center of downtown.

ENFORCE CROSS WALK USE. Camden, Maine does. There are cities who Fine People for not using the Cross Walks. I had to sit through 3 lights on Fleet Street to get across Congress last Saturday because people were ignoring the lights, they didn't care that there were a line of vehicles trying to cross ON GREEN! "

Unknown contact said:

"The existing setup restricts the space on sidewalks in some places which makes walking congested and obstructs sight lines at some intersections which is a driving safety hazard "

Unknown contact said:

"Outdoor dining blocks sidewalk, even when it is unused - which is often. It offers limited benefits for a few businesses at the expense of; other businesses, pedestrian traffic, parking spaces, delivery services (UPS etc.) and vehicular traffic. Plus, it looks like a bad afterthought for a third world central American city.

This dining in the road usage was only meant as a way to placate the businesses and public due to COVID restrictions of 2020. A casual observer would note that there are no more COVID occupancy restrictions, so the cafe style outdoor dining is no longer needed as a safety issue.

The current outdoor dining is only a back door attempt to make downtown Portsmouth look like Church Street in Burlington VT, so give it up. "

Unknown contact said:

"It is very hard to get around downtown. Congress street is the most confusing with The goat and Jumping Jays blocking the turn lane."

Unknown contact said:

"Disrupted pedestrian + traffic "

Unknown contact said:

"I live behind flatbread pizza in the Rockingham and my unit faces that direction. I'm just going to take this opportunity to say that I find the music at the goat very disruptive and annoying! In the warm weather, if my windows are open I have to turn up the TV to block out the music from the goat. Outdoor dining is great in Portsmouth. Please keep and/or expand it!"

Unknown contact said:

"Disrupted sidewalk circulation"

Unknown contact said:

"Unsightly, unhealthy, disruptive to traffic and parking. Reduces the value of my property too. I would like to see this program discontinued!"

Unknown contact said:

"was only left with a small area to get back to my front door as it interfered with trash/bugs because of restaurant using space near private entrance to the residents"

Unknown contact said:

"Outdoor dining setup on State Street blocked all visibility of oncoming traffic when turning from Chapel St. "

Unknown contact said:

"Complaints from clients thinking road is entirely blocked off. "

Unknown contact said:

"People at legends getting very drunk. Because they are drunk they are destroying flower arrangements in front of hotels, etc. and vomiting on the sidewalks in that general area. Their clientele is also under age. I have been out with my dog late at night and I see them. The city could make a lot of money if they picked up the people coming out of there every night. "

Unknown contact said:

"Some of the spaces look really bad and detract from the appearance of our downtown. Like the Thirsty Moose/The Works. Some look really great, like the Rosa and Massimo's. We need some standard of excellence to keep town looking attractive. "

Unknown contact said:

"Some streets are ok for dining, state street and congress are not "

Unknown contact said:

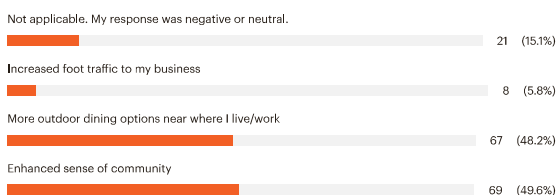
"Hill st closed from march to dec"

Unknown contact said:

"Love that Portsmouth allowed restaurants to move outdoors "

Question 5 has 106 answers (Checkboxes)

"If you answered "Positive" to the impacts question, what factors influenced that answer? (Please check all that apply.)"



Question 6 has 8 answers (Open Text)

“If you answered “Other” above — what other positive impacts did you experience?”

Unknown contact said:

"I abutt two outdoor businesses one positive the other negative"

Unknown contact said:

"Makes our city more vibrant "

Unknown contact said:

"More economic security for our downtown restaurants!"

Unknown contact said:

"I think an additional benefit is the increased value of my residence due to the positive life and vibrancy of Downtown Portsmouth. Tremendous benefit to those of us living Downtown."

Unknown contact said:

"We have a family member in a wheelchair and it's much easier to maneuver outside than trying to get to an indoor table. We have eaten out many more times than we would have normally because of outdoor dining."

Unknown contact said:

"Safe dining experience. "

Unknown contact said:

" No more closed or blocked streets "

Unknown contact said:

"More outdoor dining options - brings more visitors to town which gives it a good vibe"

Question 7 has 90 answers (Open Text)

“What suggestions do you have for improving the outdoor dining program?”

Unknown contact said:

"Close Congress Street and allow all year"

Unknown contact said:

"Return to normal please."

Unknown contact said:

"Overall positive for the community and retail. Some outdoor spaces are an eyesore while others look nice."

Unknown contact said:

"Outdoor dining should be limited to sidewalk areas where it does not disrupt either motor vehicle or pedestrian traffic. Most problematic were the Goat and Jumpin Jays at the end of Congress Street and Clipper Tavern on Pleasant (totally obstructed visibility of cars traveling up court and out of Pleasant).

There should be aesthetic standards - Toscano, The Press Room, Elephantine, Massimo and the Rosa are good examples; the Thirsty Moose, Clipper Tavern and the Market Street set up are poor.

SHORTEN THE SEASON! Outdoor dining was hardly used at all in May and after early October. My observation is it was down year over year in general. It is now late November and some on street dining is still set up and not being used or maintained. JUNE 1 to October 15 seems like a good season.

Charge more. This was a gift to the restaurants with the City Council rejecting higher fees recommended by the city manager. What hurt the restaurant industry was a labor shortage not a table shortage. Cost was so low there was no shared risk, no return hurdle and no investment or quality standards by many (Clipper Tavern, Thirsty Moose, being prime examples)."

Unknown contact said:

"Selection process needs to be more stringent requiring full use of the coveted space, not just after 5pm a few nights a week. Charge appropriate price for space, not a subsidized price. Making an equal comparison of what Portsmouth outdoor dining prices should be compared to what Burlington, VT does was totally incorrect since Burlington does not have traffic or parking spaces on their Main Street - it is a pedestrian way! Prices should be based on facts, not the whims of council members, some of whom own restaurants downtown or have an interest in one and have a reason to keep prices low. A competitive price helps the selective process. If your outdoor dining is only open 4 hours x 5 days a week, it may not bring in the dollars needed to support the fee, but it shouldn't be subsidized to make it work. It should not be allowed to take up valuable parking space which brings parking fee revenue to the city as well as retail revenue to the downtown retail businesses by allowing more shoppers to park there. The needs of the downtown retailer should not be overshadowed by subsidizing outdoor dining."

Unknown contact said:

"Fewer locations. By lottery.
Take it all down by October 16th - 31st.
Put it up May 1st, not before.
Do not change traffic flow.
To help take the pressure off downtown parking.
Require maximum use, most of the day, everyday, use it or loose it. Retailers need the parking spaces all day everyday. "

Unknown contact said:

"Restaurants don't really need it anymore...just too much congestion.
Wish the council might consider retail as important as restaurants."

