

# CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH  
DATE: TUESDAY, JANUARY 22, 2019 TIME: 6:00PM

- 6:00PM – NON PUBLIC SESSION RE: NEGOTIATIONS IN ACCORDANCE WITH RSA 91-A:3, II (a)

- I. CALL TO ORDER
- II. ROLL CALL
- III. INVOCATION
- IV. PLEDGE OF ALLEGIANCE

## PRESENTATION

- 1. Comprehensive Annual Financial Report (CAFR) – Scott McIntire

- V. ACCEPTANCE OF MINUTES – DECEMBER 17, 2018

- VI. PUBLIC COMMENT SESSION

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

- A. Public Hearing – Cable Television Renewal Franchise Agreement

CABLE TELEVISION RENEWAL FRANCHISE AGREEMENT

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

- B. Public Hearing – Zoning Ordinance – Site Development Standards – Off-Street Parking

ORDINANCE AMENDING CHAPTER 10 – ZONING ORDINANCE, ARTICLE 11 – SITE DEVELOPMENT STANDARDS, SECTION 10.1110 – OFF-STREET PARKING

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

### C. **Public Hearing – Zoning Ordinance – Conditional Use Permits**

ORDINANCE AMENDING CHAPTER 10 – ZONING ORDINANCE, ARTICLE 2 – ADMINISTRATION AND ENFORCEMENT BE AMENDED BY INSERTING A NEW SECTION 10.240 AS PRESENTED ON THE DOCUMENT TITLED “PROPOSED AMENDMENTS TO THE PORTSMOUTH ZONING ORDINANCE: SECTION 10.240 – CONDITIONAL USE PERMITS”, DATED NOVEMBER 19, 2018

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

- D. First Reading of Proposed Ordinance amending Chapter 10, Article 4, Section 10.421.10 – DISTRICT LOCATION AND BOUNDARIES of the Zoning Ordinance and Portsmouth Zoning Map be amended by rezoning the property located at 290 Gosling Road at Assessor’s Tax Map 213, Lot 1 from Waterfront Industrial (WI) to Office Research (OR) District
- E. Third and Final Reading of Amendments to Chapter 10 – Zoning Ordinance be amended by deleting the existing Article 12 – Signs, and inserting in its place a new Article 12 – Signs as presented in the document titled “Proposed Amendments to the Portsmouth Zoning Ordinance: Article 12 – Signs”, dated September 25, 2018 (tabled Indefinitely at the December 17, 2018 City Council meeting)

### VIII. **APPROVAL OF GRANTS/DONATIONS**

*(There are no items on this section of the agenda)*

### IX. **CONSENT AGENDA**

#### ***(ANTICIPATED ACTION - MOVE TO ADOPT CONSENT AGENDA)***

- A. Letter from Lindsay Gilbert, Cystic Fibrosis Foundation, requesting permission to hold the CF Cycle for Life for the 2019 summer season on Saturday, July 13, 2019 ***(Anticipated action – move to refer to the City Manager with power)***
- B. Letter from Kathie Lynch, Portsmouth Little League, requesting permission to affix signage in the form of banners to be attached to fences surrounding the outfield and foul lines at Plains and Hislop fields, also; requesting permission to affix the banners to the fences from April 13 [Field Clean-up Day] through the end of October, and; maintain signage to the rear of the Plains scoreboard ***(Anticipated action – move to refer to the City Manager with power)***
- C. Letter from Caroline Piper, Friends of the South End, requesting permission to hold the annual Fairy House Tour event on Saturday, September 21, 2019 and Sunday, September 22, 2019 from 10:00 a.m. – 3:00 p.m. ***(Anticipated action – move to refer to the City Manager with power)***

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

- A. Email Correspondence (*Sample motion – move to accept and place on file*)
- B. Letter from Elizabeth Bratter regarding contractors or any builder to appear before the Planning Board to request a Conditional Use Permit regarding parking within their project, also not to include bike share services as a form to reduce the need for parking

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

### **A. CITY MANAGER**

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

1. Approval of Proposed Employment Agreement for Deputy City Manager Nancy Colbert Puff
2. Request for Public Hearing Re: Elderly and Disabled Exemptions
3. NH DOT Hampton Branch Trail Management Agreement
4. Request for First Reading Re: Accessory Dwelling Units and Garden Cottages
5. Presentation and Action Re: Neighborhood Parking Pilot Program

#### **City Manager's Informational Items:**

1. Report Back Re: Short-Term Rental Regulations in Portsmouth
2. Report Back Re: Student Letter on Reusable Bags
3. House Inspections Re: Sewer Study

### **B. MAYOR BLALOCK**

1. Recommendation for Appointment of Stefany Shaheen Re: Police Commission Vacancy
2. Appointment to be Considered:
  - Nathalie Morison to the Conservation Commission
3. Appointment to be Voted:
  - Heinz K. Sauk-Schubert appointment to the Historic District Commission as an Alternate

### **C. COUNCILOR ROBERTS**

1. Parking and Traffic Safety Committee Action Sheet and Minutes of the January 10, 2019 meeting (*Sample motion – move to accept and approve the action sheet and minutes of the January 10, 2019 Parking and Traffic Safety Committee meeting*)

### **D. COUNCILOR PEARSON & COUNCILOR PERKINS**

1. Request for Approval Re: Service of Alcohol for the Worth Lot Demonstration Project

**E. COUNCILOR DWYER, COUNCILOR ROBERTS & COUNCILOR PERKINS**

1. \*Update from McIntyre Subcommittee

**F. COUNCILOR DENTON**

1. Draft Letter Re: Portsmouth City Council Supports HB 102

**XII. MISCELLANEOUS/UNFINISHED BUSINESS**

**XIII. ADJOURNMENT**

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

*\* Indicates verbal report*

January 22, 2019

City Council Meeting

PRESENTATION:

1. COMPREHENSIVE ANNUAL FINANCIAL REPORT (CAFR)

DOCUMENT LINKS:

<https://view.publitas.com/city-of-portsmouth-1/portsmouth-nh-cafr-2018/>

<https://view.publitas.com/city-of-portsmouth-1/portsmouth-nh-2018-pafr/>

## **CITY COUNCIL MEETING**

MUNICIPAL COMPLEX  
DATE: MONDAY, DECEMBER 17, 2018

PORTSMOUTH, NH  
TIME: 6:15 PM

At 6:15 p.m., a Non-Public Session was held Re: RSA 91-A:3 II (e) – Litigation – James G. Boyle as Trustee, et als.

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

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

### **II. ROLL CALL**

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

### **III. INVOCATION**

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

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

Mayor Blalock led in the Pledge of Allegiance.

### **PRESENTATIONS**

#### **1. Holiday Music Performed by the Portsmouth High School Band**

The Holiday Ensemble performed four selections: Hark the Herald Angels Sing, God Rest Ye Merry Gentlemen, White Christmas and Jingle Bells.

#### **2. McIntyre Project Re: Financial Plan**

Deputy City Manager Colbert Puff advised the City Council that there will be a Public Hearing on the McIntyre Project at the meeting of January 7, 2019.

Steve Purdue, Redgate provided an overview of the McIntyre Project Financial Plan. He stated that the public private process, land use agreements and preservation plan have been reviewed with the City Council and now he will speak to the financial plan. He said the process has been centered on the design of the project. Mr. Purdue said the plan will be submitted to the National Park Services and the GSA will initiate the transfer of title. He discussed the ground lease document and that it will be referenced in the National Park Services application that will be going before the Historic District Commission for land use approvals followed by Planning Board and Site Review Technical Advisory Committee approvals next year. Mr. Purdue spoke to the ground lease which would be \$100,000.00 per year for 75 years and a long term lease is critical for debt and equity commitments. He also addressed rental assumptions which would be an average of \$2.974 per month per unit and there are 77 units. He spoke to the parking income is \$200.00 per month and real estate taxes will be approximately \$500,000.00. He further reviewed costs for water and sewer improvements, façade repairs and restoration fees.

Mr. Purdue spoke to the return of equity and stated there is no profit before equity is returned to investors. He stated a reasonable return will be earned by investors commensurate with assumed risk.

**V. ACCEPTANCE OF MINUTES – OCTOBER 15, 2018; NOVEMBER 19, 2018 AND DECEMBER 3, 2018**

**Councilor Pearson moved to accept and approve the minutes of October 15, 2018 City Council meeting. Seconded by Assistant Mayor Lazenby and voted.**

**Councilor Pearson moved to accept and approve the minutes of November 19, 2018 City Council meeting. Seconded by Assistant Mayor Lazenby and voted.**

**Councilor Pearson moved to accept and approve the minutes of the December 3, 2018 City Council meeting. Seconded by Assistant Mayor Lazenby and voted.**

**VI. PUBLIC COMMENT SESSION**

James Boyle spoke regarding sitting with some of the City Council to reach a settlement and global resolution to the case. He said that a mediation date is scheduled for January to try and come to a settlement.

Steve Little provided photos of cracked pavement and stated that streets are starting to be degraded and the Gas Companies have not followed the rules for correcting pavement conditions when they have done a project. He said the Public Works Department does not have the equipment to repair cracked pavement for maintenance of the road ways.

Jim Fernald spoke against the proposed sign ordinance. He spoke to political signs requiring that they must be taken down within 90 days. He addressed the content of signs and signs being erected to buildings.

Bill Wagner said he is here to discuss the contracts for the McIntyre project. He said there have not been any work sessions or City Council meetings on the contracts and they are the most important part of the project.

Jeffrey Cooper spoke to short term rentals in the State of NH and stated there are 3,500 people participating in these rentals in the State. He spoke to the value of short term rentals and said it is bringing revenue into the State. He stated that the enforcement is selective and based on personal complaints here in Portsmouth.

Erik Anderson said political signs on private property are of concern and urged the City Council to follow the advice to postpone the sign ordinance indefinitely.

Mark Brighton spoke to the impact on the taxpayer relative to the Boyle case. He stated homeowners would be impacted by \$423.85 based on a \$10,000,000.00 settlement.

Paige Trace spoke on the need to settle the Boyle case. She asked why the hiring of a new attorney. She indicated there are a lot more people that want this case settled.

Esther Kennedy said PSNH, Boyle case, sewer upgrades at Pease, a new garage that cannot get filled and Coakley Landfill are all stories appearing in the newspaper and asked who will pay for all these things and where is the money coming from.

Matt Beebe said that Barbara Jenny has been an advocate of short term rentals and it is important for the City Council to do something. He said the regulations are muddy and not clear.

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

### **A. Public Hearing – Bond Premium Resolution – Municipal Complex Improvements**

SUPPLEMENTAL APPROPRIATION FOR A RESOLUTION APPROPRIATING FROM BOND PREMIUM THE SUM OF ONE MILLION TWO HUNDRED EIGHTY-SIX THOUSAND ONE HUNDRED FOURTEEN DOLLARS AND TWENTY-EIGHT CENTS (\$1,286,114.28) TO BE APPLIED TO MUNICIPAL COMPLEX IMPROVEMENTS

- **PRESENTATION**

There was no presentation on this Bond Premium Resolution.

- **CITY COUNCIL QUESTIONS**

There were no questions by the City Council members.

- **PUBLIC HEARING SPEAKERS**

Mayor Blalock read the legal notice and declared the Public Hearing open and called for speakers.

Erik Anderson said he would like a presentation on this matter. He said the process is not well understood. He asked if there are any restricted uses for bond premiums and will the water/sewer rates increase if the bonds are not approved. He stated it would be considerate to reserve some of the funds for the taxes.

City Manager Bohenko said there is a general fund and a water and sewer fund. He stated there is money available through a bond premium and we need to replace the roof, electrical system and make upgrades to the basement for the storage of records. He reported these are funds we are saving from being put into the Capital Improvement Plan. He spoke to water line improvements and sewer fund would be for sewer replacement and it is less money than we have to put in the budget next year.

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



- **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

Councilor Becksted asked how much more electrical upgrades need to be made because we already budgeted \$600,000.00 for those upgrades.

Public Works Director Rice spoke to the electrical upgrades and advised it was close to \$2,000,000.00 for the upgrades. He spoke to the slate roof needing repairs and said tiles are coming off and it is time for a full refurbishment. He also addressed the needs of the 1895 building requiring drainage improvements.

Councilor Becksted said an increase in our budget is for paving upgrades. Public Works Director Rice said street paving improvements are needed. Councilor Becksted said he would like to see monies put in place for the budget to save funds for the taxpayers.

City Manager Bohenko said that you could take the money and use for paving but we would need to make the improvements regardless.

Councilor Becksted moved to take \$500,000.00 to fill the need for paving. No second received.

**Assistant Mayor Lazenby moved to adopt the Resolution appropriating the sum of One Million Two Hundred Eighty-Six Thousand One Hundred Fourteen Dollars and Twenty Eight Cents (\$1,286,114.28) for the Municipal Completed Improvements. Seconded by Councilor Dwyer.**

Councilor Roberts said at some point it becomes we need to start allocating funds to reduce the budget, at some point this becomes micromanaging and going forward you can urge the City Manager to take that into consideration moving forward.

Councilor Dwyer said she agrees with Councilor Roberts in that it would be helpful when we know we have needs and priorities emerge we have a process for long immediate needs for the Capital Improvement Plan. She said we have not looked at this in the CIP for the last 5 years.

City Manager Bohenko said we try to do that and we use to put priority aspects to it and call it out.

Councilor Becksted said we are taking free money and putting into something he would like to hold on to \$500,000.00 and allow staff to start with the remaining \$700,000.00.

City Manager Bohenko said that the Finance Department needs to do this in a timely manner.

Councilor Denton commended Councilor Becksted and he would be more comfortable moving forward with City Manager Bohenko's request and look at doing something different in the future.

Councilor Reynolds said there is a clear need and we should move forward with these expenses.

Councilor Becksted said he would not support this Resolution. He said we should look at giving something to the taxpayers.

**On a roll call vote 8-1, motion passed. Assistant Mayor Lazenby, Councilors Roberts, Pearson, Dwyer, Denton, Perkins, Raynolds and Mayor Blalock voted in favor. Councilor Becksted voted opposed.**

**B. Public Hearing – Bond Premium Resolution – Sewer Line Replacement**

SUPPLEMENTAL APPROPRIATION FOR A RESOLUTION APPROPRIATING FROM BOND PREMIUM THE SUM OF SEVEN HUNDRED FIVE THOUSAND TWO HUNDRED SEVENTY-SEVEN DOLLARS AND FORTY CENTS (\$705,277.40) TO BE APPLIED TO ANNUAL SEWER LINE REPLACEMENT

- **PRESENTATION**

There was no presentation on this Bond Premium Resolution.

- **CITY COUNCIL QUESTIONS**

There were no questions by the City Council.

City Manager Bohenko explained that this is a sewer project and will have a useful life of more than 20 years. He said this will offset costs for next year.

- **PUBLIC HEARING SPEAKERS**

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

Esther Kennedy said this should evaluate where the bonds should go. She said there is a large sum of money in the sewer fund and we should be bringing that fund down. She asked if we don't use this for a project, can it go back to the general fund to offset taxes.

City Manager Bohenko said the money is for the sewer fund and cannot be used for the general fund or water fund because it is for sewer related items.

Erik Anderson said the bonds are restricted use because the premium came from a sewer project. He would like to know how much is in the sewer fund to reduce costs for future projects.

City Manager Bohenko said we would look at that in the CIP process. He said if you look at the CIP the sewer projects come from the enterprise fund and rates are based on that. He said you cannot take and offset costs for the sewer fund.

Paige Trace said she is happy to hear City Manager Bohenko speak to the sewer enterprise fund. She asked about sewer separation takes precedence or more towards meeting the consent decree. She asked if the City takes the consent decree in effect when funding projects.

City Manager Bohenko said we do take into account the consent decree.

Roy Helse said every year we should set aside to go to the sewer and reduce that fund.

Erik Anderson asked if we did not use funds for this project and held it in abeyance, will the sewer rates increase.

City Manager Bohenko said sewer funds must go back into the sewer funds. He stated if we spend money on sewer line improvements the less money we need to spend at a later date.

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

- **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

Councilor Becksted said we are just putting the money into the sewer fund.

City Manager said it is for the sewer line replacement.

**Councilor Becksted moved to adopt the Resolution appropriating the sum of Seven Hundred Five Thousand Two Hundred Seventy-Seven Dollars and Forty Cents (\$705,277.40) for the Annual Sewer Line Replacement. Seconded by Councilor Reynolds.**

**On a unanimous roll call vote 9-0, motion passed.**

C. Public Hearing – Bond Premium Resolution – Water Line Replacement

SUPPLEMENTAL APPROPRIATION FOR A RESOLUTION APPROPRIATING FROM BOND PREMIUM THE SUM OF THREE HUNDRED EIGHTY-TWO THOUSAND SIX HUNDRED EIGHTY-NINE DOLLARS AND FORTY THREE CENTS (\$382,689.43) TO BE APPLIED TO ANNUAL WATER LINE REPLACEMENT

- **PRESENTATION**

There was no presentation on this Bond Premium Resolution.

- **CITY COUNCIL QUESTIONS**

There were no questions by the City Council members.

- **PUBLIC HEARING SPEAKERS**

Mayor Blalock read the legal notice and declared the Public Hearing open and called for speakers.

Esther Kennedy asked if it goes back into the drinking water fund. She said our payments have gone up and increased should supplement the fund for water and fund the lines should be already part of that fund then could this money be used for Coakley Landfill.

City Manager Bohenko said we have not raised water rates in the last 7 years with the exception of last year.

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

• **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

There were no additional Council questions or deliberations.

**Councilor Pearson moved to adopt the Resolution appropriating the sum of Three Hundred Eighty-Two Thousand Six Hundred Eighty-Nine Dollars and Forty-Three Cents (\$382,689.43) for the Annual Water Line Replacement. Seconded by Assistant Mayor Lazenby.**

**On a unanimous roll call vote 9-0, motion passed.**

At 9:00 p.m. Mayor Blalock called a brief recess. At 9:20 p.m., Mayor Blalock called the meeting back to order.

- D. Third and final reading amending Chapter 10 – Zoning Ordinance by deleting the existing Article 12 – Signs, and inserting in its place a new Article 12 – Signs as presented in the Document Titled “Proposed Amendments to the Portsmouth Zoning Ordinance: Article 12 – Signs” dated November 27, 2018

**Assistant Mayor Lazenby moved to table the ordinance indefinitely. Seconded by Councilor Becksted.**

Councilor Dwyer said the concept of temporary signs will be gone because it would be tied to content.

City Attorney Sullivan said the idea of political signs are temporary is there are regulations on content but we do not agree with the ACLU. Councilor Dwyer said temporary does not feel it is content neutral. He said we will meet with Mr. Bissonnette and resolve this issue and it may cause for some amendments.

**Motion passed.**

**VIII. APPROVAL OF GRANTS/DONATIONS**

- A. Acceptance of Grant – Portsmouth Police Department:
- Violence Against Women Act Grant - \$30,000.00

**Assistant Mayor Lazenby moved to accept and approve the grant to the Portsmouth Police Department, as presented.**

**IX. CONSENT AGENDA**

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

- A. Letter from Jeanine Sylvester, Runner’s Alley requesting permission to hold the 22<sup>nd</sup> Annual Runner’s Alley/Cisco Brewers Memorial 5k on Sunday, May 26, 2019 at 11:00 a.m. (***Anticipation action – move to refer to the City Manager with power***)

- B. Request for License to Install Projecting Sign for Regina Piantedosi owner of Regina Piantedosi for property located at 56 State Street (***Anticipated action - move to approve the aforementioned Projecting Sign License as recommended by the Planning Director, and further, authorize the City Manager to execute the License Agreement for this request***)

**Planning Director's Stipulations**

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

- C. Request for License to Install Projecting Sign for Tom Holbrook owner of Riverrun Bookstore, Inc. for property located at 32 Daniel Street (***Anticipated action - move to approve the aforementioned Projecting Sign License as recommended by the Planning Director, and further, authorize the City Manager to execute the License Agreement for this request***)

**Planning Director's Stipulations**

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

- D. Letter from Kaity Stanton, Big Brothers Big Sisters of New Hampshire requesting permission to close Pleasant Street on Saturday, June 15, 2019 from 1:00 p.m. to 4:00 p.m. for the annual Stiletto Sprint (*Sunday, June 16, 2019 Rain Date*) (***Anticipated action – move to refer to the City Manager with power***)

- E. Letter from Jennie Halstead, My Breast Cancer Support requesting permission to hold the 11<sup>th</sup> Annual Celebrate Pink 5k Walk & Run on Sunday, September 15, 2019 (***Anticipated action – move to refer to the City Manager with power***)

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

- A. Email Correspondence

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

- B. Letter from Coco Barton & Gabby Rothstein requesting that the City provide reusable bags to each household with funding from the Public Works Department

**Councilor Denton moved to refer to the City Manager for report back. Seconded by Assistant Mayor Lazenby.**

City Manager Bonhenko reported that we were in the process of putting something similar to this together.

Councilor Denton said more information will come in January by the legislature.

City Manager Bohenko said he will report back in January.

**Motion passed.**

## **XI. REPORTS AND COMMUNICATIONS FOR CITY OFFICIALS**

### **A. CITY MANAGER**

- 1. Request to Establish Work Sessions Re: CIP & Budget

City Manager Bohenko said we have moved up the Capital Improvement Plan for this Thursday. He suggested we have a Work Session on January 14<sup>th</sup> on the CIP and January 16<sup>th</sup> on FY20 Budget Guidelines.

**Councilor Pearson moved to establish the City Council Work Sessions for Monday, January 14, 2019 regarding the FY20-25 Capital Improvement Plan and Wednesday, January 16, 2019 regarding Budget Work Session. Seconded by Assistant Mayor Lazenby and voted.**

- 2. Comcast Agreement

Deputy City Attorney Woodland spoke to the work conducted by the Cable Commission over the last 2 years on the agreement. She said there are 2 actions being requested, an additional 2 month extension and the second is to set up a presentation and public hearing on January 7<sup>th</sup> on the proposed agreement the drafting process and many aspects that we can't control. She advised the residents that the draft agreement is already up on the website to review.

Councilor Dwyer suggested holding a presentation on the agreement at one meeting with a public hearing at the following meeting. She said she would like a document that would highlight the changes. Deputy City Attorney Woodland said the summary sheet will be on the website.

**Councilor Denton moved to authorize the City Manager to enter into an extension of the current franchise agreement with Comcast for cable television services to February 28, 2019. Seconded by Councilor Pearson.**

Councilor Becksted said he is concerned with language for completion of the project. City Manager Bohenko said that this is for language we need to provide and we will still be able to make adjustments.

Discussion followed on the amount of contribution the city received and the total cost paid by the City.

**Motion passed.**

City Manager Bohenko spoke to the changes of hours for Christmas week. He said we will be taking out an advertisement in the newspaper so the public is advised.

Mayor Blalock said the Wednesday after the holiday City Hall will be open until 6:00 p.m.

**B. MAYOR BLALOCK**

1. Appointments to be Considered:

- Cyrus Beer appointment to the Historic District Commission as Regular member
- Margot Doering appointment to the Historic District Commission as an Alternate
- Polly Henkel appointment to the Planning Board as an Alternate
- Colby Gamester reappointment to the Planning Board

The City Council considered the appointments and reappointments listed below which will be voted on at the January 7, 2019 City Council meeting.

2. Appointments to be Voted:

- Corey Clark reappointment to the Planning Board as an Alternate
- Dexter Legg reappointment to the Planning Board
- Elizabeth Moreau reappointment to the Planning Board
- Thomas Watson reappointment to the Trustees of Trust Funds

**Councilor Dwyer moved to reappoint Corey Clark (Alternate); Dexter Legg and Elizabeth Moreau to the Planning Board until December 31, 2021 and Thomas Watson reappointment to the Trustees of Trust Funds until January 1, 2022.**

3. Resignation of Rick Shea from the Historic District Commission

**Assistant Mayor Lazenby moved to accept with regret the resignation of Rick Shea from the Historic District Commission.**

4. Ethic Committee Drawing by Lot

Mayor Blalock announced the drawing will take place at the January 7, 2019 City Council meeting.

5. Committee to Interview Police Commission Candidates
  - Mayor Jack Blalock, Chairman
  - Councilor Doug Roberts
  - Councilor Nancy Pearson
  - Tom Ferrini
  - John Lyons

Mayor Blalock announced that the above individuals will be serving on the Police Commissioners Review Panel.

Mayor Blalock said we have received the resignation of Arthur Hilson from the Police Commission. He said we will form a committee for the replacement and the committee and will meet on Thursday at 8:00 a.m. and review candidates that have put names in for consideration. He said we need to establish a deadline of Wednesday, December 19, 2018 at noon for fillings.

Mayor Blalock said an organizational meeting will be on Thursday and we hope to have a recommendation to the Council by the second meeting in January.

**Councilor Becksted moved to set a deadline of Wednesday, January 2, 2019 at 6:00 p.m. for applicants to file for the Police Commission vacancy.**

Mayor Blalock said the meeting will be posted and we would televise the interviews.

Councilor Denton said he would like the City Council to submit questions to be asked by the Committee.

### **C. COUNCILORS PEARSON & PERKINS**

1. Worth Lot Demonstration Project

Councilor Pearson said the Music Hall went into a public private partnership for street upgrades and to look at initiatives whereby the Committee proposed a reimagining of the 3 areas at the Worth Lot and came forward with a vision for helping the public understand what the outcome they want to see. She said we are hoping for a Saturday event that is lively at the Worth lot.

**Councilor Perkins moved to request the City Manager pursue a partnership for a demonstration project with The Music Hall for an event activating the Worth Lot in 2019 in accordance with the vision in the Vaughan Worth-Bridge Strategic Revitalization Committee Report. Seconded by Councilor Pearson.**

Councilor Becksted asked if there is a financial commitment by the City. City Manager Bohenko said we may need to front some funding but the request would come before the City Council. He said we hope to make some money on the event. He stated any costs would come before the City Council.

Discussion followed regarding the event. Mayor Blalock said he imagines it would be like a mini Market Square Day.



**Motion passed.**

**D. COUNCILOR DENTON**

1. Keno Petition

Councilor Denton said he opposes Keno, however he reviewed the process for getting the Keno Question onto the ballot for the Municipal Election. He further stated he would like to see legislation to allow service clubs to be allowed to have keno.

Councilor Dwyer said the Senate has a week before bills are to be submitted.

Councilor Denton said he would raise the issue with Senator Martha Fuller Clark on submitting legislation on this proposal.

**XII. MISCELLANEOUS/UNFINISHED BUSINESS**

**XIII. ADJOURNMENT**

**At 10:00 p.m., Councilor Becksted moved to adjourn. Seconded by Assistant Mayor Lazenby and voted.**



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

## LEGAL NOTICE

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Portsmouth City Council on Tuesday, January 22, 2019 at 7:00 p.m., Eileen Dondero Foley Council Chambers, Municipal Complex, 1 Junkins Avenue, Portsmouth, NH on a proposed Cable Television Renewal Franchise Agreement with Comcast. The proposed Renewal Franchise Agreement is available for review in the Office of the City Clerk and Portsmouth Public Library, during regular business hours as well as on-line at <https://www.cityofportsmouth.com/cityclerk/cable-television-and-communications-commission>.

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

### LEGAL NOTICE

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Portsmouth City Council on Tuesday, January 22, 2019 at 7:00 p.m., Eileen Dondero Foley Council Chambers, Municipal Complex, 1 Junkins Avenue, Portsmouth, NH on a proposed Cable Television Renewal Franchise Agreement with Comcast. The proposed Renewal Franchise Agreement is available for review in the Office of the City Clerk and Portsmouth Public Library, during regular business hours as well as on-line at <https://www.cityofportsmouth.com/cityclerk/cable-television-and-communications-commission>.

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

PH-00402896

CABLE TELEVISION RENEWAL FRANCHISE

GRANTED TO

COMCAST OF MAINE/NEW HAMPSHIRE, INC.

THE CITY OF PORTSMOUTH, NEW HAMPSHIRE

MARCH 1, 2019

**TABLE OF CONTENTS:**

<b>ARTICLE 1 – DEFINITIONS</b> .....	8
<b>Section 1.1---Definitions</b> .....	8
<b>ARTICLE 2 – GRANT OF RENEWAL FRANCHISE</b> .....	13
<b>Section 2.1 Grant of Renewal Franchise</b> .....	13
<b>Section 2.2 Term of Renewal Franchise</b> .....	13
<b>Section 2.3 Non-Exclusivity of the Renewal Franchise</b> .....	14
<b>Section 2.4 Police and Regulatory Powers</b> .....	14
<b>Section 2.5 Removal or Abandonment</b> .....	14
<b>Section 2.6 Amendment by Mutual Agreement</b> .....	14
<b>ARTICLE 3 – TRANSFER AND ASSIGNMENT OF RENEWAL FRANCHISE</b> .....	15
<b>Section 3.1 Transfer of the Renewal Franchise</b> .....	15
<b>Section 3.2 Effect of Unauthorized Action</b> .....	15
<b>Section 3.3 No Waiver of Rights</b> .....	16
<b>ARTICLE 4 – SYSTEM DESIGN</b> .....	17
<b>Section 4.1 Subscriber Network</b> .....	17
<b>Section 4.2 Emergency Alert System</b> .....	17
<b>Section 4.3 Emergency Power</b> .....	17
<b>ARTICLE 5 – CONSTRUCTION, INSTALLATION AND MAINTENANCE STANDARDS</b> .....	18
<b>Section 5.1 Service Availability</b> .....	18
<b>Section 5.2 Location of Cable Television System</b> .....	18
<b>Section 5.3 Underground Facilities</b> .....	19
<b>Section 5.4 Tree Trimming</b> .....	19
<b>Section 5.5 Restoration to Prior Condition</b> .....	19
<b>Section 5.6 Temporary Relocation</b> .....	19
<b>Section 5.7 Disconnection and Relocation</b> .....	20

City of Portsmouth Cable Television Renewal Franchise –  
March 1, 2019 – February 29, 2024

<b>Section 5.8</b>	<b>Safety Standards</b> .....	20
<b>Section 5.9</b>	<b>Pedestals</b> .....	20
<b>Section 5.10</b>	<b>Private Property</b> .....	20
<b>Section 5.11</b>	<b>Right to Inspection of Construction</b> .....	21
<b>Section 5.12</b>	<b>Cable System Maps</b> .....	21
<b>Section 5.13</b>	<b>Commercial Establishments</b> .....	21
<b>Section 5.14</b>	<b>Local permitting</b> .....	21
<b>Section 5.15</b>	<b>Residential Exterior Wiring</b> .....	22
<b>Section 5.16</b>	<b>Make Ready and Pole Transfers</b> .....	22
<b>ARTICLE 6 – SERVICES AND PROGRAMMING</b> .....		23
<b>Section 6.1</b>	<b>Basic Service</b> .....	23
<b>Section 6.2</b>	<b>Programming</b> .....	23
<b>Section 6.3</b>	<b>Leased Channels for Commercial Use</b> .....	23
<b>Section 6.4</b>	<b>Cable Compatibility</b> .....	23
<b>Section 6.5</b>	<b>Continuity of Service</b> .....	23
<b>Section 6.6</b>	<b>Service Interruption</b> .....	24
<b>Section 6.7</b>	<b>Parental Control Capacity</b> .....	24
<b>Section 6.8</b>	<b>Free Connections and Monthly Service to Public Buildings and Schools</b>	24
<b>ARTICLE 7 – PUBLIC, EDUCATIONAL AND GOVERNMENTAL ACCESS CHANNELS</b> .....		25
<b>Section 7.1</b>	<b>PEG Access Programming</b> .....	25
<b>Section 7.2</b>	<b>Peg Access Channels</b> .....	25
<b>Section 7.3</b>	<b>Access Channel Maintenance</b> .....	26
<b>Section 7.4</b>	<b>PEG Studio Move</b> .....	26
<b>Section 7.5</b>	<b>Censorship</b> .....	27
<b>ARTICLE 8 – FRANCHISE FEES</b> .....		28
<b>Section 8.1</b>	<b>Franchise Fee Payments</b> .....	28
<b>Section 8.2</b>	<b>Other Payment Obligations and Exclusions</b> .....	28
<b>Section 8.3</b>	<b>Late Payment</b> .....	28

City of Portsmouth Cable Television Renewal Franchise –  
March 1, 2019 – February 29, 2024

Section 8.4	Recomputation .....	29
<b>ARTICLE 9 – RATES AND CHARGES.....</b>		<b>30</b>
Section 9.1	Rate Regulation.....	30
Section 9.2	Notification of Rates and Charges .....	30
Section 9.3	Credit for Service Interruption .....	30
<b>ARTICLE 10 – INSURANCE AND BONDS .....</b>		<b>31</b>
Section 10.1	Insurance .....	31
Section 10.2	Performance Bond.....	32
Section 10.3	Reporting.....	32
Section 10.4	Indemnification.....	32
Section 10.5	Notice of Cancellation or Reduction of Coverage.....	33
<b>ARTICLE 11 – ADMINISTRATION AND REGULATION.....</b>		<b>34</b>
Section 11.1	Regulatory Authority .....	34
Section 11.2	Performance Evaluation Hearings.....	34
Section 11.3	Emergency Removal of Plant .....	34
Section 11.4	Removal and Relocation .....	35
<b>ARTICLE 12 – BREACH, LIQUIDATED DAMAGES, FRANCHISE REVOCATION... 36</b>		
Section 12.1	Determination of Breach.....	36
Section 12.2	Liquidated Damages.....	37
Section 12.3	Revocation of the Renewal Franchise.....	38
Section 12.4	Termination.....	38
Section 12.5	Notice To Other Party of Legal Action.....	38
Section 12.6	Non-Exclusivity of Remedy.....	38
Section 12.7	No Waiver-Cumulative Remedies .....	38
<b>ARTICLE 13 –SUBSCRIBER RIGHTS AND CONSUMER PROTECTION .....</b>		<b>40</b>
Section 13.1	Customer Service Office .....	40
Section 13.2	Customer Service Call Center .....	40
Section 13.3	Installation Visits-Service Calls-Response Time .....	40
Section 13.4	FCC Customer Service Obligations.....	41

City of Portsmouth Cable Television Renewal Franchise –  
March 1, 2019 – February 29, 2024

<b>Section 13.5</b>	<b>Notices to Subscribers</b> .....	41
<b>Section 13.6</b>	<b>Notice to Subscribers Regarding Quality of Service</b> .....	42
<b>Section 13.7</b>	<b>Complaint Resolution Procedures</b> .....	42
<b>Section 13.9</b>	<b>Billing Practices Information and Procedures</b> .....	43
<b>Section 13.10</b>	<b>Disconnection and Termination of Cable Services</b> .....	44
<b>Section 13.11</b>	<b>Change of Service</b> .....	44
<b>Section 13.12</b>	<b>Subscriber Equipment/Wiring</b> .....	44
<b>Section 13.13</b>	<b>Employee and Agent Identification Cards</b> .....	44
<b>Section 13.14</b>	<b>Protection of Subscriber Privacy</b> .....	44
<b>Section 13.15</b>	<b>Monitoring</b> .....	45
<b>Section 13.16</b>	<b>Distribution of Subscriber Information</b> .....	45
<b>Section 13.17</b>	<b>Information With Respect to Viewing Habits and Subscription Decisions</b> 46	
<b>Section 13.18</b>	<b>Subscriber's Right to Inspect and Verify Information</b> .....	46
<b>Section 13.19</b>	<b>Remote Control Devices</b> .....	46
<b>ARTICLE 14 – REPORTS, AUDITS AND PERFORMANCE TESTS</b> .....		47
<b>Section 14.1</b>	<b>General</b> .....	47
<b>Section 14.2</b>	<b>Financial Reports</b> .....	47
<b>Section 14.3</b>	<b>Cable System Information</b> .....	47
<b>Section 14.4</b>	<b>Reports of Subscriber Contact</b> .....	48
<b>Section 14.5</b>	<b>Subscriber Complaint Log</b> .....	48
<b>Section 14.7</b>	<b>Annual Performance Tests</b> .....	48
<b>Section 14.8</b>	<b>Quality of Service</b> .....	48
<b>Section 14.9</b>	<b>Dual Filings</b> .....	49
<b>Section 14.10</b>	<b>Additional Information</b> .....	49
<b>Section 14.11</b>	<b>Investigation</b> .....	49
<b>ARTICLE 15 – MISCELLANEOUS PROVISIONS</b> .....		50
<b>Section 15.1</b>	<b>Entire Agreement</b> .....	50
<b>Section 15.2</b>	<b>Captions</b> .....	50

City of Portsmouth Cable Television Renewal Franchise –  
March 1, 2019 – February 29, 2024

<b>Section 15.3</b>	<b>Separability</b> .....	50
<b>Section 15.4</b>	<b>Acts or Omissions of Affiliates</b> .....	50
<b>Section 15.5</b>	<b>Renewal Franchise Exhibits</b> .....	50
<b>Section 15.6</b>	<b>Warranties</b> .....	50
<b>Section 15.7</b>	<b>Force Majeure</b> .....	51
<b>Section 15.8</b>	<b>Nondiscrimination</b> .....	51
<b>Section 15.9</b>	<b>Applicability of Renewal Franchise</b> .....	51
<b>Section 15.10</b>	<b>Notices</b> .....	52
<b>Section 15.11</b>	<b>City's Right of Intervention</b> .....	53
<b>Section 15.12</b>	<b>No Recourse Against the Franchising Authority</b> .....	53
<b>Section 15.13</b>	<b>Term</b> .....	53
<b>Section 15.14</b>	<b>Jurisdiction</b> .....	53
<b>E X H I B I T S</b> .....		54
<b>EXHIBIT 1 – PROGRAMMING AND INITIAL SIGNAL CARRIAGE</b> .....		55
<b>EXHIBIT 2 – FREE CONNECTIONS AND MONTHLY SERVICE TO PUBLIC BUILDINGS AND SCHOOLS</b> .....		56
<b>EXHIBIT 3 – GROSS ANNUAL REVENUES QUARTERLY REPORTING FORM</b> .....		57
<b>EXHIBIT 4 – ASCI TELECOMMUNICATIONS REPORT OF 2017</b> .....		58
<b>SIGNATURE PAGE</b> .....		59



City of Portsmouth Cable Television Renewal Franchise –  
March 1, 2019 – February 29, 2024

**AGREEMENT**

This Agreement is made this \_\_\_ day of \_\_\_\_\_, 2019, between the City of Portsmouth, as statutory Franchising Authority pursuant to RSA: 53-C, and Comcast of Maine/New Hampshire, Inc. ("Comcast").

**WITNESSETH**

WHEREAS, the City of Portsmouth, New Hampshire, as Franchising Authority pursuant to RSA Chapter 53-C, is authorized to grant one or more nonexclusive, revocable cable television renewal franchises to construct, upgrade, operate and maintain a cable television system within the City of Portsmouth; and

WHEREAS, the Portsmouth City Council has duly appointed members to its Cable Television and Communications Commission, a commission established by Portsmouth Ordinance to assist with cable franchise matters;

WHEREAS in accord with its duties the Cable Television and Communications Commission has conducted a subscriber survey, reviewed Comcast performance data, met with school and city officials and other stakeholders, explored opportunities for community broadband and took other action to investigate Comcast performance and opportunities;

WHEREAS, the Cable Television and Communications Commission conducted a public hearing, pursuant to Section 626(a) of the Cable Act, on March 6, 2018, to (1) ascertain the future cable-related community needs and interests of Portsmouth, and (2) review the performance of Comcast, during its then current franchise term; and

WHEREAS, the Franchising Authority and Comcast did engage in good faith negotiations and did agree on proposals in connection with the renewal in Portsmouth;

WHEREAS the Portsmouth City Council held a public hearing on \_\_\_\_\_ and voted to approve this Agreement for Franchise Renewal on \_\_\_\_\_.

NOW THEREFORE, in consideration of the mutual covenants herein contained and intending to be legally bound, the parties agree as follows:

## ARTICLE 1 – DEFINITIONS

### Section 1.1---Definitions

For the purpose of this Renewal Franchise, the following words, terms, phrases and their derivations shall have the meanings given herein, unless the context clearly requires a different meaning. When not inconsistent with the context, the masculine pronoun includes the feminine pronoun, words used in the present tense include the future tense, words in the plural number include the singular number and words in the singular number include the plural number. The word shall is always mandatory and not merely directory.

- (1) **Access Channel:** A video channel which the Franchisee shall make available to the Franchising Authority and/or its designees, without charge, for the purpose of transmitting programming by members of the public, City departments and agencies, public schools, educational, institutional and similar organizations (PEG).
- (2) **Access Corporation:** means the entity designated by the Franchising Authority, currently PPMTv, responsible for transmitting programming by members of the public, public schools, education, institutional and similar organizations.
- (3) **Affiliate or Affiliated Person:** When used in relation to any person, means another person who owns or controls, is owned or controlled by, or is under common ownership or control with, such person.
- (4) **Basic Service:** Any service tier which includes the retransmission of local television broadcast signals.
- (5) **Cable Act:** Public Law No. 98-549, 98 Stat. 2779 (1984) (the Cable Communications Policy Act of 1984), as amended by Public Law No. 102-385, 106 Stat. 1460 (1992) (the Cable Television Consumer Protection and Competition Act of 1992), as further amended by Public Law No. 104- 458, 110 Stat. 110 (1996) (the Telecommunications Act of 1996).
- (6) **Cable Service:** The one-way transmission to Subscribers of Video Programming or other Programming services, together with Subscriber interaction, if any, which is required for the selection or use of such Video Programming or other programming services, which the Franchisee may make available to Subscribers generally.
- (7) **Cable Television System or Cable System:** A facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes Video Programming and which is provided to multiple Subscribers within the City, but such term does not include (A) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (B) a facility that serves subscribers without using any public right-of-way; (C) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Cable Act, except that such facility shall be considered a cable system (other than for purposes of section 621(c) of

City of Portsmouth Cable Television Renewal Franchise –  
March 1, 2019 – February 29, 2024

the Cable Act) to the extent such facility is used in the transmission of video programming directly to subscribers unless the extent of such use is solely to provide interactive on-demand services; or (D) an open video system that complies with Section 653 of the Communications Act, or (E) any facilities of any electric utility used solely for operating its electric utility systems.

- (8) City: The City of Portsmouth, New Hampshire.
- (9) City Attorney: The City Attorney of the City of Portsmouth, New Hampshire.
- (10) Commercial Subscriber: A commercial, non-residential Subscriber to Cable Television Service.
- (11) Complaint: Any written or verbal contact with the Franchisee in connection with subscription in which a Person expresses dissatisfaction with an act, omission, product or service that is within the Franchisee's control.
- (12) Converter: Any device changing the frequency of a Signal. A Subscriber Converter may expand reception capacity and/or unscramble coded Signals distributed over the Cable System.
- (13) Digital Terminal Adapter ("DTA"): A set-top box deployed by the Franchisee that converts digital service to analog to support video to analog television sets. The DTA can also deliver digital video distribution to digital television sets via the cable input. The DTA does not support Video on Demand services, Digital Video Recorder (DVR) or Premium Services.
- (14) Downstream Channel: A channel over which Signals travel from the Cable System Headend to an authorized recipient of Programming.
- (15) Drop: The coaxial cable that connects each home or building to the feeder line of the Cable System.
- (16) Educational Access Channel: A specific channel(s) on the Cable System which is made available for use by, among others, educational institutions and/or educators wishing to present non-commercial educational programming and/or information to the public.
- (17) Effective Date of Renewal Franchise (the "Effective Date"): March 1, 2019.
- (18) FCC: The Federal Communications Commission, or any successor agency.
- (19) Franchise Fee: The payments to be made by the Franchisee to the City, which shall have the meaning as set forth in Section 622(g) of the Cable Act.
- (20) Franchisee: Comcast of Maine/New Hampshire, Inc., or any successor or transferee in accordance with the terms and conditions in this Renewal Franchise

City of Portsmouth Cable Television Renewal Franchise –  
March 1, 2019 – February 29, 2024

(21) Franchising Authority: City of Portsmouth, New Hampshire acting through its City Council and Cable Television and Communications Commission.

(22) Government Access Channel: A specific channel(s) on the Cable System which is made available for use by the Franchising Authority and/or its designee(s) wishing to present non-commercial government Programming and/or information to the public.

(23) Gross Annual Revenues: All revenues derived by the Franchisee and/or its Affiliates, calculated in accordance with Generally Accepted Accounting Principles ("GAAP"), from the operation of the Cable Television System for the provision of Cable Service(s) over the Cable Television System including, without limitation: the distribution of any Service over the Cable System; Basic Service monthly fees and all other Service fees; any and all Cable Service fees and/or charges received from Subscribers; installation, reconnection, downgrade, upgrade and any similar fees; all digital Cable Service revenues; interest collected on Subscriber fees and/or charges; fees paid on all Subscriber fees ("Fee-on-Fee"); all Commercial Subscriber revenues; all Pay Cable, Pay-Per-View revenues; any other services now or in the future deemed to be lawful for purposes of computing Gross Annual Revenues by a court or forum of appropriate jurisdiction; video-on-demand Cable Services; fees paid for channels designated for commercial use; home-shopping revenues; Converter, remote control and other cable-related equipment rentals and/or leases and/or sales; and advertising revenues. In the event that an Affiliate and/or any other Person is responsible for advertising, advertising revenues shall be deemed to be the pro-rata portion of advertising revenues, paid to the Cable System by an Affiliate or such other Person for the Affiliate's or other Person's use of the Cable System for the carriage of advertising. Gross Annual Revenues shall also include the gross revenue of any other Person which is received directly or indirectly from or in connection with the operation of the Cable System to the extent that such revenue is received, through a means which has the effect of avoiding payment of Franchise Fees to the City that would otherwise be paid herein. It is the intention of the parties hereto that Gross Annual Revenues shall only include such revenue of such Affiliates and/or Persons relating to Signal carriage over the Cable System and not the gross revenues of any such Affiliate(s) and/or Person(s) itself, where unrelated to such Signal carriage. Gross Annual Revenues shall not include actual bad debt that is written off, consistent with GAAP; provided, however, that all or any part of any such actual bad debt that is written off, but subsequently collected, shall be included in Gross Annual Revenues in the period so collected. For purposes of this section, the term "Cable Services" shall include any other services now or in the future that the Licensee agrees shall be deemed to be lawful for purposes of computing Gross Annual Revenues resulting from a decision by a court or forum of appropriate jurisdiction.

(24) Headend: The electronic center of the Cable System containing equipment that receives, amplifies, filters and converts incoming Signals for distribution over the Cable System.

(25) Hub or Hub Site: A sub-Headend, generally located within a cable television community, used for the purpose of either (i) Signal processing or switching, or (ii) placement of a fiber node, microwave link or transportation super trunk.

City of Portsmouth Cable Television Renewal Franchise –  
March 1, 2019 – February 29, 2024

- (26) **Leased Channel or Leased Access:** A video channel which the Franchisee shall make available pursuant to Section 612 of the Cable Act.
- (27) **Normal Business Hours:** Those hours during which most similar businesses in the City are open to serve customers. In all cases, Normal Business Hours shall include some evening hours at least one (1) night per week and some weekend hours.
- (28) **Origination Capability:** An activated cable and connection to an Upstream Channel, which allows User(s) to transmit a Signal(s) upstream to a designated location.
- (29) **Outlet:** An interior receptacle, generally mounted in a wall that connects a Subscriber's or User's equipment to the Cable System.
- (30) **Pay Cable or Pay Service(s):** Programming delivered for a fee or charge to Subscribers on a per-channel or group-of-channels basis.
- (31) **Pay-Per-View:** Programming delivered for a fee or charge to Subscribers on a per-program or per-event basis.
- (32) **PEG:** The acronym for "public, educational and governmental," used in conjunction with Access Channels, support and facilities.
- (33) **Pedestal:** An environmental protection unit used in housing Cable Television System equipment and/or amplifiers.
- (34) **Person:** An individual, partnership, association, joint stock company, trust, corporation, or governmental entity.
- (35) **Prime Rate:** The prime rate of interest at Bank of America, or its successor.
- (36) **Programming or Video Programming:** Programming provided by, or generally considered comparable to programming provided by, a television broadcast station.
- (37) **Public Access Channel:** A specific channel(s) on the Cable System which is made available for use by, among others, Portsmouth individuals and/or organizations wishing to present non-commercial programming and/or information to the public.
- (38) **Public Way or Street:** The surface of, as well as the spaces above and below, any and all public streets, avenues, highways, boulevards, concourses, driveways, bridges, tunnels, parks, parkways, waterways, bulkheads, piers, dedicated public utility easements, and public grounds or waters and all other publicly owned real property within or belonging to the City, now or hereafter existing. Reference herein to "Public Way" or "Street" shall not be construed to be a representation or guarantee by the City that its property rights are sufficient to permit its use for

City of Portsmouth Cable Television Renewal Franchise –  
March 1, 2019 – February 29, 2024

any purpose, or that the Franchisee shall gain or be permitted to exercise any rights to use property in the City greater than those already possessed by the City.

(39) **Renewal Franchise:** The non-exclusive Cable Television Franchise granted to the Franchisee by this instrument.

(40) **Scrambling/encoding:** The electronic distortion of a Signal(s) in order to render it unintelligible or unreceivable without the use of a Converter or other decoding device.

(41) **Service:** Any Basic Service, any Pay Service, or any other Cable Service offered over the Cable Television System, which is offered to any Subscriber in conjunction with, or which is distributed over, the Cable Television System.

(42) **Signal:** Any transmission of electromagnetic or optical energy which carries information from one location to another.

(43) **State:** The State of New Hampshire.

(44) **Subscriber:** Any Person, firm, corporation or other entity in the City who or which elects to subscribe to, for any purpose, a Service provided by the Franchisee by means of, or in connection with, the Cable Television System.

(45) **Subscriber Network:** The Cable System that is owned and operated and maintained by the Franchisee, over which Signals can be transmitted to Subscribers.

(46) **Transfer:** The disposal by the Franchisee, directly or indirectly, by gift, assignment, sale, merger, consolidation or otherwise, of ownership resulting in a change of control of the Cable System or of this Renewal Franchise, to a Person or a group of Persons.

(47) **Trunk and Distribution System:** That portion of the Cable System for the delivery of Signals, but not including Drops to Subscriber's residences.

(48) **Upstream Channel:** A channel over which Signals travel from an authorized location to the System Headend.

(49) **User:** A Person utilizing the Cable Television System, including all related facilities for purposes of production and/or transmission of electronic or other Signals as opposed to utilization solely as a Subscriber.

## **ARTICLE 2 – GRANT OF RENEWAL FRANCHISE**

### **Section 2.1 Grant of Renewal Franchise**

Pursuant to the authority of RSA Chapter 53-C of the laws of the State of New Hampshire, and subject to the terms and conditions set forth herein, the City Council of the City of Portsmouth, New Hampshire, as the Franchising Authority of the City, hereby grants a non-exclusive Cable Television Renewal Franchise to the Franchisee, authorizing and permitting the Franchisee to upgrade, install, operate and maintain a Cable Television System within the corporate limits of the City of Portsmouth.

This Renewal Franchise is subject to the terms and conditions contained in Chapter 53-C of the Laws of New Hampshire; the Cable Act; the regulations of the FCC; and all City, State and federal statutes and ordinances of general application, all as may be amended during the term of this Renewal Franchise.

Subject to the terms and conditions herein, the Franchising Authority hereby grants to the Franchisee, the right to construct, upgrade, install, operate and maintain a Cable Television System in, under, over, along, across or upon the streets, lanes, avenues, alleys, sidewalks, bridges, highways and other public places under the jurisdiction of the City of Portsmouth within the municipal boundaries and subsequent additions thereto, including property over which the City has an easement or right-of-way, for the purpose of reception, transmission, collection, amplification, origination, distribution, and/or redistribution of Signals in accordance with the laws of the United States of America, the State of New Hampshire and the City of Portsmouth. In exercising rights pursuant to this Renewal Franchise, the Franchisee shall not endanger or interfere with the lives of Persons, interfere with any installations of the City, any public utility serving the City or any other Persons permitted to use Public Ways and places.

Grant of this Renewal Franchise does not establish priority for use over other present or future permit holders or the City's own use of Public Way and places. Any references herein to "Public Way" or "Street" shall not be construed to be a representation or guarantee by the City that its property rights are sufficient to permit its use for any purpose, or that the Franchisee shall gain or be permitted to exercise any rights to use property in the City greater than those already possessed by the City.

### **Section 2.2 Term of Renewal Franchise**

The term of this Renewal Franchise shall be for five (5) years, commencing on March 1, 2019, and expiring on February 29, 2024, unless sooner terminated as provided herein.

City of Portsmouth Cable Television Renewal Franchise –  
March 1, 2019 – February 29, 2024

**Section 2.3 Non-Exclusivity of the Renewal Franchise**

(a) This Renewal Franchise shall not affect the right of the Franchising Authority to grant to any other Person a franchise or right to occupy or use the Public Ways or streets, or portions thereof, for the construction, installation, operation or maintenance of a Cable Television System within the City of Portsmouth; or the right of the Franchising Authority to permit the use of the Public Ways and places of the City for any lawful purpose whatsoever. The Franchisee hereby acknowledges the Franchising Authority's right to make such grants and permit such uses.

(b) Pursuant to RSA Chapter 53-C: 3-b(I), the grant of any additional Cable Television franchise(s) shall not be on terms more favorable or less burdensome than those contained in this Renewal Franchise.

**Section 2.4 Police and Regulatory Powers**

By executing this Renewal Franchise, the Franchisee acknowledges that its rights are subject to the powers of the City to adopt and enforce general by-laws necessary to the safety and welfare of the public. The Franchisee shall comply with all generally applicable Department of Public Works policies and practices and any ordinances enacted by the City. Any conflict between the terms of this Renewal Franchise and any present or future lawful exercise of the City's police and generally applicable regulatory powers shall be resolved in a court of appropriate jurisdiction.

**Section 2.5 Removal or Abandonment**

Upon termination of this Renewal Franchise by passage of time or otherwise, and unless (1) the Franchisee renews its franchise for another term or (2) the Franchisee Transfers the Cable Television System to a transferee approved by the Franchising Authority, the Franchisee shall remove all of its supporting structures, poles, transmission and distribution systems, and all other appurtenances from the Public Ways and places and shall restore the areas, as close as possible, to their original condition. If such removal is not complete within six (6) months after such termination, the Franchising Authority may deem any property not removed as having been abandoned and may dispose of any such property in any way or manner it deems appropriate.

**Section 2.6 Amendment by Mutual Agreement**

This Renewal Franchise may only be amended by the mutual agreement of the Franchising Authority and the Franchisee, in writing, duly executed and signed by both parties, and attached hereto and made a part of this Renewal Franchise.



### **ARTICLE 3 – TRANSFER AND ASSIGNMENT OF RENEWAL FRANCHISE**

#### **Section 3.1 Transfer of the Renewal Franchise**

- (a) Subject to applicable law and compliance with the provisions in this Section 3.1, neither this Renewal Franchise, nor control thereof, nor any right thereto, shall be transferred, assigned or disposed of in any manner, voluntarily or involuntarily, directly or indirectly, or by transfer of control of any Person, company and/or other entity holding such Renewal Franchise to any other Person, company and/or other entity, without the prior written consent of the Franchising Authority, which consent shall not be unreasonably withheld or delayed. Such consent shall be given upon a written application therefor on forms prescribed by the FCC.
- (b) The application for consent to a Transfer or assignment shall be signed by the Franchisee and by the proposed transferee or assignee or by their representatives, evidence of whose authority shall be submitted with the application.
- (c) The Franchisee shall submit to the Franchising Authority an original and five (5) copies, unless otherwise directed, of its FCC Form 394 (or such other or successor form used to request consent to any such Transfer or assignment). The request for approval of Transfer or assignment shall also contain all reasonably appropriate documentation and such additional information as the Franchising Authority may reasonably require.
- (d) The Franchising Authority shall complete review of the request for Transfer and make a decision no later than one hundred twenty (120) days after receipt of the request for Transfer. If the Franchising Authority fails to render a final decision on such request within 120 days, such request shall be deemed granted unless both parties hereto agree to an extension of time.
- (e) For purposes of determining whether it shall consent to any such change of control and ownership, the Franchising Authority shall consider the legal, financial and technical qualifications of the prospective controlling or owning Person, and any other criteria allowable under State and/or federal law(s).
- (f) Any proposed controlling or owning Person or transferee approved by the Franchising Authority shall be subject to all of the terms and conditions contained in this Renewal Franchise.

#### **Section 3.2 Effect of Unauthorized Action**

- (a) The taking of any action in violation of Section 3.1 shall be null and void, and shall be deemed a material breach of this Renewal Franchise.

City of Portsmouth Cable Television Renewal Franchise –  
March 1, 2019 – February 29, 2024

(b) If the Franchising Authority denies its consent to any such action and a Transfer has nevertheless occurred, the Franchising Authority may revoke and terminate this Renewal Franchise.

(c) The grant or waiver of any one or more of such consents shall not render unnecessary any subsequent consent or consents, nor shall the grant of any such consent constitute a waiver of any other rights of the City.

**Section 3.3 No Waiver of Rights**

The consent or approval of the Franchising Authority to any assignment, lease, Transfer or sublease of the Renewal Franchise granted to the Franchisee shall not constitute a waiver or release of the rights of the City in and to the streets and Public Ways or any other rights of the City under this Renewal Franchise, and any such Transfer shall, by its terms, be expressly subordinate to the terms and conditions of the Renewal Franchise.

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## **ARTICLE 4 – SYSTEM DESIGN**

### **Section 4.1 Subscriber Network**

- (a) The Franchisee shall continue to operate, maintain and make available to all residents of the City a Subscriber Network of at least 750 MHz, fed by means of a hybrid fiber-optic/coaxial cable network.
- (b) The Franchisee shall transmit all of its Signals to Subscribers in stereo, provided that such Signals are delivered to the Franchisee in stereo.
- (c) The system design of the Cable Television System shall conform to all applicable FCC technical specifications.

### **Section 4.2 Emergency Alert System**

The Subscriber Network shall be in compliance with the FCC's Emergency Alert System ("EAS") regulations and in accordance with applicable New Hampshire laws and/or regulations.

### **Section 4.3 Emergency Power**

The Cable System shall incorporate equipment capable of providing standby powering of the headend for a minimum of four (4) hours upon failure of the power furnished by the electric utility company, unless for reasons of Force Majeure.

## **ARTICLE 5 – CONSTRUCTION, INSTALLATION AND MAINTENANCE STANDARDS**

### **Section 5.1 Service Availability**

(a) **Standard Installation.** The Franchisee shall make available Cable Service within seven (7) days of a resident’s request provided that the residence is located not more than two hundred (200) feet from the Trunk and Distribution System and the requirements of subsection (c). Franchisee may charge a standard installation rate in accord with applicable federal and state laws.

(b) **Non-Standard Installation.** Non-Standard Installations are those in excess of 200 feet from the Trunk and Distribution System or installations that are requested to be underground.

For underground installation of less than 200 feet from the Trunk and Distribution System, the Franchisee shall have thirty (30) days to survey, design and provide a cost estimate. Franchisee shall have sixty (60) days after receipt of any required deposit or payment to complete the work.

For installations of between 200 feet and 1,000 feet (whether aerial or underground) from the Trunk and Distribution System, the Franchisee shall have thirty (45) days to survey, design and provide a cost estimate. Franchisee shall have sixty (60) days after receipt of any required deposit or payment to complete the work.

For all other installations, Franchisee shall have up to 180 days to complete all survey, design, cost- estimating and installation work provided that any deposit or payment required is received within thirty days of the request.

Non-standard installation charges shall be fair and reasonable and in accord with applicable law.

(c) All installations are conditioned upon the Franchisee obtaining any easements, agreements and permits necessary to complete the installation. The Franchisee shall make every reasonable effort to obtain such easements, permits, agreements and permits in order to make Cable Service available. All installations are subject to weather conditions and force majeure.

### **Section 5.2 Location of Cable Television System**

The Franchisee shall operate and maintain the Cable Television System within the City of Portsmouth. Poles, towers and other obstructions shall be erected so as not to interfere with vehicular (bicycle included) or pedestrian traffic over Public Ways and places. The erection and location of all poles, towers and any other obstructions shall be in accordance with applicable City ordinances, regulations and State laws.

### **Section 5.3    Underground Facilities**

(a)     In the areas of the City having telephone lines and electric utility lines underground, whether required by law or not, all of the Franchisee's lines, cables and wires shall be underground. At such time as these facilities are placed underground by the telephone and electric utility companies or are required to be placed underground by the City, the Franchisee shall likewise place its facilities underground at its sole cost and expense.

(b)     Underground cable lines shall be placed beneath the pavement subgrade in compliance with applicable City ordinances, rules, regulations and/or standards. It is the policy of the City that existing poles for electric and communication purposes shall be utilized wherever possible and that underground installation is preferable to the placement of additional poles.

### **Section 5.4    Tree Trimming**

In the installation of amplifiers, poles, other appliances or equipment and in stringing of cables and/or wires as authorized herein, the Franchisee shall avoid all unnecessary damage and/or injury to any and all shade trees in and along the streets, alleys, Public Ways and places, and private property in the City. The Franchisee shall comply with all generally applicable rules and/or regulations established by the Franchising Authority or its designee during the term of this Renewal Franchise regarding tree and/or root trimming and/or pruning.

### **Section 5.5    Restoration to Prior Condition**

Whenever the Franchisee takes up or disturbs any pavement, sidewalk or other improvement of any Public Way or place, the same shall be replaced and the surface restored in as good condition as before entry as soon as practicable. If the Franchisee fails to make such restoration within a reasonable time, the Franchising Authority may fix a reasonable time for such restoration and repairs and shall notify the Franchisee in writing of the restoration and repairs required and the time fixed for performance thereof. Upon failure of the Franchisee to comply within the specified time period, the Franchising Authority may cause proper restoration and repairs to be made and the reasonable expense of such work shall be paid by the Franchisee upon demand by the Franchising Authority.

### **Section 5.6    Temporary Relocation**

The Franchisee shall temporarily raise or lower its wires or other equipment upon the reasonable request of any Person holding a building moving permit issued by the City. The

City of Portsmouth Cable Television Renewal Franchise –  
March 1, 2019 – February 29, 2024

expense of such raising or lowering shall be paid by the party requesting such move. The Franchisee shall be given reasonable notice necessary to maintain continuity of service.

**Section 5.7 Disconnection and Relocation**

The Franchisee shall, without charge to the Franchising Authority and/or the City, protect, support, temporarily disconnect, relocate in the same street, or other Public Way and place, or remove from any street or any other Public Ways and places, any of its property as required by the Franchising Authority or its designee by reason of traffic conditions, public safety, street construction, change or establishment of street grade, or the construction of any public improvement or structure by any City department acting in a governmental capacity.

**Section 5.8 Safety Standards**

The Franchisee shall construct, upgrade, install, operate, maintain and remove the Cable Television System in conformance with Occupational Safety and Health Administration regulations, the National Electric Code, the National Electrical Safety Code, the rules and regulations of the Commission and the FCC, all applicable building codes and land use restrictions as the same exist or may be amended hereafter.

**Section 5.9 Pedestals**

In any cases in which Pedestals housing passive devices are to be utilized, in City Public Ways or within the City public lay-out, such equipment must be installed in accordance with applicable regulations of the City; provided, however, that the Franchisee may place active devices (amplifiers, line extenders, power supplies, etc.) in a low-profile electronic control box at City approved locations to be determined when the Franchisee applies for a permit. All such equipment shall be shown on the Cable System maps submitted to the City. In the event that the Franchisee is no longer using any such Pedestals for the provision of Cable Service(s), the Franchisee shall expeditiously remove any such Pedestals and accompanying Cable Service infrastructure from the Public Way(s) expeditiously.

**Section 5.10 Private Property**

The Franchisee shall be subject to all generally applicable Laws, and regulations regarding private property in the course of constructing, upgrading, installing, operating and maintaining the Cable Television System in the City. The Franchisee shall promptly repair or replace all private property, real and personal, damaged or destroyed as a result of the

City of Portsmouth Cable Television Renewal Franchise –  
March 1, 2019 – February 29, 2024

construction, upgrade, installation, operation or maintenance of the Cable Television System without charge to the Franchising Authority or the affected Subscriber(s).

**Section 5.11 Right to Inspection of Construction**

(a) The Franchising Authority and/or its designee(s) shall have the right to inspect all construction and installation work performed subject to the provisions of this Renewal Franchise in order to ensure compliance with the terms and conditions of this Renewal Franchise and all other applicable law. Any such inspection shall not interfere with the Franchisee's operations, except in emergency situations.

(b) Any inspections conducted by the Franchising Authority and/or its designee(s) shall be at the sole cost and expense of the City and shall have the prior written approval of the Franchisee, which approval shall be given in a timely manner and which approval shall not be unreasonably denied or withheld. Unless otherwise mutually agreed upon, the City shall give at least fourteen (14) days prior notification to the Franchisee of its intention to conduct any inspection. The Franchisee shall be afforded the opportunity to be present during all such inspections.

**Section 5.12 Cable System Maps**

(a) Upon written request, the Franchisee shall provide the Franchising Authority strand maps of the Cable System plant. Strand maps shall include the routing of the Cable System, including all underground and aerial plant.

(b) Upon written request, the Franchisee shall make available to the Franchising Authority for inspection "as-built" maps of all Cable System plant at a mutually-agreeable location in Portsmouth.

**Section 5.13 Commercial Establishments**

The Franchisee shall make Cable Service(s) available to any commercial establishments in the City provided that the establishment(s) agrees to pay for installation and monthly subscription costs as lawfully established by the Franchisee, in accordance with applicable law(s) and/or regulation(s).

**Section 5.14 Local permitting**

The Franchisee shall comply with all local flagging, encumbrance, excavation and like permitting.

**Section 5.15 Residential Exterior Wiring**

The Franchisee shall adhere to Subscribers' reasonable requests for location of entry and shall in other respects observe standard specifications for Drop connections into the residence. Each Drop shall be grounded at each Subscriber's residence at the time of initial installation of Cable Service or during the next scheduled in-house servicing that is performed.

**Section 5.16 Make Ready and Pole Transfers**

If requested by the Franchising Authority, and in coordination with any pole owner, Franchisee shall move its lines and equipment within forty-five (45) days of written notice from the Franchising Authority for nonemergency, standard transfers of lines and equipment on poles or for making the pole ready for new attachments. Nothing herein shall alleviate Franchisee from making any transfers of lines and equipment in a shorter period of time if required by other contractual commitments or licensing obligations.

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## **ARTICLE 6 – SERVICES AND PROGRAMMING**

### **Section 6.1 Basic Service**

The Franchisee shall provide a Basic Service which shall include all Signals which are required to be carried by a Cable System serving the City pursuant to applicable statute or regulation.

### **Section 6.2 Programming**

- (a) Pursuant to Section 624 of the Cable Act, the Franchisee shall maintain the mix, quality and broad categories of Programming set forth in Exhibit 1 attached hereto and made a part hereof.
- (b) The Franchisee shall provide the Franchising Authority and all Subscribers with thirty (30) days advance written notice of any change in its Portsmouth Programming line-up, if the change is within the control of the Franchisee.

### **Section 6.3 Leased Channels for Commercial Use**

Pursuant to Section 612 (b)(1)(B) of the Cable Act, the Franchisee shall make available channel capacity for commercial use by Persons unaffiliated with the Franchisee.

### **Section 6.4 Cable Compatibility**

The Franchisee shall continue to maintain equipment compatibility in accordance with applicable law and regulation.

### **Section 6.5 Continuity of Service**

It shall be the right of all Subscribers to receive Service insofar as their financial and other obligations to the Franchisee are honored. The Franchisee shall ensure that all Subscribers receive continuous, uninterrupted Service, except for necessary Service interruptions. When necessary Service interruptions can be anticipated, the Franchisee shall notify Subscribers in advance.

#### **Section 6.6 Service Interruption**

Except where there exists an emergency situation necessitating a more expeditious procedure, the Franchisee may interrupt service for the purpose of repairing or testing the Cable Television System, only during periods of minimal use and, if practical, only after a minimum of twenty-four (24) hours' notice to all affected Subscribers.

#### **Section 6.7 Parental Control Capacity**

The Franchisee shall provide, upon request, Subscribers with the capability to control the reception of any channels being received on their television sets, at a cost, if any, pursuant to applicable law(s).

#### **Section 6.8 Free Connections and Monthly Service to Public Buildings and Schools**

(a) The Franchisee shall provide, install and maintain free Subscriber Cable Drops and Outlets and monthly Basic Service to all police and fire stations, public schools, public libraries and other public buildings along the Cable System Trunk and Distribution System included in Exhibit 2, attached and made a part hereof, and any other public buildings and schools along the Cable System Trunk and Distribution System as designated by the Franchising Authority. The Franchisee shall coordinate the location of each Drop and Outlet with the Franchising Authority. There shall be no cost to the City for the standard installation and provision of monthly Basic Service and related maintenance.

(b) The Franchisee shall supply one (1) digital Converter for each Outlet, if necessary, without charge to the City, for the reception of monthly Basic Service. The Franchisee shall maintain such Outlets and Converters for normal wear and tear, at its sole cost and expense; provided, however, that the City shall be responsible for repairs and/or replacement necessitated by any acts of vandalism or theft.

(c) The Franchisee shall provide installation of such Drops and/or Outlets within sixty (60) days of any such requests from the Franchising Authority, subject to Force Majeure.

## **ARTICLE 7 – PUBLIC, EDUCATIONAL AND GOVERNMENTAL ACCESS CHANNELS**

### **Section 7.1 PEG Access Programming**

The Franchising Authority and/or its designee(s) shall be responsible for the provision of PEG Access Programming to Subscribers in the City.

### **Section 7.2 Peg Access Channels**

- (a) The Franchisee shall continue to make available at no cost to the Franchising Authority or Access Corporation one (1) downstream Access Channel for Governmental Access programming, to be programmed by the City and/or the Access Corporation.
- (b) The Franchisee shall continue to make available at no cost to the Franchising Authority or Access Corporation one (1) additional downstream Access Channel to be programmed by the Franchising Authority, its School Department and/or the Access Corporation.
- (c) The Franchisee shall, upon written request from the Franchising Authority, make available one (1) additional downstream Access Channel to be programmed by the Franchising Authority, its School Department and/or Access Corporation conditioned upon the following:
- The second channel, pursuant to paragraph (b) above, is being substantially programmed. Substantially programmed shall mean that the second channel is carrying locally-produced, non-character generated programming between the hours of 5:00 p.m. and 10:00 p.m., Monday through Friday, at least seventy percent (70%) of the time for the twelve (12) week period immediately preceding or the twelve week period preceding the Franchising Authority's written request for a third channel under paragraph (h) below, as may be applicable. Of the 70% described above, at least thirty percent (30%) of the programming shall be new, non-duplicative programming during that six week period.
- The Franchisee shall have six (6) months from the receipt of such written notification to activate the Access Channel requested.
- (d) The first two Access Channels shall be included as part of the Basic Service available to all Subscribers. The third channel may, at the option of the Franchisee, be made available in the digital tiers only.
- (e) The Franchisee shall not move or otherwise relocate the channel location(s) of the Access Channel(s), once established, without the advance, written notice to the Franchising Authority and the Access Corporation; such notice shall be at least sixty (60) days. The Franchisee shall use its best efforts, in good faith, to minimize any Access Channel(s) relocations. The Franchisee shall provide at least thirty (30) days to Subscribers of the relocation. Access Channels shall be located together whenever reasonably possible.
- (f) The City and/or the Access Corporation shall be responsible for the picture quality of all Access Programming at the input of the modulators which is the demarcation point between the

City of Portsmouth Cable Television Renewal Franchise –  
March 1, 2019 – February 29, 2024

video origination equipment owned, operated and maintained by the Franchisee and the City's and/or Access Corporation's end-user equipment. The Franchisee may require access to the modulator(s) for the purpose of testing, maintaining, and/or adjusting output levels of the modulator, and the Franchisee shall test and adjust the levels of such output as reasonably needed to ensure good picture quality. The Franchisee may require the City or the Access Corporation to first test and determine if end-user equipment is the source of any apparent signal problems.

(g) Modulators or equivalent technology at origination locations shall be owned and maintained by the Franchising Authority.

(h) The Franchising Authority agrees that neither the second nor the third Access Channel shall be utilized solely to carry character-generated messages; provided, however, that the Franchising Authority and/or Access Corporation may use character-generated messages along with new programming. The Franchising Authority and/or its designee(s) shall be responsible for providing the Access Channel signal(s) in a standard definition format to the demarcation point at the designated point of origination for the PEG Access Channel(s). The Franchisee shall distribute the Access Channels Signal(s) on its Cable System in standard definition format without substantial alteration or deterioration. The Cable System shall be capable of transmitting color video signals received at the Headend in color, stereo audio signals received at the Headend in stereo and properly formatted closed captioned signals received at the Headend.

### **Section 7.3 Access Channel Maintenance**

The Franchisee shall monitor the Access Channels for technical quality and shall ensure that they are maintained at standards commensurate with those which apply to the Cable System's commercial channels; provided, however, that the Franchisee is not responsible for the technical quality of PEG Access Programming. Upon written request, the Franchisee shall make available a copy of its most recent annual performance tests.

### **Section 7.4 PEG Studio Move**

Should the Access Corporation decide to relocate its studio facilities from its current location, as of the Effective Date of this Renewal Franchise, the Franchisee shall provide origination Capability to the new studio as follows:

(a) The Franchisee shall provide a written estimate of the cost of providing such video origination Capability within forty-five (45) days of receipt of a request from the Franchising Authority;

(b) The Franchisee shall be responsible for the first Forty Thousand Dollars (\$40,000.00) of such new Drop and origination Capability relocation costs; any relocation costs in excess of \$40,000.00 shall be paid by the Franchising Authority and/or the Access Corporation;

City of Portsmouth Cable Television Renewal Franchise –  
March 1, 2019 – February 29, 2024

- (c) Within forty-five (45) days of the Franchising Authority's receipt of the written estimate from the Franchisee, the Franchising Authority and/or the Access Corporation shall issue a payment, if such estimate exceeds \$ 40,000.00;
- (d) Upon receipt of the payment from the Franchising Authority, no later than forty- five (45) days of the Franchising Authority's receipt of the written estimate from the Franchisee (if such costs are \$40,000.00 or less), the Franchisee shall order equipment and begin the construction process; and
- (e) No later than thirty (30) days of the timelines established in Section 7.4(d) above for an aerial Drop and within ninety (90) days for an underground Drop, the Franchisee shall construct, install and provide such origination Capability Drop to the new PEG Access Studio, subject to Force Majeure.

**Section 7.5 Censorship**

The Franchisee shall not engage in any program censorship or any other control of the content of Access Channel programming on the Cable System, except as otherwise required or permitted by applicable law.

## **ARTICLE 8 – FRANCHISE FEES**

### **Section 8.1 Franchise Fee Payments**

- (a) The Franchisee shall pay to the Franchising Authority, throughout the term of this Renewal Franchise, a Franchise Fee equal to five percent (5%) of the Franchisee's Gross Annual Revenues, as defined in Section 1.1(23) supra, derived during each year of this Renewal Franchise. The Franchisee shall not be liable for Franchise Fees in excess of five percent (5%) of its Gross Annual Revenues; provided, however, the five percent (5%) cap shall not include
- (i) any interest due herein to the Franchising Authority and/or its designee(s) because of late payments; and/or any damages.
- (b) Payments shall be made on a quarterly basis throughout the term of this Renewal Franchise not later than forty-five (45) days after the end of each 3 month period (by Feb 15<sup>th</sup>, May 15, August 15<sup>th</sup> and November 15<sup>th</sup>). Payments shall be made payable to the City of Portsmouth.
- (c) The Franchisee shall file with each such payment a statement, prepared by a financial representative of the Franchisee, documenting, in detail, the total of all Gross Annual Revenues of the Franchisee during the preceding year. The Franchisee shall also complete and submit to the Franchising Authority, on a quarterly basis, a Gross Annual Revenues Reporting Form substantially and materially consistent with that which is attached hereto as Exhibit 3.
- (d) Nothing in the Cable Act or this Renewal License shall be construed to limit any authority of the Franchising Authority to impose a tax, fee or other assessment of any kind otherwise permitted by law with respect to Cable Service.

### **Section 8.2 Other Payment Obligations and Exclusions**

The Franchise Fee payments shall be in addition to and shall not constitute an offset or credit against any and all taxes or other fees or charges which the Franchisee or any Affiliated Person shall be required to pay to the City, or to any State or federal agency or authority, as required herein or by law; the payment of taxes, fees or charges shall not constitute a credit or offset against the Franchise Fee payments all of which shall be separate and distinct obligations of the Franchisee and each Affiliated Person.

### **Section 8.3 Late Payment**

In the event that the fees herein required are not tendered on or before the dates fixed in Section 8.1 above, interest due on such fee shall accrue from the date due at the rate of two percent (2%) above the Prime Rate. Any payments to the City pursuant to this Section 8.3 shall not be deemed to be part of the Franchise Fees to be paid to the City pursuant to Section 8.1

City of Portsmouth Cable Television Renewal Franchise –  
March 1, 2019 – February 29, 2024

hereof and shall be within the exclusion to the term "franchise fee" for requirements incidental to enforcing the franchise pursuant to Section 622(g)(2)(D) of the Cable Act.

**Section 8.4    Re-computation**

(a)    Tender or acceptance of any payment required shall not be construed as an accord that the amount paid is correct, nor shall such acceptance of payment be construed as a release of any claim that the City may have for additional sums including interest payable under this Section 8.3. All amounts paid shall be subject to audit and re-computation by the Franchising Authority and shall occur in no event later than two (2) years after each quarterly Franchise Fee is tendered with respect to such fiscal year.

(b)    If the Franchising Authority has reason to believe that any such payment(s) are incorrect, the Franchising Authority shall notify the Franchisee of such belief in writing and the Franchisee shall have thirty (30) days from receipt of such written notification to provide the Franchising Authority with additional information documenting and verifying the accuracy of any such payment(s). In the event that the Franchising Authority does not believe that such documentation supports the accuracy of such payment(s), the Franchising Authority may conduct an audit of such payment(s). If, after such audit and re-computation, an additional fee is owed to the Franchising Authority, such fee shall be paid within thirty (30) days after such audit and re-computation and the Franchisee shall contribute to the costs of such audit in an amount not to exceed Three Thousand Dollars. The interest on such additional fee shall be charged from the due date at the rate of two percent (2%) above the Prime Rate during the period that such additional amount is owed.

## **ARTICLE 9 – RATES AND CHARGES**

### **Section 9.1 Rate Regulation**

The Franchising Authority reserves the right to regulate the Franchisee's rates and charges to the extent allowable under applicable federal law.

### **Section 9.2 Notification of Rates and Charges**

- (a) The Franchisee shall make all rates and charges of any kind and all terms or conditions related to Subscriber Services: (1) available in writing at the Franchisee's business office; (2) accessible electronically through publication on Franchisee's website; and as required in writing under Section 13.5.
- (b) The Franchisee shall provide annually to both the Franchising Authority and to all Subscribers written schedules which shall describe all Services offered by the Franchisee, all rates and charges of any kind, and all terms or conditions relating thereto. If the Subscriber has opted for electronic communications schedules may be distributed by electronic mail.
- (c) The Franchisee shall notify all Subscribers and the Franchising Authority in writing of any impending rate increases no later than thirty (30) days prior to such increase(s) and provide each Subscriber with a schedule describing existing and proposed rates for each service offered; provided, however, that this Section 9.2 shall not prohibit the Franchisee from offering or discontinuing promotional discounts upon less than thirty (30) days' notice. No rates or charges shall be effective except as they appear on a schedule timely provided to the Franchising Authority and Subscribers.
- (d) At the time of initial solicitation of Service, the Franchisee shall also provide each Subscriber with a detailed explanation of downgrade and upgrade policies and the manner in which Subscribers may terminate Cable Service. Subscribers shall have at least thirty (30) days from receipt of notification of any rate increase to either downgrade Service or terminate Service altogether without any additional charge.
- (e) During the term of this Renewal Franchise, whenever a Subscriber contacts the Franchisee to inquire about Basic Service rates, the Franchisee shall clearly inform all Subscribers and potential Subscribers about the availability and price of the lowest cost of Cable Service.

### **Section 9.3 Credit for Service Interruption**

In the event that the Franchisee's Service to any Subscriber is interrupted for twenty-four (24) or more consecutive hours, provided that the interruption is not caused by the Subscriber, the Franchisee shall grant such Subscriber a pro rata credit or rebate in compliance with applicable law.



## ARTICLE 10 – INSURANCE AND BONDS

### Section 10.1 Insurance

From the Effective Date and at all other times during the term of the Renewal Franchise, including the time for removal of facilities, the Franchisee shall obtain, pay all premiums for, and file with the Franchising Authority, on an annual basis, copies of the certificates of insurance for the following policies:

- (1) A commercial general liability policy naming the Franchising Authority, the City, its officers, boards, committees, commissions, and employees as additional insured on a primary and noncontributory basis for all claims on account of injury to or death of a Person or Persons occasioned by the construction, installation, maintenance or operation of the Cable System or alleged to have been so occasioned, with a minimum liability of One Million Dollars (\$1,000,000.00) for injury or death or property damage in any one occurrence. The amount of such insurance for excess liability shall be Five Million Dollars (\$5,000,000.00) in umbrella form. Overall limits of liability may be met through any combination of primary and excess liability insurance policies.
- (2) Automobile liability insurance for owned automobiles, non-owned automobiles and/or rented automobiles in the amount of:
  - (a) One Million Dollars (\$1,000,000.00) combined single limit for bodily injury, consequent death and property damage per occurrence;
- (3) Worker's Compensation and Employer's Liability in the minimum amount of:
  - (a) Statutory limit for Worker's Compensation; and
- (4) The following conditions shall apply to the insurance policies required herein:
  - (a) Such insurance shall commence no later than the Effective Date of this Renewal Franchise.
  - (b) Such insurance shall be primary with respect to any insurance maintained by the City and shall not call on the City's insurance for contributions.
  - (c) Such insurance shall be obtained from brokers or carriers authorized to transact insurance business in New Hampshire.
  - (d) The Franchisee's failure to obtain to procure or maintain the required insurance shall constitute a material breach of this Renewal Franchise under which the City

City of Portsmouth Cable Television Renewal Franchise –  
March 1, 2019 – February 29, 2024

may immediately suspend operations under this Renewal Franchise, subject to the provisions of Section 12.1 herein.

**Section 10.2 Performance Bond**

(a) The Franchisee shall obtain and maintain at its sole cost and expense throughout the entire term of the Renewal Franchise a faithful performance bond running to the City, with good and sufficient surety Franchised to do business in the State of New Hampshire in the sum of Twenty Five Thousand Dollars (\$25,000.00). The bond shall be conditioned upon the faithful performance and discharge of all of the obligations imposed by the Renewal Franchise.

(b) The performance bond shall be effective throughout the term of the Renewal Franchise, including the time for removal of all of the facilities provided for herein, and shall be conditioned that in the event that the Franchisee shall fail to comply with any one or more provisions of the Renewal Franchise, or to comply with any order, permit or direction of any department, agency, commission, board, division or office of the City having jurisdiction over its acts, or to pay any claims, liens or taxes due the City which arise by reason of the construction, maintenance, operation or removal of the Cable Television System, the City shall recover from the surety of such bond all damages suffered by the City.

(c) The performance bond shall be a continuing obligation of this Renewal Franchise. In the event that the City recovers from the surety, the Franchisee shall take immediate steps to reinstate the performance bond to the \$100,000.00 required coverage herein. Neither this section, any bond accepted pursuant thereto, nor any damages recovered thereunder shall limit the liability of the Franchisee under the Renewal Franchise.

**Section 10.3 Reporting**

The Franchisee shall submit to the Franchising Authority, upon request, copies of all current certificates regarding (i) all insurance policies, and (ii) the performance bond.

**Section 10.4 Indemnification**

The Franchisee shall, at its sole cost and expense, indemnify and hold harmless the Franchising Authority, the City, its officials, boards, commissions, committees, agents and/or employees against all claims for damage due to the actions of the Franchisee, its employees, officers or agents arising out of the construction, installation, maintenance, operation and/or removal of the Cable Television System under the Renewal Franchise, including without limitation, damage to Persons or property, both real and personal, caused by the construction, installation, operation, maintenance and/or removal of any structure, equipment, wire or cable installed. Indemnified expenses shall include all reasonable attorneys' fees and costs incurred up

City of Portsmouth Cable Television Renewal Franchise –  
March 1, 2019 – February 29, 2024

to such time that the Franchisee assumes defense of any action hereunder. The Franchising Authority shall give the Franchisee timely written notice of its obligation to indemnify and defend the Franchising Authority. Any settlement requiring City remuneration must be with the advance, written consent of the Franchising Authority, which shall not be unreasonably denied

**Section 10.5 Notice of Cancellation or Reduction of Coverage**

The insurance policies and performance bond required herein shall each contain an endorsement stating that such insurance policies and performance bond are intended to cover the liability assumed by the Franchisee under the terms of this Renewal Franchise and shall contain the following endorsement:

It is hereby understood and agreed that this insurance policy (or performance bond) shall not be cancelled, materially changed or the amount of coverage thereof reduced until thirty (30) days after receipt by the Franchising Authority by certified mail of one (1) copy of a written notice of such intent to cancel, materially change or reduce the coverage required herein.

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## **ARTICLE 11 – ADMINISTRATION AND REGULATION**

### **Section 11.1 Regulatory Authority**

The Franchising Authority and/or its designee(s) shall be responsible for the monitoring and oversight of the Cable Television System including enforcement and compliance.

### **Section 11.2 Performance Evaluation Hearings**

(a) The Franchising Authority may hold a performance evaluation hearing during each year of this Renewal Franchise. The Franchisee shall be provided timely notice of any such hearing. All such evaluation hearings shall be open to the public. The purpose of such evaluation hearing shall be to, among other things, (i) review the Franchisee's compliance with the terms and conditions of this Renewal Franchise, customer service and Complaint response, and Access Channels, facilities and support; and (ii) hear comments, suggestions and/or Complaints from the public. The Franchising Authority shall provide the Franchisee with reasonable, advance notice regarding the hearing date and compliance matters.

(b) The Franchising Authority shall have the right to question the Franchisee on any aspect of this Renewal Franchise including, but not limited to, the operation, maintenance and/or removal of the Cable Television System. During review and evaluation by the Franchising Authority, the Franchisee shall cooperate fully with the Franchising Authority and/or its designee(s), and produce such documents or other materials as are reasonably requested from the City. Any Subscriber or other Person may submit comments during such review hearing, either orally or in writing, and such comments shall be duly considered by the Franchising Authority.

(c) Within sixty (60) days after the conclusion of such review hearing(s), the Franchising Authority shall issue a written report with respect to the adequacy of Cable System performance and quality of Service. If inadequacies are found which result in a violation of any of the provisions of this Renewal Franchise, the Franchising Authority shall notify the Franchisee in writing of any instance of non-compliance. The Franchisee shall subsequently respond and propose a plan for implementing any changes or improvements necessary.

### **Section 11.3 Emergency Removal of Plant**

If, in case of fire or disaster in the City at any time, it shall become necessary in the reasonable judgment of the Franchising Authority or any designee, to cut or move any of the wires, cables, amplifiers, appliances or appurtenances of the Cable Television System, the City shall have the right to do so at the sole cost and expense of the Franchisee.