Unknown contact said:

"Do not use parking spaces for outdoor dining"

Unknown contact said:

"Stop it"

Unknown contact said:

"Would like to see it continue. Love being able to dine outdoors on the nice weather."

Unknown contact said:

"Get rid of outdoor dining on Congress and pleasant streets, they are annoyingly disruptive to traffic flow. All other locations seem to work fine. "

Unknown contact said:

"On street set up are disruptive. Side walks where big enough are great. Some street areas look dumpy and have a negative impact on the city"

Unknown contact said:

"The plants on the jersey barriers need to be trimmed for traffic safety "

Unknown contact said:

"I love the outdoor dining program except when it impacts traffic patterns. Particularly the clipper Tavern takes up an entire block and the dining area does

Unknown contact said:

"I feel outdoor dining and pedestrian activity should be expanded. For example, certain streets could be closed off for certain hours, days, etc. Some sort of program should be developed to eliminate vehicular traffic at times, and bring "outdoor street life" fully into the streets! Which would include dining, drinks, goods, performance and art. This goes beyond just framing it as "outdoor dining." Thank you."

Unknown contact said:

"Please permit quiet live music like acoustic guitar. "

Unknown contact said:

"Allow soft live music"

Unknown contact said:

"Make part of Pleasant St (near Market Square) and part of Congress St pedestrian only. Many European cities have pedestrian only passageways in their downtown area and it enhances the downtown area, increases people coming by. "

Unknown contact said:

"Some places it didn't seem to be used by their patrons other areas were very active outdoors. I think this needs to be considered as some places it actually enhance the town experience. "

Unknown contact said:

"I was disappointed that when the parking garage was partly shut down, the city didn't immediately take out the outdoor dining. We have been supportive of our restaurants but all the businesses downtown deserve to thrive. Are decisions regarding the dining being made by restaurant owners?"

Unknown contact said:

"No Street traffic interruptions"

Unknown contact said:

"Cancel it. It was intended to be temporary. It is very disruptive to our quality of life for those of us who live in the downtown district. Increase in vandalism to our buildings with graffiti, overturned floral displays, owners of dogs should be banned from walking them in the downtown area as they use our streets and gardens as bathrooms and do not pick up after them. The smell on hot and humid days is horrendous.

Those who ride bicycles and those dangerous one wheel electric motorized 'vehicles' do not follow the altered downtown road patterns and frequently seen going too fast for the conditions and not following the proper rules of the road. Every person who owns one should have to take a course on the Rules of the Road and carry a permit from the City for a Fee of \$50.00 per month for road usage. They are often seen going the wrong way up one-way streets.

Keep Fleet Street Open as it is the sole cross street in the center of downtown.

ENFORCE CROSS WALK USE. Camden, Maine does. There are cities who Fine People for not using the Cross Walks. I had to sit through 3 lights on Fleet Street to get across Congress last Saturday because people were ignoring the lights."

Unknown contact said:

"We are resident abutters. When framing how a more permanent outdoor dining program might work, we recommend for residents' noise and safety considerations, that the City enacts outdoor dining hours, ending at 11pm that are enforceable. In the past, noise after 11pm has been an issue and as abutting residents our recourse was to call the city's police department. As you are aware, on a busy summer weekend, the police routinely receive many late night calls for assistance. As downtown residents, this past summer we enjoyed dining outdoors and we strongly support continuing the outdoor dining program. That said, as downtown resident abutters, we ask what services the City will establish to enforce the program's hours of operation and noise control. Thank you. "

Unknown contact said:

"Remove seating areas which add to congested sidewalks or are located near intersections or pedestrian cross walk"

Unknown contact said:

"I think it's wonderful the way it has been done. It so much increases vibrancy and activity. It's a safe way to spend time with people and to run across friends one hasn't seen for a long time."

Unknown contact said:

"The program is unequivocally a net positive for the city. Outdoor dining adds an element to downtown that has been lacking for many years. However, I can understand resident's concern for noise in hours after about 9 PM, particularly food-light/bat only establishments. As an abutter to the Statey that used to be on Deer Street, we did have several incidents a month related to clientele drunkenness, public urination, and the like. Fortunately, the Statey has moved, so this is no longer an issue, but we do have to be aware of the impacts of outdoor entertainment venues on the neighborhood. I commend the city on running the survey."

Unknown contact said:

"Instead of taking existing roadways and sidewalks, use areas that are designed and built for the purpose. These have been in the works for way to long.

1- Wait until McNabb opens his building at Danial / Penhollow Street to have a walkway that ties into Tuscan Chop House

2- When the city gets its dream Danial to Bow Street covered walkway when the Federal Building project gets done in 2023 or 2033

3- Use the revamped Vaughn Mall in a year or 5."

Unknown contact said:

"I think outdoor dining is a net positive. My only concern is traffic congestion and lack of parking caused by streets blocked with restaurant seating. "

Unknown contact said:

"Seating needs to be tasteful . While some restaurants do it up classy others it's an eyesore for the city. Like they throw up seating in the the cheapest way possible . Also seating should not take up entire block !(ie. Clipper) June to September is good time frame . "

Unknown contact said:

"Eating dinner next to car exhaust isn't enjoyable. Rather go indoors or to a deck on the water."

Unknown contact said:

"I want to begin with, I love our town and restaurants. I believe THE OUTDOOR DINING SHOULD NOT BE AVAILABLE TO EVERY RESTAURANT - only if there is space on the sidewalk and or if it doesn't hamper major roads + traffic. Streets should not be closed nor traffic patterns changed. The initial reason for the outdoor dining was to save the restaurants. The restaurants are doing fine. NOTE ** Try to walk-in without a reservation. The restaurants are doing the best they can, without enough restaurant workers. MOST IMPORTANT!! HAVE SOME STANDARDS! Not all, but many areas are very tacky looking and not properly maintained. Many areas sit empty much of the time. SHORTEN THE SEASON. It is November and they are still up. It will be nice to get our quaint town back."

Unknown contact said:

"Though I love the outside dining, the traffic congestion is terrible at best. Summers are tough for traffic as it is. If there are creative ways to not give up parking on upper congress as an example , or close off streets, it would benefit the downtown immensely. The cars idling longer than needed at stop signs, The exhaust issues , and the challenges for pedestrians crossing with increased and delayed traffic movement "

Unknown contact said:

"That hill on Congress in front of the thirsty Moose is something else! Maybe allow them to have a platform built like the goat did."

Unknown contact said:

"None. I would like to see the program discontinued!"

Unknown contact said:

"1st make spaces for the residents(parking spots) also move the tables only near the restaurant entrance, and not interfering with residents entering or leaving their own door."

Unknown contact said:

"Nothing, as a business owner it's fabulous to see the town come alive and visitors really taking in the charm that we all know and love. "

Unknown contact said:

"Since the pandemic is over, should not have outdoor dining taking up roadways."

Unknown contact said:

"I am all for outdoor dining, and partake in it whenever available in nice weather, but I effectively make blind turns onto State St. whenever I am at the stop sign at Chapel and State. The tables and umbrellas set up along State St. completely blocks the view of oncoming traffic and it is very unsafe. I'm relieved that it has been dismantled for the season."

Unknown contact said:

"Some of the outdoor seating areas are too large, Clipper Tavern as an example, and a couple are located in areas that cause traffic issues; The Goat and Jumping Jays are 2 examples. Outside areas are nice however a suggestion to downsize or right-size. "

Unknown contact said:

"Create a pedestrian-only zone in Market Square/Congress St, but give access to service vehicles to support business needs. Reroute Memorial Bridge traffic from Daniel to a 2-way State Street. "

Unknown contact said:

"Use materials that are easy to keep clean but also add aesthetic beauty. Most of the downtown business have added a really welcoming and lovely outdoor eating space; a few look a bit trashy, partly due to not keeping it swept and organized. But, overall, we're really happy to have outdoor eating areas and only wish they could last through the winter!"

Unknown contact said:

"It seems that in a non-Covid environment, restaurants that can have outdoor dining without disrupting traffic flow could be okay-- the establishments that must disrupt traffic to effect outdoor dining should be disallowed."

Unknown contact said:

"Extend to Nov 15. This year would have been good. "

Unknown contact said:

"1. Shorten the season - May to November is too long and most seats are vacant the vast majority of time. The city council gave it away, discarding the advice of the town manager by lowering the cost and allowing any restaurant to utilize outdoor dining. No cost, no investment and no demand for a lot of them. Limit to June - September.

2. Set some standards for outdoor dining setups! Some, like Toscana, the Press Room, Massimo's, the Rosa, are very well done and add to the beauty of downtown. Others, like the Clipper Tavern and Thirsty Moose are ugly - cheap picnic tables, umbrellas and Jersey Barriers. As a resident of downtown my home is subject to stringent zoning and historic district codes - why does this not apply to restaurants?

3. Limit to where there is sufficient sidewalk space. Some good examples include Toscana, Portsmouth Feed, Popovers, Raleigh. Do not allow where dining disrupts pedestrian traffic - The Goat, Jumpin Jays, Sol; or impairs motor vehicle traffic flow and visibility as seen at the Clipper Tavern, Cup a Joe, Durber Square, and the Thirsty Moose.

Bottom line we need some standards, selective approved areas and a shorter season. I live downtown and walk these streets every day and most of the time outdoor dining was largely vacant. Restaurants were more threatened by labor shortage than table shortages."

Unknown contact said:

"I would keep it going year-round, as they do in many cities in Europe, with excellent awnings and heating systems."

Unknown contact said:

"On a whole, it is a good experience. Restaurants close before people get drunk. Legends is another story. Their customers are loud, destructive and drunk under age drinkers."

Unknown contact said:

"Some restaurants did a great job (Massimos), while some were an eyesore (Moxy). There should be standards set. "

Unknown contact said:

"No forced one way streets. Minimum standards of aesthetic appearance."

Unknown contact said:

"Some of the one way streets are difficult to navigate. Please keep Fleet and Pleasant Streets two way. Congress Street is also too congested with most of the street blocked on one side or the other. "

Unknown contact said:

"Don't do it again. We lose parking and it increases traffic congestion and pedestrian congestion "

Unknown contact said:

"Keep it going! Use the parking garages for parking. "

Unknown contact said:

"Better aesthetics rather than jersey barriers."

Unknown contact said:

"End it "

Unknown contact said:

"Closing a street for one small establishment doesn't make sense and is not fair to those that get lousy added space like out back next to a dumpster. We should be past closing streets unless you want to turn them into pedestrian plazas which could only happen downtown. "

Unknown contact said:

"Support outdoor dining by lowering costs and encouraging beautiful outdoor areas. Outdoor dining has been so successful! Thanks!"

Unknown contact said:

"Continue with it. Improves every year. "

"I approve and like outdoor dining but did have a negative experience while dining out and unfortunately now it relates to the place and we won't go back, though, to some degree, it wasn't their fault
We were at the burger bar seated outside. Only one outside section was in use, the other left empty. All tables were taken. All other patrons had dogs. I love animals, my husband no so much. One of the dogs was an uncontrollable puppy who was jumping everywhere. Another dog kept approaching my husband... the dog owners thought everyone would enjoy their pet. The place was chaotic because of the dogs. I had to swap seats with my husband because of the chaos, he wanted to just leave. Then to make matters worse there was a tree right outside the fenced dining area where dogs were relieving themselves, both pee and poop. Didn't add to the dining experience. Hence we won't go back.
In fairness the burger bar should have seated us on the other side or at least asked if we wanted to sit with the animals or not
Something to keep in mind
"

Unknown contact said:

"Love the idea and option of it. New England doesn't get many days to enjoy outside so it helps in that regard. The east tends to be slow to any societal advancement and out west and feels dated. It would be great if out roads were wider to accommodate outside seating the way it's being offered, but that's a long term solution.

Another example of how establishments west of us progress faster pertains to allowing dogs inside restaurants. Naysayers and Debbie downers don't like it but I've yet to see medical proof it's negative in any way.

One particular spot it's fairly tricky is the bridge side of State St. Lots of blind spots and narrow roads. But I'd HATE to see speed limits lower...25 is fine. It'd be better to have the outside seating of Sol be moved around the corner and not have the space on state st side.

One more comment, clear plastic covers covering portions of outside seating to block vehicle fumes from decreasing the enjoyment of Al fresco dining.

Overall, it's a positive but could use tweaking.
"

Unknown contact said:

"Row 54 blocks a sidewalk, gray Jersey barricades are ugly. Not in street ; ok like Toscano does it "

Unknown contact said:

"Loved the flower boxes and painting the bases was a nice improvement "

Unknown contact said:

"Parking is always an issue in downtown but I think the city has grown to a point where perhaps some streets need to no longer allow driving and be solely used as a business walking district. "

Unknown contact said:

"Expedite the clean up so it happens around the city within 1-2 days. "

Unknown contact said:

"Stopping the program"

Unknown contact said:

"Eliminate it!"

Unknown contact said:

"Some are done really well and others are minimalist. There is probably nothing that can be done except give an award to the best decoration, etc. "

Unknown contact said:

"Driving and walking around the city, I found that there were two areas with outdoor dining that felt unsafe to drivers and pedestrians. One is at the intersection of court street and pleasant street, and the other at state street and chapel street. The barricades and flowers at or near these two intersections reduced visibility of pedestrians and oncoming vehicles. I think these two should be removed next year for safety reasons. "

Unknown contact said:

"Evaluate each outside dining location to garage impact to parking and traffic flow. Has to be a balance. "

Unknown contact said:

"Please reconsider closing two way traffic to one way on Fleet & Pleasant

Provide fees and application process earlier in the season and communicate better on barrier installation and removal.