**Section 11.4 Removal and Relocation**

The Franchising Authority shall have the authority at any time to order and require the Franchisee to remove or relocate any pole, wire, cable or other structure owned by the Franchisee that is dangerous to life or property. In the event that the Franchisee, after notice, fails or refuses to act within a reasonable time, the Franchising Authority shall have the authority to remove or relocate the same, which cost the Franchisee shall reimburse to the City.

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## **ARTICLE 12 – BREACH, LIQUIDATED DAMAGES, FRANCHISE REVOCATION**

### **Section 12.1 Determination of Breach**

(a) In the event that the Franchising Authority has reason to believe that the Franchisee has defaulted in the performance of any or several provisions of this Renewal Franchise, except as excused by Force Majeure, the Franchising Authority shall notify the Franchisee in writing, by certified mail, of the provision or provisions which the Franchising Authority believes may have been in default and the details relating thereto. The Franchisee shall have thirty (30) days from the receipt of such notice to:

(b) Respond to the Franchising Authority in writing, contesting the Franchising Authority's assertion of default and providing such information or documentation as may be necessary to support the Franchisee's position; or

(c) Cure any such default (and provide written evidence of the same), or, in the event that by nature of the default, such default cannot be cured within such thirty (30) day period, to take reasonable steps to cure the default and diligently continue such efforts until the default is cured. The Franchisee shall report to the Franchising Authority, in writing, by certified mail, at twenty-one (21) day intervals as to the Franchisee's efforts, indicating the steps taken by the Franchisee to cure any such default and reporting the Franchisee's progress until any such default is cured.

(d) In the event that (i) the Franchisee fails to respond to such notice of default; (ii) the Franchisee fails to cure the default or to take reasonable steps to cure the default within the required thirty (30) day period; and/or (iii) the Franchising Authority is not satisfied with the Franchisee's response(s) or the Franchisee's efforts to cure, the Franchising Authority shall promptly schedule a public hearing no sooner than fourteen (14) days after written notice, by certified mail, to the Franchisee. The Franchisee shall be provided reasonable opportunity to offer evidence and be heard at such public hearing. Within thirty (30) days after the public hearing, the Franchising Authority shall determine whether or not the Franchisee is in default of any provision of this Renewal Franchise.

(e) In the event that the Franchising Authority, after such hearing, determines that the Franchisee is in default, the Franchising Authority may determine to pursue any of the following remedies, by written notice to the Franchisee:

- (i) assess liquidated damages in accordance with the schedule set forth in Section 12.2 below;
- (ii) seek specific performance of any provision of the Renewal Franchise which reasonably lends itself to such remedy as an alternative to damages;
- (iii) commence an action at law for monetary damages;
- (iv) foreclose on all or any appropriate part of the security provided pursuant to Article 10;

City of Portsmouth Cable Television Renewal Franchise –  
March 1, 2019 – February 29, 2024

- (v) declare the Renewal Franchise to be revoked subject to Section 12.3 below and applicable law;
- (vi) invoke any other remedy available to the City.

**Section 12.2 Liquidated Damages**

(a) For the violation of any of the following provisions of this Renewal Franchise, liquidated damages shall be paid by the Franchisee to the Franchising Authority, subject to Section 12.1 above. Any such liquidated damages shall be assessed as of the date that the Franchisee receives written notice, by certified mail, of the provision or provision(s) which the Franchising Authority believes are in default, provided the Franchising Authority made a determination of default pursuant to Section 12.1 (d) above.

- (i) For failure to fully activate, operate, maintain the Subscriber Network, in accordance with Article 4, Five Hundred Dollars (\$500.00) per day, for each day that such non-compliance continues.
- (ii) For failure to obtain the advance, written approval of the Franchising Authority for any transfer of this Renewal Franchise in accordance with Article 3, Two Hundred Fifty Dollars (\$250.00) per day, for each day that such non-compliance continues.
- (iii) For failure to comply with the PEG requirements of Article 7 including maintenance of origination locations, Five Hundred Fifty Dollars (\$500.00) for each day that any such non-compliance continues.
- (iv) For failure to comply with the Subscriber and consumer protections in accordance with Article 13, One Hundred Fifty Dollars (\$150.00) for each day that any such non-compliance continues.
- (v) For failure to provide, install and/or fully activate the Subscriber Network and/or Outlets in accordance with Section 6.6 herein and/or Exhibit 2, Fifty Dollars (\$50.00) per day that any such non-compliance continues.
- (vi) For failure to timely submit any requested reports pursuant to Article 14, Fifty Dollars (\$50.00) per day that reports are not submitted as required.

(b) Such liquidated damages shall be in addition to, and not a limitation upon, any other provisions of this Renewal Franchise and applicable law, including penalties or revocation, or any other statutorily or judicially imposed penalties or remedies; provided, however, that in the event that the Franchising Authority collects liquidated damages for a specific breach for a specific period of timer, pursuant to Section 12.2 above, the collection of such liquidated damages shall be deemed to be the exclusive remedy for the specific breach for such specific period of time only.

(c) Each of the above-mentioned cases of non-compliance shall result in damage to the City, its residents, businesses and institutions, compensation for which will be difficult to ascertain. The Franchisee agrees that the liquidated damages in the amounts set forth above are fair and

City of Portsmouth Cable Television Renewal Franchise –  
March 1, 2019 – February 29, 2024

reasonable compensation for such damage. The Franchisee agrees that the foregoing amounts are liquidated damages, not a penalty or forfeiture, and are within one or more exclusions to the term "franchise fee" provided by Section 622(g)(2)(A)-(D) of the Cable Act.

**Section 12.3 Revocation of the Renewal Franchise**

In the event that the Franchisee fails to comply with any material provision of this Renewal Franchise, the Franchising Authority may revoke the Renewal Franchise granted herein, subject to the procedures of Section 12.1 above and applicable law.

**Section 12.4 Termination**

The termination of this Renewal Franchise and the Franchisee's rights shall become effective upon the earliest to occur of: (i) the revocation of the Renewal Franchise by action of the Franchising Authority, pursuant to Section 12.1 and 12.3 above; (ii) the abandonment of the Cable System, in whole or material part, by the Franchisee without the express, prior approval of the Franchising Authority; or (iii) the expiration of the term of this Renewal Franchise, unless the Franchisee is otherwise permitted to continue operating the Cable System pursuant to applicable law(s).

**Section 12.5 Notice To Other Party of Legal Action**

In the event that either party intends to take legal action against the other party for any reason, such moving party shall first, except where injunctive relief is sought, (i) give the other party at least forty-five (45) days' notice that an action will be filed, (ii) meet with the other party before it files any such action, and (iii) negotiate the issue, which is the subject of any proposed legal action, in good faith with the other party.

**Section 12.6 Non-Exclusivity of Remedy**

No decision by the Franchising Authority or the City to invoke any remedy under the Renewal Franchise or under any statute, law or ordinance shall preclude the availability of any other such remedy.

**Section 12.7 No Waiver-Cumulative Remedies**

(a) The rights and remedies provided are cumulative and not exclusive of any remedies provided by law.



City of Portsmouth Cable Television Renewal Franchise –  
March 1, 2019 – February 29, 2024

(b) A waiver of any right or remedy by the Franchising Authority at any one time shall not affect the exercise of such right or remedy or any other right or remedy by the Franchising Authority at any other time. In order for any waiver of the Franchising Authority to be effective, it shall be in writing. The failure of the Franchising Authority to take any action in the event of any breach by the Franchisee shall not be deemed or construed to constitute a waiver of or otherwise affect the right of the Franchising Authority to take any action permitted by this Renewal Franchise at any other time in the event that such breach has not been cured, or with respect to any other breach by the Franchisee.

(c) Acceptance of the terms and conditions of this Renewal Franchise will not constitute, or be deemed to constitute, a waiver, either expressly or implied, by the Franchisee of any constitutional or legal right which it may have or may be determined to have, either by subsequent legislation or court decisions.

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## **ARTICLE 13 –SUBSCRIBER RIGHTS AND CONSUMER PROTECTION**

### **Section 13.1 Customer Service Office**

(a) For the term of this Renewal Franchise, the Franchisee shall continue to maintain, operate and staff a conveniently located customer service office in the Seacoast.

The customer service office shall be open for walk-in business during Normal Business Hours for the purpose of, among other things, exchanging/replacing customer equipment; receiving customer payments, inquiries and Complaints, made in person, including without limitation, those regarding billing, Service, installation, equipment malfunctions and answering general inquiries.

(b) The Franchisee shall periodically notify its Subscribers of the location.

### **Section 13.2 Customer Service Call Center**

(a) The Franchisee shall maintain and operate its customer service call center twenty-four (24) hours a day, seven (7) days a week, including holidays. The Franchisee reserves the right to modify its business operations with regard to such customer service call center. The Franchisee shall comply with all State and federal requirements pertaining to the hours of operation of such customer service call center.

(b) In the event that the Franchisee does not maintain and operate its customer service call center twenty-four (24) hours a day, seven (7) days a week, the Franchisee shall maintain a telephone answering service to handle Subscriber inquiries, Complaints and emergencies, and provide proper referral regarding billing and other Subscriber information. The Franchisee shall log all such after-hours calls. Any answering service shall (i) forward all inquiries and/or Complaints to the Franchisee the morning of the next business day and (ii) inform each Subscriber calling that his or her Complaint will be referred to the Franchisee's Customer Service Department for response. If requested, or reasonably warranted by the reported nature of the Subscriber's problem or inquiry, the Franchisee shall promptly contact each individual Subscriber to follow-up on their individual problem and/or inquiry.

### **Section 13.3 Installation Visits-Service Calls-Response Time**

(a) The Franchisee shall provide Cable Service for new installations as set forth in Section 5.1 of this Renewal Franchise.

(b) When arranging appointments with Subscribers, the Franchisee shall specify in advance whether such will occur in the morning or afternoon, or a narrower interval, if possible, and the

City of Portsmouth Cable Television Renewal Franchise –  
March 1, 2019 – February 29, 2024

Franchisee shall make reasonable efforts to install at times convenient to Subscribers (including times other than 9:00 a.m. to 5:00 p.m. weekdays).

(c) A Subscriber Complaint or request for Service received after Normal Business Hours shall be responded to the next business day.

(d) The Franchisee shall ensure that there are stand-by technician(s) on-call at all times after Normal Business Hours. The answering service shall be required to notify the stand-by technician(s) of (i) any emergency situations, (ii) an unusual number of calls and/or (iii) a number of similar Complaint calls or a number of calls coming from the same area.

(e) System outages shall be responded to within 24 hours by technical personnel. For purposes of the section, an outage shall be considered to occur when three (3) or more calls are received from an area sharing the same node, or when the Franchisee has reason to know of such an outage.

(f) The Franchisee shall remove all Subscriber Drop Cables, within seven (7) days of receiving a request from a Subscriber to do so.

#### **Section 13.4 FCC Customer Service Obligations**

The Franchisee shall comply with the FCC's Customer Service Obligations, codified at 47 U.S.C. Section 76.309.

#### **Section 13.5 Notices to Subscribers**

The Franchisee shall provide in writing by mail annually to all Subscribers the following:

- (a) Schedule of all rates and charges;
- (b) Description of all tiers and programming packages with a listing of channels or Services;
- (c) Summary of all billing policies, procedures and dispute mechanisms;
- (d) Notice of the availability of detailed information on parental lockout controls;
- (e) Franchisee's privacy policies;
- (f) Consumer Protection Notices as set forth in 13.6 of this Agreement; and
- (g) All other notices required by State and Federal law.

The Franchisee shall make the above-listed information available at all times 1) in writing at the Franchisee's business office and (2) accessible electronically through publication on Franchisee's website.

City of Portsmouth Cable Television Renewal Franchise –  
March 1, 2019 – February 29, 2024

Prospective Subscribers shall be provided the above-listed information in hard copy form upon request and new Subscribers shall be provided the above-listed information by mail within thirty (30) days of the start of service.

**Section 13.6 Notice to Subscribers Regarding Quality of Service**

As set forth in R.S.A. 53-C: 3-d, annually, the Franchisee shall mail to each of its Subscribers a notice which:

- (a) Informs Subscribers how to communicate their views to the Franchisee and to the Office of the Solicitor General, Consumer Protection and Antitrust Bureau; and
- (b) States the responsibility of the Office of the Solicitor General, Consumer Protection and Antitrust Bureau to receive and act on consumer complaints.

Such notice shall be in non-technical language, understandable by the general public, and in a convenient format. On or before January 30 of each year, the Franchisee shall certify to the Franchising Authority and to the Office of the Solicitor General, Consumer Protection and Antitrust Bureau that it has distributed the notice as provided in this section during the previous calendar year as required by this section.

**Section 13.7 Complaint Resolution Procedures**

- (a) The Franchisee shall establish a procedure for resolution of Complaints by Subscribers.
- (b) Upon reasonable notice, the Franchisee shall expeditiously investigate and resolve all Complaints regarding the quality of Service, equipment malfunctions and similar matters. In the event that a Subscriber is aggrieved, the Franchising Authority or its designee(s) shall be responsible for receiving and acting upon such Subscriber Complaints/inquiries, as follows:
  - (i) Upon the written request of the Franchising Authority or its designee(s), the Franchisee shall, within ten (10) business days after receiving such request, send a written report to the Franchising Authority with respect to any Complaint. Such report shall provide a full explanation of the investigation, finding and corrective steps taken by the Franchisee.
  - (ii) Should a Subscriber have an unresolved Complaint regarding cable television operations, the Subscriber shall be entitled to file his or her Complaint with the Franchising Authority or its designee(s), who shall have primary responsibility for the continuing administration of the Renewal Franchise and the implementation of Complaint procedures. Thereafter, if the Subscriber wishes to participate in further processing of the Complaint, the Subscriber shall meet jointly with the Franchising Authority or its designee(s) and a representative of the Franchisee, within thirty (30) days of the Subscriber's filing of his or her Complaint, in order to fully discuss and attempt to resolve

City of Portsmouth Cable Television Renewal Franchise –  
March 1, 2019 – February 29, 2024

such matter. The Franchisee shall notify each new Subscriber, at the time of initial installation of Cable Service, of the procedures for reporting and resolving all of such Complaints, and annually to all Subscribers.

(c) Notwithstanding the foregoing, if the Franchising Authority or its designee(s) determines it to be in the public interest, the Franchising Authority or its designee(s) may investigate any Complaints or disputes brought by Subscribers arising from the operations of the Franchisee.

(d) In the event that the Franchising Authority or its designee(s) finds a pattern of multiple unresolved Subscriber Complaints, the Franchising Authority or its designee(s) and the Franchisee shall discuss, in good faith, possible amendments to the Franchisee's procedures for the resolution of Complaints.

### **Section 13.9 Billing Practices Information and Procedures**

Billing procedures shall be as follows:

(a) The Franchisee shall bill all Subscribers to its Cable Television System in a uniform, non-discriminatory manner, regardless of a Subscriber's level of Service(s). The bill shall have an explicit due date.

(b) The Franchisee shall provide all Subscribers with itemized bills that contain the information required by federal law and/or regulation.

(c) Late charges, if applied, shall in no case be imposed earlier than thirty (30) days after the bill date, unless otherwise required by applicable law(s).

(d) Subscribers shall have at least thirty (30) days from the due date of a bill in which to register a complaint or dispute concerning their bill.

(e) In the event that a bona fide billing dispute arises, the Franchisee shall respond to each Complaint within fifteen (15) days of receiving a written notification of the dispute from the Subscriber and shall make its best efforts to resolve each dispute within forty-five (45) days of receiving Subscriber's written notification of the dispute. If the dispute cannot be settled within the forty-five (45) day period and/or the results of the Franchisee's investigation into the dispute are unacceptable to the Subscriber, the Franchisee shall notify, and deliver to, the affected Subscriber its proposed resolution of the dispute within one day of expiration of the forty-five (45) day period.

(f) The affected Subscriber shall be responsible for paying only that portion of the bill that is not in dispute. In no event shall the Franchisee, prior to the resolution of a billing dispute, disconnect, assess a late payment charge or require payment of a late payment charge from the Subscriber for failure to pay bona fide disputed bills, or portions thereof, provided the Subscriber notifies the Franchisee of the dispute within thirty (30) days following the beginning of the billing period for which service was rendered under the disputed bill.

### **Section 13.10 Disconnection and Termination of Cable Services**

The Franchisee shall not disconnect a Subscriber's Cable Service for nonpayment unless (1) the Subscriber is delinquent, (2) the Franchisee has given Subscriber written notice of such past due amount in a clear and conspicuous manner; and (3) Subscriber has been given a second notice of delinquency, which may be as part of a monthly bill. Disconnection and/or termination of Cable Services shall be subject to applicable federal and/or State law(s) and regulation(s).

### **Section 13.11 Change of Service**

Upon Subscriber's notification to disconnect or downgrade Service, the Franchisee shall cease and/or adjust Subscriber's monthly Service charges immediately or as of the Subscriber's specified disconnect or downgrade date. In no case shall Subscriber be charged for Service(s) requested to be changed after the Franchisee is notified of the change(s). Franchisee's charges, if any, shall comply with applicable federal law and regulation.

### **Section 13.12 Subscriber Equipment/Wiring**

The Franchisee shall not cut, modify, or otherwise interfere with any coaxial, telephony, data, or electrical wiring in any Subscriber's residence or place of business without the express permission of the Subscriber or his agent, unless it presents an immediate danger to life or safety. Any such modification must be disclosed to the subscriber immediately.

### **Section 13.13 Employee and Agent Identification Cards**

All of the Franchisee's employees and agents entering upon private property, in connection with the construction, installation, maintenance and operation of the Cable System, including repair and sales personnel, shall be required to carry an employee picture identification card issued by the Franchisee.

### **Section 13.14 Protection of Subscriber Privacy**

(a) The Franchisee shall respect the rights of privacy of every Subscriber and/or User of the Cable Television System and, pursuant to applicable federal law, shall not violate such rights through the use of any device or Signal associated with the Cable Television System, and as hereafter provided.

City of Portsmouth Cable Television Renewal Franchise –  
March 1, 2019 – February 29, 2024

(b) The Franchisee shall comply with all privacy provisions contained in this Article 13 and all other applicable federal and State laws including, but not limited to, the provisions of Section 631 of the Cable Act.

(c) The Franchisee shall be responsible for carrying out and enforcing the Cable System's privacy policy, and shall at all times maintain adequate physical, technical and administrative security safeguards to ensure that personal subscriber information is handled and protected strictly in accordance with this policy.

(d) Subject to Section 631 of the Cable Act, the Franchisee shall notify all third parties who offer Cable Services in conjunction with the Franchisee, or independently over the Cable Television System, of the subscriber privacy requirements contained in this Renewal Franchise.

### **Section 13.15 Monitoring**

(a) In accordance with applicable federal law, the Franchisee shall not use the Cable System to collect personally identifiable information concerning any Subscriber without the prior written or electronic consent of the Subscriber concerned. The Franchisee may use the Cable System to collect such information in order to (A) obtain information necessary to render a Cable Service or other service provided by the Franchisee to the Subscriber; or (B) detect unauthorized reception of cable communications.

(b) Pursuant to Section 631(e) of the Cable Act, the Franchisee shall not record or retain any information transmitted between a Subscriber or User and any third party, except as required for lawful business purposes and the Franchisee shall destroy personally identifiable information if the information is no longer necessary for the purpose for which it was collected and there are no pending requests or orders for access to such information pursuant to a request from a Subscriber or pursuant to a court order.

### **Section 13.16 Distribution of Subscriber Information**

(a) Except as provided in paragraph (b) below, the Franchisee shall not personally identifiable information concerning any Subscriber without the prior written or electronic consent of the Subscriber concerned and shall take such actions as are necessary to prevent unauthorized access to such information by a Person other than the Subscriber or the Licensee.

(b) The Licensee may disclose such information if the disclosure is--

- (i) necessary to render, or conduct a legitimate business activity related to, a Cable Service or other service provided by the Franchisee to the Subscriber;
- (ii) subject to subsection (h) of 47 USC 551, made pursuant to a court order authorizing such disclosure, if the Subscriber is notified of such order by the Person to whom the order is directed; or

City of Portsmouth Cable Television Renewal Franchise –  
March 1, 2019 – February 29, 2024

- (iii) a disclosure of the names and addresses of Subscribers to any Cable Service or other service, if—
  - a. the Franchisee has provided the Subscriber the opportunity to prohibit or limit such disclosure, and
  - b. the disclosure does not reveal, directly or indirectly, the--
    - (1) extent of any viewing or other use by the Subscriber of a Cable Service or other service provided by the Licensee, or
    - (2) the nature of any transaction made by the Subscriber over the Cable System.

**Section 13.17 Information With Respect to Viewing Habits and Subscription Decisions**

Except as permitted by Section 631 of the Cable Act and other applicable law, the Franchisee shall not make available to any third party, including the City, information concerning the viewing habits or subscription package decisions of any individual Subscriber, without a Subscriber's prior authorization. If a court authorizes or orders such disclosure, the Franchisee shall notify the Subscriber as soon as practicable, unless such notification is otherwise prohibited by applicable law or the court.

**Section 13.18 Subscriber's Right to Inspect and Verify Information**

- (a) The Franchisee shall make available for inspection by a Subscriber, at a reasonable time and place, all personal subscriber information that the Franchisee maintains regarding Subscriber.
- (b) A Subscriber may obtain from the Franchisee a copy of any or all of the personal subscriber information regarding him or her maintained by the Franchisee. The Franchisee may require a reasonable fee for making the copy.
- (c) A Subscriber may challenge the accuracy, completeness, retention, use or dissemination of any item of personal subscriber information. Such challenges and related inquiries about the handling of subscriber information shall be directed to the Franchisee's General Manager.

**Section 13.19 Remote Control Devices**

The Franchisee shall allow its Subscribers to purchase, from legal and authorized parties other than the Franchisee, own, utilize and program remote control devices. The Franchisee takes no responsibility for changes in its equipment which might make inoperable the remote control devices acquired by Subscriber.



## **ARTICLE 14 – REPORTS, AUDITS AND PERFORMANCE TESTS**

### **Section 14.1 General**

(a) Upon the written request of the Franchising Authority, the Franchisee shall promptly submit to the City any information regarding the Franchisee, its business and operations, or any Affiliated Person, with respect to the Cable System, any Service, in such form and containing such detail as may be specified by the City pertaining to the subject matter of this Renewal Franchise which may be reasonably required to establish the Franchisee's compliance with its obligations pursuant to this Renewal Franchise.

(b) If the Franchisee believes that the documentation requested by the Franchising Authority involves proprietary information, then the Franchisee shall submit the information to its counsel, who shall confer with the City Attorney for a determination of the validity of the Franchisee's claim of a proprietary interest. If the City Attorney agrees that the material is of a proprietary nature, the information furnished shall not be a public record, but the Franchisee shall make it available, on its premises, to the Franchising Authority, at times convenient for both parties. The Franchisee may require the Franchising Authority and/or its representatives to execute a confidentiality agreement before making any such information available. In the event of a disagreement, the parties may submit the matter to the appropriate appellate entity.

### **Section 14.2 Financial Reports**

Upon written request, the Franchisee shall furnish the Franchising Authority and/or its designee(s), no later than one hundred and twenty (120) days after the end of the Franchisee's Fiscal Year, a Statement of Income upon which the annual Franchise Fee is based, including: all Subscriber Revenues, including but not limited to, regular Basic Service charges, Pay Cable charges, Pay-Per-View revenues, installation revenues (including reconnection, second set, etc.), Leased Access revenues.

### **Section 14.3 Cable System Information**

Upon written request but not more than once per year, the Franchisee shall file with the Franchising Authority a statistical summary of the operations of the Cable System. The report shall include, but not be limited to, (i) the number of Basic Service Subscribers, (ii) the number of dwelling units passed, and (iii) the number of plant miles in construction/upgrade or completed.

#### **Section 14.4 Reports of Subscriber Contact**

To establish the Franchisee's compliance with the requirements set forth in Article 13, the Franchisee shall provide to the Franchising Authority, upon written request of the Franchising Authority, such reports of Subscriber contact with the Franchisee as may be reasonably requested. Such reports specially include, without limitation, call center reports developed by Franchisee tracking Subscriber contact by subject matter.

#### **Section 14.5 Subscriber Complaint Log**

- (a) In accordance with RSA 53-C:3-e as it may be amended, the Franchisee shall keep a record or log of all Complaints received regarding quality of Service, equipment malfunctions, billing procedures, employee relations with Subscribers and similar matters. Such records shall be maintained by the Franchisee for a period of two (2) years and shall be available to the Franchising Authority upon request.
- (b) The Franchisee shall, within ten (10) business days after receiving a written request from the Franchising Authority, send a written report to the Franchising Authority with respect to any Complaint. Such report shall provide a full explanation of the investigation, finding(s) and corrective steps taken, as allowed by applicable law.

#### **Section 14.7 Annual Performance Tests**

Upon request of the Franchising Authority, the Franchisee shall provide copies of its Cable System performance tests for the Portsmouth area including, as may be applicable to Cable System, those tests set out in 47 C.F.R. Section 76.601 et seq and including without limitation performance tests arising from the Franchisee's obligations under 47 C.F.R. Section 76.640, Support for Unidirectional Cable Products Digital Systems.

#### **Section 14.8 Quality of Service**

Where there exists evidence which, in the reasonable judgment of the Franchising Authority, casts doubt upon the reliability or technical quality of Cable Service(s), the Franchising Authority shall cite specific facts which casts such doubt(s), in a notice to the Franchisee. The Franchisee shall submit a written report to the Franchising Authority, within thirty (30) days of receipt of any such notice from the Franchising Authority, setting forth in detail its explanation of the problem(s).

**Section 14.9 Dual Filings**

- (a) Upon written request, the Franchisee shall make available to the Franchising Authority, copies of any petitions or communications with any State or federal agency or commission pertaining to any material aspect of the Cable System operation hereunder.
- (b) In the event that either the Franchising Authority or the Franchisee requests from any State or federal agency or commission a waiver or advisory opinion pertaining to any material aspect of the Cable System operation hereunder, it shall immediately notify the other party in writing of the request, petition or waiver.

**Section 14.10 Additional Information**

At any time during the term of this Renewal Franchise, upon the reasonable written request of the Franchising Authority, the Franchisee shall not unreasonably deny any requests for further information which may be required to establish the Franchisee's compliance with its obligations pursuant to the Renewal Franchise.

**Section 14.11 Investigation**

The Franchisee and any Affiliated Person(s) shall cooperate fully and faithfully with any lawful investigation, audit, or inquiry conducted by a Franchising Authority or City.

## **ARTICLE 15 – MISCELLANEOUS PROVISIONS**

### **Section 15.1 Entire Agreement**

This instrument contains the entire agreement between the parties, supersedes all prior agreements or proposals except as specifically incorporated herein, and cannot be changed orally but only by an instrument in writing executed by the parties.

### **Section 15.2 Captions**

The captions to sections throughout this Renewal Franchise are intended solely to facilitate reading and reference to the sections and provisions of the Renewal Franchise. Such captions shall not affect the meaning or interpretation of the Renewal Franchise.

### **Section 15.3 Separability**

If any section, sentence, paragraph, term or provision of this Renewal Franchise is determined to be illegal, invalid or unconstitutional, by any court of competent jurisdiction or by any State or federal regulatory agency having jurisdiction thereof, such determination shall have no effect on the validity of any other section, sentence, paragraph, term or provision hereof, all of which shall remain in full force and effect for the term of this Renewal Franchise.

### **Section 15.4 Acts or Omissions of Affiliates**

During the term of this Renewal Franchise, the Franchisee shall be liable for the acts or omission of its Affiliates while such Affiliates are involved directly in the construction, upgrade, maintenance or operation of the Cable System for the provision of Service as if the acts or omissions of such Affiliates were the acts or omissions of the Franchisee.

### **Section 15.5 Renewal Franchise Exhibits**

The Exhibits to this Renewal Franchise, attached hereto, and all portions thereof, are incorporated herein by this reference and expressly made a part of this Renewal Franchise.

### **Section 15.6 Warranties**

The Franchisee warrants, represents and acknowledges, that, as of the Effective Date of this Renewal Franchise:

City of Portsmouth Cable Television Renewal Franchise –  
March 1, 2019 – February 29, 2024

- (a) The Franchisee is duly organized, validly existing and in good standing under the laws of the State of New Hampshire;
- (b) The Franchisee has the requisite power and authority under applicable law and its by-laws and articles of incorporation and/or other organizational documents, is authorized by resolutions of its Board of Directors or other governing body, and has secured all consents which are required to be obtained as of the Effective Date of this Renewal Franchise, to enter into and legally bind the Franchisee to this Renewal Franchise and to take all actions necessary to perform all of its obligations pursuant to this Renewal Franchise; and
- (c) To the best of the Franchisee's knowledge, there is no action or proceedings pending or threatened against the Franchisee which would interfere with performance of this Renewal Franchise.

**Section 15.7 Force Majeure**

If by reason of force majeure either party is unable in whole or in part to carry out its obligations hereunder, that party shall not in violation or default during the continuance of such inability. The term "force majeure" as used herein shall mean the following: acts of God; acts of public enemies; orders of any kind of the government of the United States of America or of the State of New Hampshire or any of their departments, agencies, political subdivision, or officials, or any civil or military authority; insurrections; riots; epidemics; landslides; lightening; earthquakes; fires; hurricanes; volcanic activity; storms; floods; washouts; droughts; civil disturbances; explosions; strikes; hazardous safety conditions; and unavailability of essential equipment and/or materials beyond the control of the Franchisee, the Franchising Authority and/or the City.

**Section 15.8 Nondiscrimination**

The Franchisee shall not discriminate against any Person in its solicitation, Service or access activities, if applicable, on the basis of race, color, creed, religion, ancestry, national origin, geographical location within the City, sex, sexual orientation, disability, age, marital status, or status with regard to public assistance. The Franchisee shall be subject to all other requirements of federal and State laws or regulations, relating to nondiscrimination through the term of the Renewal Franchise.

**Section 15.9 Applicability of Renewal Franchise**

All of the provisions in this Renewal Franchise shall apply to, and are enforceable against, the Franchising Authority, the Franchisee, and their respective successors and assignees.

City of Portsmouth Cable Television Renewal Franchise –  
March 1, 2019 – February 29, 2024

**Section 15.10 Notices**

(a) Every notice to be served upon the Franchising Authority shall be delivered or sent by first class or certified mail (postage prepaid) to

- (i) Office of the City Manager  
Portsmouth City Hall,  
1 Junkins Avenue,  
Portsmouth, New Hampshire 03801

With copies to:

- (ii) City Attorney  
Portsmouth City Hall  
1 Junkins Avenue,  
Portsmouth, New Hampshire 03801

or such other address(es) as the Franchising Authority may specify in writing to the Franchisee. The delivery shall be equivalent to direct personal notice, direction or order, and shall be deemed to have been given at the time of receipt of such notice(s).

(b) Every notice served upon the Franchisee shall be delivered or sent by certified mail (postage prepaid) to:

- (i) Comcast Cable Communications, Inc. Attn: Government Affairs  
181 Ballardvale Street  
Suite 203  
Wilmington, MA 01887

With copies to:

- (ii) Comcast Cable Communications, Inc.  
Attn: Vice President, Government Affairs  
676 Island Pond Road  
Manchester, New Hampshire 03109
- (iii) Comcast Cable Communications Attn: Government Relations  
1701 JFK Boulevard  
Philadelphia, Pennsylvania 19103

or such other address(es) as the Franchisee may specify in writing to the Franchising Authority. The delivery shall be equivalent to direct personal notice, direction or order, and shall be deemed to have been given at the time of receipt of such notice(s).

(c) All required notices shall be in writing.

#### **Section 15.11 City's Right of Intervention**

The City hereby reserves to itself, and the Franchisee acknowledges the City's right as authorized by applicable law or regulation to intervene in any suit, action or proceeding involving this Renewal Franchise, or any provision in this Renewal Franchise.

#### **Section 15.12 No Recourse Against the Franchising Authority**

Pursuant to Section 635A(a) of the Cable Act, in any court proceeding involving any claim against the Franchising Authority or other governmental entity or any official, member, employee, or agent of the Franchising Authority or such governmental entity, arising from the regulation of cable service or from a decision of approval or disapproval with respect to a grant, renewal, transfer, or amendment of this Renewal Franchise, any relief, to the extent such relief is required by any other provision of federal, State or local law, shall be limited to injunctive relief and declaratory relief.

#### **Section 15.13 Term**

All obligations of the Franchisee and the Franchising Authority set forth in the Renewal Franchise shall commence upon the execution of this Renewal Franchise and shall continue for the term of the Renewal Franchise except as expressly provided for herein.

#### **Section 15.14 Jurisdiction**

Jurisdiction and venue over any dispute, action or suit shall be in any court of appropriate venue and subject matter jurisdiction located in the State of New Hampshire and the parties by this instrument subject themselves to the personal jurisdiction of the court for the entry of any such judgment and for the resolution of any dispute, action, or suit.

**EXHIBITS**

DRAFT



**EXHIBIT 1 – PROGRAMMING AND INITIAL SIGNAL CARRIAGE**

The Franchisee shall provide, at a minimum, the following broad categories of Programming:

- News Programming;
- Sports Programming;
- Public Affairs Programming;
- Children's Programming;
- Entertainment Programming;
- Foreign Language Programming; and
- Local Programming.

DRAFT

City of Portsmouth Cable Television Renewal Franchise –  
March 1, 2019 – February 29, 2024

**EXHIBIT 2 – FREE CONNECTIONS AND MONTHLY SERVICE TO PUBLIC BUILDINGS  
AND SCHOOLS**

The following schools and public buildings shall receive Drops and the monthly Basic Cable Service at no charge \*.

The Franchisee shall supply the same number of DTA's listed below and up to three (3) DTA's at each location not showing any DTA's. Buildings listed below shall receive the number of DTA's as listed and highlighted.

1. City Hall/School Department Central Office, 1 Junkins Avenue, Portsmouth
2. Police Dept, 3 Junkins Avenue, Portsmouth
3. Library, 175 Parrott Avenue, Portsmouth
4. Department of Public Works, 680 Peverly Hill Road, Portsmouth
5. Portsmouth Fire Station 1, 170 Court Street, Portsmouth
6. Portsmouth Fire Station 2, 3010 Lafayette Road, Portsmouth
7. Portsmouth High School, 50 Alumni Circle, Portsmouth
8. Portsmouth Middle School, 155 Parrott Avenue, Portsmouth
9. Little Harbour School, 50 Clough Drive, Portsmouth
10. New Franklin School, 1 Frankin Drive, Portsmouth
11. Dondero School, 32 Van Buren Avenue, Portsmouth, NH 03801
12. Portsmouth Alternative Secondary School, 35 Sherburne Road, Portsmouth
13. Spinnaker Point Recreation Center, 30 Spinnaker Way, Portsmouth
14. Connie Bean Recreation Center, 155 Parrott Avenue, Portsmouth
15. Pierce Island Wastewater Treatment Facility, Peirce Island Road, Portsmouth
16. Doble Center, 125 Cottage Street, Portsmouth  
(property being converted to senior and community center)
17. Foundry Place Garage (under construction) Parking Office, Portsmouth
18. Madbury Water Treatment Plant, 60 Freshet Road, Madbury

In the event that Comcast serves International Drive at Pease, Fire Station 3, at 127 International Drive, Portsmouth NH

\* and, subject to Section 6.8 supra, any and all new municipal and/or Portsmouth Public School buildings that are constructed and/or put into use during the term of this Renewal Franchise.

City of Portsmouth Cable Television Renewal Franchise -  
March 1, 2019 - February 29, 2024

**EXHIBIT 3 – GROSS ANNUAL REVENUES QUARTERLY REPORTING FORM**

DRAFT

**EXHIBIT 4 – ASCI TELECOMMUNICATIONS REPORT OF 2017**

DRAFT

City of Portsmouth Cable Television Renewal Franchise -  
March 1, 2019 - February 29, 2024

**SIGNATURE PAGE**

In Witness Whereof, this Renewal Franchise is hereby issued by the City Council of the City of Portsmouth, New Hampshire, as Franchising Authority, and all terms and conditions are hereby agreed to by Comcast of Maine/New Hampshire, Inc., this \_\_\_\_ day of March 2019.

THE CITY OF PORTSMOUTH

\_\_\_\_\_  
By: John P. Bohenko  
Title: City Manager

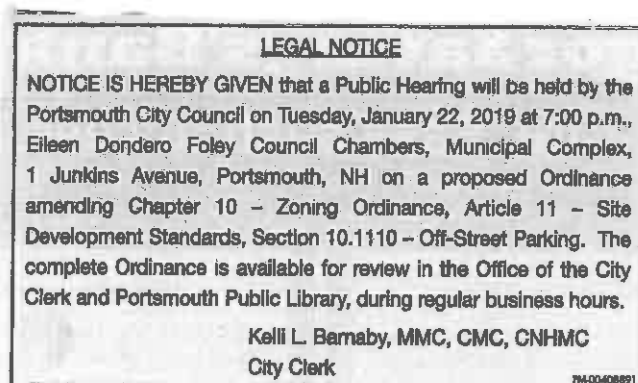
COMCAST OF MAINE/NEW HAMPSHIRE, INC.

\_\_\_\_\_  
By: \_\_\_\_\_  
Title: \_\_\_\_\_

## LEGAL NOTICE

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Portsmouth City Council on Tuesday, January 22, 2019 at 7:00 p.m., Eileen Dondero Foley Council Chambers, Municipal Complex, 1 Junkins Avenue, Portsmouth, NH on a proposed Ordinance amending Chapter 10 – Zoning Ordinance, Article 11 – Site Development Standards, Section 10.1110 – Off-Street Parking. The complete Ordinance is available for review in the Office of the City Clerk and Portsmouth Public Library, during regular business hours.

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



1 **Proposed Off-Street Parking Amendments**  
2 **January 16, 2019**  
3 *Proposed Changes since First Reading shown in Red*  
4

5  
6 ORDINANCE #

7  
8 THE CITY OF PORTSMOUTH ORDAINS  
9

10 That the Ordinances of the City of Portsmouth, Chapter 10 – Zoning Ordinance,  
11 Article 11 – Site Development Standards, Section 10.1110 – Off-Street Parking, be  
12 amended as follows:  
13

14 A. Delete existing Section 10.1112.52.

15  
16 B. Insert a new Section 10.1112.14 as follows:  
17

18 10.1112.14 The Planning Board may grant a conditional use permit to allow a  
19 building or use to provide less than the minimum number of off-street  
20 parking spaces required by Section 10.1112.30, Section 10.1112.61 or  
21 Section 10.1115.20, as applicable, or to exceed the maximum number  
22 of off-street parking spaces allowed by Section 10.1112.51.  
23

24 10.1112.141 An application for a conditional use permit under this  
25 section shall include a parking demand analysis  
26 demonstrating that the proposed number of off-street  
27 parking spaces is sufficient for the proposed use.  
28

29 10.1112.142 An application for a conditional use permit under this  
30 section shall identify permanent measures to reduce  
31 parking demand, including but not limited to provision of  
32 rideshare or bikeshare services servicing the property,  
33 proximity to public transit, and shared parking on a  
34 separate lot subject to the requirements of 10.1112.62.  
35

36 10.1112.143 The Planning Board may grant a conditional use permit  
37 only if it finds that the number of off-street parking  
38 spaces required or allowed by the permit will be  
39 adequate and appropriate for the proposed use of the  
40 property. In making this determination, the Board may  
41 accept, modify or reject the findings of the applicant's  
42 parking demand analysis.  
43

44 10.1112.144 At its discretion, the Planning Board may require more  
45 off-street parking spaces than the minimum number

1 requested by the applicant, or may allow fewer spaces  
2 than the maximum number requested by the applicant.  
3

4 C. Amend Section 10.1112.21 as follows (deletions from existing language stricken;  
5 additions to existing language bolded; remaining language unchanged from existing):  
6

7 The number of required off-street parking spaces shall be the sum of  
8 the requirements for the various individual uses on a lot computed  
9 separately, ~~except that a development designed as a shopping center~~  
10 ~~shall comply with the specific requirements of Section 10.1112.30 for~~  
11 ~~said use.~~  
12

13 D. Amend Section 10.1112.323 as follows (deletions from existing language stricken;  
14 additions to existing language bolded; remaining language unchanged from existing):  
15

16 Where the table indicates that the minimum required number of off  
17 street parking spaces shall be based on a parking demand analysis,  
18 the applicant shall submit such analysis for review by the Planning  
19 Board ~~through the Site Plan Review process.~~ Where the table indicates  
20 that a parking demand analysis is an alternative to a specified ratio, the  
21 applicant may submit such analysis to justify a ratio different from that  
22 listed in the table. In either case, the Planning Board may approve the  
23 number of parking spaces proposed by the analysis, or may approve a  
24 greater or lesser minimum number of parking spaces based on its  
25 review.  
26

27 E. Amend Section 10.1115.21 as follows (deletions from existing language stricken;  
28 additions to existing language bolded; remaining language unchanged from existing):  
29

30 The following requirements shall apply in the Downtown Overlay District in  
31 lieu of the requirements in Section 10.1112.30:  
32

Use	Required Parking Spaces
Residential use (dwelling)	<del>4.3 space per dwelling unit</del> <b>Same as Section 10.1112.30</b>
Hotel or motel	0.75 space per guest room, plus 1 space per 25 sf of conference or banquet facilities
Other nonresidential use	No requirement

33  
34 The City Clerk shall properly alphabetize and/or re-number the ordinances as  
35 necessary in accordance with this amendment.  
36

37 All ordinances or parts of ordinances inconsistent herewith are hereby deleted.  
38

39 This ordinance shall take effect upon its passage.



1  
2  
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11

ADOPTED BY COUNCIL:

---

Kelli L. Barnaby, City Clerk

APPROVED:

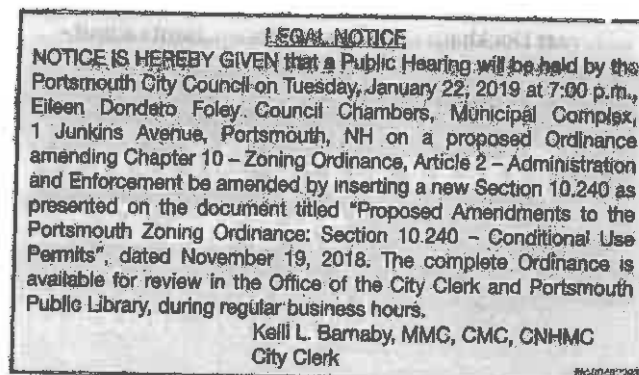
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Jack Blalock, Mayor

## LEGAL NOTICE

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Portsmouth City Council on Tuesday, January 22, 2019 at 7:00 p.m., Eileen Dondero Foley Council Chambers, Municipal Complex, 1 Junkins Avenue, Portsmouth, NH on a proposed Ordinance amending Chapter 10 – Zoning Ordinance, Article 2 – Administration and Enforcement be amended by inserting a new Section 10.240 as presented on the document titled “Proposed Amendments to the Portsmouth Zoning Ordinance: Section 10.240 – Conditional Use Permits”, dated November 19, 2018. The complete Ordinance is available for review in the Office of the City Clerk and Portsmouth Public Library, during regular business hours.

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



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

ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

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

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

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

This ordinance shall take effect upon its passage.

APPROVED:

\_\_\_\_\_  
Jack Blalock, Mayor

ADOPTED BY COUNCIL:

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

1 Proposed Amendments to the Portsmouth Zoning Ordinance  
2 Section 10.240 – Conditional Use Permits  
3 November 19, 2018  
4

5 10.240 Conditional Use Permits

6 10.241 General

7  
8 10.241.10 A conditional use is a use of land or buildings within a zoning district that may be  
9 authorized by this Ordinance subject to additional requirements. A conditional use permit  
10 allows the Planning Board or other such Board or person as may have jurisdiction to  
11 consider uses which may be desirable or appropriate in particular cases, but which are not  
12 allowed as a matter of right within a zoning district.