Consider scale of outdoor dining square feet in connection w indoor # of seats "

Unknown contact said:

"Please reconsider closing two way traffic to one way on Fleet & Pleasant - the traffic disruption is particularly difficult and particularly at the Pleasant Street /Court Street area - and created obstacles for our tenants in navigating the downtown area. "

Unknown contact said:

"Please reconsider closing two way traffic to one way on Fleet & Pleasant - the traffic disruption is particularly difficult and particularly at the Pleasant Street /Court Street area.

The benefactor at that location has an establishment that should involve monitoring for aesthetics and cleanliness - it's the only eyesore of the entire concept. "

Unknown contact said:

"Do not permit closures of 2 way traffic streets to one way & monitor/approve aesthetics - we have an HDC for visual and historically accurate improvements for property and yet the largest establishment in the program had the most deplorable unpleasant setting - not representative of our fine City - dead plantings in the largest of planter/barricades was a disgrace. "

Unknown contact said:

"Please reconsider closing two way traffic to one way on Fleet & Pleasant - the traffic disruption is particularly difficult and particularly at the Pleasant Street /Court Street area - and that establishment needs monitoring for aesthetics and cleanliness - it's the only eyesore of the entire concept. "

Unknown contact said:

"Better communication in advance of the season on fees, rules to participate, monitoring through the season - NOT allowing for closed off or one way access on an otherwise 2 way traffic road and more awareness and better communication on when the program ends. "

Unknown contact said:

"Establish some additional standards for sf allocated to restaurants - a few have too large an area and often go unused; most however are respectful and demonstrate pride for their outdoors like their brand, others - not desirable even bordering on unwelcoming and unhealthy (trash and unpleasant upkeep) "

Unknown contact said:

"Noise after 9 pm would be a major concern since the establishment is using city land. We are supportive as long as rules are applied along those lines."

Unknown contact said:

"Please keep it going!!"

Unknown contact said:

"As dog owners, we have appreciated outdoor dining as we could bring our dog.

Unknown contact said:

"Relax parking rules"

Unknown contact said:

"The extended dining is a big boost to Portsmouth and I'd like to see it continue. That being said, Portsmouth needs to continue working on the labor shortage though. We need to support the vibrant restaurants with extended dining options and labor. I don't think the labor shortage is due to housing. There have to be other ways to support businesses. "

Unknown contact said:

"The pandemic is over. Shorten the season. Make the restaurants pay for the amount of parking revenue lost. Don't let them take up so much space. For example, the space given to the Clipper tavern on Pleasant St is ridiculous!!"

Unknown contact said:

"To continue the program and encourage additional participation! "

Unknown contact said:

"Discontinue "

Unknown contact said:

"Encourage more restaurants to participate. Make it year round. Make it permanent. Look into giving more space to participants."

Unknown contact said:

"Needs to improve as it blocks line of sight when trying get out onto State Street from Chapel Street. It is a busy intersection. "

Unknown contact said:

"It would be nice if the outdoor seating would be better integrated with the sidewalk and street. "

Unknown contact said:

"Keep it going!"

Unknown contact said:

"Keep it going!"

Unknown contact said:

"More attractive barricades like what Massimo and Press Room did. "

Unknown contact said:

"Expand outdoor dining as much as possible for as long as possible throughout the year."

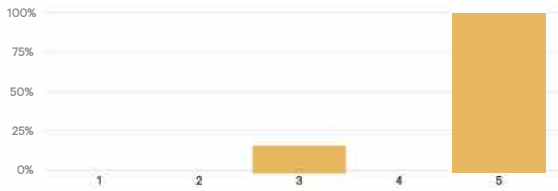
Outdoor Dining 2022 Survey - Participants

All Responses

Question 1 has 7 answers (Range) Avg rating: 4.7



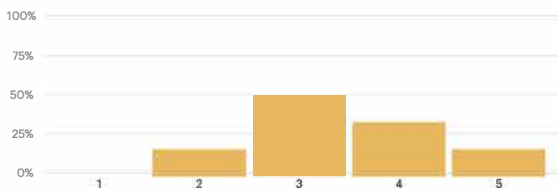
“How important is outdoor dining to your business?”



Question 2 has 7 answers (Range) Avg rating: 3.4



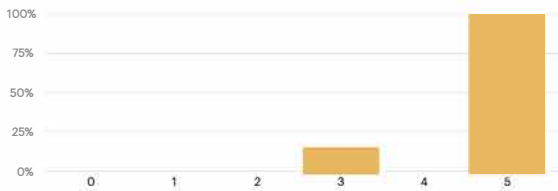
“How important would an increase in the outdoor dining fee be to your decision whether to participate?”



Question 3 has 7 answers (Range) Avg rating: 4.7

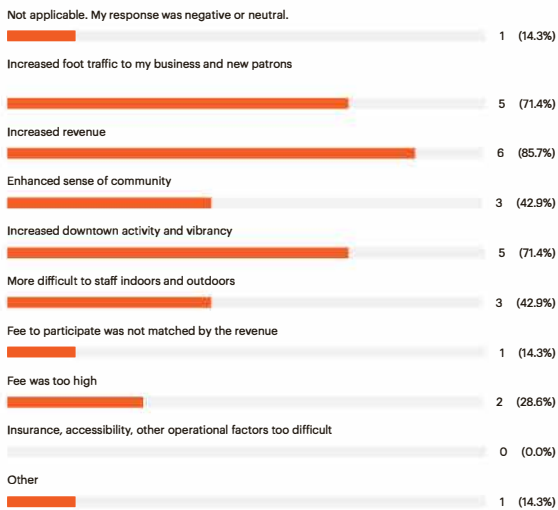


“How was your experience with the outdoor dining program?”



Question 4 has 7 answers (Checkboxes)

“What factors influenced your answer above? (Please check all that apply.)”



Question 5 has 1 answers (Open Text)

“If you answered “Other” above — what other positive impacts did you experience?”

Unknown contact said:

"Helps businesses compete with the decks in summertime; levels the playing field between big money businesses and smaller mom & pop restaurants."

Question 6 has 2 answers (Open Text)

“What suggestions do you have for improving the outdoor dining program?”

Unknown contact said:

"More communication between the City and business community to understand the long term viability of the program."

Unknown contact said:

"I don't think you should increase the fee. Restaurants have a hard enough time with staffing, getting items to cover menu needs."

Beverly M. Zendt

Subject: RE: Outdoor Dining

From: Mark Dorley <dorleymark@gmail.com>

Sent: Thursday, June 2, 2022 2:23 PM

To: hotline

Subject: Outdoor Dining

As a tax paying life long resident of Portsmouth I am curious why I must endure street closures and loss of parking to appease downtown restaurant owners? Any restaurants that require lane closures for their dining area should not have been granted permits. Downtown restaurants have flourished for a very long time without placing customers out in the middle of the road. I would like to see downtown returned to it's pre pandemic layout.

Mark Dorley
777 Middle Rd, Portsmouth, NH 03801

Lynda Raczek

20 Below Boutique
31 Vaughan Mall
Portsmouth, NH 03801
NH20below@yahoo.com

May 12, 2022

Planning Department

Outdoor Dining Work Group
City Of Portsmouth, NH
CC: Beverly Mesa-Zendt

Dear City Of Portsmouth Planning Board,

In May of 2013 I opened 20 Below Boutique after 16 years of being a store owner in Exeter, NH. After the stock market crash of 2008 I started to sell more and more items at \$20 or less and realized this price point was quickly becoming the bulk of my sales. Although I loved making my customers happy with low prices I was not doing the volume I would need to in order to sustain mainly \$20 sales. I needed more foot traffic. I knew Portsmouth was the ideal place for a concept store that sold only \$20 or less clothing and accessories as there was the foot traffic to support the volume of sales I would need to do; especially on Congress and Market Street. The problem was the rent was not in such a store's budget. So I took a chance on the Vaughan Mall which had an open space right next to Subway. There was a lot of construction going on at the time, lots of buildings were being remodeled, hotels were being built and there was a significant problem with the homeless that congregated there. But I kept my head up believing I could make it work. Two hotel chains opened up a year after and walking traffic began to increase. Three years in I was seeing growth of over 30 percent that continued on for over another 3 years. Just as I was really on a roll Covid -19 hit. Summers had traditionally been my busy season because of the beautiful weather that made for wonderful walking and shopping conditions. With Covid-19 I was closed for 3 months and only began seeing walking traffic return to Portsmouth in late June of 2020. When dining tables began popping up outside of restaurants and cafes I was truly excited. We began looking like NYC in the summer. It was a great addition to our City and it brought a very welcoming, happy vibe with it. It helped bring more people down the Vaughan Mall and gave me a much needed boost of walking traffic. Therefore I was happy to hear outdoor dining was going to be extended in 2021 but I could not have foreseen the barricades that were going to go up that summer and the toll they would take on my business.

For the entire summer and fall I watched as traffic was diverted from the sidewalk in front of my store to 20 feet out towards the parking lot. I watched as people focused on passing through a bottle necked space between the barricades of The Goods and the lip of the sidewalk. Many stood there waiting for walkers from Congress to pass through so that they could pass through from the direction of Portwalk Place. They were not looking at my storefront on a relaxing stroll-through they were just trying to figure out how to get by the barricades. Oftentimes I saw young children nearly running into the barn boards and at times they did.

I sent Jacqui at The Goods a Facebook message explaining the diverted foot traffic and the toll it was taking on my business. Her response was that I should find a way to improve my own outdoor exposure. I asked if she could let people use the sidewalk when she was not open and she refused. When she finally took down her barricades in November my business finally increased and continued to increase throughout December making those two months busier than the summer which has never happened. I lost thousands of dollars a month in sales over the 6 months she had her barricades up. The sidewalk property outside my storefront was physically altered by the barricades and that alteration caused detrimental impact. The business income losses I calculated were approximately \$5,000 every month the barricades were up for a total season loss of \$30,000.

The City of Portsmouth, The Planning Department and the City Council have promised to look out for the welfare of all businesses in Portsmouth, including retail. So this March my husband John began his conversation with Beverly Mesa-Zendt Director of the Planning Department to voice our issue with The Goods barricades. On March 18th John sent an e-mail about our concerns and then again on April 18th when she put up her barricades again without a permit. When her barricades again went up on May 9th John again reached out to Ms. Mesa-Zendt and was told to compose a letter detailing our grievance.

I believe it is best to find an amicable solution to this. I cannot sustain another season of \$30,000 in business income losses. I have a house and two teenage kids who rely on my income and I cannot take the income losses again. Ideally it would be best if there were no barricades up. I believe they may be blocking fire truck access and I am fairly concerned that if The Goods had a fire the whole block would go up before a fire truck could get in there. I understand barricades are required for safety purposes when dining is in the streets or in parking lots but there is no such issue in the Vaughan Mall which is why The Green Room does not have any.

Perhaps an alternate solution would be to have The Goods remove her barricades at 2 pm when she closes for the day and 3 pm when she closes on Saturday and Sunday.

Please respond as soon as possible as we are entering into the summer season in less than a month.

Sincerely,

Lynda Raczek

20 Below Boutique

From: [Daniel DiCesare](#)
To: [Beverly M. Zendt](#)
Subject: Retail Parking on Market Street: Time Critical
Date: Tuesday, March 8, 2022 2:12:03 AM
Attachments: [IMG_0072.heic](#)

Hi Beverly,

It was brought to my attention that you will be overseeing (or portions thereof) the parking barriers being re-erected for restaurants, this April.

I've written to the City Manager and several of the Committee members with no response to date, thus I am kindly asking if you can assist me.

The situation is this:

We own the 16-18 Market Street retail building, home of "Lizology", a women's clothing store.

Last year, the City blocked off the space directly in front of our storefront for the adjacent restaurant, without allowing input from us. We kindly request the City to allow this specific space to be allowed to be used as parking again. It affects our business and access to deliveries on the busiest retail street in the City.

To give you a better vantage point, please refer to the attached pictures. Our retail building has the yellow facade (Lizology) and occupies over 80% of the street frontage. The parking space in question is directly left of the parking meter with the barricade over it.

I am out of town on a work trip until 15 March but can be reached via email until then.

Thank you for your consideration and assistance.

Best regards,

Daniel DiCesare
603-502-3365
16-18 Market Street/owner

 [IMG_0072.pdf](#)

From: [Alexandra Crosby](#)
To: [Beverly M. Zendt](#)
Subject: Resident Feedback re: Hill Street Closure for Outdoor Dining (Dwyer's Pub)
Date: Monday, April 4, 2022 4:22:36 PM

Good Afternoon, Beverly.

It was a pleasure speaking with you today. I so appreciate you taking the time to listen and respond to my questions. As I said, gaining an understanding of the "behind the scenes" is so helpful. As a resident on Hanover Street, the closure of Hill Street has been something I have noticed and have been wondering about so it is very valuable to have an understanding of the context of COVID and ongoing development of these policies.

I would like to please be included in your contact list of residents to provide feedback for establishing the policies moving forward with regard to the closure of Hill street for outdoor dining at Dwyer's Pub. As with so many aspects of the pandemic, I know this is another area that necessitates "building the bridge as we are crossing it" so I hope to be as helpful as I can during this process in expressing my concerns and potential solutions. As we discussed during our phone call, I appreciate the idea of seeking balance in whatever outcome is reached.

I will also be passing your email along to some neighbors who I believe will also appreciate an opportunity to provide feedback and will feel motivated to present potential ideas for seeking solutions.

I will include some of my initial feedback below.