13  
14 10.241.20 This Ordinance authorizes the following general types of conditional use permits:

15  
16 10.241.21 Conditional use approval is required for any use designated “CU” in  
17 Section 10.440 – Table of Uses.

18  
19 10.241.22 Conditional use approval is required for most uses, activities and alterations  
20 in a wetland or wetland buffer (Article 10, Section 10.1010 – Wetlands  
21 Protection).

22  
23 10.241.23 Conditional use approval may be granted to allow flexibility of site or  
24 building design where specifically authorized by the Ordinance but not listed  
25 in Section 10.440. These include the following provisions:

26  
27 (a) Character Districts (Article 5A)

- 28
- Increase in allowed building footprint subject to specified development standards;
  - Provision of required community space on a different lot than the development;
  - Crediting or assignment of excess community space in an Incentive Overlay District.
- 29  
30  
31  
32  
33  
34

35 (b) Gateway Districts (Article 5B)

- More than 24 dwelling units in a building;
  - More than one principal building or building type on a development site;
  - Increased housing density, building height, or footprint.
- 36  
37  
38  
39  
40

41 (c) Off-Street Parking (Article 11)

- Less than the minimum number of required spaces or more than the maximum number of allowed spaces;
  - Shared parking.
- 42  
43  
44  
45

46 10.241.30 No structure, building or use requiring a conditional use permit under this Ordinance  
47 shall be used, constructed, altered or expanded unless the required conditional use permit

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

50  
51 10.241.40 A structure, building or use authorized by a conditional use permit may not be added to,  
52 enlarged, expanded or moved to another part of the lot without securing a new conditional  
53 use permit.  
54  
55

## 56 10.242 Basis for Approval

57  
58 10.242.10 The Planning Board or other such Board or person as may have jurisdiction may grant a  
59 conditional use permit if the application is found to be in compliance with the general  
60 approval criteria in Section 10.243 or, if applicable, the specific standards or criteria as set  
61 forth in this Ordinance for the particular use or activity. The Planning Board or other such  
62 Board or person as may have jurisdiction shall make findings of fact, based on the evidence  
63 presented by the applicant, City staff, and the public, respecting whether the conditional  
64 use is or is not in compliance with the approval criteria of Section 10.243.  
65

66 10.242.20 The applicant shall provide, through the introduction of sufficient evidence, through  
67 testimony, or otherwise, that the proposed use, development, or activity, if completed as  
68 proposed, will satisfy the general and specific requirements as contained in the Ordinance.  
69  
70

## 71 10.243 Approval Criteria

72  
73 10.243.10 A conditional use permit shall be granted only if the Planning Board or other such Board or  
74 person as may have jurisdiction determines that the proposal conforms to all applicable  
75 conditional use permit criteria, as set forth below or in other sections of this Ordinance.  
76

77 10.243.20 Conditional uses designated in Section 10.440 – Table of Uses, as well as other conditional  
78 uses for which no specific criteria are set forth in the Ordinance, shall comply with all of  
79 the following criteria:  
80

81 10.243.21 The design of proposed structures, their height and scale in relation to the  
82 site’s surroundings, the nature and intensity of the proposed use or activity,  
83 and the layout and design of the site will be compatible with adjacent and  
84 nearby properties, buildings and uses, will complement or enhance the  
85 character of surrounding development, and will encourage the appropriate  
86 and orderly development and use of land and buildings in the surrounding  
87 area.  
88

89 10.243.22 All necessary public and private utility infrastructure and services will be  
90 available and adequate to serve the proposed use.  
91

92 10.243.23 The site and surrounding streets will have adequate vehicular and pedestrian  
93 infrastructure to serve the proposed use consistent with the City’s Master  
94 Plan.  
95

96 10.243.24 The proposed structures, uses, or activities will not have significant  
97 adverse impacts on abutting and surrounding properties on account of traffic,

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

100  
101 10.243.25 The proposed structures and uses will not have significant adverse impacts  
102 on natural or scenic resources surrounding the site, including wetlands,  
103 floodplains, and significant wildlife habitat.

104  
105 10.243.26 The proposed use will not cause or contribute to a significant decline in  
106 property values of adjacent properties.

107  
108 10.243.30 Where specific standards or criteria are set forth in this Ordinance for the particular use  
109 permitted by conditional use permit, those standards and criteria shall apply in lieu of the  
110 general standards in Section 10.243.20.

111  
112

### 113 10.244 Conditions of Approval

114  
115 Conditional use permits may be granted subject to appropriate conditions, including but not limited to the  
116 following:

117  
118 10.244.10 Front, side and rear yards in excess of the minimum requirements of this Ordinance;

119  
120 10.244.20 Landscaping and/or screening of the premises from the street or adjacent property in  
121 excess of the minimum requirements of this Ordinance;

122  
123 10.244.30 Modification of the exterior features, buildings or other structures;

124  
125 10.244.40 Limitations on the size of buildings and other structures more stringent than the minimum  
126 or maximum requirements of this Ordinance;

127  
128 10.244.50 Off-street parking and loading spaces in excess of the minimum requirements of this  
129 Ordinance;

130  
131 10.244.60 Regulation of the number, size, lighting of signs more stringent than the requirements of  
132 the Ordinance; and

133  
134 10.244.70 Other performance standards as may relate to the standards and criteria for approval.

135  
136

### 137 10.245 Certain Representations Deemed Conditions

138  
139 Representations made at public hearings or materials submitted to the Board by an applicant for a  
140 conditional use permit concerning features of proposed buildings, structures, parking or uses shall be  
141 deemed conditions upon such conditional use permit.

142  
143

### 144 10.246 Expiration and Abandonment of Approvals

145

146 10.246.10 A conditional use permit shall expire unless a building permit is obtained within a period  
147 of one year from the date granted, unless otherwise stated in the conditions of approval.  
148 The Board may, for good cause shown, extend such period by as much as one year if such  
149 extension is requested and acted upon prior to the expiration date. No other extensions may  
150 be requested.

151  
152 10.246.20 Failure to use a property for a use authorized by a conditional use permit for a period  
153 exceeding eight months shall result in the termination of the conditional use permit.  
154

155  
156 **10.247 Repetitive Application**  
157

158 If an application for a conditional use permit is denied by the Planning Board or other such Board or  
159 person as may have jurisdiction, no application for a conditional use permit for the same or similar use  
160 may be made for one year from the date of said denial, unless the applicant demonstrates to the  
161 satisfaction of the Board that the circumstances have altered and that further consideration of the  
162 application is warranted. In such an event, the resubmitted application shall follow the same procedures as  
163 the original and shall be treated as a new application.  
164

ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That Chapter 10, Article 4, Section 10.421.10 – **DISTRICT LOCATION AND BOUNDARIES** of the zoning ordinance of the City of Portsmouth and the City of Portsmouth Zoning Map be amended by rezoning the property located at 290 Gosling Road at Assessors Tax Map 213, Lot 1 from Waterfront Industrial (WI) to Office Research (OR) District (see attached Exhibit 1).

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

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

This ordinance shall take effect upon its passage.

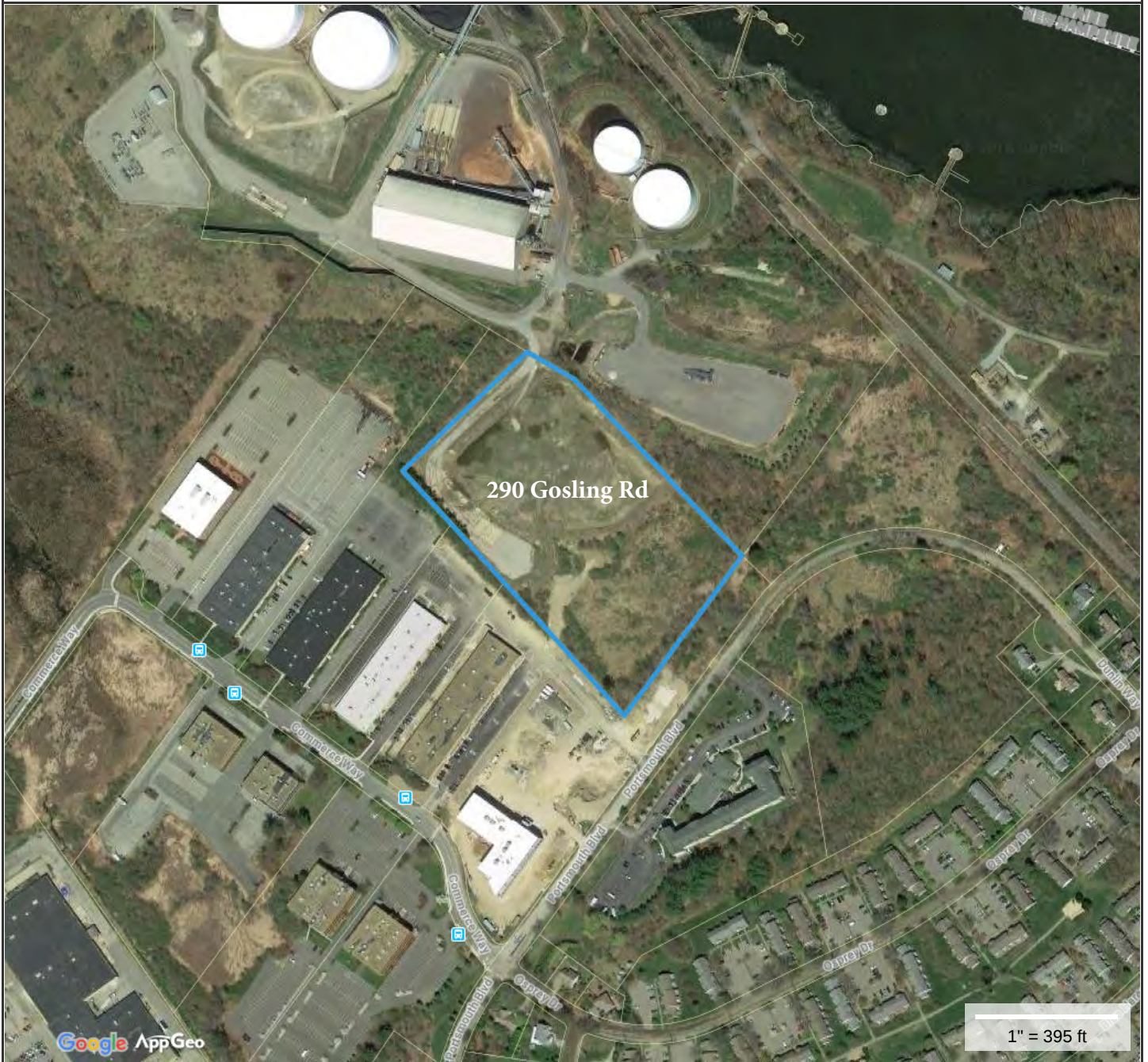
APPROVED:

\_\_\_\_\_  
Jack Blalock, Mayor

ADOPTED BY COUNCIL:

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





**Property Information**

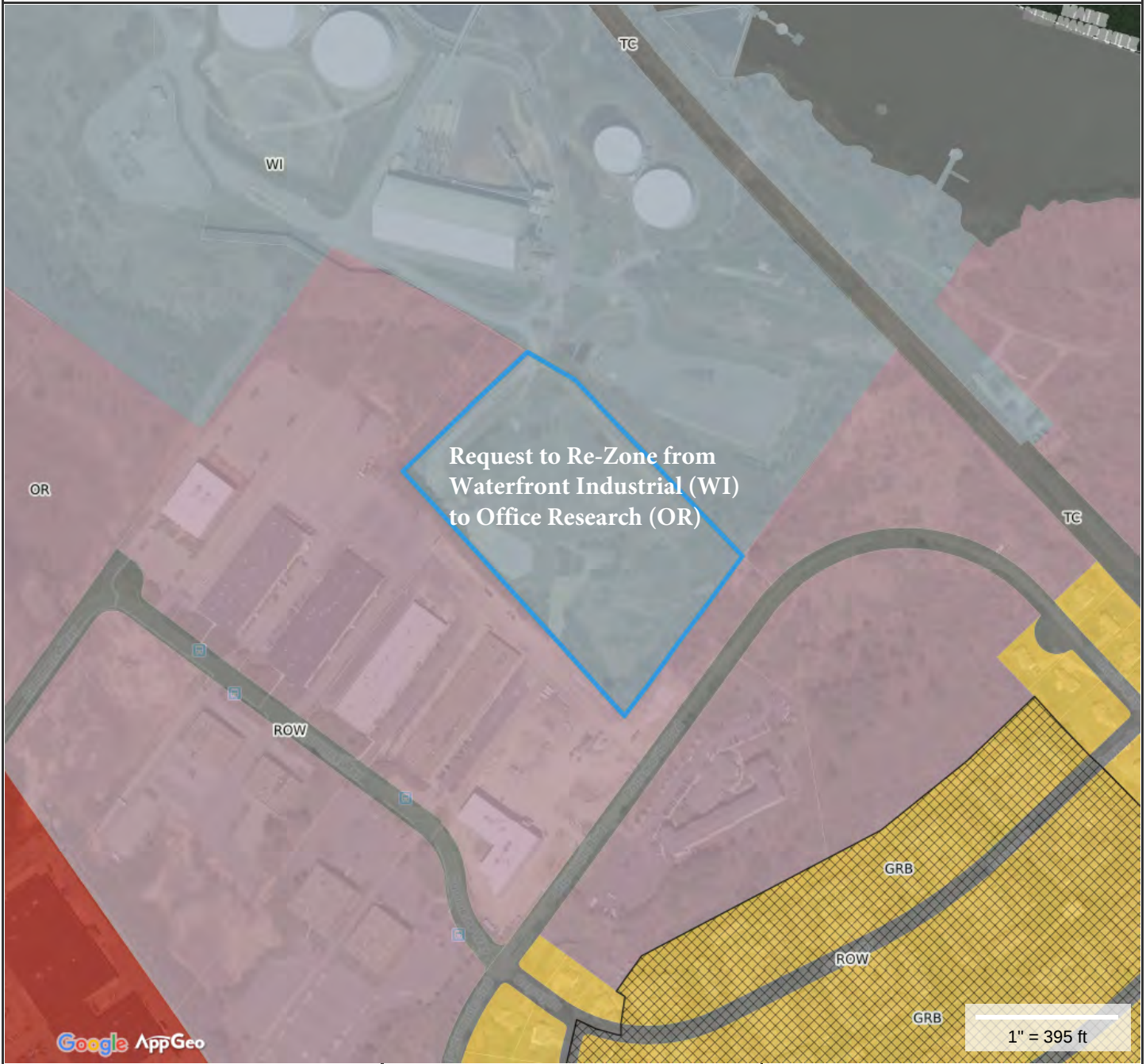
**Property ID** 0213-0001-0000  
**Location** GOSLING ROAD  
**Owner** 290 GOSLING RD LLC



**MAP FOR REFERENCE ONLY  
NOT A LEGAL DOCUMENT**

City of Portsmouth, NH makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Geometry updated 11/30/2018  
Data updated 11/19/2018



**Property Information**

**Property ID** 0213-0001-0000  
**Location** GOSLING ROAD  
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Geometry updated 11/30/2018  
Data updated 11/19/2018



CELEBRATING OVER 30 YEARS OF SERVICE TO OUR CLIENTS

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JOHN J. RATIGAN  
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BRENDAN A. O'DONNELL

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SENIOR COUNSEL  
MICHAEL J. DONAHUE

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RETIRED  
CHARLES F. TUCKER  
NICHOLAS R. AESCHLIMAN

December 12, 2018

**VIA HAND DELIVERY**

Juliet T. H. Walker, AICP - Planning Director  
Planning Department  
City of Portsmouth  
1 Junkins Avenue  
Portsmouth, NH 03801

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

Dear Juliet:

**I. Introduction:**

This supplements our letter of 28 November to the Mayor and City Council (a copy of which is attached hereto as Exhibit A) and supports our request to rezone the Parcel referenced above from the Waterfront Industrial District to the Office Research District. Immediately below we summarize why the Planning Board should support and recommend our request to the City Council. Further below we explain why our request is supported by the legal framework governing rezoning and why the facts on the ground make compelling our request to rezone the Parcel.

**II. Executive Summary**

The Parcel to be rezoned is Waterfront Industrial in name only. The Parcel is isolated from the water, separated by another parcel of land which abuts the river and separated also by a railroad corridor which bisects that parcel and the subject Parcel. In addition, the Parcel has no access from the existing road network. Thus the Parcel sits isolated from the river and without roadway access but, importantly, the Parcel sits adjacent to and contiguous to an existing office park, the Portsmouth Office Park, which extends along Portsmouth Boulevard and Commerce Way. The requested rezoning will facilitate a major development, construction of a 175,000 square foot office building which will become a signature and prominent element of the

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16 Windsor Lane, P.O. Box 630, Exeter, NH 03833-4924  
111 Maplewood Avenue, Suite D, Portsmouth, NH 03801  
Towle House, Unit 2, 164 NH Route 25, Meredith, NH 03253

Portsmouth Office Park. Access will be provided through the existing road network which services Portsmouth Office Park.

In sum, this request to rezone is legally and factually compelling. We ask that the Planning Board support our request and report to the City Council its recommendation that the zoning ordinance be amended to change the zoning of Tax Map 213, Lot 1 from Waterfront Industrial (WI) to Office Research (OR).

### **III. Legal and Factual Framework**

The City of Portsmouth permits its zoning ordinance to be amended for rezoning purposes in accordance with the provisions of State law. See Portsmouth Zoning Ordinances, § 10.151. New Hampshire law permits the legislative body of a city to adopt or amend zoning ordinances for the purpose of “promoting the health, safety, or the general welfare of the community.” RSA 674:16. This authority includes adopting or amending zoning ordinances that regulate and restrict the “location and use of buildings, structures and land used for business industrial, residential, or other purposes.” Id.

In the context of rezoning, changing the zoning boundary to extend an existing use to nearby similar, surrounding land constitutes permissible rezoning. See Miller v. Town of Tilton, 139 N.H. 429, 431-32 (1995). A zoning amendment to rezone property is prohibited only when it “spot zones” an area by singling it out for treatment different from that of similar, surrounding land, and for which there is no justification based on health, safety, morals or general welfare of the community and which rezoning is not in accordance with a comprehensive plan. Id. at 431. Spot zoning occurs when an area is unjustly singled out for treatment different from that of similar, surrounding land. The mere fact that an area is small and is zoned at the request of a single owner does not make it spot zoning. Persons challenging a rezoning have the burden to demonstrate that the change is unreasonable or unlawful. (See Miller v. Town of Tilton, 139 N.H. 429, 655 A.2d 409 [1995 ]).

Here, we are seeking to have the Parcel rezoned from Waterfront Industrial, for which the Parcel is ill-suited, to Office Research, for which the Parcel is particularly well-suited. Furthermore, this rezoning will not create an incongruous district or a “spot” zoned differently from surrounding properties. Rather, as explained below, this rezoning will only be a tailored readjustment of the boundary of the Office Research District and the Waterfront Industrial District.

According to the City’s Zoning Ordinances, the purpose of “Waterfront Industrial” property is to “provide for industrial and related uses that depend on direct access to the Piscataqua River.” (emphasis supplied) Portsmouth Zoning Ordinances, §10.410. The Parcel is not compatible for use as Waterfront Industrial Property. The Parcel does not have direct access to the Piscataqua River. Rather, the Parcel is isolated from the river, separated from the river by both another lot and a rail line. Moreover, the Parcel is isolated from the existing road network,

and has no road access to the river. Thus, although the Parcel is currently zoned Waterfront Industrial property, its location and lack of access to the Piscataqua River make the Parcel ill-suited to “provide for industrial and related uses that depend on direct access to the Piscataqua River.” Id.

Conversely, the Parcel is well-suited to be zoned and used as Office Research property. The purpose of “Office Research” property is to “provide for campus-style development of offices buildings, research and development facilities, and complementary uses.” Id. Here, the Parcel is adjacent to and contiguous to an existing office park, and the intended use of the Parcel, if rezoned, is to build a 175,000 square foot office building which will be integrated into that office park. Thus, rezoning the Parcel to Office Research would only constitute a minor change in the boundary between the zoning districts, and it would change the Parcel from a use for which the Parcel is ill-suited (Waterfront Industrial) to the congruous use for which similar adjacent property is being used (Office Research). See e.g. Portsmouth Advocates v. Portsmouth, 133 N.H. 876, 881 (1991) (affirming the City Council’s adjustment of historic district boundaries to remove buildings lacking historical significance).

In addition and finally, in Portsmouth’s 2017 Master Plan, the City recognized that there is a lack of available office space in the City. See 2017 Portsmouth Master Plan, Page 16. Thus, rezoning the Parcel to Office Research to create an opportunity for a 175,000 square foot office building is consistent with the City’s Master Plan.

#### **IV. Closing**

This concludes our supplemental correspondence. We stand ready to answer any questions the Planning Board may have in connection with this matter.

Yours truly,

**DONAHUE TUCKER & CIANDELLA, PLLC**

Robert D. Ciandella  
[rciandella@DTCLawyers.com](mailto:rciandella@DTCLawyers.com)

RDC:lmh

Enclosures

cc: John Bohenko, City Manager  
Robert P. Sullivan, City Attorney  
290 Gosling Road, LLC  
Patrick Crimmins, P.E.  
Justin L. Pasay, Esquire  
Stephanie Carty, Paralegal



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SENIOR COUNSEL  
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RETIRED  
CHARLES F. TUCKER  
NICHOLAS R. AESCHLIMAN

November 28, 2018

VIA HAND DELIVERY

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



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

Dear Mayor Blalock and City Councilors:

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

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

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83 Clinton Street, Concord, NH 03301

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

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

Yours truly,

**DONAHUE TUCKER & CIANDELLA, PLLC**



Robert D. Ciandella  
[rciandella@DTCLawyers.com](mailto:rciandella@DTCLawyers.com)

RDC:lmh  
Enclosures

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

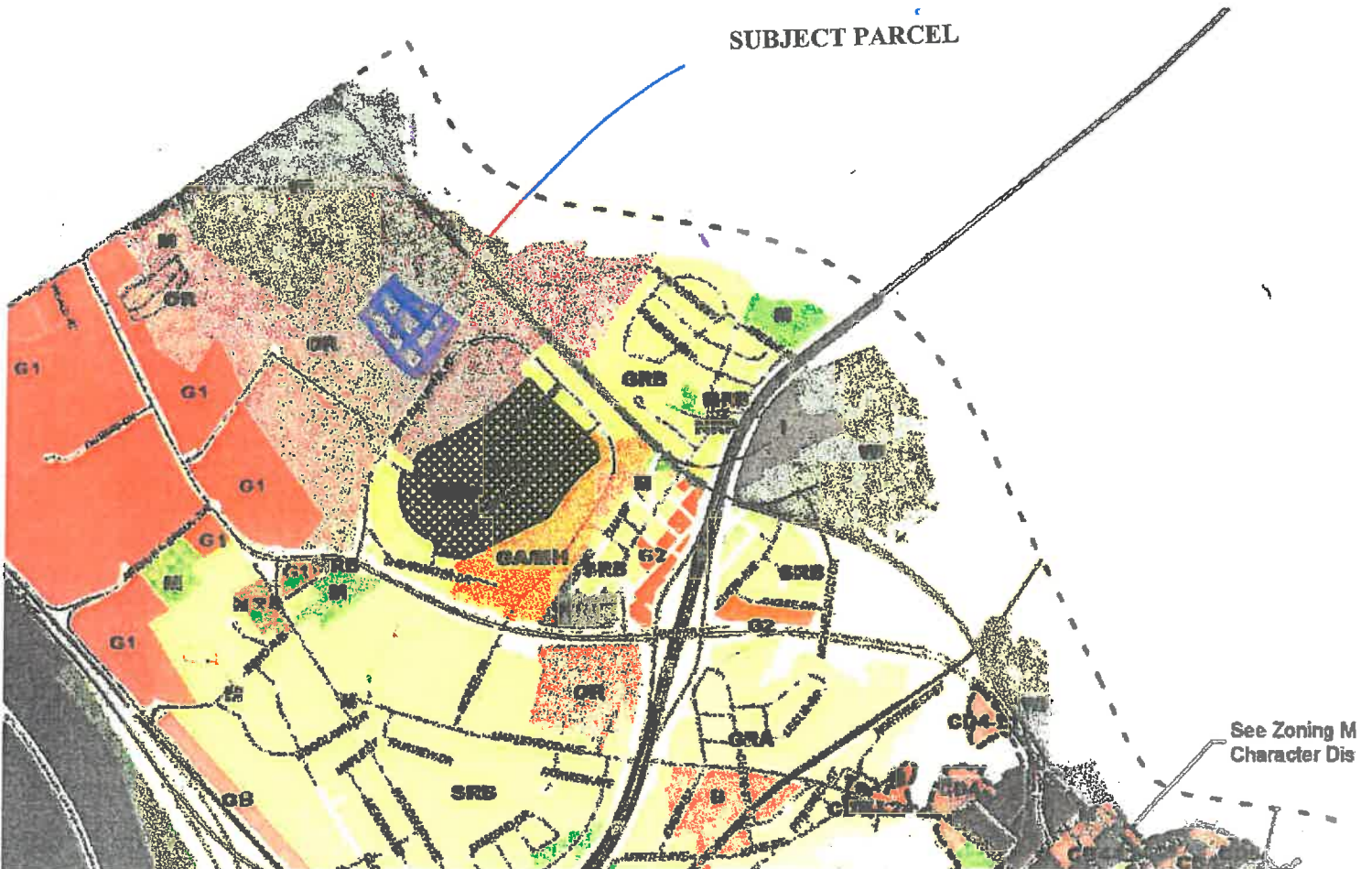
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ZONING MAP EXCERPT

# City of Portsmouth 2

## Sheet 1 of 2

SUBJECT PARCEL





**Proposed Zoning Ordinance Amendments**  
**Article 12 – Signs**  
**January 15, 2019**

ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That the Ordinances of the City of Portsmouth, Chapter 10 — Zoning Ordinance, be amended by deleting the existing Article 12 – Signs, and inserting in its place a new Article 12 – Signs as presented in the document titled “Proposed Amendments to the Portsmouth Zoning Ordinance: Article 12 – Signs”, dated January 15, 2019.

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

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

This ordinance shall take effect upon its passage.

APPROVED:

\_\_\_\_\_  
Jack Blalock, Mayor

ADOPTED BY COUNCIL:

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

1 Proposed Amendments to Portsmouth Zoning Ordinance  
2 Article 12: Signs  
3 January 15, 2019

4 *Proposed Amendments since Second Reading shown in Red*  
5

6 **Article 12 Signs**  
7

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- 8 **Section 10.1210 Purpose and Intent**  
9 **Section 10.1220 General Sign Regulations**  
10 **Section 10.1230 Sign Districts**  
11 **Section 10.1240 Permitted Sign Types**  
12 **Section 10.1250 Sign Dimensional Standards**  
13 **Section 10.1260 Sign Illumination**  
14 **Section 10.1270 Additional Sign Regulations**  
15 **Section 10.1280 Nonconforming Signs**  
16 **Section 10.1290 Sign Definitions**  
17

18 **Section 10.1210 Purpose and Intent**

- 19 10.1211 The purpose of this Article is to regulate the type, number, location, size  
20 and illumination of signs on private property in order to maintain and  
21 enhance the character of the city’s commercial districts and residential  
22 neighborhoods and to protect the public from hazardous and distracting  
23 displays.  
24
- 25 10.1212 This Article is intended to permit signs only as accessory uses to a  
26 permitted use on the same lot and not as principal uses on a lot. When a  
27 principal commercial use or activity is not open to the public or has been  
28 abandoned, all allowed accessory signs shall be removed regardless of  
29 their content.  
30
- 31 10.1213 This Article is not intended to regulate the content of signs except as  
32 follows:  
33
- 34 10.1213.10 When a sign is allowed because it is necessary to identify a  
35 building address or for safe access to or egress from the lot,  
36 only that relevant message may be presented.  
37
- 38 10.1213.20 A sign that advertises a product or service not available on  
39 the lot (an “off-premise sign”) is not permitted. However,  
40 when a sign is permitted as accessory to a commercial use,  
41 the sign may contain a noncommercial message instead of a  
42 commercial message.  
43

1           Section 10.1220   General Sign Regulations

2                   10.1221 Sign Permits

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

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

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

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

20  
21                   10.1222 Signs Not Requiring A Permit

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

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

28  
29                   10.1222.20   Signs with a sign area up to 4 square feet containing only content of a  
30   general directive or informational nature such as the following:

- 31  
32   (a) Identifying a building address or unit number;  
33   (b) Directing or guiding to entrances, exits or parking areas;  
34   (c) Identifying handicapped parking, no parking, or loading areas;  
35   (d) Identifying or directing to a public service facility or accommodation;  
36   (e) Identifying an official inspection station;  
37   (f) Notices concerning restrictions on access to private property (e.g., no  
38   trespassing, no hunting, etc.).

39  
40                   12.1222.21   All such signs shall be located so as not to create a traffic  
41   safety hazard or to block line of sight from a motor vehicle.

42  
43                   12.1222.22   A freestanding sign under this provision shall comply with  
44   the height standards for freestanding signs in Section  
45   10.1223.33.

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12.1222.23 A sign pertaining to public parking in a private parking lot that has been authorized under a permit from the Department of Public Works is exempt regardless of sign area.

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

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

10.1222.50 Internal signs.

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

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

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

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

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

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

## 5 10.1223 Temporary Signs 6

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

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

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

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

### 26 10.1223.14 Temporary signs with the following square footage or less:

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

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31  
32  
33 10.1223.20 The following temporary signs are allowed with the issuance of a sign  
34 permit:  
35

36 10.1223.21 One temporary sign placed on a lot for more than 90 days  
37 while the lot (or a dwelling unit or commercial unit on the  
38 lot) is being offered for sale or lease.  
39

40 10.1223.22 Temporary signs placed on a lot that is under active  
41 development for more than 14 days after issuance of the first  
42 certificate of occupancy, but not to exceed 60 days after the  
43 issuance of said certificate.  
44

45 10.1223.30 The following provisions apply to all temporary signs whether requiring  
46 a sign permit or allowed without a permit:  
47

48 10.1223.31 The maximum sign area of a temporary sign allowed by  
49 this section shall be as follows:  
50

Sign District 1 or 2	166 sq. ft.
Sign District 3	3216 sq. ft.
Sign District 4, 5 or 6	3264 sq. ft.

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

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

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

~~10.1223.35 Temporary signs shall not be illuminated in any way.~~

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

10.1223.40 Special Event Signs

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

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

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

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

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

1           **10.1224 Signs Prohibited in All Districts**

2  
3           The following signs are prohibited in all sign districts:

- 4  
5           10.1224.10   Animated signs.
- 6  
7           10.1224.20   Signs that move or flash, or give the appearance of such motion (for  
8                           example, by means of traveling lights). Beacons, rotating and flashing  
9                           lights are prohibited except where such lighting devices are deemed  
10                          necessary for the public safety and welfare by federal, state or municipal  
11                          authorities.
- 12  
13           10.1224.30   Banners, pennants or flags (except as permitted by Section 10.1222.70)  
14                          which are signs under the definition of “sign” herein.
- 15  
16           10.1224.40   Balloons or other inflated devices displayed more than one day per month.
- 17  
18           10.1224.50   Mobile signs.
- 19  
20           10.1224.60   Signs mounted, attached or painted on vehicles, trailers or boats, except as  
21                          permitted by Section 10.1222.90.
- 22  
23           10.1224.70   Any sign emitting sound.
- 24  
25           10.1224.80   Any sign projected via illumination on the exterior of any structure, or  
26                          on or above a surface such as a driveway, sidewalk or street, regardless  
27                          of the technology used to project the sign. This prohibition shall not apply  
28                          where the structure or surface on which the sign is projected is within the  
29                          same lot as the principal use to which the sign is accessory.
- 30  
31           10.1224.90   Any sign advertising a product or service not provided on the lot on which  
32                          the sign is located (“off-premise sign”).

33           **10.1225 Maintenance of Signs**

- 34  
35           10.1225.10   All signs and sign structures shall be properly maintained and kept in a  
36                          neat and proper state of maintenance and appearance.
- 37  
38           10.1225.20   Any sign of any type and located within any district which is found by the  
39                          Code Official to be in a state of disrepair, illegible or dangerous, shall be  
40                          repaired or removed.
- 41  
42           10.1225.30   Upon failure to comply with an order to repair or remove a sign within  
43                          thirty days, the Code Official is authorized to cause removal of the sign at  
44                          the expense of the owner of the property on which the sign is located.

45  
46           **Section 10.1230 Sign Districts**

- 47           10.1231       The City is hereby divided into sign districts for the purpose of establishing  
48                          standards for the number, type, size, location and illumination of signs.

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

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

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

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

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



1 **Section 10.1240 Permitted Sign Types**

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

4 **Table of Permitted Sign Types**

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

P = Permitted N = Prohibited

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

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

14 **Section 10.1250 Sign Dimensional Standards**

15 **10.1251 Sign Area**

16 10.1251.10 The maximum aggregate sign area shall be as follows:

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

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

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

All dimensions in square feet

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

n.r = no requirement

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

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

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

## 10.1252 Measurement of Sign Area

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

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

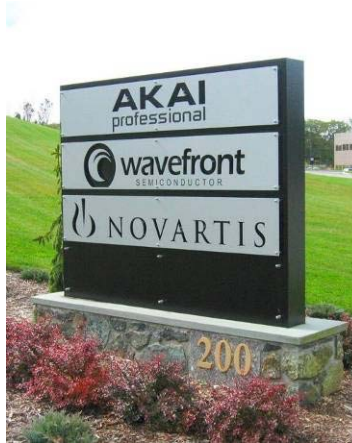
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10.1252.20 The sign area of a freestanding sign shall include all structural supports whether or not they contribute through shape, color or otherwise to the sign's message, except as follows:

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



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



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



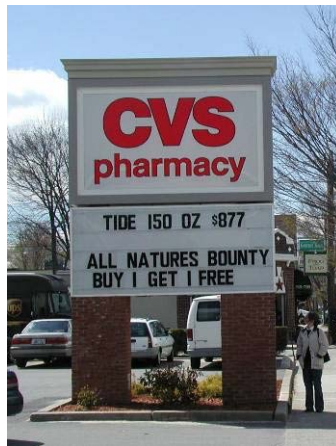
**Height of base is greater than one foot – Included in sign area**

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



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



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



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



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

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

1            10.1253 Sign Height and Setback

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

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

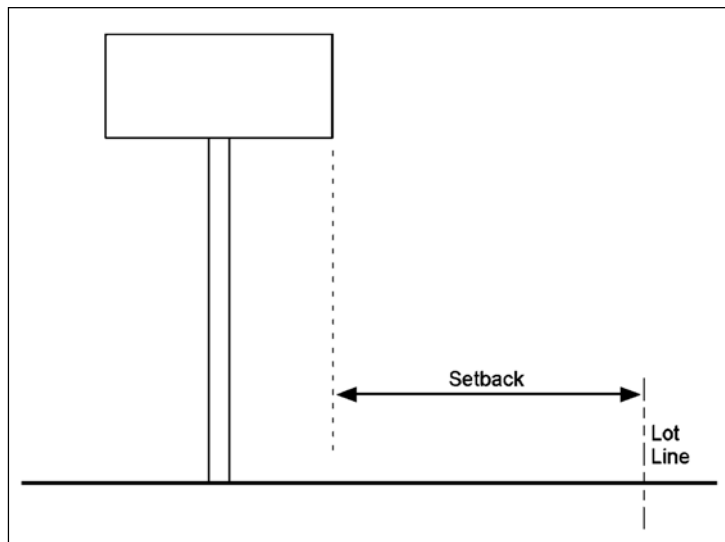
	Sign District					
	1	2	3	4	5	6
Projecting sign						
Minimum clearance (ground to bottom of sign)	7	7	7	7	7	7
Freestanding sign						
Minimum setback from lot line	n/a	5	5	20	10	20
Maximum height (ground to top of sign)	n/a	7	12	20	20	20

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

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

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

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



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

## 4 Section 10.1260 Sign Illumination

### 5 10.1261 Types of Illumination

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

**Table of Sign Illumination Requirements**

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

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

11  
12 10.1261.20 Temporary signs shall not be illuminated.

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

### 17 10.1262 Hours of Illumination

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

### 23 10.1263 Illumination Standards

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

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

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

29                   **Section 10.1270   Additional Sign Regulations**

30                                   **10.1271   Signs on More Than One Façade of a Building**

- 31   10.1271.10   A use in a building with more than one exterior wall facing a street may  
32   have signs on each such wall.  
33  
34   10.1271.20   An establishment with a public entrance on a side of the building not  
35   facing a street may have signs on that side as well as on the street-facing  
36   wall(s).  
37  
38   10.1271.30   Regardless of the location of signs, the maximum sign area per  
39   establishment shall be based only on the building frontage as defined in  
40   Section 10.1290.  
41  
42

43                                   **10.1272   Roof Signs**

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

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

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

### 8 10.1273 Marquee Signs 9

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

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

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

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

### 24 10.1275 Interim Signs 25

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

## 32 Section 10.1280 Nonconforming Signs

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

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

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



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

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

## 10 Section 10.1290 Sign Definitions

11 Aggregate sign area  
12 See under sign area.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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Halo lettering.

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

**Halo Lettering**



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9

Internal sign

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

16  
17

Internal illumination

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

21  
22

Internally illuminated sign

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

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27

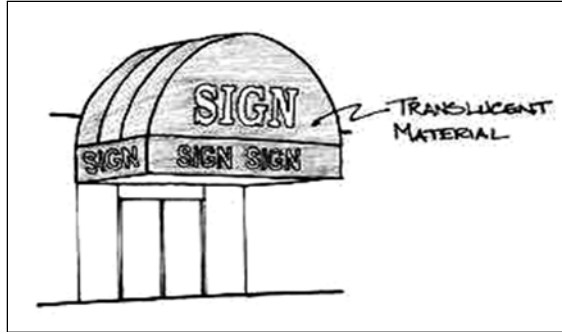
Examples of internally illuminated signs include:

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

32  
33  
34

(b) Internally illuminated awning signs.



(c) Internally illuminated channel letters.



Marquee

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

Marquee sign

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

Mobile sign

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

Monument sign

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

Nit

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

Parapet

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

Parapet sign

A wall sign attached to the face of a parapet.

Pennant sign or pennant

See banner sign.

Parapet sign

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

1 Pole sign

2 A freestanding sign that is permanently supported in a fixed location by a  
3 structure of poles, uprights or braces from the ground and not supported by a  
4 building or base structure.

5  
6 Projecting sign

7 A sign attached to and projecting from the wall of a building with the face of the  
8 sign at an interior angle of more than 45 degrees to the building wall to which it  
9 is attached.

10  
11 Roof sign

12 A sign that is located:

- 13 (a) above the level of the eaves on pitched or gambrel roofs;  
14 (b) above the roof deck of a building with a flat roof; or  
15 (c) above the top of the vertical wall of a building with a mansard roof.

16  
17 Sign

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

26  
27 Sign area

28 The total surface area of a sign display, including all text, images and graphics,  
29 and any distinctive surface, board, frame or shape on or within which the text,  
30 images and graphics are displayed. For a double-sided sign, the sign area shall  
31 be calculated to be the total surface area of one side of the sign.

32  
33 Aggregate sign area

34 The total sign area of all signs on a lot or building, as indicated by the  
35 context, excluding the area of freestanding signs allowed by Article  
36 12.

37  
38 Sign band

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

41  
42 Temporary sign

43 A sign, other than a mobile sign, that is not permanently affixed to a building  
44 or structure or permanently mounted in the ground, ~~and that pertains to an~~  
45 ~~activity or event of limited duration.~~ (See also mobile sign.)  
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Wall sign

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



January 5, 2019

RECEIVED

JAN 7 - 2019

CITY MANAGER  
PORTSMOUTH, NH

John Bohenko  
City Manager  
Town of Portsmouth  
1 Junkins Avenue  
Portsmouth, NH 03801

Dear John,

The Northern New England Chapter of the Cystic Fibrosis Foundation is once again planning the **CF Cycle for Life** for the 2019 summer season. This 30/65/100-mile one-day bicycle tour will travel the coastline and mainland of NH and ME, from Kittery to Wells, with approximately 200 participants pedaling for a cure.

Since its inception sixteen years ago, the CF Cycle for Life has raised over \$1.1 million, helping to continue the battle against cystic fibrosis (CF), a genetic disease for which there is currently no cure. In order to accomplish this goal, I wanted to contact you today to inform you about our ride and ensure that we will have approval.

On Saturday, July 13, 2019, the cyclists will begin the tour at 7:30 a.m. from the Shapleigh Middle School in Kittery, ME. The cyclists will generally travel between 10-25 mph as they travel the route that brings them back to Kittery no later 4:00 p.m

We will be contacting the town managers and police chiefs along the route to communicate our plans and to receive approval to cycle on the roads. Additionally, we will need to mark the route approximately every 1/2 mile with painted arrows on the street. We will mark the roads using only WHITE road chalk. These marks are used to confirm cyclists are traveling in the correct direction. We have planned to mark the roads in your town during the week of July 8th. **If you have any questions regarding the ride or if any additional permits are required, please contact me at (800) 757-0203.**

I hope this letter provides the information you will need to review our request and answer your logistical questions about the **CF Cycle for Life**. If you have any questions or concerns, please do not hesitate to contact me at (800) 757-0203.

Sincerely,

Lindsay Gilbert  
Senior Development Director

Ashley Nesmith  
Event Support Specialist

\_\_\_\_\_  
**John Bohenko City Manager**

\_\_\_\_\_  
Or designee (Please Print Name)

I John Bohenko, am authorized by the City of Portsmouth and grant permission to the Cystic Fibrosis Foundation's 2019 CF Cycle for Life to use town roads and facilities for cyclists on July 13, 2019.

PORTSMOUTH LITTLE LEAGUE, INC.  
PO Box 8321  
PORTSMOUTH, NH 03802

RECEIVED

JAN 11 2019

CITY MANAGER  
PORTSMOUTH, NH

January 7, 2019

John Bohenko  
City Manager  
City of Portsmouth,  
Portsmouth, NH 03801

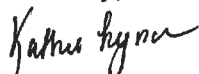
Dear Mr. Bohenko:

Similar to prior requests, which were approved by the City Council, Portsmouth Little League, Inc. respectfully requests approval for temporary signage to be located at the Plains and Hislop Park baseball fields during the 2019 baseball season.

Our request is two-fold. First we are requesting permission to affix signage in the form of banners to be attached to the fences surrounding the outfield and foul lines at Plains and Hislop fields following the established color guidelines. The signage represents advertising for local businesses that have donated to and support the league. We are requesting permission to affix the banners to the fences from April 13 [Field Clean-up Day] through the end of October. Second, we are requesting permission to maintain signage to the rear of the Plains scoreboard. The local business that advertises on the back of the scoreboard will be required to adhere to the city and league's guidelines for the sign and will be responsible for the sign materials. Signage at this site provides the league with a continued revenue stream that helps us meet our goals each year.

Little League has a long and proud tradition in the City of Portsmouth. We are grateful for all the support we have received in the past and plan to continue to offer a safe and quality program that meets the needs of the community we serve. Please let me know if it would be of benefit for me to attend the Council meeting at which this request is considered. Thank you.