Thank you again for your time and consideration and thank you for all of your thoughtful and hard work for Portsmouth

With Appreciation,

Alexandra Crosby
518-396-8813

Some of my initial thoughts on the closure of Hill street include:

-Blocking the entire entrance creates difficulty for residences to access parking areas since Hanover street is one way traffic. This necessitates rerouting through the heart of downtown traffic to detour into the neighborhood.

-I know that the fire department will have had to sign off on the road closure, but as a resident I would feel more comfortable knowing that emergency vehicles have this direct access to Hill Street from arterial routes.

-I have observed increased confusion among drivers unfamiliar to the area, as maps do not show the road closure. This has led to a greater number of drivers turning the wrong way onto Hanover Street.

-The live music set up on a road leading to residential areas can be disruptive to residents.

-This thought goes beyond my own personal perspective but I do wonder about the sustainability of this model of outdoor seating for the business as it likely at least doubles their seating capacity.

Some strengths of the current setup are that this allowance has enabled a relatively new business to survive during the pandemic and perhaps even thrive and outdoor space has allowed people to gather more safely.

My initial thoughts on potential resolutions include:

-the potential for Dwyer's to request road closure for specific pre-approved events only

-exploring the possibility for Dwyer's to use their front side walk and parking spaces for outdoor seating like the Bridge Street Bistro does.

-Staff move the seating and road closure traffic sign to the side of the building when the business is closed to enable some use of the road during off-hours.

-Dwyer's using only one half of the road as opposed to the full road to allow through traffic.

Beverly M. Zendt

Subject: RE: Market Square Day Logistics

From: Barbara Massar [<mailto:bmassar@proportsmouth.org>]

Sent: Wednesday, April 13, 2022 10:23 AM

To: Beverly M. Zendt <bmzendt@cityofportsmouth.com>

Subject: RE: Market Square Day Logistics

Importance: High

Hi Beverly - I'm following up to my Friday email.

I do have a special request: with Children's Day on Sunday, May 1st, and Market Square Day on June 11th, I respectfully request that restaurant seating in the street on Pleasant between State and the Square not be put in place until June 11th.

We set up a temporary power board on the corner (near the Rusty Hammer) for both events' performances, and on a Market Square Day, a large, rented performance stage goes in across that street at State.

Happy to talk things through...sorry to meet this way, with me asking for something...

Barbara

Barbara Massar
Executive Director
Pro Portsmouth, Inc.
Arts, Culture, History & Community Since 1978
www.proportsmouth.org
P. 603.433.4398 Ext. 3
M. P.O. B ox 967, Portsmouth, NH 03802
Facebook: Pro Portsmouth
Twitter: @Pro_Portsmouth

From: Karen Conard [<mailto:kconard@cityofportsmouth.com>]

Sent: Friday, April 8, 2022 1:34 PM

To: Barbara Massar <bmassar@proportsmouth.org>

Cc: Beverly M. Zendt <bmzendt@cityofportsmouth.com>

Subject: RE: Market Square Day Logistics

Hi Barbara –

As you can imagine, it's definitely a moving target and an evolving conversation. We did not give restaurants a deadline by which they needed to file a permit. I'm including Planning Director Beverly Mesa-Zendt here, as she has the most to date sense of what's going on.

We are closed for the day, but I'm sure she will respond early on Monday.

Take care and enjoy your weekend –
Karen

From: Barbara Massar [<mailto:bmassar@proportsmouth.org>]
Sent: Friday, April 8, 2022 12:00 PM
To: Karen Conard <kconard@cityofportsmouth.com>
Subject: Market Square Day Logistics

Hi Karen – Our booth application process is stuck in neutral right now since I can't tell if restaurant seating will be the same, more or less than 2021.

I don't need to know who's doing what, but it would be helpful if I had a sense of what things will look like for us on June 11...Flatbread told me, on their own when we were talking about MSD, that they're not doing outdoor seating, so that gives us plus 2 spaces. With Rudy's Wine Bar closing, can I assume that seating goes away? And so on...

Any information you could share would be helpful. Many of the people I have on hold need to place orders, add to their craft inventory, and if I can't include them, I owe them an answer.

Thank you in advance...I realize that it might be a moving target.

Barbara

Barbara Massar
Executive Director
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Facebook: Pro Portsmouth
Twitter: @Pro_Portsmouth

From: [John Raczek](#)
To: [Beverly M. Zendt](#)
Subject: Re: Outdoor seating
Date: Monday, April 18, 2022 5:39:04 AM

Hello, I am contacting you again about the situation that we are having with our neighbor , The Goods, At the vaughan mall. As you can see by the photo I sent she has taken over the side walk again and even though she closed a 2pm she continued to block most of the side walk which is greatly affecting our business. When last we spoke you had told me that the owner of The Goods did not apply for a permit and that you would address the situation if it arose again which it obviously has. Can you please contact me with what the process is to correct this situation.

Thanks, John Raczek

Co-owner of 20 Below Boutique
31 vaughan mall



On Mar 18, 2022, at 11:46 AM, Beverly M. Zendt
<bmzendt@cityofportsmouth.com> wrote:

Thank you for your email- I will share with the outdoor dining working group.

Best Regards,

Beverly Mesa-Zendt AICP
Director | Planning Department
City of Portsmouth

1 Junkins Avenue
Portsmouth, NH 03801

(603) 610-7216

Bmz@cityofportsmouth.com

Planning Department | City of Portsmouth

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-----Original Message-----

From: Zen Tree Works [<mailto:zentreeworks@yahoo.com>]

Sent: Friday, March 18, 2022 11:45 AM

To: Beverly M. Zendt <bmzendt@cityofportsmouth.com>

Subject: Outdoor seating

Hello, my name is John Raczek and I spoke to you a little while ago about our store in town here at Vaughn Mall called 20 BELOW BOUTIQUE.

Our direct neighbor, a restaurant called , The Goods, last year put up outdoor seating that blocked 90% of the sidewalk. This had a direct effect on walking traffic and business at our store. We would like you to know our concern about that happening again this year and hopefully some kind of agreement can be made to reduce the size of their outdoor seating.

It was nice talking to you and we thank you for your looking into the situation. If you wish to speak to me my phone number is 603-817-4481.

Thank you, John Raczek.

Sent from my iPhone

From: [Daniel DiCesare](#)
To: [Beverly M. Zendt](#)
Subject: Re: 16 Market Street retail space
Date: Thursday, May 19, 2022 11:09:41 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)

Beverly,

I have left you several voice messages in the past 24 hours. This is regarding the parking space in front of my retail shop on 16 Market Street (see attached pictures, my store front is in yellow).

Yesterday, the city erected a barrier for the adjacent restaurant which extended well beyond their frontage. Rendering the entire parking space useless.

You had assured me that the abutter (me) would be asked for consent, since my store frontage occupies over 80 percent of the parking space in question.

No one contacted me at any time to discuss this matter. Because of the egregious breach of city "policy", I am politely demanding that the barrier be reduced in size to allow my store front to utilize the revenue producing parking space.