Sincerely,



Kathie Lynch  
President  
3 Boyan Place  
Portsmouth, NH 03801



Friends of the South End  
PO Box 443  
Portsmouth, NH 03802

January 14, 2019

Mr. John Bohenko, City Manager  
Portsmouth City Hall  
One Junkins Ave.  
Portsmouth, NH 03801

RECEIVED

JAN 16 2019

CITY MANAGER  
PORTSMOUTH, NH

Dear John,

On behalf of the Friends of the South End and the annual Fairy House Tour event, I am seeking the City's permission to host this event on Saturday, Sept. 21, 2019 and Sunday, Sept. 22, 2019 from 10:00-3:00 pm both days, as well as to help clear the area from conflicting events.

The Tour will take place on the grounds of the Governor John Langdon House, Strawberry Banke Museum and in collaboration with the Prescott Park Arts Festival. We are asking the City for permission to use Peirce Island for parking as well as the use of Prescott Park. We would again like to close Washington Street between Hancock and Court Streets to through traffic from 9:30am-4pm both days.

We anticipate hiring two police officers or crossing guards to aid in the public's crossing over Marcy Street at the Prescott Park flag pole and at the intersection of Mechanic Street.

We look forward to working with the City to create one of our area's most beloved events. Please let us know if you need more detailed information at this time. I will contact your office to schedule a meeting with the City departments at a date set at your convenience.

Thank you for always helping us create a magical event in the South End.



Caroline Amport Piper  
2019 Event Coordinator  
caroline@canoeharbor.com  
(603) 686-4338

Cc: Esther Kennedy, FOSE Co-President  
Mary Thomas, FOSE Co-President

CITY COUNCIL E-MAILS

January 5, 2019 – January 17, 2019 (9:00 a.m.)

JANUARY 22, 2019 CITY COUNCIL MEETING

UPDATED 01/22/2019 THROUGH 3:00 PM

New content begins Page 5

Below is the result of your feedback form. It was submitted by Cora Paradiso ([cora.paradiso@gmail.com](mailto:cora.paradiso@gmail.com)) on Monday, January 7, 2019 at 15:46:33

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address: 749 B, Portsmouth Ave

comments: I recently heard a talk that outlined "Progress" as being forward momentum that improves the lives of the group as a whole.

They spoke about how the past several decades have shown us enormous innovation, which is wonderful. However, as we move forward at such a rapid rate in our society, it has become innovation for innovation's sake and has done nothing to improve the lives of the whole group.

This is not to say stop Capitalism, it's to say that when we set our sights on innovation as a means to progress, it should have an impact on the community like helping children out earn the previous generation and further add to the pool of knowledge and betterment.

I'm reminded of this talk when thinking about this new development. Will it bring in more revenue to this town? Sure. But is Portsmouth a city that only cares about revenue?

Having grown up here my entire life, I'd like to believe it values a culture set on a foundation made up of families and artists and activists and small business owners and side hustlers and passionate people who believe their dreams can live here.

Not a community who's value is calculated by square foot of empty vacation homes that belong to people who will never know what it's like to be a regular on the Decks. Who don't understand why you respectfully park elsewhere on Halloween because you know something bigger than you is happening that night. Who can tell you that at the right time of day you can watch the light creep from Bow Street to State Street for your own personal sunrise.

Tourists come to shop, I get that. But they also come to smell the salt air while lying on their blankets waiting for a sunset concert and to overhear the chatter of regulars at the cafe.

We are watching gluttonous innovation every day in our feeds.

We literally have the power - town by town, city by city - to make a different decision.

To change the conversation. To allow for progress to sit side-by-side with change and to remind ourselves that a middle ground is possible and can serve to honor our roots as well as our newcomers.

Thank you for considering my words. We are tomorrow's history makers. Let's make ourselves proud.

includeInRecords: on  
Engage: Submit

Below is the result of your feedback form. It was submitted by Sophie Merrow ([sophimerrow@gmail.com](mailto:sophimerrow@gmail.com)) on Monday, January 7, 2019 at 17:46:28

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address: 238 Miller

comments: Hi there,

Good afternoon and happy new year! I hope 2019 has been treating you well so far.

First of all, thank you for all the work you do for Portsmouth and its residents. I imagine you get a lot of not-so-nice messages in this inbox. Even though my note does come from a place of anxiety, I want you to know first that I appreciate you and the important work you do.

I'm writing to express my worry and concern about the plans for the McIntyre Project. As a Portsmouth native, I have watched our beautiful city grow and change in so many amazing ways over the years. One of my favorite things about Portsmouth is that no matter how many times a storefront, coffeeshop, or restaurant changes, no matter how many different musicals are put on in Prescott Park, and no matter how many freighters, sailboats, and battleships sail up the Piscataqua, we have always retained our unmistakable Portsmouth character and charm. I think the reason for that is all the wonderful people who live here; our families, friends, neighbors, co-workers- they are the true heart of Portsmouth.

That said, I'm extremely concerned that the McIntyre Project, if not managed and executed thoughtfully, will break the heart of the Portsmouth I love so very much. The plans and mockups I've seen look uncomfortably close to the plans and mockups for Portwalk Place, which, as I imagine you've heard from other curmudgeonly locals, and which, I'm afraid, you're about to hear one more time, is an absolute monstrosity. Zero green space, heinous cookie-cutter buildings, chain restaurants that literally only people from Massachusetts go to, and luxury condos which are perennially up on Craigslist because (surprise) nobody can afford them.

I have lived in Los Angeles, and it is truly hell on earth. The first time I walked through Portwalk Place, I felt like I was in LA. Please, for the love of god, do not turn Portsmouth into LA.

I have also lived and traveled extensively all over the US, the UK, and Europe, and despite seeing some of the most incredible wonders of the world, Portsmouth is still where I chose to make my home, and I couldn't be happier. And that's because Portsmouth is a thriving, soulful community where people come to plant their dreams and watch them grow. It's where we prioritize people, not profits. Where we care about honoring our history, not building fancy boutiques and apartment complexes on top of it. Where we coexist in a happy medium between preserving our past and welcoming the future (yes, even if it comes with tourists).

Speaking of which: we get it. Tourists are not going to stop coming to Portsmouth. Folks from Mass are not going to stop wanting to move up north. But things like the McIntyre Project strip us of the character that makes Portsmouth so attractive in the first place, and they come at the expense of the residents. The city is becoming cold, unremarkable, and unaffordable for the people who provide the lifeblood of this city.

The people are the heart and soul of Portsmouth.

Listen to us.

Look around at other over-developed, soulless towns that have been gobbled up by greed and developers, and listen to us when we say that this is not the future we want. We want a future that we build thoughtfully, together, with respect for the community and excitement for newcomers.

I know this was a doozy- thank you for taking the time to read this and consider my perspective.

includeInRecords: on

Below is the result of your feedback form. It was submitted by Robin Husslage ([rhusslage@hotmail.com](mailto:rhusslage@hotmail.com)) on Monday, January 7, 2019 at 20:47:41

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address: 27 Rock Street

comments: I attended the meeting tonight and was very disappointed in the room full of people criticizing this great project. I attended ALL of the public input sessions (3 hours long on weekends) and subsequent meetings and did not recognize 95% or more of the people in the room tonight -- because they didn't show up to provide their input during these well-run public input sessions. Shame on them to show up at this late stage and criticize every aspect of the design proposal without spending the time to participate in the process, examine all of the documentation provided in person at the public sessions and on the website, and ask relevant questions. I commend the McIntyre committee and the developers on involving the public early on, inviting input, and being very transparent during this whole process. I am one voice of many that support this terrific project and the process that created it.

includeInRecords: on

Engage: Submit

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Below is the result of your feedback form. It was submitted by Elizabeth Bratter ([gatoday@yahoo.com](mailto:gatoday@yahoo.com)) on Tuesday, January 8, 2019 at 09:30:21

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address: 159 McDonough St

comments: Dear Councilors,

It is my understanding the reason the City of Portsmouth has implemented the latest reduction in required off-street parking for developments is to reduce the amount of impervious surfaces used as parking lots, encourage the use of other means of transportation to get around the city; public, foot, bike, car pool, etc. with the net result being MORE public/private green space on these large developments.

However, if one were to review the latest proposal for the McIntyre building it not does NOT provide more green space it seems to be using the less off-street requirement for parking to construct more building!

Please remember the goals of reduced off-street parking requirements and the few things many citizens of Portsmouth asked for: the post office remain at that location, some kind of public access park/green space to sit and enjoy downtown as well as a few parking spaces for the general public as have been provided since the building was built.

Envision all the people who sit on/in the planters on the corners of Bow St actually sitting in a park and enjoying the view of some beautiful buildings, the South Church and possibly even the tug boats.

Please remember being a partner in a development is about appealing for what citizens asked for and still provide the balance of development and green space. Thank you for your time in all Portsmouth matters, Elizabeth HERE is a video on how reduced off-street parking can work to provide growth and balance:

Link to Donald Shoup U-tube video about parking:

[https://youtu.be/Akm7ik-H\\_7U](https://youtu.be/Akm7ik-H_7U)

includeInRecords: on

Engage: Submit

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Below is the result of your feedback form. It was submitted by Gerald Duffy ([Gduffy44@gmail.com](mailto:Gduffy44@gmail.com)) on Tuesday, January 8, 2019 at 11:20:08

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address: 428 Pleasant Street, #3, Portsmouth

comments: Dear councillors:

First of all, a happy new year to everyone.

Second, many thanks to the Councilors and city employees, as well as the developer's excellent design team, who have worked so hard and diligently to bring the McIntyre project to where it stands today: a feasible plan that will bring a variety of benefits to city residents and workers, and which has won approval after iterations by the federal government.

My hope is that the Council will stick with the program and not buckle to the demands of a noisy, underinformed cadre of critics who want to take us back to the drawing board. The process that brought us to the working design we have now was the result of a long, transparent process with plenty of opportunities for public input. To go back to the beginning now would represent an affront to all those volunteer hours many informed residents invested in providing feedback. No to mention the money and time invested in the project by both the City and the chosen developer. What is the point of a process like this, if it can so easily be upended by a couple hundred of the loudest voices? In no other sphere of life that I'm aware of would the people who showed up late still be able to board a train that left on time.

As to the "concerns:"

Parking:

During public input, as I recall, parking was given a fairly low priority. We have a brand new civic parking garage just a few blocks away. Perhaps the City could move up its timetable on the Maplewood Ave redesign, which will further encourage people to park at Foundry Place and walk safely into town. A city commitment to adequate winter maintenance of this route would help too. It is also worth taking into account transportation trends in the years ahead and the eventual, inevitable reduction of parking needs. Anything we can do to reduce the overall number of vehicles in City spaces and streets, the better for our longterm health and environmental demands.

Post Office:

My understanding is that it simply won't be possible for the PO to stay while all the remediation of toxic materials goes ahead. We know already that the PO does not want to move twice. They may not want to move once, but let them find another convenient location with, yes, better parking.

Green space:

People use this as an umbrella term, without specifying exactly what it means. Does a large area of grass and plants really make sense when it would only be lightly used for half the year? We have Prescott Park and various pocket parks nearby. The dog walkers have plenty of real estate already, including a fine dog park. People I've talked to who are clamoring for more "green space" aren't even familiar with the details of the current plan and the amount of daylight covered space that could be used 12 months a year.

I would urge the Council to stick with the existing program. We elect Councillors for leadership, and that includes leading the City through transitions when a minority of vocal residents throw wrenches in the gears. That of course means not winning popularity contests all the time. It saddens me to see how much disrespect the Council has to tolerate from its critics and how little their (volunteer) efforts are belittled.

I, for one, will be happy when the deal is signed, the City can take possession fo the site, and we see the cranes and bulldozers move in.

Best wishes to all,  
Gerald Duffy

includeInRecords: on  
Engage: Submit

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Below is the result of your feedback form. It was submitted by ANTHONY D COVIELLO ([tonycoviello@yahoo.com](mailto:tonycoviello@yahoo.com)) on Thursday, January 10, 2019 at 10:19:30

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address: 341 Dennett St.

comments: I am opposed to limiting on-street parking permits to residents in a specific neighborhoods only. All residents own the streets equally. I don't own the privileges to the parking in front of my house any more than the residents of the city do. I have no problem with a neighborhood limiting parking to residents of Portsmouth only, but it should be available to all residents. Not just the ones in those neighborhoods. To me, this seems like a logical first step rather than jumping to the extreme of neighborhoods only.

includeInRecords: on  
Engage: Submit

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Below is the result of your feedback form. It was submitted by Thomas Bunting ([bunts3@aol.com](mailto:bunts3@aol.com)) on Sunday, January 13, 2019 at 08:50:02

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address: 796 Middle St, Portsmouth, NH

comments: My wife and I have been following the McIntyre Project since its inception with skepticism. It seems to us to be just exactly what is NOT needed in the center of our city, What we feel is needed is green space and a public gathering area (think Boston's Public Garden or Central Park in NYC). Portsmouth is fortunate to have such a vibrant economy and robust commercial building adding to our tax base and providing opportunities for entrepreneurs, but this project is truly excessive. Our City needs a soul! People will stop visiting if we seem to be an area that only wants their money, and people will stop wanting to live here if we appear to only care about those with wealth.

I am reminded of a visit a few years ago to Celebration, FL, a master-planned community built by Walt Disney World. Everything was just SO nice and SO pretty and I just could NOT wait to get out of there. The place had no soul!

Restaurants and attractive buildings are nice but, at some point, they will not be enough to keep Portsmouth in touch with its roots. Let the entrepreneurs build buildings where they are economically sustainable, but lets keep this property for the people and use it to help keep Portsmouth Portsmouth!

includeInRecords: on  
Engage: Submit

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### New Content Begins:

Below is the result of your feedback form. It was submitted by Shaun Rafferty ([glencar019@aol.com](mailto:glencar019@aol.com)) on Thursday, January 17, 2019 at 12:53:05

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address: 1157 South Street

comments: Portsmouth's residents have stated over and over again in public meetings, letters to the editor, petitions and through other means that they want the McIntyre property to be developed in such a way as to assure significant green space, public space, the maintenance of a post office and adequate off-street parking. The proposal that was submitted by the developer doesn't adequately addresses any of these issues. The problem for Portsmouth's City Council isn't that the people don't understand the proposal, the problem is that we do.

The proposal clearly fails to address the need for adequate off-street parking.

- The developer intends to supply a mere 77 off-street parking spots to accommodate the parking needs of the occupants of the 77 proposed apartments, which are expected to rent on average for \$2,974 per month. The renters of most of these luxury apartments likely will have two vehicles and numerous visitors.
- The employees and customers of the large number of businesses, which also are proposed to be opened in the McIntyre and three additional mixed use high rise buildings of comparable sale, massing and material to be built at the site, will require a great many more parking spaces.
- Current zoning regulations require 1.3 off-street parking spaces per residential unit, the developer blatantly ignores this requirement. Portsmouth’s City Council at its last meeting passed a first reading of a proposal to reduce this already ridiculously low off-street parking requirement to one parking space per residential unit.
- Current public parking spaces on Daniel and Bow Street as well as 33 parking spaces behind the McIntyre building that currently are accessible to the public on weekends will be lost
- Current parking problems in our downtown and nearby residential neighborhoods have already led to the city’s Parking, Traffic & Safety Committee recently voting to approve a Neighborhood Parking Program.
- Portsmouth’s narrow and already congested downtown streets soon will be further burdened by additional vehicles that will flood our city as a result of on-going development in the city and in neighboring communities.
- Many Portsmouth residents already avoid going downtown because of the traffic and lack of parking and don’t want to be burdened by the cost of building yet another taxpayer financed parking garage, which would primarily benefit tourists and commercial interests.

Much of Portsmouth’s charm and the visual character of our historic downtown is being lost to look alike high rise developments. Unfortunately our city is on the way to becoming “anywhere USA”. A local historian has written: “At what point, many citizens seem to be asking, does a city’s healthy economic growth spurt, turn into a case of gigantism? In other words, how much change is too much change?”

Is there a benefit to the citizens of Portsmouth if the McIntyre site is developed as proposed? Will property taxes be reduced? Will the current congestion on our city streets be lessened? Will parking in the city’s downtown area be made easier? I don’t think so! Will the quality of life of the city’s residents be improved? Clearly Not!

If the proposed McIntyre development is allowed to be built, the residents of Portsmouth will regret such a disastrous decision for generations to come.

includeInRecords: on

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Below is the result of your feedback form. It was submitted by Michael Bloom ([michael.bloom67@gmail.com](mailto:michael.bloom67@gmail.com)) on Thursday, January 17, 2019 at 19:17:21

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address: 34 Gosport Road

comments: I support this project and strongly encourage you to do the same. I frequently ride the rail trail, and I urge you to move the project forward and complete it as soon as possible. My friends (located in Portsmouth, Kittery, York, Rye, Hampton and North Hampton) and I use the rail trail to frequent many local businesses along or near the trail by bicycle (e.g., restaurants, breweries, bike shops, and coffee shops). It's a fantastic way to get around and enjoy the Seacoast away from cars and traffic, and it's a great place for kids to get outside, great for the economy (e.g., for residents to access small businesses along or near the route, especially downtown along Islington Street), and great for the health of our fellow Seacoast citizens (e.g., running; hiking; walking; XC-skiing; and mountain, cyclocross and fat biking on the rail trail). If you haven't used or toured the rail trail, you should make sure to do so. Once you do, I'm certain that you won't want! to do anything else but support it's further development. It's a no-brainer!

includeInRecords: on

Engage: Submit

Below is the result of your feedback form. It was submitted by Anna A Gasior ([a.gasior@gmail.com](mailto:a.gasior@gmail.com)) on Friday, January 18, 2019 at 15:59:49

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address: 1602 White Cedar Blvd.

comments: Hello Councilors,

I've been a property owning resident of Portsmouth for 4.5 years now, living at the Cedars Condos in the south end. I've also worked on Pease for >7 years. In that time I got to witness first hand the gentrification of my neighborhood, fueled exclusively by private entities such as SCU, Starbucks, McKinnons, Tuscan Kitchen, etc. Unfortunately these positive developments serve to highlight the fact that public sector investments have not kept up, especially given the rising taxes.

I'd like to make my neighborhood safer for pedestrians and really nurture a walkable community in the south end.

Personally I like to jog in the area, or go across the street for a cup of coffee, or Walmart for a bag of essentials. It's nice not to have to drive, but every time I do so I take my life into my own hands, because as anyone around here can attest to, crossing Lafayette road is like playing frogger.

I would like to request sidewalks put in that would link my neighborhood to the Market Basket plaza on Lafayette (roughly 1 mi). Additionally, I would like to have a walk signal put in at the intersection to my complex.

How do I get this done?

Thank you for your consideration,  
Anna

includeInRecords: on  
Engage: Submit

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Below is the result of your feedback form. It was submitted by christer ericsson ([erxn@live.com](mailto:erxn@live.com)) on Sunday, January 20, 2019 at 07:17:16

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address: 99 gates street

comments: I am writing this email against the contemplated NPP.

As a recent homeowner and taxpayer to the City of Portsmouth I do not find the proposed plan fair. My wife and I have 3 grown children and when looking for a home wanted a property that had off street parking. We paid a premium for this, understanding that we would also pay additional taxes for this property feature. To now propose restricting us from parking a vehicle on the street is wrong. We bought a 4 bedroom house with parking with the expectation that our children would be able to park their car somewhere on the street. This plan limits a 4 bedroom home to registering 2 vehicles. Others purchased or rented homes in the area without a driveway, with only on-street parking, and under the NPP now affords them a commodity to park in front of their home that we would not have.

I am a professional traffic engineer for more than 25 years I would argue that if parking is a concern you need to study the supply and demand. The supply is somewhat fixed, however creative solutions are possible that does not make parking worse for property owners.

During the evenings I have not witnessed a parking shortage.



When I was asked last summer to sign a petition to investigate non-residential parking in the neighborhood, it seemed to make sense. This proposed plan does not allow me, as a resident, to park on my street and makes parking worse. Again I write this email in strong objection of the proposed NPP and ask that the Council request staff to work on a plan that is fair, if at all necessary. Thank you.

includeInRecords: on  
Engage: Submit

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Below is the result of your feedback form. It was submitted by Michael Barker ([mbarker@momenta.com](mailto:mbarker@momenta.com)) on Sunday, January 20, 2019 at 09:48:24

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address: 5 Hancock Street

comments: I writing today because I do not support the new Neighborhood Parking Program (NPP). This program unjustly penalizes residents that have off-street parking and is overly burdensome for both residents and the city.

I moved here 17 years ago and bought a house on Gates St, so I understand the frustration of not having dedicated parking. However, within 2 years we moved to Hancock Street (to a house with parking) and have lived there ever since.

To keep this as brief as possible, there are several concerning elements of the NPP:

1. 50% of Hancock Street is a Museum. This is not a residential street and should not be regulated like one.
2. Hancock is Zoned MRO (mixed residential/office). But now office workers and clients/customers can't park (for more than 2 hours).
3. No one who lives on Hancock can get a permit to park on Hancock Street. The NPP only allows parking for residents with less than 2 off-street parking spaces. If you have space to park on your property then you are not allowed to park on the street.
4. We can not get guest passes so family can't visit. if you have more than 3 off-street parking spaces then you are ineligible to apply for guest passes. We host our families often and w/o guest passes we won't be able to. Honestly, this might be a benefit for me, but it still seems very unjust.
5. Limited number of event passes allocated per day. While I can not get an event pass (due to off-street parking), the City is burdened with regulating the number of events occurring at any given time. Is it first come-first serve? Limited number per household per year?
6. Residents w/o parking can get up to 7 permits/passes. The below math highlights the inequity of the NPP. Assuming residents get every pass available (event, guest, etc):  
Residents w/o parking = up to 7 cars on street at one time  
My home = 0 cars on street always

#### ADDITIONALLY

Portsmouth residents (who don't live here) can't park here. Portsmouth residents who have for years parked in the south end when going out for the night or visiting friends now can't.

Who will manage the forms and ensure compliance?

- > Answer the phones when Residents start calling daily to complain about cars parked illegally.
- > Patrol the streets to ensure compliance (regulation states it will be monitored 24/7)? This appears to include even Holidays.
- > Process paperwork required for guest passes, worker passes, event passes and regular resident passes?

Thank you for your time and service,

Michael Barker  
5 Hancock Street

includeInRecords: on  
Engage: Submit

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Below is the result of your feedback form. It was submitted by Claudette Barker ([cmbarker@gmail.com](mailto:cmbarker@gmail.com)) on Sunday, January 20, 2019 at 10:22:31

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address: 5 Hancock Street

comments: I would like to put on record that I do not support the current NPP that is being proposed in the South End.

First, we have not received any notifications regarding this program via email or US mail. We learned of the program on Friday, January 11th from someone at the gym.

When we first learned of the program, I was surprised that Hancock Street, a street zoned mixed residential/office, was being included in the residential parking program. Has the Planning Board or Zoning Department reviewed this zoning change?

Hancock Street consists of 4 residences (all with off-street parking), 2 offices and a museum. From my understanding, only one of the residences was included in the meetings. As I see it, this program does not have the support of over 85% of Hancock Street.

My husband and I choose to live on a street on the edge of downtown where a beautiful museum resides. The characteristics of this street are not residential. I do not wish to live in a residential community, seeing the same people day-after-day. That is one of the many reasons Hancock Street is where we have created a home to raise our family and where I operate my business. One day it will be a downtown business owner parking, another a family enjoying the skating rink, another a concert goer. I am fortunate to have a beautiful home, office and be within the excitement of downtown.

We built our home knowing we live on a street close to a bustling downtown and included as much parking as possible on our own property. Now we are being penalized for responsible planning. The program is punishing some residents while benefiting others, which surely was not the intention.

Under the current proposed program, with event passes and guest passes, it allows for up to 7 cars per household at any given time, but nets what you have for off-street parking. My parking capacity is ever changing. When it snows two spots on my property are not available, my garage is filled with bikes and other family junk, two cars tandem in my driveway block the sidewalk. Who is deciding how many cars fit onto my property? The city would be involved in space management on my private property.

Also, because I have off-street parking, I do not qualify to participate in the program. I cannot get guest passes or event passes, I can never park on my street (nor can my guests) for more than 2 hours. What Italian woman has ever had anyone over for only two hours? Yet my neighbor, who bought a house without a driveway, can park 7 cars (including their resident, guest and event passes) without being limited to 2 hours. I was planning this Spring to host Easter, 2 fundraisers and a dinner with friends. However, under the proposed program, those plans are no longer possible on a street that is not even zoned residential.

Finally, please note, residents are not parking on Hancock Street. There are rarely more than 4 cars overnight. Also, there are opportunities to rent spaces in this neighborhood. A solution that would not require city resources.

Thank you for your time and commitment to our city.

Best,  
Claudette Barker, 5 Hancock Street since 2004  
83 Gates Street 2002-2004

includeInRecords: on  
Engage: Submit

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Below is the result of your feedback form. It was submitted by Suzanne Tellefsen ([STellefsen@gmail.com](mailto:STellefsen@gmail.com)) on Sunday, January 20, 2019 at 18:21:12

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address: 96 osprey drive, Portsmouth NH

comments: Greetings,  
I am writing to express my concern regarding parking on Hanover & other streets in the South end. It has come to my attention that residents (who knowingly purchased their homes with no parking) are now requesting to limit street parking to others.  
I assume, the City of Portsmouth will continue to plow, salt & maintain these spots? As a tax payer, I am curious WHY I should be financially covering these roads & spots , yet have no right to park there.  
Perhaps a better solution would be privatizing those roads & allowing the residents to maintain what they feel they deserve.  
Thank you for your time  
Suzanne Tellefsen

includeInRecords: on  
Engage: Submit

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Below is the result of your feedback form. It was submitted by Stephen Viens ([sviens@gmail.com](mailto:sviens@gmail.com)) on Sunday, January 20, 2019 at 19:45:50

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address: 78 Marne Ave

comments: I would like my position on neighborhood parking programs to be on record. As a Portsmouth resident I DO NOT SUPPORT resident only parking in any Portsmouth neighborhood. Especially resident only parking that does not allow ALL Portsmouth residents to park for free or may result in ticketing and towing of a vehicle owned by a resident from any Portsmouth neighborhood.

Stephen Viens  
78 Marne Ave  
[sviens@gmail.com](mailto:sviens@gmail.com)  
603-436-7207

includeInRecords: on  
Engage: Submit

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Below is the result of your feedback form. It was submitted by Paulette Dinulos ([pac11201@yahoo.com](mailto:pac11201@yahoo.com)) on Sunday, January 20, 2019 at 20:00:59

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address: 3 Hancock St

comments: To whom it may concern,

I am writing as a South End resident. We do not support the pilot program as designed. I understand there was a petition some time ago but it never reached our household for consideration. Our street is not zoned residential yet residential parking restrictions would be applied to us. Per the existing design all Hancock St homes (which can accommodate more occupants and have more drivers than many South End properties) would be restricted from participating. We would be unable to park on our own street or any where in our South End neighborhood!

This proposal as designed should not be approved.

Thank you in advance.

Best,  
Paulette

includeInRecords: on  
Engage: Submit

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Below is the result of your feedback form. It was submitted by Mary Neubauer ([maryneubauer1@comcast.net](mailto:maryneubauer1@comcast.net)) on Sunday, January 20, 2019 at 21:19:20

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address: 101 marne ave

comments: As a Portsmouth resident I DO NOT SUPPORT resident only parking in any Portsmouth neighborhood. Especially resident only parking that does not allow ALL Portsmouth residents to park for free or may result in ticketing and towing of any vehicle owned by any Portsmouth resident

includeInRecords: on  
Engage: Submit

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Below is the result of your feedback form. It was submitted by Robin Huslage ([rhuslage@hotmail.com](mailto:rhuslage@hotmail.com)) on Sunday, January 20, 2019 at 21:32:05

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address: 27 Rock Street

comments: Our small neighborhood, wedged between Islington Street and the railroad tracks, is old with many houses built in the 1700's and 1800's before cars were invented and there was little need for off street parking. Portsmouth has certainly grown and changed a great deal since that time and in the process expanded outwards into our neighborhood with many more businesses, restaurants, event venues, and other attractions, drawing more people to our neighborhood who want to park near their destination...for free.

The challenge to find parking near our homes in this neighborhood has reached a breaking point. We ask that the City of Portsmouth recognize the impact the City's growth has had on the residents of our neighborhood and assist in finding solutions so that we can park within a reasonable distance of our homes. One of the tools we feel will be helpful is the establishment of a Neighborhood Parking Program. The proposed pilot program is a good starting point and should provide useful information as to what works, what doesn't, and ideas for improvement.

Tuesday night, we hope you will put yourselves in our shoes and imagine the daily stress and frustration of not being able to find a parking spot within a block or two of your home with a car full of groceries, cranky kids, and snowbanks to contend with. Please consider our needs when reviewing the Neighborhood Parking Program and make an affirmative vote to allow this pilot program to be carried out, hopefully alleviating the parking challenges we are experiencing in our neighborhood.

Thank you,  
Robin Husslage

includeInRecords: on  
Engage: Submit

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Below is the result of your feedback form. It was submitted by Paul Ringuette ([paulringuette@gmail.com](mailto:paulringuette@gmail.com)) on Sunday, January 20, 2019 at 21:57:54

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address: 308 Richards Ave

comments: As a Portsmouth resident I DO NOT SUPPORT resident only parking in any Portsmouth neighborhood. Especially resident only parking that does not allow ALL Portsmouth residents to park for free or may result in ticketing and towing of any vehicle owned by any Portsmouth resident.

includeInRecords: on  
Engage: Submit

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Below is the result of your feedback form. It was submitted by Graeme Riddell ([Graeme.riddell@gmail.com](mailto:Graeme.riddell@gmail.com)) on Monday, January 21, 2019 at 00:31:44

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address: 871 Islington St

comments: Hello, As a Portsmouth resident I DO NOT SUPPORT resident only parking in any Portsmouth neighborhood. I also believe metered parking should be a level playing field, ie equally available to and usable by residents and non residents alike. I do believe Portsmouth residents should get a break on the cost of all metered spaces, which I believe is in the works. Thank you.

includeInRecords: on  
Engage: Submit

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Below is the result of your feedback form. It was submitted by Erin Proulx ([Erin@proulxrealestate.com](mailto:Erin@proulxrealestate.com)) on Monday, January 21, 2019 at 05:58:11

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address: 99 Marne Ave

comments: Dear City Council Member:

As a Portsmouth resident, I DO NOT SUPPORT resident only parking in any Portsmouth neighborhood. This would have an incredibly negative impact on those doing business in any proposed neighborhood. I am in the real estate industry. My job includes meeting with clients at their homes, AND meeting with numerous others at these homes, who would also be faced with no parking available to them: potential buyers (not a great "welcome" to the neighborhood), photographers, inspectors, appraisers, other agents, contractors doing work on the property, etc. There are so many others that work in various jobs and various neighborhoods throughout the city that rely on street parking to do their jobs.

Thank you for your work on this issue.

Kind regards,

Erin Proulx

includeInRecords: on

Below is the result of your feedback form. It was submitted by Audrey LaBarre and Randy Gurski ([alabarrelcsw@gmail.com](mailto:alabarrelcsw@gmail.com)) on Monday, January 21, 2019 at 09:32:18

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address: 55 Kent St

comments: Please do Not approve the residential parking... as a resident and someone who works downtown, it is become so difficult to be able to park. Hancock St isn't even zoned residential. We are zoned MRO (mixed residential/office). Strawberry Banke depends on street parking for their events and downtown workers need the free parking. It is especially difficult because the especially resident only parking does not allow all Portsmouth residents to park.

Please can we look back into a garage to be put in the Whale Wall lot... we lose so much traffic because Portsmouth is seen as a terrible city to park in.

thank you for your time,

Audrey LaBarre and Randy Gurski

includeInRecords: on

Engage: Submit

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Below is the result of your feedback form. It was submitted by Zachary Slater ([zacharyslater1@gmail.com](mailto:zacharyslater1@gmail.com)) on Monday, January 21, 2019 at 10:44:54

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address: 101 Odiorne Point Road

comments: As a Portsmouth resident and Chair of the Board of Strawberry Banke Museum, I strongly disagree with the Neighborhood Parking Program.

The program, as proposed, will likely have many negative, yet I assume unintended, consequences for the city, and for Strawberry Banke Museum guests, volunteers, residents of the museum, and employees. Loss of parking will drive up costs for our employees, tenants and volunteers, and may have the effect of driving away visitors to our site who can't find a convenient place to park. It's also inconvenient for residents like myself. I pay Portsmouth taxes, but I have a driveway, so I would be excluded from parking here. When I come downtown to volunteer for Candlelight stroll or another like event, why shouldn't I, a resident of Portsmouth, also have the right to park on our streets? The residents who are clamoring for this are the ones who bought houses that didn't come with parking. This is like a person buying a house near a racetrack, and then immediately complaining about the noise. Near an airport, and then complaining about planes overhead. Near a nuclear power p!

lant, and then complaining about potential risks. When you buy a house with any of these limitations, part of this is built into the market value of the house; this is why there is such a premium for a house with a garage or driveway in Portsmouth's South end. I have concerns from two perspectives. As a resident, I am offended and upset at having to pay for someone else's parking subsidy. As the Chair of the Museum, charged with the fiscal oversight of the organization, I feel compelled to speak against this potential challenge to our fiscal stability that we work so hard to preserve. Thanks for your consideration.

includeInRecords: on

Engage: Submit

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Below is the result of your feedback form. It was submitted by John-Michael Jenkins ([jjenkins28@hotmail.com](mailto:jjenkins28@hotmail.com)) on Monday, January 21, 2019 at 11:21:12

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address: 33Kent St

comments: I don't believe the approach to residential parking supports the residents in the neighborhoods.

includeInRecords: on

Engage: Submit

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Below is the result of your feedback form. It was submitted by Elizabeth Cross ([eyl777@comcast.net](mailto:eyl777@comcast.net)) on Monday, January 21, 2019 at 14:30:35

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address: 110 Sheffield Rd

comments: I disagree with the concept of a neighborhood parking program. For the amount of people it will seemingly benefit, it is not worth the cost or oversight needs. It is hard to find parking in many areas of Portsmouth but the solution is not making the parking even more restrictive. I do not require a response, just wanted to send my reaction. Thanks.

includeInRecords: on

Engage: Submit

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Below is the result of your feedback form. It was submitted by Brian Johnson ([brian.johnson6697@gmail.com](mailto:brian.johnson6697@gmail.com)) on Monday, January 21, 2019 at 18:38:25

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address: 126 State st, Unit 8

comments: Hi,

I'm writing to express my support the South End NPP. My building is not technically part of the South End Neighborhood but is physically located in the South End due to frontage on Court St. I purchased my condo (which has no deeded offstreet parking) in 2012 when prices were affordable and parking on Washington and Hancock streets were not a major problem.

Parking has become such an issue now that I have to lease a space over a half mile from my residence just to be able to do basic tasks and ensure I have parking upon returning. My fiance also works evenings and returns late at night (10-11pm), typically she will park near our residence, since she does not work until later in the day I move her vehicle early in the morning to Washington or Hancock Streets, the only other option would be to constantly move the car from one metered spot to another all day which is neither practical or affordable. Parking has become so bad in the South End that I need to have her car moved by ~8am to get a spot. Once her car is moved she is essentially house bound if she does not want to lose the parking spot.

In the summer the problem is even worse due to events around town, so bad in fact I typically alter my work schedule in the summer just to ensure I can find parking when I get home. To be clear, I am in support of all things that make Portsmouth great, including the events in Prescott Park, but visitors to Portsmouth often seek out the free parking leaving tax paying residents to find expensive and significantly inconvenient alternatives...I think it's time we support residents.

With that said, currently the NPP parameters do not allow me to obtain a permit. I have worked closely with the South End NPP Steering Committee and have sent a request to the parking director to amend the parameters to allow residents on streets adjacent to a participating NPP participate in the program. The South End NPP Steering Committee is in support of this amendment but I have not seen this reflected in the

official parameters published by the City. Short of the parameters being amended I hope the City Manager will make changes to allow the participation of myself and other residents in similar situations.

Thank you in advance for your support!  
Brian Johnson

includeInRecords: on  
Engage: Submit

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Below is the result of your feedback form. It was submitted by John Ragonese ([john.ragonese@gmail.com](mailto:john.ragonese@gmail.com)) on Monday, January 21, 2019 at 21:22:07

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address: 74 Cabot St, Portsmouth NH 03801

comments: City Councilors,

A number of you know me and for those who do not, I have lived in Portsmouth since '99 and previously worked and lived in the area between 1971 and 1983 albeit, not as a resident. My profession involves developing long-term (50 yr) agreements, permits and licenses for private hydroelectric power projects on public waters of the U.S. That involves constantly working with a large and diverse set of stakeholders including federal agencies, State regulatory agencies, NGO's and interested citizens and all the laws and regulations that apply (including Section 106 compliance with National Historic Preservation Act). All have different mandates, agendas and visions and I attempt to find the best alternative that allows for hydro development and yet protects the resources and interests of all the stakeholders. Never easy; never perfect but I seek win-wins as often as I can.

I applaud the Council's willingness and efforts to engage the public into the planning process for the McIntyre redevelopment as well as all those who were able to participate and roll up their sleeves. That said, I am not sure a consensus or meeting of the minds on the vision of what the project should look like, encompass or address, was ever reached on behalf of the city's residents in general. Rather it was more likely an attempt to encompass ideas and priorities of those directly and indirectly involved in the process through said "planning process". I do understand and appreciate the pressure of the NPS decision timetable was often in everyone's rear view mirror. Based on the recent outpouring of citizen voices, perhaps a more quantitative measurement of buy-in by the community at large should be undertaken on this or any other proposal that might come forward, so as to have a sound basis for taking the next step.

That in itself would appear as an almost impossible thing to achieve or accomplish as one citizen might have a very specific issue while another sees things more broadly. Likewise, one person's temporal scope maybe focused on an immediate issue while another person only sees a horizon that yields endless opportunity. It is for the above reasons that I suggest you do undertake a re-look at the redevelopment and consider three things before moving one step closer in the direction previously envisioned:

- 1.) Re-bid or resend out an RFP as a "two area-leasing structure" associated with two distinct aspects of this property. One would be the McIntyre building, the longer-term lease, which allows for reasonable payback on investments in hazard remediation, historic preservation and commercial development. The other would be the portion of the site not considered to be historically significant, unencumbered by hazardous remediation or preservation restriction - loading docks, parking lot etc. To me, THIS is the area everyone is most concerned about and for which there is such a diverse set of opinions and options in their minds. Lease this second area for a much shorter term and encourage a developer to consider low-intensity development and open space - where the investment and payback period would be much shorter. This approach would enable the City to retain future reconsideration of this portion of the property within a shorter time frame, preserving a portion of this incredibly valuable (in the broader sense) space for future City/Citizen needs and priority. This would allow the City and a developer can construct a redevelopment/preservation plan that can pass the NPS review and approval for the building and area of greatest concern and preserve the open space less dense option many feel is appropriate for the areas facing the adjacent streets and cityscapes. I also suspect there could be a larger group of developers interested given the smaller scope of development



and investment. It is conceivable that the leases associated with the two areas would be awarded to two different parties.

2.) The second thing would be to offer to the city residents an opportunity to weigh in (in a non-binding, advisory vote) on the options put forth. Not through a public meeting but through a written ballot or mail-in process.

3.) Investigate (if not done so already) or present the results of an investigation into what it would take for the City to re-develop the McIntyre building and site rather than enter a partnership. It could be the entire site or just the non-contributing or historically sensitive portions of the McIntyre site. This option would be more of a management role and contracts with a design and construction firms. I am not necessarily advocating this as the best option but I have not really understood why this option appears to have been dismissed early on as seemingly not what the City "wants to be doing" or "should be doing". I might argue that is exactly what the City should be doing - more direct management and direction on such an important part of the City. If nothing else, provide the public with a cost-benefit analysis of why this doesn't work or what it would take to work. Perhaps an outside general construction manager would be necessary, but this sort of approach eliminates significant portions of the cost for re-development as a private partner would inevitably charge an overhead cost to every aspect of the job. In light of my suggestion that the McIntyre building be developed separate from the rest of the parcel, the scope of the project could potentially be manageable to undertake by the City alone. It might even be possible that preservation or cultural-civic development grants would be available to the City as a standalone developer that would otherwise be unavailable due to the private partnership.

I appreciate in advance your review and consideration of my comments and I would like them to become a part of the public record rather than attempt to try and attend tomorrow's meeting or public comment portion and recite them to you. Should you have any desire to contact or discuss this further, I am able and willing. I trust the City will move forward cautiously and in the best interest of today's citizens and needs as well as the future [of unknown needs, priorities and possibilities].

Thank you  
John Ragonese

includeInRecords: on  
Engage: Submit

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Below is the result of your feedback form. It was submitted by Gabriel A Markley ([gabriel.markley@gmail.com](mailto:gabriel.markley@gmail.com)) on Tuesday, January 22, 2019 at 07:43:14

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address: 239 RALEIGH WAY

comments: Please take a moment and rethink what you love about our city. And why we live here. The cold feeling and sprawling commercialization is eating at our heart. We continue to loose Our charm. Please <https://www.change.org/p/portsmouth-nh-residents-revisit-mcintyre-project> and focus on the community and providing a walk up post office.

includeInRecords: on  
Engage: Submit

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Below is the result of your feedback form. It was submitted by Alyssa Murphy ([alyssa@manypennymurphy.com](mailto:alyssa@manypennymurphy.com)) on Tuesday, January 22, 2019 at 08:37:55

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address: 334 Lincoln Avenue

comments: I am writing in support of the City Council's on-going process to redevelop the McIntyre building. I am Portsmouth resident, a Portsmouth small business owner, and an architect with a career built on developing active, engaging public spaces. Our business is also located directly across the street from the McIntyre site, so for many reasons I have followed this project closely.

Since last week's presentation I have tried to summarize my professional response succinctly several times - and failed. There are many moving pieces to this project and many residents, in their knee-jerk opposition, fail to understand or even acknowledge the complex competing demands and the need for compromise. You, as our City Councilors, must absorb these conflicting realities and present a plan that will take into account long term effects on the fabric of our City. I have confidence that the process that you have established - which included input from so many residents over several weeks and months - is doing just that.

I also have tremendous faith in the Bruner Cott team to create a space that will elevate Portsmouth's concept of what a public space can be. Their work is of a caliber that has not been seen in Portsmouth, although the general public has no way to discern this from some of the poor development we've seen in the past. I see great potential for an excellent urban space to emerge; one that will support residents who live downtown, those who travel downtown to dine, shop and connect, and those who visit the City.

It is clear that the wounds of the urban renewal that created the McIntyre site have not healed. Please do not let the loudest voices in the room now derail a process that has the potential to reweave the fabric of this site, create a lasting asset for all of Portsmouth.

Alyssa Murphy

includeInRecords: on

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Below is the result of your feedback form. It was submitted by CHRISTINA DALLESANDRO ([cdallesandro@gmail.com](mailto:cdallesandro@gmail.com)) on Tuesday, January 22, 2019 at 09:38:43

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address: 140 Walker Bungalow Road

comments: Hello all -

I want to express my concern about the NPPs (Neighborhood Parking Program) planned, for the South End. As written, Hancock Street and several other South End streets would become resident only for certain South End residents without driveways.

I am very concerned about removing one of the few options for Portsmouth residents as a whole to park. We have friends in the area and often visit, and we like to walk in the park at all times of the year, and we need to park. Taking away this option will be impacting the broader Portsmouth community as a whole.

Moreover, Hancock St isn't even zoned residential. It is my understanding that this street is zoned MRO (mixed residential/office). Strawberry Banke depends on street parking for their events, downtown workers need the free parking and residents of our whole city need parking spots that do not require we pay EVERY time we go downtown.

There is limited parking and we all want access to the park - please reconsider changing the zoning of these spaces.