Please call me at your earliest convenience. If the city will not work with me on this matter, I will be forced to file a suit against the city as a result.

Thank you.

Best regards,

Dan DiCesare
16 Market Street/owner
603-502-3365

On Wed, Mar 16, 2022 at 4:01 PM Beverly M. Zendt <bmzendt@cityofportsmouth.com> wrote:

Good afternoon,

Per our conversation – here is the direction that we have received from the City Council and what are utilizing as we work through this year's applications:

2. Abutter Approval. If the applicant proposes utilization area beyond the extended boundaries of their storefront and into parking, street, or sidewalk area in-front of abutting businesses – they must first provide abutter consent for use of such spaces.

There are a host of sites that do not fit exactly into this as not all sites are organized as linear street fronting sites - but this is the rule of thumb and seems to relate to use of the space directly in front of your business.

Best Regards,

Beverly Mesa-Zendt AICP

Director | Planning Department

City of Portsmouth

1 Junkins Avenue

Portsmouth, NH 03801



(603) 610-7216



Bmz@cityofportsmouth.com



[Planning Department | City of Portsmouth](#)

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From: Daniel DiCesare [mailto:dadicesare@gmail.com]

Sent: Wednesday, March 16, 2022 9:47 AM

To: Beverly M. Zendt <bmzendt@cityofportsmouth.com>

Subject: Re: 16 Market Street retail space

Please find attached, pdf picture of my retail frontage from last year. Lizology in the yellow (16 Market Street). I can provide more pictures for you if needed.

Thank you,

Dan

On Wed, Mar 16, 2022 at 9:28 AM Daniel DiCesare <dadicesare@gmail.com> wrote:

Hi Beverly,

Would you please provide a number I can reach you on directly? I would like to set up a call then a meeting with you at city hall regarding the parking in front of my retail space at 16 Market Street.

This will hopefully clarify my position on the subject.

Thank you in advance,

Dan DiCesare

603-502-3365

From: [Perry Silverstein](#)
To: [Mike Casad](#)
Cc: [Beverly M. Zendt](#); [Andrew Bagley](#); [Benjamin M. Fletcher](#)
Subject: Perry-photos showing loading zone issue
Date: Tuesday, March 8, 2022 9:53:25 AM

Hi Mike - can somebody explain how a tractor trailer (here without Joanne's outdoor seating) can pull in and fit with her taking the front of the loading zone? You will certainly need the parking space in front. That truck comes twice a week for LeRoux Kitchen my tenant. Trucks are in and out all day....large and small. There is usually a couple delivery trucks in there and they need all that space. Not being able to pull straight in is hard enough. She should be charged for the parking space she displaces. She is the Assistant mayor and should be treated like everybody else in regard to fees, especially if she is making things difficult for her neighbors

My retail tenants: LeRoux Kitchen, The Black Dog, and Clay's are not happy about their deliveries being interrupted. Solari across the street and Lizology women's clothing store also wrote letters complaining. Salt Cellar across from her on Commercial Alley wrote a letter on this. Nobody really listened. For Joanna to have outdoor seating for her private business... she has made business hard for the surrounding retailers. One of my retailers has already told me they may choose to not renew their lease at the end of this year if deliveries are interrupted.

Perry

When Cup of Jo is taking this back section the truck needs that front parking space. That parking space costs the City \$5700 for 6 months on average according to Ben Fletcher. And it will now be taken for 8 months with the City Council extending into April and November.



if Cup of Jo blocks the trucks from pulling in you need that front parking space.





CITY OF PORTSMOUTH, N.H. BOARDS AND COMMISSIONS

APPOINTMENT APPLICATION

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



Committee: Trustee of the Trust Funds

Renewing applicant

Name: DANA S. LEVENSON Telephone: 603/498-9261

Could you be contacted at work? YES/NO - If so, telephone # 603/498-9261

Street address: 6 Currier Cove, Portsmouth, NH

Mailing address (if different): _____

Email address (for clerk's office communication): danaslevenson@gmail.com

How long have you been a resident of Portsmouth? 64 years

Occupational background:

- 1) Retail Management; President of Ann Ellen Enterprises, a 35 store chain including Artisan Outlet.
- 2) TD Bank (and predecessor banks) Director since 1996
- 3) Portsmouth Boys High School Tennis Coach - 2000 to 2012

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

Reasons for wishing to continue serving: The role and responsibilities of the Trustees has transitioned over the past few years into one that is more focused on financial performance of the City's Trust Funds. This is an area where I feel I have a degree of expertise. I am familiar with

OVER
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portfolio construction, diversification, asset classes, +
benchmark performance metrics. We have a new
investment advisor and I would like to continue
to ~~serve~~ to make sure performance and service
levels meet our expectations.

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

- Former Portsmouth Rotary Club Member
- Dartmouth Club of the Seacoast
- Portsmouth Economic Development Commission - 21 years
- Portsmouth Library Trustee

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

- 1) Nancy London 500 FW Hartford Drive Portsmouth NH
Name, address, telephone number 603/498-5595
- 2) Robert Snover 60 TJ Gamester Ave, Portsmouth, NH.
Name, address, telephone number 603/781-7177

BY SUBMITTING THIS APPLICATION YOU UNDERSTAND THAT:

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

Signature: Nancy J. London Date: 11/22/22

CITY CLERK INFORMATION ONLY:

New Term Expiration Date: January 1, 2026
 Annual Number of Meetings: 12 (202) Number of Meetings Absent: 0
 Date of Original Appointment: 9/6/2011

Please submit application to: City Clerk's Office, 1 Junkins Avenue, Portsmouth, NH 03801



CITY OF PORTSMOUTH, N.H.
BOARDS AND COMMISSIONS

APPOINTMENT APPLICATION

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

RECEIVED
OCT 31 2022
Renewing applicant
By

Committee: Zoning Board of Adjustment

Name: Phyllis Eldridge Telephone: 603 205-3579

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

Street address: 50 South School Street #6

Mailing address (if different): _____

Email address (for clerk's office communication): phyllis917@gmail.com

How long have you been a resident of Portsmouth? 42 years

Occupational background:

I have a Masters degree in Education and taught for several years. Most Recently I worked in the non-profit field for Lamproy Healthcare and then the Futures program at PHS. Mentoring independent first generation students to go to college.

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

Reasons for wishing to continue serving: Since the mid-1980s I have been involved with city boards, HDC, planning, city council, Trustees of Trust Funds. And now ZBA. I enjoy being involved. I enjoy problem solving.