Best,  
Christina

includeInRecords: on  
Engage: Submit

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Below is the result of your feedback form. It was submitted by John & Terry Sofarelli ([oley128@comcast.net](mailto:oley128@comcast.net)) on Tuesday, January 22, 2019 at 10:16:32

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address: 4 TRUMAN PL

comments: Just a thought! Maybe the Police Department would like to move back downtown and be part of the McIntyre plan. A win, win for the city.

includeInRecords: on  
Engage: Submit

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Below is the result of your feedback form. It was submitted by Catherine Anderson ([canderson03801@outlook.com](mailto:canderson03801@outlook.com)) on Tuesday, January 22, 2019 at 11:26:52

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address: 394 Pleasant Street, Portsmouth

comments: To: Portsmouth City Council

Over the weekend I was made aware of some changes to the proposed pilot program by a concerned neighbor which I was surprised to learn.

1. I understand that a recent change has been made to the pilot program to provide that not all residents of a street would be treated equally and receive 2 parking passes. Rather, a deduction would be made for any on-site parking that a residence has. That is not fair treatment. Is the City planning to provide an abatement in property taxes for those home owners that do not receive 2 or 1 parking passes because they have on-site parking? Why are home owners in the same street not being given the same rights and being treated differently based on whether they have existing on-site parking?

2. I am concerned about the implementation of the plan on the residents of streets immediately adjacent to the pilot program. Why are certain streets being included or excluded? What has led to these changes?

3. Finally, I am concerned that other neighbors are in the same position that I was—they are not fully aware of the changes that are being proposed. Therefore, I respectfully suggest that this matter be referred back to the parking committee for further consideration before the pilot program is implemented.

Thank you.  
Catherine Anderson  
394 Pleasant Street  
Portsmouth

includeInRecords: on  
Engage: Submit

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Below is the result of your feedback form. It was submitted by Peter Whelan ([Pawhelan@comcast.net](mailto:Pawhelan@comcast.net)) on Tuesday, January 22, 2019 at 12:37:43

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address: 100 Gates Street

comments: I am in support of this trial program..in the city .Hundreds of cities across the country from large cities to cities in resort areas like Portsmouth have such programs . I support the Parking Director and City Manager to make changes in the program while it is in place or before hand . The neighborhood petitioners have worked hard on this issue ...there have been at least 4 meetings .....the last two at traffic and safety To do nothing is not a solution...the south end is ground zero for parking issues .....every city councilor supported a neighborhood parking program when running for council .....the garage is now built letâ€™s implement a test program so we can all evaluate it .....to do nothing will only make it much worse

includeInRecords: on

Portsmouth City Council  
1 Junkins Ave  
Portsmouth, NH  
03801

Elizabeth Bratter  
159 McDonough St  
Portsmouth, NH 03801  
January 15, 2019

Dear Mayor Blalock and Portsmouth City Councilors,

The January 22rd proposed ordinance change to insert 10.1112.14 does make sense to require developers, contractors or any builder to appear before the Planning Board to request a Conditional Use Permit (CUP) regarding parking within their project. However **a second board should review and approve the recommendations regarding parking presented to the Planning Board, either before or after this step.** This would allow for an additional layer of review and public comment. Without a second board, it would give a single unelected board a lot of power, negotiating (tit for tat) and a lot less public input into requests, which in most cases, affect the neighborhood the parking changes are requested in and sometimes even adjacent neighborhoods.

Please do not make this one stop shopping for parking reduction. **Please consider this new section with language stating parking requirement changes have to be accepted/approved by the Planning Board as a CUP AND by either the Technical Advisory Committee (TAC) or any other board that would be helpful in making this decision with parking facts for the area in question, knowledge of public safety issues, time for more public comment and discernment.** I would like to see anything regarding parking go to TAC first and then to the Planning Board for a Conditional Use Permit.

This statement from the New Hampshire Municipal Association comes to mind. *"This may be a more cumbersome process for developers but may also provide an additional layer of review and public comment, which can be a good idea for uses or situations that are controversial or complex"* <https://www.nhmunicipal.org/TownAndCity/Article/243>  
**I would contend one of the most controversial and complex issues facing Portsmouth is parking.**


I would like to ask that 10.1112.142 **not include bike share services** as a form to reduce the need for parking. We live in New England and only die hard cyclists will use bicycles on cold, rainy, windy or snowy days. Those days are the days most people use their cars in general thereby increasing the need for parking throughout the city. Please include ideas such as: Zipcars on site, taxis, Uber, Lyft, bus/trolley and/or parking permits/passes, valet parking with designated parking area, limo services, etc. for first 2 years of actual occupancy for a percentage of parking for employees, clients and/or residents. These passes would need to be secured and paid for prior to issuing the CUP. Thank you for your time in this matter.

Respectfully,

Elizabeth Bratter

**CITY OF PORTSMOUTH  
PORTSMOUTH, NH 03801**

**Office of the City Manager**

**Date:** January 17, 2019  
**To:** Honorable Mayor Jack Blalock and City Council Members  
**From:** John P. Bohenko, City Manager   
**Re:** City Manager's Comments on January 22, 2019 City Council Agenda

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***Non-Public Session:***

6:00 p.m. Non-Public Session Re: Collective Bargaining in Accordance with RSA 91-A:3 II a

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***Presentation:***

1. **Presentation of Comprehensive Annual Financial Report (CAFR) – Scott McIntire.** On Tuesday evening, Scott McIntire of Melanson, Heath & Company, P.C. will report on the Annual Audit and Financial Statements for the Year Ending June 30, 2018. I have attached copies of the City's Comprehensive Annual Financial Report (CAFR); the Governance Letter and Management Letter; prepared by our auditor; and the Popular Annual Financial Report (PAFR).

***Public Hearings & Votes on Ordinances and/or Resolutions:***

1. **Public Hearing Re: Cable Television Renewal Franchise Agreement.** The current Cable Television Franchise Agreement with Comcast is due to expire at the end of February 2019. As you know, this non-exclusive agreement allows Comcast to utilize the City's rights-of-way and to provide cable television services to Portsmouth residents who want them. Although the City has little control over programming and pricing, the Franchise Agreement is a necessary part of the regulatory scheme and requires Comcast to carry the City's government channel and the PPMtv channel. Following up on

the presentation by the Deputy City Attorney at the City Council's January 7, 2019 meeting describing the draft Cable Television Franchise Renewal Agreement, tonight is the public hearing on that draft franchise agreement. The [attached draft franchise agreement](#) and supporting materials have been available on the Cable Television and Communication Commission's webpage since December 18, 2018 as well as being available for review in the City Clerk's office and at the public library.

The Cable Television and Communications Commission will meet on January 23, 2019 to review any comments received at the public hearing and make a recommendation to the City Council for action at a City Council meeting in February.

*There is no action required regarding this matter.*

2. **Public Hearing/Second Reading of Ordinance amending Chapter 10 – Zoning Ordinance, Article 11 – Site Development Standards, Section 10.1110 – Off-Street Parking.** The amendments are being proposed to clarify the off-street parking requirements in the zoning ordinance. Specifically, additional criteria is being proposed for the granting of a conditional use permit by the Planning Board for providing less than the minimum number of off-street parking spaces required or for exceeding the maximum of off-street parking spaces allowed. Three housekeeping amendments are also proposed.

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

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

The City Council passed first reading at the January 7, 2019 meeting. Since that time, Planning Department staff are recommending one minor change to the proposed amendments, which was discussed at Planning Board but inadvertently left out in the version presented to Council for first reading. The change proposes to insert language from the existing Ordinance (10.1112.52) to the new section 10.1112.142 to expand the description of potential measures to off-set parking demand.

*I recommend the City Council move to pass second reading as amended and schedule a third and final reading for the February 4, 2019 City Council meeting to amend the Article 11 – Site Development Standards, Section 10.1110 – Off-Street Parking as presented in the document titled “Proposed Off-Street Parking Amendments” dated January 16, 2019.*

3. **Public Hearing/Second Reading of Ordinance amending Chapter 10 – Zoning Ordinance, Article 2 – Administration and Enforcement by amending by inserting a new Section 10.240 as presented on the document titled “Proposed Amendments to the Portsmouth Zoning Ordinance: Section 10.240 – Conditional Use Permits”, dated November 19, 2018.** At the January 7, 2019 City Council meeting, the Council voted to pass first reading and schedule a public hearing and second reading for the January 22, 2019 City Council meeting, regarding the [attached proposed amendment](#) to Chapter 10 – Zoning Ordinance, Article 2 – Administration and Enforcement by inserting a new Section 10.240 as presented on the document titled “Proposed Amendments to the Portsmouth Zoning Ordinance: Section 10.240 – Conditional Use Permits, dated November 19, 2018.

This amendment would insert a new section into the Zoning Ordinance defining approval criteria and conditions of approval for the granting of non-wetland conditional use permits by the Planning Board. NH RSA 674:21 states that communities that use conditional use permits shall adopt standards to guide the granting of the conditional use permits. Presently, a number of land uses as well as flexible zoning provisions in the City’s Zoning Ordinance require the granting of a conditional use permit by the Planning Board, but the Ordinance lacks consistency in terms of the standards of approval for granting of these. Adding this section to the Ordinance would be consistent with state laws and would also assist with administration of these permits by the Planning Board and City staff.

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

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

*I recommend the City Council move to pass second reading and schedule third and final reading for the February 4, 2019 City Council meeting to amend the Portsmouth Zoning Ordinance, Article 2 – Administration and Enforcement, by inserting a new Section 10.240 as presented on the document titled “Proposed Amendments to the Portsmouth Zoning Ordinance: Section 10.240 – Conditional Use Permits”, dated November 19, 2018.*

4. **First Reading of Proposed Ordinance Rezoning of 290 Gosling Road.** At the January 7, 2019 City Council meeting, the Council voted to schedule first reading for the January 22, 2019 City Council meeting, regarding the [attached proposed Ordinance](#) for a request to rezone 290 Gosling Road.

On November 28, 2018, Attorney Ciandella submitted the [attached letter](#) to the City Council on behalf of his client, 290 Gosling Rd, LLC, requesting that the property with the address of 290 Gosling Road (Map 213, Lot 1) be re-zoned from Waterfront Industrial (WI) to Office Research (OR).

At the December 3, 2018 City Council meeting, the Council voted to refer this request to the Planning Board for a recommendation. The Planning Board conducted a public hearing

on this proposed zoning amendment at its December 20, 2018 meeting and voted to recommend approval to the City Council.

*I recommend City Council move to pass first reading and schedule a second reading and public hearing for the February 4, 2019 City Council meeting on the request of 290 Gosling Rd, LLC the property with the address of 290 Gosling Road (Map 213, Lot 1) be re-zoned from Waterfront Industrial (WI) to Office Research (OR).*

5. **Third and Final Reading of Amendments to Chapter 10 — Zoning Ordinance, be amended by deleting the existing Article 12 – Signs, and inserting in its place a new Article 12 – Signs as presented in the document titled “Proposed Amendments to the Portsmouth Zoning Ordinance: Article 12 – Signs”, dated September 25, 2018 (Tabled Indefinitely at the December 17, 2018 City Council meeting).** The amendments are being proposed primarily to bring the City’s sign regulations into compliance with legal requirements for content neutrality. In the case *Reed et al. v. Town of Gilbert, Arizona, et al. (2015)*, the U.S. Supreme Court ruled that regulations that categorize signs based on the type of information they convey and then apply different standards to each category are content-based regulations of speech and are not allowed under the First Amendment protections of the United States Constitution. Additional changes include updating the regulations regarding prohibited signs and temporary signs, clarifying sign area, and other housekeeping amendments.

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

The City Council passed First Reading at the October 15, 2018 meeting and held a public hearing on November 19, 2018. After the public hearing on the 19<sup>th</sup>, Councilors discussed potential revisions to the proposed amendments regarding regulations of flags and the time period for election signs. The Council voted to continue Second Reading to the December 3, 2018 meeting in order to have staff report back with potential revisions to the proposed amendments. The Council passed Second Reading with amendments as proposed on December 3, 2018. Prior to Third Reading, the NHCLU raised a number of potential issues regarding the constitutionality of the ordinance. As a result, the City staff recommended postponing Third Reading indefinitely in order to enable staff and the NHCLU to meet to discuss the concerns. The City Council voted to postpone Third Reading at the December 17, 2018 meeting.

After a productive dialogue between the City Attorney, the Planning Director, and the NHCLU staff, NHCLU requested a few minor amendments to the zoning ordinance as proposed. The [attached draft](#) reflects these changes, which staff recommends be incorporated by a vote of the City Council prior to passing Third and Final Reading. In summary, the amendments are as follows:

- Section 10.1223.13 – remove the specific reference to the type of election time period during which temporary signs may be placed on a lot



- 10.1223.14 – Allow temporary signs of a certain size to be placed on a lot without a sign permit
- 10.1223.31 – Increase the size threshold for which temporary signs would require a sign permit
- 10.1223.35 – Remove the requirement that temporary signs not be illuminated
- Definition of Sign Area – Clarify that a double-sided sign is treated the same as a single-sided sign as to the calculation of sign area
- Definition of Temporary Sign – remove reference to an activity or event of limited duration

*I recommend the City Council move the following motions:*

- 1) *Suspend the rules to take off the table;*
- 2) *Suspend the rules to allow amendment at third reading;*
- 3) *Amend the Ordinance, as presented; and,*
- 4) *Pass third reading, as amended.*

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

1. **Approval of Proposed Employment Agreement for Deputy City Manager Nancy Colbert Puff.** Subsequent to the City Council non-public session on January 7, 2019, I have attached a proposed five-year Employment Agreement for Nancy Colbert Puff who has been the Deputy City Manager since April of 2016. For the past two and a half years, Nancy has worked on very high profile projects and has done an outstanding job. She has become an integral part of the City's organization.

As part of succession planning and future retirement of other key City staff, I think it is important that Nancy be part of the organization well into the future to ensure continuity. Her leadership skills have been invaluable to me in working with department heads on difficult issues. In the next two years, there will be changes in the organization that will require Nancy's steady leadership.

Therefore, I am recommending that the City Council approve a five-year employment agreement with Nancy. This is the standard agreement between the City and the Police Chief, the Fire Chief, and the Deputy Chiefs. Please note that all benefits are in line with the Professional Management Association Agreement.

*I recommend the City Council move to approve a five-year Employment Agreement with Deputy City Manager Nancy Colbert Puff.*

2. **Request for First Reading Re: Elderly and Disabled Exemptions.** Annually, the City of Portsmouth reviews income and asset levels for both the Elderly and Disabled Exemptions and makes recommendations as to these levels pursuant to RSA 72:39-b and RSA 72.37-b .

Last year, the City Council adopted resolutions #2-2018 and #3-2018 which increased the income levels for both the elderly and disabled. The current elderly and disabled exemption income levels are \$41,314 for a single taxpayer, \$56,807 for married taxpayers; the current asset limit is \$175,000.

If qualified, for elderly taxpayers, the exemption off the assessed value of the property is as follows:

- Age 65 to 74            \$125,000
- Age 75-79             \$175,000
- Age 80 +                \$225,000

If qualified, for disabled taxpayers the exemption off the assessed value of the property is \$100,000.

This year the 2019 increase for Social Security recipients is 2.8%.

If the City Council wishes to adjust the income level for both the elderly and disabled taxpayers by the Social Security cost-of-living increase, this would increase the limits as follows ([see attached proposed Resolutions](#)):

- Single                 \$ 42,471 increase of \$1,157
- Married                \$ 58,398 increase of \$1,591

Any adjustment if approved would be for assessments as of April 1, 2019 for Tax Year 2019 (FY20).

The Assessor's office mails a notification annually to all elderly and disabled persons who currently receive this exemption to update their applications. All new applicants must submit an application and required documentation by April 15<sup>th</sup> of each year.

On the following page is the estimated tax impact of the elderly and disabled exemptions for FY20 and a Town/City comparison indicating what other City and neighboring communities' income and assets limits are for the elderly exemption.

<b>Estimated Elderly &amp; Disabled Exemption Impact</b>				
<b>Exemption Type</b>	<b>Exemption Amount</b>	<b>Number Currently Receiving Exemption</b>	<b>Value Loss</b>	<b>Revenue Loss</b>
65 through 74	\$ 125,000.00	31	\$ 3,875,000.00	\$ 61,380.00
75 through 79	\$ 175,000.00	22	\$ 3,850,000.00	\$ 60,984.00
80 and over	\$ 225,000.00	57	\$ 12,825,000.00	\$ 203,148.00
Disabled	\$ 100,000.00	7	\$ 700,000.00	\$ 11,088.00
<b>Totals</b>		<b>117</b>	<b>\$ 21,250,000.00</b>	<b>\$ 336,600.00</b>

*Note: The current tax rate of \$15.84 would be decreased to a difference of approximately 6 cents on the current tax rate if the elderly and disabled exemptions were not granted.*

<b>Elderly Exemption Comparison Single Income</b>							
	<b>Single Income:</b>	<b>Married Income:</b>	<b>Single Assets:</b>	<b>Married Assets:</b>	<b>Exemption 65-74 years old</b>	<b>Exemption 75-79 years old</b>	<b>Exemption 80+ years old</b>
<b>Nashua</b>	\$50,000	\$50,000	\$150,000	\$150,000	\$192,000	\$224,000	\$280,000
<b>Dover</b>	\$42,000	\$57,000	\$169,800	\$169,800	\$115,000	\$162,000	\$207,000
<b>Portsmouth</b>	\$41,314	\$56,807	\$175,000	\$175,000	\$125,000	\$175,000	\$225,000
<b>North Hampton</b>	\$40,800	\$59,000	\$190,000	\$190,000	\$125,000	\$165,000	\$200,000
<b>New Castle</b>	\$40,000	\$55,000	\$150,000	\$150,000	\$125,000	\$175,000	\$225,000
<b>Rye</b>	\$40,000	\$59,900	\$199,000	\$199,000	\$75,000	\$90,000	\$105,000
<b>Hampton</b>	\$38,000	\$58,000	\$250,000	\$250,000	\$125,000	\$160,000	\$200,000
<b>Manchester</b>	\$37,000	\$50,000	\$90,000	\$115,000	\$109,500	\$148,500	\$195,500
<b>Greenland</b>	\$36,000	\$60,000	\$75,000	\$75,000	\$60,000	\$80,000	\$100,000
<b>Stratham</b>	\$36,000	\$60,000	\$75,000	\$75,000	\$60,000	\$80,000	\$100,000
<b>Rochester</b>	\$35,000	\$50,000	\$100,000	\$100,000	\$75,000	\$100,000	\$125,000
<b>Concord</b>	\$33,400	\$45,800	\$90,000	\$90,000	\$72,818	\$118,420	\$202,124
<b>Somersworth</b>	\$32,000	\$50,000	\$100,000	\$100,000	\$50,000	\$65,000	\$75,000

Elderly Exemption Comparison Married Income							
	Single Income:	Married Income:	Single Assets:	Married Assets:	Exemption 65-74 years old	Exemption 75-79 years old	Exemption 80+ years old
Concord	\$33,400	\$45,800	\$90,000	\$90,000	\$72,818	\$118,420	\$202,124
Nashua	\$50,000	\$50,000	\$150,000	\$150,000	\$192,000	\$224,000	\$280,000
Manchester	\$37,000	\$50,000	\$90,000	\$115,000	\$109,500	\$148,500	\$195,500
Rochester	\$35,000	\$50,000	\$100,000	\$100,000	\$75,000	\$100,000	\$125,000
Somersworth	\$32,000	\$50,000	\$100,000	\$100,000	\$50,000	\$65,000	\$75,000
New Castle	\$40,000	\$55,000	\$150,000	\$150,000	\$125,000	\$175,000	\$225,000
Portsmouth	\$41,314	\$56,807	\$175,000	\$175,000	\$125,000	\$175,000	\$225,000
Dover	\$42,000	\$57,000	\$169,800	\$169,800	\$115,000	\$162,000	\$207,000
Hampton	\$38,000	\$58,000	\$250,000	\$250,000	\$125,000	\$160,000	\$200,000
North Hampton	\$40,800	\$59,000	\$190,000	\$190,000	\$125,000	\$165,000	\$200,000
Rye	\$40,000	\$59,900	\$199,000	\$199,000	\$75,000	\$90,000	\$105,000
Greenland	\$36,000	\$60,000	\$75,000	\$75,000	\$60,000	\$80,000	\$100,000
Stratham	\$36,000	\$60,000	\$75,000	\$75,000	\$60,000	\$80,000	\$100,000

Elderly Exemption Married Asset Comparison							
	Single Income:	Married Income:	Single Assets:	Married Assets:	Exemption 65-74 years old	Exemption 75-79 years old	Exemption 80+ years old
Greenland	\$36,000	\$60,000	\$75,000	\$75,000	\$60,000	\$80,000	\$100,000
Stratham	\$36,000	\$60,000	\$75,000	\$75,000	\$60,000	\$80,000	\$100,000
Concord	\$33,400	\$45,800	\$90,000	\$90,000	\$72,818	\$118,420	\$202,124
Rochester	\$35,000	\$50,000	\$100,000	\$100,000	\$75,000	\$100,000	\$125,000
Somersworth	\$32,000	\$50,000	\$100,000	\$100,000	\$50,000	\$65,000	\$75,000
Manchester	\$37,000	\$50,000	\$90,000	\$115,000	\$109,500	\$148,500	\$195,500
Nashua	\$50,000	\$50,000	\$150,000	\$150,000	\$192,000	\$224,000	\$280,000
New Castle	\$40,000	\$55,000	\$150,000	\$150,000	\$125,000	\$175,000	\$225,000
Dover	\$42,000	\$57,000	\$169,800	\$169,800	\$115,000	\$162,000	\$207,000
Portsmouth	\$41,314	\$56,807	\$175,000	\$175,000	\$125,000	\$175,000	\$225,000
North Hampton	\$40,800	\$59,000	\$190,000	\$190,000	\$125,000	\$165,000	\$200,000
Rye	\$40,000	\$59,900	\$199,000	\$199,000	\$75,000	\$90,000	\$105,000
Hampton	\$38,000	\$58,000	\$250,000	\$250,000	\$125,000	\$160,000	\$200,000

*I recommend the City Council move schedule a public hearing for the February 4, 2019 City Council meeting.*

3. **NH DOT Hampton Branch Trail Management Agreement.** On December 11, 2018, the New Hampshire Department of Transportation (NHDOT) Commission and staff held a meeting at Portsmouth City Hall with Administrators, Managers, and staff from each of the communities that contain a portion of the proposed Hampton-Branch Rail Trail (otherwise known as the NH Seacoast Greenway). The purpose of the meeting was to review a draft Trail Management Agreement to be entered into between each of the communities and NHDOT to formalize responsibilities related to the maintenance of the proposed Trail. The NHDOT has received federal Congestion Mitigation and Air Quality funding for acquisition and construction of the 12 mile portion of trail between Portsmouth and Hampton. In Portsmouth, the proposed trail will extend from Barberry Lane 3.6 miles south to the Greenland town line. After a number of years of negotiations, the NHDOT staff have indicated they are close to agreeing on a final acquisition price for the abandoned rail corridor from the current owner (PanAm Railways).

Once the acquisition has been completed, NHDOT is planning to use the remaining available funding to construct a dirt or stone dust trail. At this time, no additional local construction funding is anticipated unless the individual community decides to do additional improvements to the trail such as providing a paved surface. The trail agreement establishes the roles and responsibilities for ongoing maintenance and use of the trail once the trail is constructed. The trail corridor will continue to remain in NHDOT ownership, but the local municipalities will be responsible for routine ongoing maintenance.

The NHDOT would like initial commitment to the agreement from all of the corridor communities prior to final acquisition of the corridor from PanAm. However, each municipality will ultimately sign a version of this agreement with the geographic descriptions specific to their portion of the trail.

The [attached draft of the Agreement](#) has been revised in response to the comments from the December 11<sup>th</sup> meeting.

*I recommend the City Council move to authorize the City Manager to negotiate and execute a Trail Management Agreement with NHDOT for the Portsmouth portion of the Hampton Branch Rail Trail (NH Seacoast Greenway) that is covered by the Hampton-Portsmouth CMAQ project.*

4. **Request for First Reading Re: Accessory Dwelling Units and Garden Cottages.** The [attached proposed amendments](#) were initially presented at the November 15, 2018 Planning Board meeting and a public hearing was held. Based on discussion and comments from Planning Board members, feedback from the public, and additional review by the City's Legal Department, the Planning Department staff made additional revisions and the Planning Board voted to recommend the updated amendments at the December 20, 2018 meeting. The version in front of City Council reflects additional changes that Planning Board discussed at the December 20, 2018.

*I recommend the City Council move to schedule a first reading for the February 4, 2019 City Council meeting to amend the Zoning Ordinance by deleting existing Sections 10.814*

– Accessory Dwelling Units and 10.815 – Garden Cottages and inserting in their place the new Sections 10.814 and 10.815 as presented on the document titled “Proposed Amendments to the Portsmouth Zoning Ordinance: Sections 10.814 – Accessory Dwelling Units and 10.815 – Garden Cottages” dated January 16, 2019 and amending related terms in Article 15 – Definitions, Section 10.1530 – Terms of General Applicability.

5. **Presentation and Action Re: Neighborhood Parking Pilot Program.** Parking Director Benjamin Fletcher will update the City Council regarding the Neighborhood Parking Program. [Attached is a copy of the PowerPoint Presentation.](#) The Parking and Traffic Safety Committee voted to recommend approval for this pilot program.

*I recommend the City Council move to authorize the City Manager to implement this Neighborhood Parking Pilot Program.*

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

1. **Report Back Re: Short-Term Rental Regulations in Portsmouth.** The City Council has schedule a joint work session with the Planning Board for February 11th at 6:30pm regarding short-term rentals in Portsmouth. The purpose of this memo is to provide a brief overview of the current regulations regarding short-term rentals in the City and related state laws.

#### **City Regulations**

In general, the City allows for short-term rentals of dwelling units only in very limited circumstances. The Zoning Ordinance definition of dwelling unit states, “This use shall not be deemed to include such transient occupancies as hotels, motels, rooming or boarding houses”. The City has interpreted this limitation to exclude short-term rental arrangements such as those offered by Air BnB, VRBO, or HomeAway. In Portsmouth, we consider a short-term rental as a rental of a dwelling unit for a period of less than 30 consecutive days.

The only provisions in our Ordinance that allow for short-term rental of a dwelling unit is the operation of a bed and breakfast or inn. These uses are allowed by right in some districts, by special exception (with authorization from the Zoning Board of Adjustment) in others, and are prohibited in other districts. In general, bed and breakfasts are allowed in more districts than inns. A bed and breakfast use as defined in our Ordinance requires that the unit be owner-occupied, so a short-term rental of an entire house would be considered an inn, rather than a bed and breakfast use.

In summary, in Portsmouth:

- A short-term rental is the transient occupancy of a dwelling unit for a period of less than 30 consecutive days;
- A short-term rental is prohibited unless it has been authorized as a lodging use of a dwelling unit (such as a bed and breakfast or inn) that has received all required land use approvals.

### State Statutes

Short term rentals are addressed in two State statutes, RSA 48-A and RSA 78-A. The plain language of these two statutes do not indicate the State has preempted the regulation of the field of short-term rentals, nor does the plain language indicate municipalities cannot regulate short-term rentals through zoning.

RSA 48-A authorizes municipalities to enact housing standards to address dilapidated and unhealthy dwellings. RSA 48-A:2 provides that a municipality may not impose stricter, or additional housing standards through "...ordinances, codes, bylaws, licenses or certificates, or other restrictions..." on short term rentals than it does on other dwellings. The definition of short term rentals in RSA 48-A:1, V clearly and unambiguously states "for purposes of this Chapter..." That means that the prohibition against additional ordinances applies to housing standard ordinances only, not zoning ordinances.

Further, RSA 78-A:3, XX defines short-term rental as the "rental of one or more rooms in a residential unit for occupancy for tourist or transient use for less than 185 consecutive days." Every operator of a short term rental must apply for a meals and rooms license (RSA 78-A:4, I) and the license number must be included in any advertisement for the short term rental. RSA 78-A:4-a. The statute also provides "[n]othing in this section shall be construed to change or alter the nature of the use of a property for purpose of determining compliance with local zoning ordinance." RSA 78-A:4-a.

Because the plain language of both statutes limit their application to the Chapters they reference, namely the Housing Standards and the Tax on Meals and Rooms, there is no language in either statute to suggest that the state has preempted the issue of short term rentals or that these statutes act as a state-wide amendment to the City's current zoning regulations.

### Superior Court Case

The City's recent superior court case addressing short term rentals was decided on the facts presented and the plain language of the City's Zoning Ordinance. An unoccupied single family dwelling in the GRA district was being used as a short term rental. The Rockingham County Superior Court, in the matter of Working Stiff Partners, LLC v. City of Portsmouth, Docket No. 218-2017-CV-01450, reviewed the City's Zoning Ordinance, specifically the definition of "dwelling unit". Chapter 10, Article 15 defines dwelling unit as "a building or portion thereof providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. This use shall not be deemed to include such transient occupancies as hotels, motels, rooming or boarding houses." Based on that definition and the facts of that case, the Court concluded that the Plaintiff, Working Stiff, LLC, was not primarily using its property as a permitted dwelling but was using its property as a prohibited "transient occupancy" in the GRA district. This decision has been appealed to the New Hampshire Supreme Court.

2. **Report Back Re: Student Letter on Reusable Bags.** City Council received a letter from two 8<sup>th</sup> grade students trying to come up with a solution to plastic pollution. Their suggested goal is to provide two reusable bags for every Portsmouth household at a cost of \$1.09 per bag. This initiative is in alignment with a pilot effort currently underway with City staff. Working with the Sustainability Committee, [the City has created a customized Eco-Municipality logo to stamp on reusable shopping bags \(see attached\)](#). The City currently has a purchase order to buy 750 reusable bags for distribution to interested residents. The reusable bags are crafted from 100% recycled plastic material.

In response to the letter City Council received, staff have investigated the cost to provide two reusable bags for every Portsmouth household at a cost of \$1.09 per bag as suggested. If there are approximately 7,000 households in Portsmouth, it would cost the City \$15,260 to provide each with two reusable bags. The \$15,260 to purchase the reusable bags does not include any additional cost for transportation or distribution of the bags to residents. Should City Council decide it is in the City's best interest to purchase reusable bags for every household, additional money would need to be added to the budget for fiscal year 2020.

3. **House Inspections Re: Sewer Study.** For your information, the City's consultants will be moving forward with house inspections in selected areas of the City as part of the Infiltration/Inflow Sewer Study. A press release will not be distributed for this work because it impacts a very limited area of the City.

[Attached are the maps highlighting the specific homes to be inspected.](#) The inspections will be conducted in an area of the Woodlands (focus is sump pumps), Gosling Meadows (general focus on all fixtures) and a section of the Lincoln Sewer Separation (to confirm how many homes are using drain services put in during sewer separation).

In addition, [attached is a copy of the notice](#) that will be distributed to each individual property. The distribution of the notices is planned for Friday, January 18, 2019 and inspections are planned to begin on Tuesday, January 22, 2019.

A city staff member will be with the inspection crew from Flow Assessment Services during the inspections. Deputy Public Works Director Brian Goetz will be contacting Portsmouth Housing Executive Director Craig Welch in advance to discuss the inspections in Gosling Meadows.



## EMPLOYMENT AGREEMENT

### 1. Preamble

This Agreement is entered into between the City of Portsmouth, New Hampshire (hereinafter called "City") and Nancy Colbert Puff (hereinafter called "Employee"). This Agreement is null and void unless approved by the Portsmouth City Council.

### 2. Employment and Term

The City agrees to employ the Employee and the Employee agrees to accept employment in the position of Deputy City Manager for a 5-year term commencing on January 1, 2019 and ending on December 31, 2024. The City and the Employee acknowledge that this is a full-time, year-round position including extensive obligations outside of the normal work week. The Employee agrees to devote all of her professional efforts to the successful fulfillment of the responsibilities to the City and the City described in Paragraph 4 below.

### 3. Salary

Effective January 1, 2019, the Employee shall be placed on Grade 28, step E of the City of Portsmouth Non-Union Salary Schedule, which is One Hundred and Thirty Eight Thousand Nine Hundred and Forty Four Dollars (\$138,944) per annum, payable in no fewer than twenty-six installments and subject to such deductions as may be authorized or as may be required by law. Except as expressly described herein, the Employee shall not be entitled to any other salary enhancements.

Effective July 1 of 2019, 2020, 2021, 2022 and 2023 a COLA adjustment percentage increase shall be computed which shall not be less than 2% nor more than 5%. The COLA Adjustment percentage shall be determined by taking the 10 year average of the CPI-U for the Boston-Cambridge-Newton region all items index as computed by the Bureau of Labor Statistics of the US Department of Labor for the most recent 10 calendar years preceding the July 1 adjustment. BLS's calendar year for this index is November through November, it is not published on a December to December basis. The reference base is 1982-1983 equals 100 until BLS updates the reference base at which time the parties agree to adopt the official reference base as used by BLS.

### 4. Termination for Cause

This Agreement may be terminated by the City at any time for cause, i.e., failure on the part of the Employee to comply with any term or condition of this Agreement, the laws, rules and regulations of the State of New Hampshire, or the rules and regulations of the City of Portsmouth; or malfeasance, misfeasance, nonfeasance, or insubordination in carrying out the responsibilities of the position as specified in the Municipal Charter of the City of Portsmouth or as directed by the City Manager.

Termination for Cause shall take place only following written notification specifying the reasons for termination. In the event of a Termination for Cause, the Employee shall receive no severance and no further compensation beyond the last day worked.

5. Termination with Severance Payment

If at any time the City in its discretion shall so determine, the City Manager may, without cause and with or without prior notice, relieve the Employee of duties under this Agreement. In such event, the Employee shall be entitled to severance benefits. Such severance benefits shall be nine month's salary or the balance of the contract, whichever is less. As is set forth above in Section 4, if the termination is for cause, the Employee shall not be entitled to severance benefits. Severance benefits shall not be paid upon the voluntary resignation of the Employee.

6. Termination by Mutual Consent/Voluntary Resignation

This Agreement may be terminated at any time by mutual consent of the City and the Employee or by voluntary resignation of the Employee. In the event the Employee voluntarily resigns before the expiration of the term of this Agreement or any renewal thereof, the Employee shall give the City thirty (30) days written notice in advance of such resignation. In the event of voluntary resignation, the Employee shall not be eligible for severance benefits.

7. Severance Constitutes Release

The acceptance by the Employee of the severance benefits provided under this Agreement shall constitute a full and complete release of any other rights, claims, or causes of action whether in law, equity or otherwise, that the Employee may have against the City of Portsmouth, and the employees, elected or appointed officials, officers, agents, representatives and attorneys of such entities.

8. Benefits

Except as otherwise provided herein, the Employee's fringe benefits shall be established by the collective bargaining agreement currently in place between the City of Portsmouth and the Professional Management Association. The exceptions shall be described in detail in Section 9 below.

9. Exception to Benefits in Section 8.

In lieu of or in addition to the compensation enumerated in Section 8, the Employee shall also be entitled to the following:

- a. The Deputy City Manager shall be provided with a suitable automobile for use in the performance of her duties under this Agreement.
- b. The City recognizes that certain expenses of a non-personal and generally job-

related nature will be incurred by Employee, and hereby agrees to reimburse or to pay said general expenses upon receipt of duly executed expense vouchers, receipts, statements or personal affidavits, subject to budgetary authorization to be approved by the City Manager as an element of the annual Department budget.

- c. The City hereby agrees to pay, within budgetary constraints and subject to the approval of the City Manager, the professional dues and subscriptions of the Employee necessary for her continuation and full participation in national, regional, state and local associations and organizations, necessary and desirable for her continued professional participation, growth and advancement.

**AGREED: The parties below acknowledge that this Agreement is subject to the approval of the Portsmouth City Council without which approval this Agreement is without force and effect.**

For the City:

Employee:

\_\_\_\_\_

\_\_\_\_\_

Date:

\_\_\_\_\_

Date:

\_\_\_\_\_

Approved by the Portsmouth City Council:

\_\_\_\_\_

Date

Certified by the City Clerk

\_\_\_\_\_ City Clerk

**THE CITY OF PORTSMOUTH  
TWO THOUSAND NINETEEN  
PORTSMOUTH, NEW HAMPSHIRE**

**ELDERLY EXEMPTION**

**RESOLUTION # - 2019**

**BE IT RESOLVED:**

Pursuant to RSA 72:39-b the City hereby amends the elderly exemption from property tax, based on assessed value for qualified taxpayers, such that the exemptions shall be available only when the qualifying taxpayer(s) have a net income of not more than \$42,471 for a single taxpayer or \$58,398 for married taxpayers, inclusive of social security payments. The elderly exemption shall remain unchanged except as amended hereby.

**THAT** this Resolution shall take effect upon its passage.

**APPROVED:**

\_\_\_\_\_  
**JACK BLALOCK, MAYOR**

**ADOPTED BY THE CITY COUNCIL:  
, 2019**

\_\_\_\_\_  
**KELLI L. BARNABY, CMC  
CITY CLERK**

**NOTE: This exemption becomes effective for the tax year April 1, 2019.**

**THE CITY OF PORTSMOUTH  
TWO THOUSAND NINETEEN  
PORTSMOUTH, NEW HAMPSHIRE**

**DISABLED EXEMPTION**

**RESOLUTION # - 2019**

**BE IT RESOLVED:**

Pursuant to RSA 72:37-b, City hereby amends the disabled exemption from property tax, based on assessed value for qualified taxpayers, such that the exemptions shall be available only when the qualifying taxpayer(s) have a net income of not more than \$42,471 for a single taxpayer or \$58,398 for married taxpayers, inclusive of social security. The disabled exemption shall remain unchanged except as amended hereby.

**THAT** this Resolution shall take effect upon its passage.

**APPROVED:**

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**JACK BLALOCK, MAYOR**

**ADOPTED BY THE CITY COUNCIL:  
, 2019**

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

**NOTE: This exemption becomes effective for the tax year April 1, 2019.**

# NHDOT DRAFT 12/20/18

NEW HAMPSHIRE DEPARTMENT OF TRANSPORTATION  
&  
TOWN OF NORTH HAMPTON  
RAIL TRAIL AGREEMENT

*(Note: This version of the Agreement would apply to Hampton, North Hampton, Rye, Greenland and Portsmouth where initial trail construction will be undertaken as part of CMAQ project Hampton-Portsmouth 26485.)*

This Agreement (“Agreement”) is between the State of New Hampshire, by and through the New Hampshire Department of Transportation (the “Department”) Bureau of Rail and Transit (“Bureau”), and the Town of North Hampton, a municipal corporation, 223 Atlantic Avenue, North Hampton, NH (“Permittee”).

WHEREAS, the Department is the owner of a railroad corridor in the Town of North Hampton, County of Rockingham, State of New Hampshire; and is the sponsor of a Federal Congestion Mitigation Air Quality Program (CMAQ) grant project (Hampton-Portsmouth 26485) to construct trail on a portion of that railroad corridor in Hampton, North Hampton, Rye, Greenland and Portsmouth;

WHEREAS, the Department proposes that the Permittee manage and maintain the public Rail-Trail to be constructed by the Department under the above-mentioned CMAQ project that will serve non-motorized transportation and recreational purposes, along and across the Hampton Branch Railroad corridor right of way, from the Hampton, New Hampshire municipal boundary on the south, to the Greenland, New Hampshire municipal boundary to the north. The limits of the Rail-Trail to be constructed by NHDOT in North Hampton under the CMAQ grant are described more particularly as follows:

A strip of land running along the Hampton Branch Corridor from a point designated approximately as Engineering Station 2524+50 +/- on Valuation Plan V3NH/46 to a point designated as approximately Engineering Station 2687+55 +/- on Valuation Plan V3NH/49 hereinafter referred to as the “Corridor”.

WHEREAS, the Permittee may in the future propose to plan, design, construct, and maintain further improvements to said public Rail Trail;

WHEREAS, the Rail Trail development proposed here is part of a collaborative effort of seven New Hampshire municipalities, the New Hampshire Department of Transportation, Rockingham Planning Commission and other local and regional non-profit organizations to develop the New Hampshire Seacoast Greenway (NHSG). The NHSG is New Hampshire’s portion of the East Coast Greenway, a non-motorized trail planned to extend 3000 miles from Calais Maine to Key West Florida connecting fifteen states. The trail is acknowledged by all the above listed parties to provide a transportation benefit to the traveling public as well as recreation and economic benefits to the corridor communities and the State as a whole.

NOW THEREFORE, subject to and conditioned upon the performance by the Permittee of all the covenants as set forth below, the Department grants to the Permittee responsibility to manage and maintain the Department-constructed Rail Trail. Further, if jointly desired by the Permittee and the Department, the Department grants the Permittee permission to plan, design, construct, manage and maintain potential future improvements to the Rail Trail subject to the covenants set forth below.

## 1. General Overview

- 1.1 For the portion of the strip of land from approximate Engineering Station 2436+50 +/- on Valuation Plan V3NH/44 in Hampton to approximately Engineering Station 2943+40 +/- on Valuation Plan V3NH/54 in Portsmouth the Department will design and construct a rail trail as provided for under the scope of the CMAQ-funded project Hampton-Portsmouth (26485) hereinafter referred to as the “Phase I Rail Trail”.

Should the Permittee choose to plan and develop future improvements to the Rail Trail, Permittee agrees that it is responsible for securing federal, private sector, municipal or other funding required to construct said improvement. It is anticipated that the Permittee and other corridor municipalities will jointly apply for Federal and/or private sector funding to construct the balance of the proposed New Hampshire Seacoast Greenway Rail Trail from the Massachusetts border to the southern terminus of Phase I in Hampton.

The Permittee agrees that it is responsible to manage, maintain, and repair the Rail-Trail constructed by the Department, as described in Section 2. Should the Permittee choose to construct further trail improvements its responsibilities for planning, design, construction, management and maintenance of the resulting improvements are described in Section 3.

- 1.2 In the event that the State of New Hampshire or Department determines that the Corridor is needed for railroad or other transportation purposes, and a Rail-with-Trail design for the Corridor is determined infeasible, the Department retains the right to require the closure of the Rail-Trail.
- 1.3 Subject to the provisions of this Agreement, the Permittee shall be the legal occupant of the Rail-Trail, having concurrent authority with the Department to control access to the Rail-Trail for special Town events, such as volunteer clean-up days, walking and running events and comparable uses. The Bureau will consider approving other uses that are generally consistent with the corridor’s intended use as a public trail upon the request of the Permittee.

## 2. Rail-Trail Maintenance & Operation

- 2.1 The Permittee shall limit motorized use of the Rail-Trail in accordance with Title 23 USC Chapter 2 Section 217 “Bicycle Transportation & Pedestrian Walkways” Subsection (h) “Use of Motorized Vehicles”, or as amended.
- 2.2 The Permittee shall be responsible for the management and operation of the Rail-Trail, including enforcement of rules governing its use. The Permittee must obtain the written approval of the Bureau for said rules, which shall not violate other terms and conditions of the Agreement. Obligations required of the Permittee regarding management, maintenance, and operations shall only be applicable to areas on the Rail-Trail which have improvements approved by the Department (as required herein), where the Rail-Trail is under construction, or where the Rail-Trail has been constructed.
- 2.3 The Department will be responsible for the maintenance of all state-maintained paved surfaces of public grade crossings as well as maintenance of all state-maintained overpasses and other state-maintained structures that are an integral part of the State-maintained highway system.

- 2.4 The Permittee shall be responsible for the routine maintenance of all existing and new drainage, culverts, ditches, walls, crossings, bridges and other structures that are integral to the long-term preservation of the Corridor and safe operation of the Rail-Trail.

Routine Trail Maintenance shall include:

- Trail surfacing (i.e. rutting & re-grading)
- Weed & brush control
- Cleaning ditches
- Unblocking & maintaining culverts
- Cleaning graffiti
- Trail signage
- Trash & debris removal

(Note: routine maintenance is defined in accordance with FHWA guidance.)

- 2.5 The Permittee shall protect and leave undisturbed all underground and overhead utilities on the Corridor after Rail-Trail construction, including new utility lines authorized by the Department.
- 2.6 The Permittee shall be responsible for the clearing of all downed trees across the Rail-Trail. All cleared trees shall be removed from Department property and disposed of off-site, except with written approval from the Bureau.
- 2.7 If drainage, runoff or any other problems caused by the presence of Rail-Trail improvements constructed by the Permittee are encountered after the Rail-Trail is complete, the Permittee shall, at its expense, make all repairs and alterations, including the payment of all Bureau costs required by the Bureau. The Permittee, with written approval from the Bureau of Rail & Transit, may install new drainage systems entering the Rail Trail from abutting properties to prevent flooding and washouts in the Corridor.
- 2.8 The Department retains the authority to approve additional utility services of all kinds to cross over, under and within the Corridor. The Department will notify the Permittee as to any such new utility easements on the Rail Trail. In the event the Department approves additional utility services that disturb the Rail-Trail, the Department shall stipulate in any utility agreement(s) that the utility shall restore all trail facilities disturbed during utility construction to their original condition. At the request of the Permittee, the Department will share copies of associated plans or as-builts resulting from the installation of additional utility services.
- 2.9 The Permittee shall obtain and install, at its expense, all signage along the Rail-Trail as shown on a Signage Plan to be developed by the Permittee. The initial Signage Plan and any subsequent revisions to the Plan shall be submitted by the Permittee to the Bureau for approval prior to installation. Any revenue generated through sponsorship of mile marker signage along the Rail-Trail shall be paid to the Department and shall be appropriately apportioned to communities along the Rail-Trail.

### 3. Rail-Trail Construction



Should the Permittee choose in the future to construct trail improvements as described above, its responsibilities for planning, design and construction of such trail improvements include the following:

- 3.1 The Permittee agrees that all work requested, authorized or managed by or under the direction of the Permittee on the construction, maintenance, repair and reconstruction of said Rail-Trail shall be performed at a time and under conditions acceptable to the Bureau. The Permittee shall submit construction plans for approval to the Bureau prior to construction. The Bureau shall, during the design phase, prepare a sample preliminary Prosecution of Work (POW) for the project.
- 3.2 The Permittee is solely responsible for its own equipment, contractors, and personnel along the Department-owned Corridor, including the cost of all on-site inspectors or other representatives of the Department.
- 3.3 At no time shall any work interfere with uses of the property by the Department, its lessees or assigns.
- 3.4 The Permittee is required to obtain, before construction activities proposed by the Permittee may begin, any and all other permissions, permits, easements and licenses required for said Rail-Trail by any federal, state, county, or local governments, and their agencies or boards, or any other political subdivision thereof.
- 3.5 The Permittee must submit plans for Rail-Trail construction proposed by the Permittee to the Bureau for review and approval. After the plans are approved by the Bureau ("Final Plans"), the Bureau will prepare a draft Temporary Use Agreement (TUA) with a POW that the Permittee may include in their bid documents during the contractor selection process. The TUA and POW will be executed between the Bureau and the Contractor and the Contractor may not begin work until this is fully executed.
- 3.6 The Permittee's Contractor selected to perform work along the Corridor must obtain a Temporary Use Agreement (TUA) and a final POW from the Bureau at the prevailing rate in effect at the time, and must provide evidence of required insurance coverage as specified in Section 4 prior to beginning any work on this project. There will be an additional charge for renewal of the contractor's Temporary Use Agreement if work goes beyond one (1) year.
- 3.7 The Permittee and its Contractor must abide by the Final Plans and POW during all phases of Rail-Trail construction proposed by the Permittee. The Permittee shall manage and enforce the approved TUA and POW. Failure to do so will be considered an Event of Default under the terms of Section 7.
- 3.8 The Permittee must notify the Bureau a minimum of seven (7) days prior to the Permittee or the Permittee's Contractor beginning any work on the Rail- Trail construction.
- 3.9 Disposal of railroad ties on the 9.6 mile corridor segment between Hampton and Portsmouth described in Section 1.1 is the responsibility of the Department per the scope of the approved CMAQ project for that portion of the corridor.
- 3.10 For construction of future trail improvements proposed by the Permittee, the Permittee shall construct, at its expense, all improvements required at existing public or private vehicular and pedestrian grade crossings for abutting landowners licensed by the Bureau. This work may include drainage, ditching, curbing, paving, fencing,

gates, signage, retaining walls and any other work required by the Final Plans and POW for the Rail-Trail. The Permittee shall not interfere with the use of any existing licensed crossings during construction of the Rail-Trail. The Permittee shall request and be provided a list of licensed crossings in the area of proposed trail improvements.

3.11 The Permittee and its Contractor shall protect and leave undisturbed all underground and overhead utilities on the Corridor during Rail-Trail construction. At the time of construction the Permittee shall request and be provided a list of all underground and overhead utilities by the Department.

3.12 Upon completion of any construction of work requested, authorized, managed by or under the direction of the Permittee, the Permittee shall provide the Bureau with a complete set of as-built plans.

#### 4. Indemnification and Insurance

*NOTE: Please be advised that this section and the requested changes has not yet been reviewed by the NH Attorney General's Office and we suggest the original wording be reviewed and considered. This wording can be found at the conclusion of the document in the "Clipboard" section.*

- 4.1 *The Department and Permittee agree that they both have interests in the Rail Trail through ownership of property, management responsibility and the ability to use the Rail Trail for its lawful purposes. Both the Permittee and the Department shall provide for their respective liabilities by the issuance of insurance or pooled risk management coverages that will protect their interests in the same manner as they currently provide for other respective duties for similar facilities and similar potential losses. All insurance or pooled risk management policies shall list both the Permittee and the Department as additionally insured.*
- 4.2 *Workers' Compensation Insurance or Pooled Risk Management Coverage in the amount as required by current State Statutes and Administrative Regulations that covers both the Department and Permittee employees, their contractors, licensees, lessees and assigns shall be provided by both the Department and the Permittee at their respective expense.*
- 4.3 *Comprehensive automobile liability insurance or pooled risk management coverage covering all motor vehicles, including owned, hired, borrowed and non-owned vehicles, for all claims of bodily injury, death or property damage: \$1,000,000 combined single limit shall be provided by both the Department and Permittee at their respective expense.*
- 4.4 *In addition, the Permittee, the Department, their contractors, licensees, lessees or assigns shall pay the premiums on a policy or policies of insurance covering the following during construction: Commercial General Liability or Pooled Risk Management Coverage of \$2,000,000 each occurrence with the Department and the Permittee being named additionally insured.*
- 4.5 *The Department and the Permittee further agree to obtain and keep in force after construction, for the life of the Rail Trail, a policy of insurance or pooled risk management coverage covering the Rail Trail, providing Comprehensive General Liability and Comprehensive Personal Liability with a minimum of \$1,000,000 per occurrence/\$2,000,000 aggregate coverage for bodily injury and property damage with the Department and Permittee listed as additionally insured in their respective policies.*

4.6 *The Permittee shall provide to the Department and the Department shall provide to the Permittee annually and maintain in force a certificate of insurance or coverage respectfully demonstrating that their required coverages have been obtained.*

5. Bonding

5.1 For any construction undertaken by the Permittee, the Permittee shall post with the Bureau proof of a Performance Bond for the total cost of the Permittee's Rail-Trail construction contract prior to the beginning of any construction work. The Bond must be held in force for a period of 6 months after the Permittee receives written notification from the Bureau of the acceptable completion of the work proposed in the Final Plans and the Scope of Work, in the judgment of the Bureau.

6. Term

6.1 There is no expiration date for this Agreement. However, the Parties may terminate this Agreement as specified in Section 7 for default. If the area occupied by the Rail-Trail is needed by the Department for additional rail lines or services, or for other future transportation needs, then this Agreement may be cancelled as per Section 7.3.

7. Default and Removal

7.1 Failure of the Permittee or its Contractor to abide by all construction requirements in this Agreement shall result in the Bureau issuing a notice to the Permittee to suspend all construction work immediately until the Event of Default is resolved.

7.2 Failure of the Permittee to comply with any of the above-specified covenants shall authorize the Department to close the Rail-Trail after fourteen (14) days written notice to Permittee. The Rail-Trail will remain closed until all provisions of this Agreement are met and the Event of Default is resolved. The Bureau may direct the Permittee to close the Rail-Trail at their sole expense including installation of physical barricades at public access points and installation of appropriate signage such as "Rail-Trail Closed" or "No Trespassing."

7.3 The State has the right to revoke this Rail-Trail Agreement at any time upon one hundred eighty (180) days' written notice to the Permittee to cease use of the Rail Trail.

7.4 In the event of the Permittee's breach of any of the provisions of the Agreement, the Permittee shall compensate the Department for its damages, including all consequential damages which arise out of the breach, and attorney's fees and costs incurred in connection with undertaking such an action.

8. Non-Assignment and Amendment; No Third Party Beneficiaries

8.1 This Agreement may not be assigned or transferred. Until terminated, this Agreement shall inure to the sole benefit of and be binding upon the Parties hereto.

8.2 This Agreement may be amended only by an instrument in writing, signed by the

Parties hereto, with the NH Attorney General's Office being the final signatory.

8.3 Nothing herein is intended to create any third party beneficiaries of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Rail-Trail Agreement in triplicate, the day and year first written above.

Witness

\_\_\_\_\_

PERMITTEE:  
TOWN OF NORTH HAMPTON

\_\_\_\_\_  
Town Manager

Witness

\_\_\_\_\_

STATE OF NEW HAMPSHIRE  
DEPARTMENT OF TRANSPORTATION

\_\_\_\_\_  
Commissioner

This Rail-Trail Agreement has been reviewed by this Office and has been approved as to form and execution on \_\_\_\_\_, 2017.

OFFICE OF THE ATTORNEY GENERAL

By: \_\_\_\_\_  
Assistant Attorney General

**CLIPBOARD**

**ALTERNATE WORDING FOR SECTION 4 – INSURANCE & INDEMNIFICATION**

4.1 The Permittee acknowledges that the installation and use of the Rail-Trail may expose the State to additional liability to which it would not otherwise be exposed. Accordingly, the Permittee agrees that it shall not hold the State liable for injury or death of the Permittee or agent of Permittee or for loss or destruction of or damage to any property of the Permittee or any agent of the Permittee while upon, or about, or in the use of the Rail-Trail. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant shall survive the termination of this Agreement. In addition, the Permittee or its Contractor shall pay the premiums on a policy or policies of insurance covering the following during the Rail-Trail construction activities proposed by the Permittee, designating the State of New Hampshire as an additional insured:

4.1.1 Worker’s Compensation Insurance or Pooled Risk Management Coverage in the amount as required by current State Statute

4.1.2 Comprehensive automobile liability insurance or pooled risk management coverage covering all motor vehicles, including owned, hired, borrowed and non-owned vehicles, for all claims of bodily injury, death or property damage: \$500,000.00 combined single limit.

In addition, the Permittee or its Contractor shall pay the premiums on a policy or policies of insurance covering the following during the construction of said Rail Trail, designating the State as an additional covered party:

4.1.3 Commercial General Liability or Pooled Risk Management Coverage: \$2,000,000.00 each occurrence

4.2 The Permittee further agrees to obtain and keep in force after construction, for the life of the Rail-Trail, a policy or policies of insurance or pooled risk management coverage covering said Rail-Trail, providing Comprehensive General Liability or Comprehensive Personal Liability with a minimum of one million (\$1,000,000.00) dollars per occurrence/two million (\$2,000,000.00) dollars aggregate covering bodily injury and property damage.

4.3 The Permittee shall provide to the Department annually and maintain in force a certificate of insurance or coverage respectively demonstrating that their required coverage has been obtained. Such insurance or coverage is a condition precedent to the effectiveness of this Agreement. Nothing contained herein shall be construed as a waiver of sovereign immunity. Failure to comply with the terms of this Section 4 shall constitute an Event of Default as provided in Section 7.





1 Proposed Amendments to the Portsmouth Zoning Ordinance: Sections 10.814 –  
2 Accessory Dwelling Units and 10.815 – Garden Cottages  
3 *January 15, 2019*  
4

5 10.814 Accessory Dwelling Units  
6

7 10.814.10 One, and only one, accessory dwelling unit shall be allowed on any lot containing a  
8 single-family dwelling. An accessory dwelling unit shall not be allowed under this  
9 Section 10.814 on a lot that contains more than one dwelling unit.  
10

11 10.814.20 Except as provided elsewhere in this Section 10.814, in order for a lot to be eligible for an  
12 accessory dwelling unit, the lot and all proposed structures and additions to existing  
13 structures shall conform to all zoning regulations as follows:  
14

15 10.814.21 Any municipal regulation applicable to single-family dwellings shall also  
16 apply to the combination of a principal dwelling unit and an accessory  
17 dwelling unit including, but not limited to, lot area, yards, open space,  
18 off-street parking, building coverage, and building height.  
19

20 10.814.22 An attached accessory dwelling unit is permitted on existing  
21 nonconforming lots and within existing nonconforming buildings as long  
22 as there is no increase in building height or building footprint for any  
23 portion of the existing building and no increase to the nonconformity.  
24

25 10.814.23 A detached accessory dwelling unit is not an accessory building or  
26 structure for the purposes of this Ordinance, and therefore shall be  
27 governed by the applicable minimum yard dimensions in Section 10.521 for  
28 a principal building or structure and not by the side yard and rear yard  
29 standards applicable to an accessory building.  
30

31 10.814.30 All accessory dwelling units shall comply with the following standards:  
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33 10.814.31 The principal dwelling unit and the accessory dwelling unit shall not be  
34 separated in ownership (including by condominium ownership).  
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36 10.814.32 Either the principal dwelling unit or the accessory dwelling unit shall be  
37 occupied by the owner of the dwelling as his or her principal place of  
38 residence. The owner shall provide documentation demonstrating to the  
39 satisfaction of the City that one of the units is his or her principal place of  
40 residence.  
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42 10.814.321 When the property is owned by one or more trusts, one of the  
43 dwelling units shall be the principal place of residence of the  
44 beneficiary(ies) of the trust(s).  
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10.814.33 Neither the principal dwelling unit nor the accessory dwelling unit shall be used for any business, except that the property owner may have a home occupation use in the unit that he or she occupies as allowed or permitted elsewhere in this Ordinance.

10.814.34 Electric, gas, water and sewer utilities for the accessory dwelling unit shall be on the same meters as the principal dwelling unit and shall not be billed separately from the principal dwelling unit.

10.814.35 Where municipal sewer service is not provided, the septic system shall meet NH Water Supply and Pollution Control Division requirements for the combined system demand for total occupancy of the premises.

10.814.40 An attached accessory dwelling unit (AADU) shall comply with the following additional standards:

10.814.41 An interior door shall be provided between the principal dwelling unit and the accessory dwelling unit.

10.814.42 The accessory dwelling unit shall not have more than two bedrooms and shall not be larger than 750 sq. ft. gross floor area. For the purpose of this provision, gross floor area shall not include existing storage space, shared entries, or other spaces not exclusive to the accessory dwelling unit.

10.814.43 Any exterior changes to the single-family dwelling shall maintain the appearance of a single-family dwelling. If there are two or more doors in the front of the dwelling, one door shall be designed as the principal entrance and the other doors shall be designed to appear to be secondary.

10.814.44 No portion of the AADU shall be closer to the front lot line than the existing front wall of the principal dwelling unit.

10.814.45 An AADU that is attached to the single-family dwelling (i.e., created by an expansion of the existing structure) shall comply with the following:

10.814.451 An exterior wall of the AADU that faces a street on which the lot has frontage shall comprise no more than 40 percent of the total visible façade area of the dwelling as seen from that street.

10.814.452 The addition to or expansion of the existing single-family dwelling may include an increase in building height only as an upward expansion of the existing principal building with no increase in building footprint.

10.814.453 The building height of any addition or expansion that includes an increase in building footprint shall be less than the building height of the existing principal building.

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10.814.453 The AADU shall be architecturally consistent with the existing principal dwelling through the use of similar materials, detailing, roof pitch, and other building design elements.

10.814.50 A detached accessory dwelling unit (DADU) shall comply with the following additional standards:

10.814.51 In a General Residence district, the combination of the principal dwelling and the DADU shall comply with the minimum lot area per dwelling unit specified for the district. (For example, the required lot area for a single-family dwelling with a DADU in the GRA district is 7,500 sq. ft. per dwelling unit multiplied by 2 dwelling units, or 15,000 sq. ft.)

10.814.52 The DADU shall not have more than two bedrooms and shall not be larger than 750 sq. ft. gross floor area; except that the maximum gross floor area shall be 1,000 sq. ft. if the lot area is 2 acres or more.

10.814.53 The DADU shall be clearly subordinate to the principal single-family dwelling in scale, height and appearance.

10.814.531 The façade area of the DADU that faces a street on which the lot has frontage shall be no more than 40 percent of the combined visible façade areas of the principal single-family dwelling and the DADU facing the same street.

10.814.532 The building height of the DADU shall be less than the building height of the principal single-family dwelling.

10.814.533 The DADU shall be architecturally consistent with the principal dwelling through the use of similar materials, detailing, and other building design elements.

10.814.54 The DADU shall be separated from the single-family dwelling by at least 20 feet.

10.814.55 The front wall of the DADU shall be set back at least 10 feet further from the front lot line than the existing front wall of the single-family dwelling.

10.814.56 No portion of the DADU shall be located in any required front yard, regardless of the location of the single-family dwelling.

10.814.60 Before granting a conditional use permit for an attached or detached ADU, the Planning Board shall make the following findings:

10.814.61 Exterior design of the ADU is consistent with the existing principal dwelling on the lot.

10.814.62 The site plan provides adequate and appropriate open space, landscaping and off-street parking for both the ADU and the primary dwelling.



- 1 10.815.30 Garden cottages shall comply with the following standards:  
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4 10.815.31 The existing accessory building shall not be expanded either vertically or  
5 horizontally, other than through the addition of a front entry not to exceed 50  
6 sq. ft., or a side or rear deck not to exceed 300 sq. ft.  
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8 10.815.32 A garden cottage shall not be larger than 600 sq. ft. gross floor area.  
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10 10.815.33 A garden cottage that is within a required yard for the zoning district shall  
11 not have any windows or doors higher than eight feet above grade facing the  
12 adjacent property.  
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14 10.815.34 The principal dwelling unit and the garden cottage shall not be separated  
15 in ownership (including by condominium ownership); and either the  
16 principal dwelling unit or the garden cottage shall be occupied by the  
17 owner of the property. The owner shall provide documentation  
18 demonstrating to the satisfaction of the City that one of the units is his or her  
19 principal place of residence.  
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21 10.815.341 When the property is owned by one or more [living](#) trusts, one  
22 of the dwelling units shall be the principal place of residence  
23 of the beneficiary(ies) of the trust(s).  
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25 10.815.35 Electric, gas, water and sewer utilities for the garden cottage shall be on  
26 the same meters as the principal dwelling unit and shall not be billed  
27 separately from the principal dwelling unit.  
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29 10.815.36 Where municipal sewer service is not provided, the septic system shall meet  
30 NH Water Supply and Pollution Control Division requirements for the  
31 combined system demand for total occupancy of the premises.  
32 10.815.40 Before granting a conditional use permit for a garden cottage, the Planning Board shall  
33 make the following findings:  
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35 10.815.41 Exterior design of the garden cottage is consistent with the existing single-  
36 family dwelling on the lot.  
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38 10.815.42 The site plan provides adequate and appropriate open space, landscaping,  
39 and off-street parking for both the garden cottage and the primary  
40 dwelling.  
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42 10.815.43 The garden cottage will maintain a compatible relationship to adjacent  
43 properties in terms of location and design, and will not significantly reduce  
44 the privacy of adjacent properties.  
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46 10.815.44 The garden cottage will not result in excessive noise, traffic or parking  
47 congestion.  
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49 10.815.50 In granting a conditional use permit for a garden cottage, the Planning Board may modify  
50 a specific dimensional or parking standard set forth in Section 10.815.30, including

1 requiring additional or reconfigured off-street parking spaces, provided that the Board  
2 finds such modification will be consistent with the required findings in Section 10.815.40.

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4 10.815.60 Documentation of the conditional use permit approval shall be recorded at the Rockingham  
5 County Registry of Deeds.

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7 10.815.70 A certificate of use issued by the Planning Department is required to verify compliance  
8 with the standards of this Section, including the owner-occupancy and principal residency  
9 requirements. Said certificate shall be issued by the Planning Department upon issuance of  
10 a certificate of occupancy by the Inspection Department and shall be renewed annually  
11 upon submission of such documentation as the Planning Department may require to verify  
12 compliance. A certificate of use shall not be issued prior to recording of documentation as  
13 required by 10.814.70.  
14



residence of a person or persons holding at least 80 percent of the ownership of the corporation.

10.814.33 Neither the principal dwelling unit nor the accessory dwelling unit shall be used for any business, except that the property owner may have a home occupation use in the unit that he or she occupies as allowed or permitted elsewhere in this Ordinance.

10.814.34 Electric, gas, water and sewer utilities for the accessory dwelling unit shall be on the same meters as the principal dwelling unit and shall not be billed separately from the principal dwelling unit.

10.814.35 Where municipal sewer service is not provided, the septic system shall meet NH Water Supply and Pollution Control Division requirements for the combined system demand for total occupancy of the premises.

10.814.40 An attached accessory dwelling unit (AADU) shall comply with the following additional standards:

10.814.41 An interior door shall be provided between the principal dwelling unit and the accessory dwelling unit.

10.814.42 The accessory dwelling unit shall not have more than two bedrooms and shall not be larger than 750 sq. ft. gross floor area. For the purpose of this provision, gross floor area shall not include existing storage space, shared entries, or other spaces not exclusive to the accessory dwelling unit.

10.814.43 Any exterior changes to the single-family dwelling shall maintain the appearance of a single-family dwelling. If there are two or more doors in the front of the dwelling, one door shall ~~clearly~~ be designed as the principal entrance and the ~~others~~ other doors shall be designed to appear to be secondary.

10.814.44 No portion of the AADU shall be closer to the front lot line than the existing front wall of the principal dwelling unit.

10.814.45 An AADU that is attached to the single-family dwelling (i.e., created by an expansion of the existing structure) shall comply with the following:

10.814.451 An exterior wall of the AADU that faces a street on which the lot has frontage shall comprise no more than 40 percent of the total visible façade area of the dwelling as seen from that street.

10.814.452 The addition to or expansion of the existing single-family dwelling may include an increase in building height only as an upward expansion of the existing principal building with no increase in building footprint shall not include any increase in building height of the existing principal building.

1 10.814.453 The building height of any addition or expansion that  
2 includes an increase in building footprint shall be less than  
3 the building height of the existing principal building.

4  
5 10.814.453 The AADU shall be architecturally consistent with the existing  
6 principal dwelling through the use of similar materials,  
7 detailing, roof pitch, and other building design elements.

8  
9 10.814.50 A detached accessory dwelling unit (DADU) shall comply with the following  
10 additional standards:

11  
12 10.814.51 In a General Residence district, the combination of the principal dwelling  
13 and the DADU shall comply with the minimum lot area per dwelling unit  
14 specified for the district. (For example, the required lot area for a single-  
15 family dwelling with a DADU in the GRA district is 7,500 sq. ft. per  
16 dwelling unit multiplied by 2 dwelling units, or 15,000 sq. ft.)

17  
18 10.814.52 The DADU shall not have more than two bedrooms and shall not be larger  
19 than 750 sq. ft. gross floor area; except that the maximum gross floor area  
20 shall be 1,000 sq. ft. if the lot area is 2 acres or more.

21  
22 10.814.53 The DADU shall be ~~separated from~~ clearly subordinate to the principal  
23 single-family dwelling by at least 20 feet in scale, height and appearance.

24  
25 10.814.531 The façade area of the DADU that faces a street on which the  
26 lot has frontage shall be no more than 40 percent of the  
27 combined visible façade areas of the principal single-family  
28 dwelling and the DADU facing the same street.

29  
30 10.814.532 The building height of the DADU shall be less than the  
31 building height of the principal single-family dwelling.

32  
33 10.814.533 The DADU shall be architecturally consistent with the  
34 principal dwelling through the use of similar materials,  
35 detailing, and other building design elements.

36  
37 10.814.54 The DADU shall be separated from the single-family dwelling by at least 20  
38 feet.

39  
40 10.814.55 The front wall of the DADU shall be set back at least 10 feet further from  
41 the front lot line than the existing front wall of the single-family dwelling.

42  
43 10.814.56 No portion of the DADU shall be located in any required front yard,  
44 regardless of the location of the single-family dwelling.

45



1 10.814.60 Before granting a conditional use permit for an attached or detached ADU, the Planning  
2 Board shall make the following findings:

3  
4 10.814.61 Exterior design of the ADU is ~~compatible~~consistent with the existing  
5 ~~residence~~principal dwelling on the lot ~~through architectural use of building~~  
6 ~~forms, scale and construction materials.~~

7  
8 10.814.62 The site plan provides adequate and appropriate open space ~~and,~~  
9 landscaping that is useful and off-street parking for both the ADU and the  
10 primary dwelling.

11  
12 10.814.63 The ADU will maintain a compatible relationship to adjacent properties in  
13 terms of location ~~and,~~ design, and off-street parking layout, and will not  
14 significantly reduce the privacy of adjacent properties.

15  
16 10.814.64 The ADU will not result in excessive noise, traffic or parking congestion.

17  
18 ~~10.814.70 A certificate of use issued by the Planning Department is required to verify compliance~~  
19 ~~with the standards of this Section, including the owner occupancy requirement. Said~~  
20 ~~certificate shall be renewed annually.~~

21  
22 ~~10.814.80~~10.814.70 In granting a conditional use permit for an accessory dwelling unit, the  
23 Planning Board may modify a specific ~~dimensional or parking~~ standard set forth in ~~this~~  
24 Sections 10.814.40 or 10.814.50, including requiring additional or reconfigured off-street  
25 parking spaces, provided that the Board finds such modification will be consistent with  
26 the required findings in Section 10.814.60.

27  
28 10.814.80 Documentation of the conditional use permit approval shall be recorded at the Rockingham  
29 County Registry of Deeds.

30  
31 10.814.90 A certificate of use issued by the Planning Department is required to verify compliance  
32 with the standards of this Section, including the owner-occupancy and principal residency  
33 requirements. Said certificate shall be issued by the Planning Department upon issuance of  
34 a certificate of occupancy by the Inspection Department and shall be renewed annually  
35 upon submission of such documentation as the Planning Department may require to verify  
36 compliance. A certificate of use shall not be issued prior to recording of documentation as  
37 required by 10.814.70.

## 38 39 40 10.815 Garden Cottages

41  
42 An accessory building existing on the effective date of this ordinance may be converted to a  
43 garden cottage through a conditional use permit granted by the Planning Board, subject to the  
44 following provisions and limitations.

45  
46 10.815.10 One garden cottage, and only one, shall be allowed on any lot containing a single-  
47 family dwelling.  
48

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- 10.815.20 Relationship to other provisions of this Ordinance:
- 10.815.21 No garden cottage shall be allowed on the same lot as an accessory dwelling unit authorized under this Ordinance.
- 10.815.22 The establishment of a garden cottage results in two dwelling units on the property and thus makes the property ineligible to establish an accessory dwelling unit under RSA 674:72-73 and this Ordinance. As a condition of receiving a conditional use permit for a garden cottage, the property owner shall waive all rights under RSA 674:72 and RSA 674:73.
- 10.815.23 A garden cottage that complies with the standards of this section is exempt from the residential density standards of the Zoning Ordinance. A second dwelling unit on a lot that does not comply with the standards of this section shall be considered to be either a second primary dwelling or an accessory dwelling unit and shall comply with the applicable standards and provisions of the Ordinance.
- 10.815.30 Garden cottages shall comply with the following standards:
  - 10.815.31 The existing accessory building shall not be expanded either vertically or horizontally, other than through the addition of a front entry not to exceed 50 sq. ft., or a side or rear deck not to exceed 300 sq. ft.
  - 10.815.32 A garden cottage shall not be larger than 600 sq. ft. gross floor area.
  - 10.815.33 A garden cottage that is within a required yard for the zoning district shall not have any windows or doors higher than eight feet above grade facing the adjacent property.
  - 10.815.34 The principal dwelling unit and the garden cottage shall not be separated in ownership (including by condominium ownership); and either the principal dwelling unit or the garden cottage shall be occupied by the owner of the property. The owner shall provide documentation demonstrating to the satisfaction of the City that one of the units is his or her principal place of residence.
    - ~~10.815.341 When the property is owned by one or more living trusts, one of the dwelling units shall be the principal place of residence of the beneficiary(ies) of the trust(s).~~
    - ~~10.815.342 When the property is owned by a limited liability corporation, one of the dwelling units shall be the principal place of residence of a person or persons holding at least 80 percent of the ownership of the corporation.~~
  - 10.815.35 Electric, gas, water and sewer utilities for the garden cottage shall be on the same meters as the principal dwelling unit and shall not be billed separately from the principal dwelling unit.

1 10.815.36 ~~Where municipal sewer service is not provided, the septic system shall meet~~  
2 ~~NH Water Supply and Pollution Control Division requirements for the~~  
3 ~~combined system demand for total occupancy of the premises.~~

4  
5 10.815.40 Before granting a conditional use permit for a garden cottage, the Planning Board shall  
6 make the following findings:

7  
8 10.815.41 Exterior design of the garden cottage is ~~compatible~~consistent with the  
9 existing ~~residences~~single-family dwelling on the lot ~~through architectural~~  
10 ~~use of building forms, scale and construction materials.~~

11  
12 10.815.42 The site plan provides adequate and appropriate open space ~~and,~~  
13 landscaping ~~that is useful, and off-street parking~~ for both the garden  
14 cottage and the primary dwelling.

15  
16 10.815.43 The garden cottage will maintain a compatible relationship to adjacent  
17 properties in terms of location and design, and will not significantly reduce  
18 the privacy of adjacent properties.

19  
20 10.815.44 The garden cottage will not result in excessive noise, traffic or parking  
21 congestion.

22  
23 ~~10.815.50~~ ~~A certificate of use issued by the Planning Department is required to verify compliance~~  
24 ~~with the standards of this Section, including the owner-occupancy requirement. Said~~  
25 ~~certificate shall be renewed annually.~~

26  
27 ~~10.815.60~~10.815.50 In granting a conditional use permit for a garden cottage, the Planning Board  
28 may modify a specific dimensional or parking standard set forth in ~~this~~ Section 10.815.30,  
29 including requiring additional or reconfigured off-street parking spaces, provided that the  
30 Board finds such modification will be consistent with the required findings in Section  
31 10.815.40.

32  
33 10.815.60 Documentation of the conditional use permit approval shall be recorded at the Rockingham  
34 County Registry of Deeds.

35  
36 10.815.70 A certificate of use issued by the Planning Department is required to verify compliance  
37 with the standards of this Section, including the owner-occupancy and principal residency  
38 requirements. Said certificate shall be issued by the Planning Department upon issuance of  
39 a certificate of occupancy by the Inspection Department and shall be renewed annually  
40 upon submission of such documentation as the Planning Department may require to verify  
41 compliance. A certificate of use shall not be issued prior to recording of documentation as  
42 required by 10.814.70.



## CITY OF PORTSMOUTH NEIGHBORHOOD PARKING PROGRAM (NPP) GENERAL PARAMETERS

---

In areas where a neighborhood parking program is established, on-street parking will be limited to two hours on residential streets. Residents who live on street that participate in the program may obtain a permit that will exempt them from posted time limits. Enforcement hours will be 9 am to 8 pm, daily.

The NPP will first be available on a pilot basis; the City Manager shall have the authority to make necessary changes throughout the pilot period to accommodate unanticipated circumstances. Any required fees associated with the program will be set by the City Council.

### How to Become a Neighborhood Parking Area:

Residents must petition the City, via its Parking Office, in order for their streets to be subject to NPP rules. In order for the petition to be accepted:

- The petitioners must designate a NPP Steering Committee. The Steering Committee Chair is the designated liaison between the City and the Neighborhood, regarding neighborhood-specific policies, such as enforcement hours. If the neighborhood has an established Neighborhood Committee, petitioners are encouraged to work through that group.
- The NPP Steering Committee is responsible for contacting its residents, circulating a petition, and obtaining signatures for a minimum of 75% of single-family households within the NPP neighborhood. The petition must encompass all households on the streets listed. One signature per household. A 'household' is defined as a legal single-family residential address. Two units in a building qualifies as two households.
- Staff will evaluate the petition request, ensure that all petition requirements are met, and make a recommendation to City Council.

### How the Program Works:

The time limit for parking in an NPP neighborhood without a valid permit is two (2) hours, and will be actively enforced.

- Participation in the program is voluntary. If you choose not to participate, you must obey the posted restrictions in the area if you wish to park on the street. Vehicles not registered with an NPP are subject to enforcement.
- A Parking Enforcement Officer will be assigned to patrol the neighborhood during the enforcement hours. The dispatch office can be reached at 603.766.7000, ext. 7.
- All city parking ordinances continue to apply: vehicles may not be parked within fifteen (15) feet of either side of a fire hydrant; within an intersection; on a crosswalk, or within twenty (20) feet of an intersection. Any vehicle that is parked for a period of time so that it appears to be abandoned may be tagged and required to be removed within 72 hours. These rules each apply regardless of whether the vehicle displays a valid NPP permit.

### How to Receive your Parking Permit/Permit Rules:

- Once the neighborhood is approved for an NPP, individual applicants apply for a permit.
- Permit applicants must be able to show proof of residency within the NPP neighborhood. Residence must be the primary residence (i.e.) where you are registered to vote.
  - Similar to other residency-based parking programs, proof of residency can be established with a valid, NH Driver's license with the appropriate address, motor vehicle registration showing that the vehicle being registered is in your name, and either a current utility bill or a fully-executed lease agreement.
- Each eligible household may obtain one (1) transferable Guest permit to be used on a vehicle of its choice (trucks over 5500 lbs. do not qualify). A participating household is defined as a household in which at least one resident holds a valid annual NPP Permit issued by the City.
- Each vehicle must be registered to an applicant living at the address. If a resident drives an employer-assigned vehicle, the resident must provide written documentation of assignment from their employer in addition to a copy of the vehicle registration.
- Applicant must resolve all outstanding City-related financial obligations prior to receiving a permit (e.g. outstanding parking tickets).

- Businesses located within an NPP Neighborhood are eligible for one (1) Neighborhood Parking Permit, net of available off-street parking associated with the property.

Permits for Special Events/Contractors/Service Vehicles:

- If a resident needs to utilize a Service Provider such as a plumber or electrician, and the contractor is doing work subject to a Building Permit, he/she can display a copy of that active permit on the dashboard of the vehicle. If there is no active building permit for the project, the resident may visit the Foundry parking offices at 100 Foundry Place, Portsmouth, NH to request a temporary placard for the provider for that specific date, which the service provider must then display on the dashboard of the vehicle when parked.
- If replacing an NPP-registered vehicle, registrant may either transfer the plate to the new vehicle and update vehicle information with the Parking Clerk’s offices, or register the new plate, cancelling the existing plate. Applicant must again provide required proofs of residency.
- To facilitate on-street parking for Events, actively-participating NPP households may request up to four (4) Single-day Event Visitor Permits per calendar month, allowing event guests to park up to 24 hours. Interested residents can obtain Event passes at the Foundry parking offices located at 100 Foundry Place, Portsmouth, NH. Fees associated with such permits will be established and updated by the City Council.

Other Rules:

- Participants understand that a permit does not guarantee a parking space on any street.
- All permits are subject to annual renewal; proof of residency is required for renewal.
- If any information on the NPP application form is falsified, or if you switch plates among vehicles, the permit will be revoked.
- The Guest Placard is intended to be transferable.
- NPP registrations become null and void if used on a vehicle other than the vehicle listed on the application.

Neighborhood-Specific Rules

**Islington Creek\*:** This program applies to these specific streets: McDonough from Salem to Brewster; Cabot from Islington to the Railroad tracks; Rockingham; Cornwall; Langdon, wrapping around to Brewster; Brewster, wrapping around to Langdon; Sudbury; Hanover from Brewster to Bridge; Rock Street from Islington to the signage at Heinemann; Pearl Street; Parker Street; Tanner Court; Hill Street

Islington Creek households are eligible to acquire a maximum of three (3) permits and one (1) guest permit per household, net of available off-street parking associated with the property.



**South End\*\*:** The program applies to these specific streets: Hancock; Gates; Howard; Manning; Meeting House Hill; Marcy (south of Hancock); Walton Alley; Gardner; Hunking, and Pickering. Strawberry Banke Properties are separately governed and are not subject to this program.

South End households are eligible to acquire a maximum of two (2) permits and one (1) guest permit per household, net of available off-street parking associated with the property.





# PARKPORTSMOUTH

## Neighborhood Parking Program

City Council

1.22.19

# Neighborhood Parking Program-Portsmouth

- History
- Defining Target Neighborhoods
- Program General Guidelines
- Neighborhood Maps
  - South End
  - Islington Creek
- Discussion



## Program General Guidelines

- This Program Is Neighborhood-Specific
- Recommended Enforcement: 9am-8pm Daily
- Two (2) Permits per Household (South End)
- Three (3) Permits per Household (Islington Creek)
- One (1) Guest Permit per Household
- Four (4) 1-day Event Passes Each Month
- Owners and Renters are Eligible to Sign Petition



## Program General Guidelines-Continued

- Properties with Driveways are Eligible for Permits
  - Permit Eligibility is Net of Off-Street Parking
- Violators Are Ticketed; Towed on 3<sup>rd</sup> Offense
- Fees Will Be Determined by City Council
- Participation Is Not Mandatory
- Permit Does Not Guarantee Space
- Assess at the 6-Month Point of a 1-Year Pilot



# Islington Creek Neighborhood Parking Pilot Street Map



\*McDonough from Salem to Brewster; Cabot from Islington to the tracks; Rockingham; Cornwall; Langdon, wrapping around to Brewster; Sudbury; Hanover from Brewster to Bridge; Rock St. from Islington to signage at Heinemann; Pearl; Parker; Tanner Court; Hill Street

# Sample Petition



## PETITION FOR NEIGHBORHOOD PARKING PERMIT (NPP) NEIGHBORHOOD

A Neighborhood Association may petition the City to implement a Residential Parking Program for an area contained within its boundaries so long as the Council-approved criteria are met.

We, the undersigned residents of the ISLINGTON CREEK Neighborhood Association, on file with the City of Portsmouth Citywide Neighborhood Committee, petition the City of Portsmouth for designation as a Neighborhood Parking Program (NPP) Neighborhood.

Petitions must contain signatures of 75% or more of the households (defined as a legal single-family residential address) within the Neighborhood area. One signature per household. Where there are no conflicting parking regulations, this program will restrict the parking of vehicles, permitted vehicles exempted, subject to applicable criteria and existing City ordinances.

Once an NPP District has been designated, residents will be notified of the date when signs are to be posted. Instructions for obtaining permits, and information on the enforcement process.

To the best of my knowledge, the signatures contained below are an accurate representation of the residents of the above-referenced Neighborhood Association.

**Example**

<u>PROPERTY ADDRESS</u>	<u>Dwellings</u>	<u>Signature of Association Advocate</u>	<u>Signature</u>	<u>Printed Name</u>	<u>Phone</u>	<u>Date</u>
1234 Brewster Street	Four					
5678 Cabot Street	Two					
4321 Langdon Street	One					
8765 Pearl Street	Three					



# PARKPORTSMOUTH

Discussion



# SEWER WORK NOTICE



The City of Portsmouth has been conducting a sewer system evaluation over the last two years. A sewer system evaluation identifies sources of extraneous groundwater and stormwater in the sewer system. The results of this program will be used to eliminate these extraneous sources of water and, therefore, reduce overall treatment and conveyance costs. One of the items associated with this program is inspection of buildings in areas where the measured amounts of extraneous water in the sewer system was found to be more than acceptable. If you are receiving this notice your home/building is located in one of those areas. The objective of the inspection program is to verify sanitary sewer service connections, roof leader and downspout configuration and connections, and identify sump pump connections to the City's sewer and drain systems.

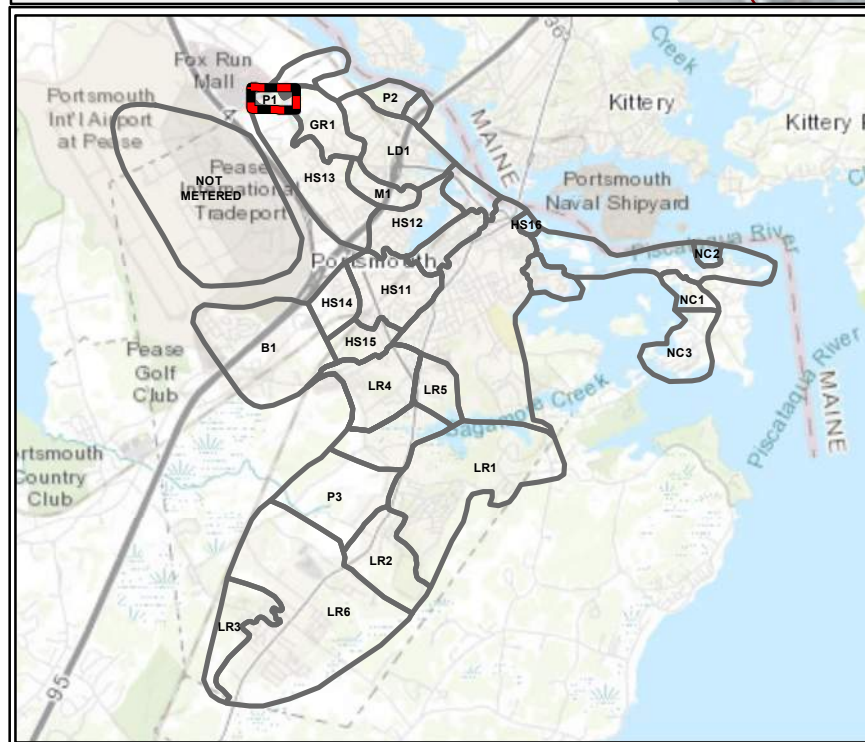
The City of Portsmouth has contracted Flow Assessment Services to conduct the building inspection program. The inspection will consist of two to three Flow Assessment Services employees and a City Representative that will visit your home/building to inspect the exterior and the interior (typically just the basement) of your home/building. The inspection team will be evaluating the building's roof drain and downspout disposition as well as configuration and discharge points of sanitary receptacles. Inspections will be conducted Monday through Friday from 8:00 AM to dusk and will take approximately 30 minutes. If necessary, the inspection team will make arrangements for after hours and Saturday inspections. Members of the inspection team will be sensitive to your privacy and will be as non-disruptive as possible. All building inspection personnel will be carrying and prominently display project identification badges.

Building inspections will commence on Tuesday January 22, 2019 and continue through the next three weeks. Unless you wish to set up a specific inspection date and time, the building inspection crews will be visiting your home or business in the upcoming days/months. If you do wish to set up a specific inspection date and time, please contact Flow Assessment Services at 1-888-311-9799 at your earliest convenience.

Please contact Flow Assessment Services at 1-888-311-9799 or the City Engineer, Terry Desmarais, at 603-766-1421 or [tidesmarais@cityofportsmouth.com](mailto:tidesmarais@cityofportsmouth.com) should you have any questions or concerns.