OVER
➔

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

Futures Board - Chair
Families First Advisory Board
ZBA

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

- 1) Jody Record, Rockland St., 603 988-9865
Name, address, telephone number
- 2) Maria Silari, Jones Ave., 603-305-0422
Name, address, telephone number

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Signature: Phyllis Eldridge Date: 10/17/2022

CITY CLERK INFORMATION ONLY:

New Term Expiration Date: 12/01/2027
Annual Number of Meetings: 17 ²⁰²¹ Number of Meetings Absent: 5
Date of Original Appointment: 2/20/2018 as alternate
3/7/2022 as Regular

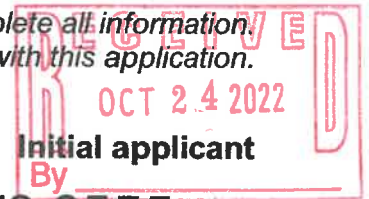
Please submit application to: City Clerk's Office, 1 Junkins Avenue, Portsmouth, NH 03801



CITY OF PORTSMOUTH, N.H. BOARDS AND COMMISSIONS

APPOINTMENT APPLICATION

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



Committee: Mayor's Blue Ribbon Task Force on Historical Archives

Name: Alan Cohen Telephone: 603.373.8555

Could you be contacted at work? YES NO If so, telephone# n/a

Street address: 962 Islington St Portsmouth

Mailing address (if different): _____

Email address (for clerk's office communication): alan.cohen0619@gmail.com

How long have you been a resident of Portsmouth? 6 years

Occupational background:

NH State Representative, Hillsboro 30, Nashua Ward 3, 2014-2016

staffing concultant 1996 - 2016

Digital Equipment Corporation Sales/Marketing 1990 - 2014

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

~~five year volunteer walking tour guide for Portsmouth Historical Society. In that role i have been leading tour groups highlighting historical buildings and events that have shaped the history of the city. In addition, I have conducted research into anecdotal events not commonly mentioned thta add to the rich tapestry and general interest of Portsmouth and New Hqampshire history.~~



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

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

Reasons for wishing to serve: _____

Keen interest in history, and in the documents and resources that provide the primary source material. I value the importance of preservation and of the proper indexing and classification of the documents and archival material.

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

Portsmouth Historical Society

Portsmouth Athenaeum

Strawbery Banke Museum

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

1) Alan Gordon 620 Woodbury Ave 603.303.5727

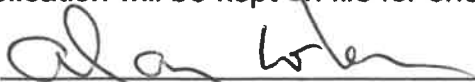
Name, address, telephone number

2) Stewart Bradley 966 Islington St 603.205.1516

Name, address, telephone number

BY SUBMITTING THIS APPLICATION YOU UNDERSTAND THAT:

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5. Application will be kept on file for one year from date of receipt.

Signature:  Date: 10/24/22

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

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

Resume

I have had the liberating privilege of not having to construct a resume for over 15 years. I have attached my last one for your perusal. I have also attached a bio which I wrote a few years ago for AARP. I have served on the Executive Council for AARP NH since 2010, interrupted by a term in the NH State Legislature from 2014-2016.

I have earned BS, M Ed and MBA from Suffolk University

Alan Cohen has been a volunteer with AARP since 2009. He has had the opportunity to assist with several different program areas and initiatives including The Capitol City Task Force, Life Re-imagined and Fraud Fighter. He is on the Andrus Award Committee, has participated in several Shred-a-thons and joint AARP and SBA programs and has done tabling at many events. He was in the first class in Senior Leadership in 2010.

He is in his second term on the Executive Council, his first term cut short when he decided to run for a seat in the NH State Legislature in 2014. When his term was complete, he and his wife Ellen, decided to move from Nashua to Portsmouth in 2016 when he again was privileged to rejoin the Executive Council.

He is excited about the upcoming opportunities to participate in Portsmouth's addition to the Age Friendly Network.

Alan and Ellen have three grown children and their first grandchild, born in January. Alan received a BS, Med, and MBA from Suffolk University.

Alan Cohen
4 Monterey Avenue
Nashua, New Hampshire 03064
(603) 889-3173
(603) 315-5892 cell
hrpro100@aol.com

Experienced Staffing Consultant and Retained Executive Search Consultant with background in diverse industries: Information Technology (IT), Government, Bio-Pharmaceutical, Health Care IT, Medical Devices, e-business, Telecommunications, Scientific and Consulting. Breadth of responsibilities and achievements include developing and implementing sourcing strategies, strong management partnering and the ability to help shape organizational design to accommodate changes in staffing. Have provided management and individual counseling on assessment and staffing planning, experiential interviewing and auditioning skills.

Comfortable and competent in research, candidate development, interviewing and assessing compatibility.

Networked Information Systems, Woburn, MA ***March 2005 – Present***
Woburn, MA

IT Infrastructure Systems Integrator – A leading Cisco Gold Partner Reseller

Technical Recruiter

Responsible for all internal staffing – full cycle recruiting and providing External full time placements and staff augmentation to clients on request

- * Saved \$675,000 in agency fees through direct sourcing and placement
- * Generated \$150,000 revenue in external staffing fees
- * Contribute to staff retention at 87%
- * Staffed a new office in NYC – sales, pre-sales and implementation engineers
- * Design and implement staffing policy

CONTRACT STAFFING ASSIGNMENTS

1999 to 2005

Have been proud to offer contract recruiting support to various firms in selected industries whose business mission includes: Software Development, IT, Health Care, Medical Devices and Telecommunications. Some of those firms include: ClearForest, Unica, Getronics, Navin Group, Cambridge Heart and Comverse. During that time have perfected a style and methodology that has been successful in full cycle recruiting at all levels. Very comfortable with direct sourcing, candidate qualification, offer presentation and closing. Have done high volume as well as lower volume specialized candidate recruitment.

Examples of Positions filled:

National Account Manager - Business Intelligence Software

Regional Sales Manager - Enterprise Marketing Automation Software

Director of marketing – Enterprise Marketing Automation Software

IT Managers, Consultants - E Business Solutions

Department Vice Presidents, Directors and managers – Health Care Organizations

Scientists, Specialized Software Developers, Mechanical Engineers – Medical Device

Software, Hardware Engineers – Telecommunications

Full Time Positions

Kleven Group, Lexington, Ma

February 1996 – March 1999

Retained Executive Recruiter

Positions filled: Director, Vice President and Division President

Disciplines: Software, Engineering, Scientific, Marketing, Sales

Industries: Technology, Manufacturing, Consulting, Service

Atlantic Turnkey Corporation, Amherst, New Hampshire

1994 – 1996

Municipal Software Developer

Sales and Marketing Director

Digital Equipment Corporation

1980 - 1994

Storage Sales Manager, Product Consultant, Marketing Programs Manager

EDUCATION

MBA, Suffolk University

Advanced Graduate Study, University of Ottawa

M.Ed., Suffolk University

BS in Business Administration, Suffolk University

ADDITIONAL

Awarded CPC (Certified Personnel Consultant) designation by National Association of Personnel Specialists (NAPS)

Active Member of IHRCA (Independent Human Resource Consultant Association)

Contributor to HR Today.com

Certified in Advanced Online Internet Recruiting Techniques (AORT)