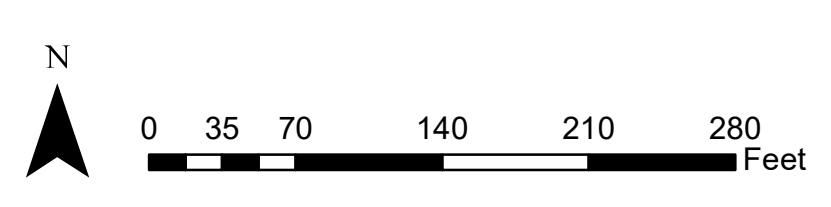


Flow Assessment Services | 72 Priscilla Ln. | Auburn, NH 03032  
PH: 603-656-9799 | [www.flowassessment.com](http://www.flowassessment.com)



**Legend**

- |                                     |                          |                     |
|-------------------------------------|--------------------------|---------------------|
| Flow Assessment Building Inspection | Drain Catchbasin         | DrainLine           |
| Private Sewer Manhole               | Drain Manhole            | Unknown Diameter    |
| City Sewer Manhole                  | Drain Separator (Vortex) | 0-12"               |
| Portsmouth-FM                       | Drain Buried End         | 14-27"              |
| FANonSmokeTestingPipe               | Drain Inlet/Outlet       | 28-36"              |
| SMOKE TESTING PIPE                  | NH Drain Outfall         | 36-54"              |
| 0-8"                                | Stream Junction          | Flow Meter Basin    |
| 10-12"                              | Combined Sewer Area      | Combined Sewer Area |
| 14-18"                              |                          |                     |
| 24-36"                              |                          |                     |



**Map 1 of 3**

**Portsmouth Inflow Study**  
Flow Assessment Field Map  
Portsmouth, NH  
**Building Inspection Areas**

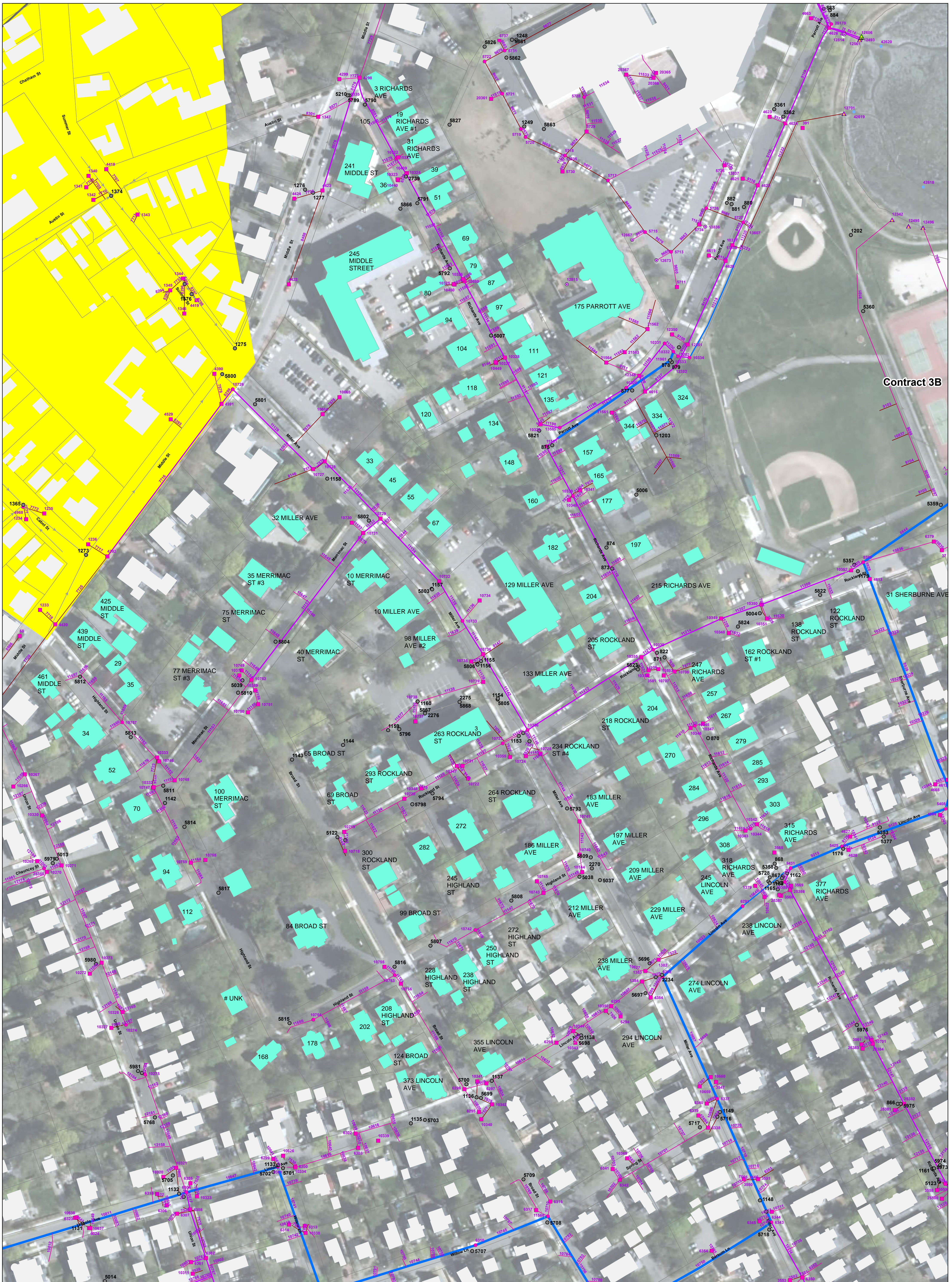


Project #: 0227950.03  
Map Created: October 2018

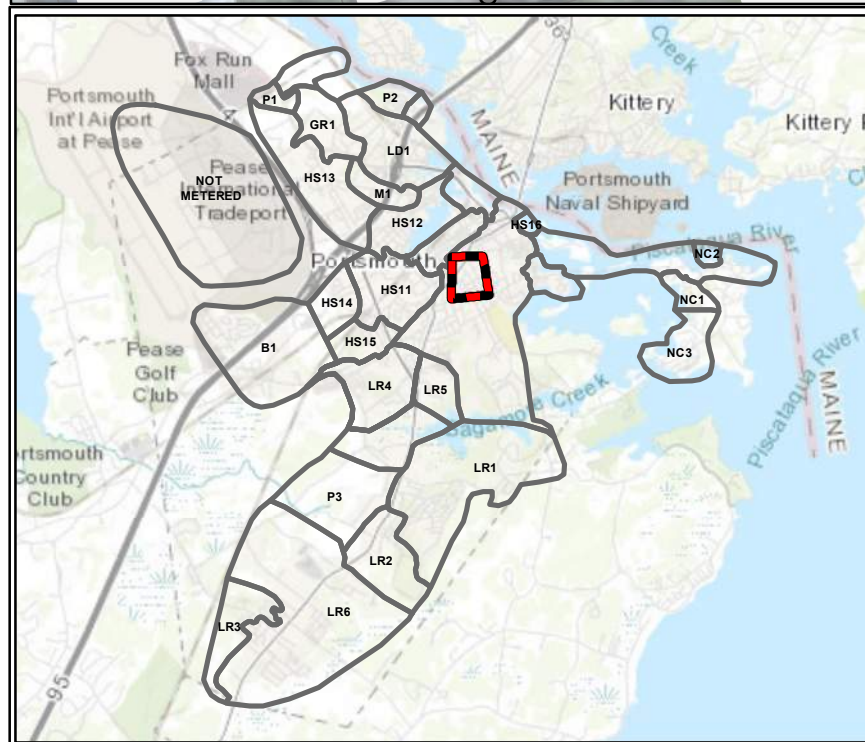
Third Party GIS Disclaimer: This map is for reference and graphical purposes only and should not be relied upon by third parties for any legal decisions. Any reliance upon the map or data contained herein shall be at the users' sole risk.







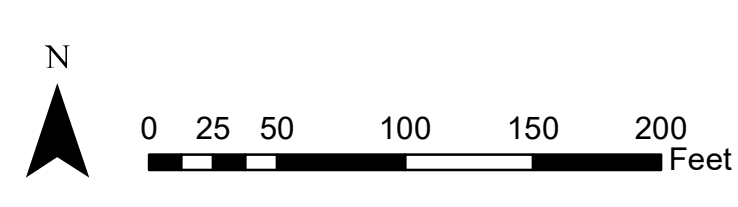
Contract 3B



**Legend**

- Flow Assessment Building Inspection
- Private Sewer Manhole
- City Sewer Manhole
- Portsmouth-FM
- FANonSmokeTestingPipe
- SMOKE TESTING PIPE
- 0-8"
- 10-12"
- 14-18"
- 24-36"
- Drain Catchbasin
- Drain Manhole
- Drain Separator (Vortex)
- Drain Buried End
- Drain Inlet/Outlet
- NH Drain Outfall
- Stream Junction
- Flow Meter Basin
- Combined Sewer Area

- DrainLine**
- Unknown Diameter
- 0-12"
- 14-27"
- 28-36"
- 36-54"



**Map 3 of 3**

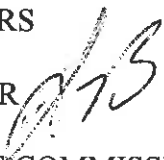
**Portsmouth Inflow Study**  
Flow Assessment Field Map  
Portsmouth, NH  
Building Inspection Areas



Project #: 0227950.03  
Map Created: October 2018

Third Party GIS Disclaimer: This map is for reference and graphical purposes only and should not be relied upon by third parties for any legal decisions. Any reliance upon the map or data contained herein shall be at the users' sole risk.

**CITY OF PORTSMOUTH  
OFFICE OF THE MAYOR  
MEMORANDUM**

DATE: JANUARY 11, 2019  
TO: CITY COUNCIL MEMBERS  
FROM: JACK BLALOCK, MAYOR   
RE: REPORT OF THE POLICE COMMISSIONERS' REVIEW PANEL

---

As the Council is aware, following the unfortunate resignation of Rev. Arthur Hilson from the Portsmouth Police Commission on November 27, 2018, it became necessary for the Council to appoint a successor to fill the vacant position until the next regular municipal election. After discussion with the Council on December 3, 2018, I appointed a Police Commission Review Panel consisting of citizen members Thomas Ferrini and John Lyons, as well as Council members Nancy Pearson, Doug Roberts and myself. The purpose of the Review Panel was to develop a recommendation for the full City Council to consider in making the appointment.

The process which the Review Panel followed was to solicit applications and resumes from any City residents interested in filling the position. Initially there were seven applicants for the position. After the withdrawal of one candidate, the following six persons remained:

Stefany Shaheen of 77 South Street  
Kenneth E. Smith of 298 Myrtle Avenue  
Albert (Buzz) Scherr of 390 Greenleaf Avenue  
H. Kevin Watt of 35 Octopus Avenue  
Jacqueline Cali-Pitts of 40 Bedford Way  
Thomas P. Hart of 165 Cutts Street.

The solicitation was followed by distribution to those persons of a series of nine questions, which were:

1. The Commission provides "civilian oversight." What will that mean to you in terms of your relationship with the Police Chief and department?
2. What do you see the job of Police Commissioners to be – critic, advocate for department, placeholder, activist?
3. Please describe your general management style and give examples of how you might deal with issues that arise with budget conflicts, labor disputes, citizen complaints.
4. Describe three of your accomplishments that you consider to be the most significant and relevant to the job of Police Commissioner.

5. Please identify the policy areas you would focus upon and describe how you intend to approach them.
6. Do you see a conflict between overseeing the police department in a manner that may be constructive, but critical, versus supporting and advocating for the police in the performance of their duties? How would you balance these concerns?
7. Are you committed to reviewing police operations and staffing in light of data from other communities and national standards as regarding best practices, staffing to population ratios and budgetary needs?
8. If you are appointed to fill the unexpired term, will you run for election to the Police Commission when the appointed term ends?
9. How would you balance your sometimes conflicting obligations to the Police Chief and his management team, the rank and file police officers, and the citizens and taxpayers of Portsmouth?

Upon receipt from the candidates of their answers to the questions, a public meeting was held on January 8<sup>th</sup>. During that meeting (which may be reviewed on YouTube), each of the candidates was provided with an opportunity to make an opening statement to the Panel. Each candidate was then interviewed by the members of the Panel.

Following the interviews, the members of the Panel deliberated on the question of which of the applicants to recommend to the City Council. The deliberations were made difficult by the fact that it was the universal belief of the Panel that all six of the people who applied for the position were capable of serving the City in an admirable fashion as Police Commissioner.

Following deliberations the Panel selected Stefany Shaheen.

Accordingly, this memorandum is to advise the members of the City Council that the Police Commissioners Review Panel recommends to the full City Council that Stefany Shaheen be appointed to the Portsmouth Police Commission to serve as a replacement for Rev. Arthur Hilson until the next regular municipal election.

c.: John P. Bohenko, City Manager  
Robert Merner, Chief of Police



# CITY OF PORTSMOUTH

---

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

**SENT VIA E-MAIL**

January 2, 2019

Police Commissioner Candidates

*REF: Police Commission Candidate Questions*

Dear Candidate:

Mayor Blalock, on behalf of the Police Commissioners Review Panel is requesting that each candidate complete answers to the following questions outlined below.

1. The Commission provides "civilian oversight." What will that mean to you in terms of your relationship with the Police Chief and department?
2. What do you see the job of Police Commissioners to be – critic, advocate for department, placeholder, activist?
3. Please describe your general management style and give examples of how you might deal with issues that arise with budget conflicts, labor disputes, citizen complaints.
4. Describe three of your accomplishments that you consider to be the most significant and relevant to the job of Police Commissioner.
5. Please identify the policy areas you would focus upon and describe how you intend to approach them.
6. Do you see a conflict between overseeing the police department in a manner that may be constructive, but critical, versus supporting and advocating for the police in the performance of their duties? How would you balance these concerns?

7. Are you committed to reviewing police operations and staffing in light of data from other communities and national standards as regarding best practices, staffing to population ratios and budgetary needs?
8. If you are appointed to fill the unexpired term, will you run for election to the Police Commission when the appointed term ends?
9. How would you balance your sometimes conflicting obligations to the Police Chief and his management team, the rank and file police officers, and the citizens and taxpayers of Portsmouth?

Please be advised that the answers to these questions must be submitted to City Clerk Barnaby no later than **Friday, January 4, 2019, at 11:30 a.m.**

If you should have any questions, please do not hesitate to contact the office directly. I can be reached via telephone at 610-7207 or e-mail at [klbarnaby@cityofportsmouth.com](mailto:klbarnaby@cityofportsmouth.com).

Sincerely,



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

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

cc: Police Commissioners Review Panel

*Police Commissioner Candidates that received letter via e-mail:*

*Thomas P. Coakley  
Stefany Shaheen  
Kenneth E. Smith  
Albert (Buzz) Scherr  
H. Kevin Watt  
Jacqueline Cali-Pitts  
Thomas P. Hart*

# STEFANY SHAHEEN

Mayor Jack Blalock  
c/o Kelli Barnaby, City Clerk  
City Hall  
Portsmouth, NH 03801

January 1, 2019

Dear Mayor Blalock,

Thank you for the opportunity to share more information with the Selection Committee about how I would approach serving on Portsmouth's Police Commission and what I can bring to the job. Please see my answers to the Committee's questions below.

1. The Commission provides "civilian oversight." What will that mean to you in terms of your relationship with the Police Chief and department?

**Portsmouth's Police Commission plays a critically important role in ensuring transparency and open communication between the community and the Police Department. Civilian oversight is at the heart of this responsibility. To provide civilian oversight, it is essential that the Police Commission adhere to the City Charter, establish open and clear lines of communication, and govern with integrity. In working with the Police Chief and the Department, civilian oversight requires direct and open communication, the ability to listen, and the capacity to gather and discern necessary information to make decisions. Ultimately, effective civilian oversight ensures trust in a process that the community can count on when hard decisions need to be made.**

2. What do you see the job of Police Commissioners to be – critic, advocate for department, placeholder, activist?

**The job of Police Commissioners is to adhere to the City Charter, establish open and clear lines of communication, and govern with integrity. At times, fulfilling these responsibilities will require Commissioners to advocate for the Department. At other times, the job will demand that Commissioners challenge the Department. It is important that Commissioners recognize the difference depending on the situation or circumstance.**

3. Please describe your general management style and give examples of how you might deal with issues that arise with budget conflicts, labor disputes, citizen complaints.

**My management style is one of consensus building through direct and open communication. I have many years of experience managing people, complex projects**

**77 South Street Portsmouth, New Hampshire**

# STEFANY SHAHEEN

and sensitive negotiations. These experiences range from founding a company which now employs more than 50 people; to mergers of multiple non-profit organizations; to serving on the City Council. I have also earned two master's degrees in Management. Both my work experience and professional training reinforced the importance of listening and seeking to understand as many perspectives as possible because this leads to better decision making, conflict resolution and makes it possible to establish the foundation for collaboration and consensus-building.

When an issue arises, the first thing I will do as a Police Commissioner is seek to understand the complexities and nuances of the particular matter by listening carefully and studying all the information I can access. Information gathering is a key part of the process and this includes everything from listening and questioning key stakeholders, to studying best practices, to evaluating relevant data. Once the necessary information is gathered, it is important to act decisively, bring people together, and communicate in a clear and complete way.

4. Describe three of your accomplishments that you consider to be the most significant and relevant to the job of Police Commissioner.

**Tackling Water Contamination –** During my tenure on the Portsmouth City Council, the contamination of Portsmouth's largest aquifer was discovered. Following this discovery, I worked with numerous stakeholders ranging from the Testing for Pease citizen group to the State Department of Environmental Services to the United States Air Force to develop and implement a plan for treating the aquifer and to make sure that those who were exposed to the contamination had access to blood tests and other health screenings. Currently, I serve on the citizen advisory group working with federal agencies on a national health study for those impacted.

**Serving on the City Council –** This experience taught me a great deal about contract negotiations, the city's budgeting process, and the importance of transparency. I also served during a tumultuous time for the Police Department and Police Commission. As a result, I have a deep appreciation for the role of an effective Police Commission in ensuring the community's trust.

**Founding Early Learning NH –** This statewide non-profit organization was founded through the merger of five non-profit organizations to ensure that every child has access to quality affordable early education. I led the merger process to establish Early Learning NH and then served as the first Executive Director. The merger process required me to navigate delicate negotiations, competing interests, staffing plans, and the budgeting process. This experience also reinforced the importance of law enforcement as a key partner in advocating for the needs of young children today, so they don't end up in the judicial system for all the wrong reasons tomorrow.



# STEFANY SHAHEEN

5. Please identify the policy areas you would focus upon and describe how you intend to approach them.

**One of the key policy areas that I would like to focus on is school safety. The recent discovery of a missing loaded handgun magazine by an elementary school student at Little Harbour School is another reminder of the vulnerabilities young people in our community face during school hours.**

**I would approach this priority first by seeking to understand the on-going work between the Police and School Departments. It will be important to answer questions such as: What policies are currently in place? Which partners need to be engaged? What are best practices in other communities? Once these questions are answered, then the process of analysis can begin. If improvements are needed, I will work with key stakeholders to develop recommendations. Recommendations can then be shared with governing bodies such as the School Board and City Council to evaluate, refine and consider implementing.**

6. Do you see a conflict between overseeing the police department in a manner that may be constructive, but critical, versus supporting and advocating for the police in the performance of their duties? How would you balance these concerns?

**As stated above, the job of Police Commissioners is to adhere to the City Charter, establish open and clear lines of communication, and govern with integrity. At times, fulfilling these responsibilities will require Commissioners to advocate for the Department. At other times, the job will demand that Commissioners challenge the Department. It is important that Commissioners recognize the difference depending on a given situation or circumstance.**

**For each Police Commissioner, striking this balance is perhaps the most important part of the job. It is critical that Commissioners understand when it is time to fight for something that the Police Department needs to effectively keep our community safe and when it is time to challenge the Department to prioritize and make necessary tradeoffs.**

7. Are you committed to reviewing police operations and staffing in light of data from other communities and national standards as regarding best practices, staffing to population ratios and budgetary needs?

**Yes. I will eagerly study best practices and have experience and training in discerning complex data. It is also important to note here that not all data is transferrable from one community to another. While I will study best practices from other places, I will also work to parse the differences in order to make appropriate decisions for this community.**

# STEFANY SHAHEEN

8. If you are appointed to fill the unexpired term, will you run for election to the Police Commission when the appointed term ends?

Yes.

9. How would you balance your sometimes conflicting obligations to the Police Chief and his management team, the rank and file police officers, and the citizens and taxpayers of Portsmouth?

**This question is at the core of the roles and responsibilities for Portsmouth's Police Commission. Commissioners must work tirelessly to determine when it is time to fight for something that the Police Department needs to effectively keep our community safe and when it is time to challenge the Department to prioritize and make necessary tradeoffs. This is what it means to provide civilian oversight. I have experience striking this delicate balance and pledge that if I am given the chance to serve on the Police Commission, I will work tirelessly with the Department, City and Community to help make these tradeoffs and keep our community safe.**

Once again, I am grateful to you and the entire Selection Committee for your time and careful consideration. Please let me know if I can provide any other information about my background or interest in this responsibility. I can be reached via email: [stefanyshaheen@gmail.com](mailto:stefanyshaheen@gmail.com) or phone: (603) 817-9740.

Thank you for your tireless work on behalf of our community.

Sincerely,

Stefany Shaheen

Cc: John Bohenko, City Manager

1. The Commission provides "civilian oversight." What will that mean to you in terms of your relationship with the Police Chief and department?

First and foremost, a Police Commissioner's duties are to voice the support of the citizens of the City of Portsmouth. There has to be a balance between the needs of the citizens and the services that the Police Department provides to protect the citizens of Portsmouth, both on a fiscal and social spectrum.

2. What do you see the job of Police Commissioners to be – critic, advocate for department, placeholder, activist?

I see the Police Commissioner's role as an advocate of the Police Department to assure the police have the tools that are needed to protect the citizens and property of the City of Portsmouth. I also see the Police Commissioner's role as an activist to assure a fair and unbiased relationship that the Police Department has when encountering our citizens and visitors to the community.

3. Please describe your general management style and give examples of how you might deal with issues that arise with budget conflicts, labor disputes, citizen complaints.

Having a prior 20+ year experience in dealing with all of these concerns my style has always been to first review the facts and then make a decision. My record and institutional knowledge from serving on the Planning Board and City Council has shown that I have never made a decision without consideration of all parties concerned.

4. Describe three of your accomplishments that you consider to be the most significant and relevant to the job of Police Commissioner.

1. I have a clear understanding of the inner workings of City Hall and all of its departments.
2. I participated and graduated from the Citizens Police Academy.
3. I have chaired multiple committees that have involved not only the Police Department but various other departments of the city.

5. Please identify the policy areas you would focus upon and describe how you intend to approach them.

First is to assure the successful completion of the Police Accreditation review. Second would be to create an outreach program that would allow the public to have better access to the police in sharing their concerns.

6. Do you see a conflict between overseeing the police department in a manner that may be constructive, but critical, versus supporting and advocating for the police in the performance of their duties? How would you balance these concerns?

No, I do not see a conflict because a Police Commissioner's job is to balance these concerns.

7. Are you committed to reviewing police operations and staffing in light of data from other communities and national standards as regarding best practices, staffing to population ratios and budgetary needs?

No, again, my institutional experience has shown that many times ideas have been brought forward from other communities and their policies that on paper may seem to be "fix all" solution however, Portsmouth is a very unique and diverse community. Portsmouth is a hub for other communities. We have major highways that intersect our city which brings a diverse class of visitors and wrong-doers that flow through our city. We also have an ever fluctuating population data change. While our residential population may be 21,000+ citizens, we have a working population of an expanding 35,000+ and with visitor and events we can sometimes see as many as 50-75,000 people on a given day. We need to have a police department that is trained to handle the fluctuation concerns. Our solutions need to be based on what's best for our community and our resources. Attempting to use ideas that resolve issues in other cities our size, could be a good basis to start the discussion, however, I wouldn't suggest that it would be a perfect fix for our community and our issues.

8. If you are appointed to fill the unexpired term, will you run for election to the Police Commission when the appointed term ends?

Yes.

9. How would you balance your sometimes conflicting obligations to the Police Chief and his management team, the rank and file police officers, and the citizens and taxpayers of Portsmouth?

The Police Commission serves at the whim of the taxpayers of the city of Portsmouth, with the exception of this unique open seat situation. The Police Chief serves at the behest of the Police Commission. Such as the City Manager serves at the behest of the City Council.

Thank you for your consideration. I am available to provide additional detail to any of the questions if needed.

Kindest Regards,

Kenneth Smith  
298 Myrtle Avenue  
Portsmouth, New Hampshire  
603-498-4516 (cell)

**To:** The Selection Committee for Portsmouth Police Commissioner

**From:** Albert (Buzz) Scherr

**Re:** Answers to the Nine Questions posed

Below are my answers to the nine questions posed. The process of answering the questions, to no surprise, has increased my desire to be on the Portsmouth Police Commission. I believe I can offer a fresh and experienced perspective the Commission, the Police Chief, the department and, ultimately, the city of Portsmouth. Thank you for the opportunity to answer these questions.

**1. The Commission provides “civilian oversight.” What will that mean to you in terms of your relationship with the Police Chief and department?**

Civilian oversight means providing an intentionally external perspective on the Police Chief and the department. Done well, it allows for a skilled set of eyes on the department but not a set of eyes that is institutionally beholden to the Chief or the department. I think of my “civilian oversight” role as one profoundly informed by my experiences as a professional. And, I’m a civilian whose live in Portsmouth for 20 + years and care deeply about the community I love.

I would come to the Commission from what might be a unique perspective. I’ve been involved in the criminal justice system in New Hampshire for almost 38 years starting as a public defender, then as a law professor teaching criminal justice topics, and as an advocate at the NH State House on criminal justice issues. Putting these roles together, I consider myself an “expert” civilian on the criminal justice system, including the role of law enforcement. The “expert” part of my “expert civilian” description is grounded is my experience. For example:

As a public defender, I worked with police officers on a daily basis, particularly in district courts. I know their purpose and responsibility, and I understand in some depth the challenges they face on a daily basis in keeping the public safe.

I continue to develop my expertise as a professor teaching a full course about the role of the constitution in police investigations. This experience helps me maintain an objectively critical perspective on how police departments approach their duties daily.

I’ve also enriched my expertise with my work in the legislature on bail reform and debtors’ prisons has allowed me to accomplish on-the-ground reform rather than being simply an armchair critic, a role I loathe.

I anticipate offering an educated citizen's perspective on the department's vision; on solutions to difficult problems and on ways to make the department even better.

**2. What do you see the job of Police Commissioners to be – critic, advocate for department, placeholder, activist?**

The job of Police Commissioners is to be a critical advocate, who stands up for the department and also helps hold the department accountable when necessary.

Police Commissioners are critical to helping the police department avoid becoming an insular and inward-looking organization. They bring a shared goal of supporting a successful police department with community buy-in, while simultaneously holding the department accountable to that same role.

Being an advocate for the department builds trust and brings positive constructive energy to making the department as good as it can be.

Being an activist, be it for change and/or in support of the department's quality, prevents one of the ever-present risks of any institution: treading water.

More than anything, I believe a Police Commissioner has a fiduciary responsibility both to Portsmouth citizens and to the department. Done well, that role requires one to be a critic, advocate, and activist.

**3. Please describe your general management style and give examples of how you might deal with issues that arise with budget conflicts, labor disputes, citizen complaints.**

My management style is one of an engaged and informed manager who knows what's going on, does not micro-manage, and has the trust and confidence of those managed.

I developed my management style from managing two different public defender offices, which have the challenge of serving a critical public function while simultaneously often coming under public criticism for that exact function. This role taught me about the challenges and rewards in managing what is in essence a public agency. It taught me about hiring support staff,

mentoring young lawyers and supervising experienced lawyers, advocating for office resources with the central administration and participating in budget development and attorney hiring as one of five statewide office managers.

My later role of associate dean at the UNH law school taught me about budgeting and supervising accomplished professionals resistant to guidance.

Chairing the board of the ACLU-NH for 5 ½ years taught me about long-term planning in the form of re-imagining of the organization for the 21<sup>st</sup> century and the importance of leadership hiring. I came to appreciate so much more how important management is to the evolution of an organization.

My experience with budget conflicts is that having clearly articulated and agreed-upon organizational goals is the best starting point for resolving budget conflicts. Next, having a process in place for resolving conflicts, rather than developing a process anew each time, makes a difference. And then ... making sure those who have conflicting views or claims feel that they have had an opportunity to be heard. If one has hired well (that is, one has department heads and others who accept negative resolution maturely) and has implemented a transparent process as described above, a resolution that lands well is possible.

I have no direct experience with labor disputes though I was one of those who helped move forward the unionization of the UNH Law faculty. I was one of two faculty advisors to the Franklin Pierce Law Center Board as it negotiated a merger with UNH and frequently reviewed draft merger agreements. And, I have experience reviewing law school and ACLU-NH employment contracts. By nature, I am a negotiator and it has been useful in reaching plea agreements, finding legislative compromises over bill language or in tending to differing and needy stakeholders at the law school.

Citizen complaints, like student complaints or faculty complaints depend most importantly on honest fact-finding; a transparent resolution process and the appearance and reality of objectivity. The goal must always be fairness. Having represented over 2,000 clients in my time as a criminal defense lawyer, my clients, though rarely happy, were more often satisfied if they felt those three features of how they were treated were in effect.

**4. Describe three of your accomplishments that you consider to be the most significant and relevant to the job of Police Commissioner.**

- ¶1) My accomplishment of being a highly successful public defender grew from my ability to keep learning about the complexity of the operation of the criminal justice system. I learned the importance of building positive relationships with everyone in the system - police officers, prosecutors, judges, colleagues and clients. I appreciated the skill of how to operate very successfully in a system fraught with permanent, substantial, built-in tensions. And, I was an accomplished advocate. All are accomplishments invaluable to being a good Commissioner.
- ¶2) As the ACLU-NH board chair, I accomplished the transition of a three-person, small budget non-profit into a six-person non-profit of significantly more importance in the NH civil rights and political landscape. I learned the importance of a vision and of hiring in the form of a quality leader, a process that resulted in the organization moved aggressively and well into the 21<sup>st</sup> century through forward-looking vision.
- ¶3) I have accomplished a lot in a short time in my work as a volunteer advocate in the NH legislature on privacy and criminal justice reform. I authored the new constitutional amendment on informational privacy as well as debtors' prison reform, eyewitness identification reform and comprehensive bail reform. I learned the importance of multi-constituency advocacy in engaging disparate groups towards the goal of reform. I also learned the importance of negotiating compromises in language and approach. Each of these efforts was successful. These efforts reflect my ability to listen, adapt and act amidst chaos of the legislative process from beginning to end.

**5. Please identify the policy areas you would focus upon and describe how you intend to approach them.**

I appreciate that, if selected, I would be filling a term with approximately one year left. Because of that, I would refrain from being too ambitious in the policy areas upon which I would focus. I am already chair of the bodycam sub-committee, a policy area in which I am interested. For this short term, I would focus on identifying existing efforts that I can support and identifying areas that could warrant longer-term attention moving forward.

One area I would focus on is how information is communicated to the public and how to improve communications with impacted communities. I consider communication an imperative for law enforcement in building and maintaining public trust. I have seen poor communication across institutional boundaries cause needless friction and negativity in the



institution as a whole, and one of the factors that leads quickly to community distrust.

As a law professor and the co-author of legislation to implement best practices in eyewitness identification procedure and in bail reform, I would hope to inspire a conversation in the police department about its eyewitness identification procedures and how the bail reform statute has affected the department's performance of its duties.

**6. Do you see a conflict between overseeing the police department in a manner that may be constructive, but critical, versus supporting and advocating for the police in the performance of their duties? How would you balance these concerns?**

I do not see that as conflicting roles or concerns. Rather, I view it as the natural and necessary tension that comes in providing civilian oversight to a Police Department, which is a public agency with a variety of important and at times controversial roles. I believe being an effective advocate means being a critic when necessary; the alternative is blind fanfare, which does not serve the department or the public.

I would balance the necessary roles with the skills that come with being a mature professional who has always operated in areas with multiple stakeholders and competing priorities. I believe that integrity, candor and transparency are critical to balancing the roles of advocate and critic. This includes transparency and candor with the department internally and with the public externally. Police Commissioners need to be seen as honest brokers both by the department and by the public.

**7. Are you committed to reviewing police operations and staffing in light of data from other communities and national standards as regarding best practices, staffing to population ratios and budgetary needs?**

Very much so. Using external data and measurements, be it the national staffing-to-population ratios or best practices, provides another layer of assessment as to where the police department is and where we, as a city, want it to be. The city is entitled to a police department that is more than just getting by or good enough for government work. The certification process is one very positive step in measuring the department against recognized external standards.

We must look outside the department's own measurements to know how the department stacks up against other departments in the state and in the region. At the same time, we want to make sure that we are comparing apples to apples rather than to oranges.

For example, on the bodycam sub-committee, we have had a very interesting conversation with a police officer in another NH community that uses bodycams. We are still in the process of placing that conversation in context as it was from a police department with five full-time officers in a small community. It remains for us to decide how transferrable what we heard is to Portsmouth, a city with approximately 70 police officers.

**8. If you are appointed to fill the unexpired term, will you run for election to the Police Commission when the appointed term ends?**

Yes, assuming I feel I am doing a good job and believe I have more to offer both the department and the public. I will take seriously any feedback on my performance and that I receive as to my role as chair the Police Commission's bodycam sub-committee.

**9. How would you balance your sometimes conflicting obligations to the Police Chief and his management team, the rank and file police officers, and the citizens and taxpayers of Portsmouth?**

As I discussed previously, I believe transparency, integrity, and candor are imperative in balancing working relationships. As Commissioner, I would strive to build trust with the different stakeholders within the police department, and to be perceived by all as an honest broker. I would go above and beyond to show that I am not the personal advocate of any one segment of the department or the public, but rather am here to help the department be the best that it can be, whether that means advocating them or being the first to call out foul.

**SENT VIA E-MAIL**

January 4th, 2019

Police Commissioner Candidate

*REF: Police Commission Candidate Answers*

Dear Kelli,

Below are my answers to the questions.

1. The Commission provides "civilian oversight." What will that mean to you in terms of your relationship with the Police Chief and department? ***As a resident from the community, I would be able to provide a perspective from conversations with fellow residents that would facilitate feedback for both.***
2. What do you see the job of Police Commissioners to be – critic, advocate for department, placeholder, activist? ***The role facilitates ongoing dialogue between the community and the department. This could put me in a role of being any of those things for the betterment of the City of Portsmouth.***
3. Please describe your general management style and give examples of how you might deal with issues that arise with budget conflicts, labor disputes, citizen complaints. ***I'm a positive individual and believe that a positive work environment is the best place for productions. I believe in greeting people first thing in the morning and when they leave for the day. I oversee 13 people and routinely have to make priority decisions on budget and what the criteria is for that. Sometimes there are complaints and I communicate with the individuals involved and find common ground. I often refer to our company policy and procedures binder.***
4. Describe three of your accomplishments that you consider to be the most significant and relevant to the job of Police Commissioner. ***I have been the General Manager of a local business for the past 13 years and I'm used to working with multiple departments to get things done. I am extremely organized and that comes in handy as I'm a volunteer with Portsmouth Little League and Portsmouth Babe Ruth as a coach and umpire for the last 22 years. I have raised 3 boys in the community and learned that every person is unique in their own way.***

5. Please identify the policy areas you would focus upon and describe how you intend to approach them. ***I would be focusing on making connections early on and then making sure that all policies are being followed correctly. I don't have knowledge of any open or ongoing issues at this time but I would approach anything with an open mind.***
6. Do you see a conflict between overseeing the police department in a manner that may be constructive, but critical, versus supporting and advocating for the police in the performance of their duties? How would you balance these concerns? ***I currently oversee multiple departments and have to do the same for each of them. I can handle issues in a constructive manner if necessary because perpetuating bad behavior results in a lack of success.***
7. Are you committed to reviewing police operations and staffing in light of data from other communities and national standards as regarding best practices, staffing to population ratios and budgetary needs? ***I'm committed to learning the current police operations and the data regarding staffing best practices. I currently oversee operations at work, use our best practices, and other data points to make decisions. I am data driven in my approach to achieving operational excellence but I will do what is best for the City of Portsmouth.***
8. If you are appointed to fill the unexpired term, will you run for election to the Police Commission when the appointed term ends? ***I am planning on that if it is a good fit for all involved.***
9. How would you balance your sometimes conflicting obligations to the Police Chief and his management team, the rank and file police officers, and the citizens and taxpayers of Portsmouth? ***When I handle conflict between departments at work, I find out what the issue is from both sides and then decide what is best for the company.***

Thank you,

H. Kevin Watt

Jacqueline Cali-Pitts

January 3, 2019

Dear Members Police Commissioners Review Board,

I am going to do my best to answer your questions in a clear and concise manner. I would rather be talking to you but here goes.

1. The police chief and members of the department are really a team. The commissioners see things from a different perspective and together they make a well-rounded partnership with the community.

2. The commissioners need to do a little bit of everything. Critic is a bit harsh. I think they need to discuss problems and find solutions that are good for everyone. The commissioners should definitely be an advocate for the department and be an advocate for change where change is needed.

3. My management style is to listen, learn and help where needed. I was a manager at AT&T and had 25 reporting people subcontracting for the Department of State. One of my proudest moments was the tribute they gave me when the operation closed. I have been on both sides of the negotiating table. I believe openness and trust bring about equitable solutions. It is also true that budgets represent our priorities and once we understand that the rest is just math.

4. I have been head of the sheriff's committee in Rockingham County and have worked successfully with several sheriffs. Thanks to hard work I have always gotten their budgets through with no question. I have come to understand more about police work and appreciate the day to day work. I am active in the community and have a genuine love for Portsmouth. One of my biggest accomplishments and honors is having the citizens of Portsmouth show faith in me and I do my best every day to not let them down.

5. One of the biggest policy areas I would like to work on is seeing that the department has the people and funds it need to carry out its mission. Our men in blue are truly the



finest but even a diamond needs a little polishing, Public image is so important and needs to be worked on. One bad incident is enough to tarnish even the best metal. I thank God every day that I live in Portsmouth and feel safe here.

6. There is no conflict in overseeing the department and advocating for the department. Some of the best things have come from quiet constructive correction.


7. We are not an island and can always learn from looking at what is being done around us. It is not uncommon to look at area salaries, staffing needs and equipment. We can learn much from the successes and failures of others.

8. This is a hard one. I wish I had a crystal ball but right now have no higher aspirations.

9 Service is in my blood. Prioritizing is something I learned early in life. I can see no conflict even with meeting times as proscribed in the city charter. Should a conflict arise it will be dealt with the help of my fellow commissioners. The people of Portsmouth have always been my priority I serve them every day and have done so for a long time.

Thank you for taking the time to read my answers and please forgive me for not repeating each question.

Respectfully submitted,



Jacqueline Cali-Pitts

1. Q. The Commission provides “civilian oversight”. What will that mean to you in terms of your relationship with the Police Chief and department?
  - A. It will be important to work together in a transparent and collaborative environment, assuring that the police department works/operates in an ethical manner, achieves goals and objectives of the department. The department’s actions should demonstrate an approach that is socially responsible and ensures all employees are accountable to the citizens of Portsmouth.
  
2. Q. What do you see the job of Police Commissioners to be – critic, advocate for department, placeholder, activist?
  - A. The role of the Police Commissioner should be a critic of the Police Department and at the same time an advocate. A placeholder I see as someone who wants this position just to say he/she is a Police Commissioner which has no place on this Commission. An activist would not be a balanced title that a Commissioner should hold. Being critical of budget decisions, operating procedures and overall goals of an agency makes for better long-term structure to assure that the agency is operating efficiently. At the same time, it’s important to be an advocate to the men and women of the Portsmouth Police Department supporting them and their overall accomplishments throughout each year.
  
3. Q. Please describe your general management style and give examples of how you might deal with issues that arise with budget conflicts, labor disputes, citizen complaints.
  - A. The best management style for this position is to be a good listener of public input and being transparent on budgetary decisions, while seeking to understand and assist the Chief and his staff as they articulate their budgetary goals for the next year and the years to follow. This is a reason for public broadcast of the Commission meetings with the Chief so that the public can see and hear budgetary decisions. Transparency creates an environment where citizens and administration can collaborate, debate and challenge critical decisions and direction. The Commissioner serves as a voice for the citizens, while understanding the key components of a law enforcement agency.
  
4. Q. Describe three of your accomplishments that you consider to be the most significant and relevant to the job of Police Commissioner.
  - A. In no priority order, my life experiences have provided me a wealth of knowledge and broad perspective across many areas like law enforcement, being a proud native of Portsmouth with a strong sense of commitment to my community. I have been married to my high school sweetheart for over 33 years, and together have raised two boys, 27 and 29 years old, put them through college and proudly support them as very accomplished adults. I have 28 years of Law Enforcement, distinguished service to the public and am completely obligated to public service, unblemished. I have also worked in the private sector in a successful family owned plumbing business to get a different perspective on being responsive to the public and contributing to a financially responsible business.

5. Q. Please identify the policy areas you would focus upon and describe how you intend to approach them.
- A. A very key focus would be CALEA. I am a big supporter of the commission for national accreditation. I would support the Chief and his staff with budgeting for this accomplishment in its third year and making sure that Portsmouth is successful with this goal. I would seek to understand the entire process, where they are in the process and how I can help support the requirements of the accreditation. I have first-hand experience working with agencies with and without this accreditation and this would be a tremendous advancement for the Portsmouth Police department and the community.
6. Q. Do you see a conflict between overseeing the police department in a manner that may be constructive, but critical, versus supporting and advocating for the police in the performance of their duties? How would you balance these concerns?
- A. A Commissioner must ask the tough questions whether it involves disciplinary, budgetary or overall support of the goals of the agency. There should be absolutely no conflict about asking tough questions, constructive criticism and at the same time praise the Chief and men and women of this outstanding Police Department. Law enforcement personnel are expected to adhere to higher standards and as a retired officer, I have always conducted myself to be fair and treat people as I would expect to be treated. One of my prior roles was to conduct internal investigations on other police agencies and officers, and I treated each instance as I would any other investigation, collecting facts, irrespective of the outcomes.
7. Q. Are you committed to reviewing police operations and staffing in light of data from other communities and national standards as regarding best practices, staffing to population ratios and budgetary needs?
- A. I would be in full support of monitoring best practices and national standards as this would be a component of CALEA, which aims to manage the agency consistent with industry standards. Leveraging external data enables a more complete and informed management style to achieve all the goals set forth by the Chief and his staff. This would improve the delivery of public safety and services for the citizens of Portsmouth.
8. Q. If you are appointed to fill the unexpired term, will you run for election to the Police Commission when the appointed term ends?
- A. I would run for reelection for many years to come as I am taking this position very seriously as I've done with my entire career.
9. Q. How would you balance your sometimes conflicting obligations to the Police Chief and his management team, the rank and file police officers and the citizens and taxpayers of Portsmouth?
- A. I would balance conflicting obligations to the Chief and his management team by using my experience of being in Law Enforcement for 28 years, asking supportive questions and posing sometimes challenging questions brought forth by the citizens of Portsmouth to ensure all voices are heard. I will also be a transparent representative on behalf of both the citizens and the Police Department. My career has allowed me to appreciate and respect the role of a law enforcement officer and my focus has always been toward community policing and being an ambassador for the citizens I served.

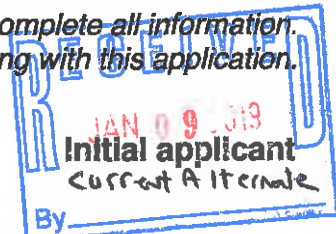




# CITY OF PORTSMOUTH, N.H. BOARDS AND COMMISSIONS

## APPOINTMENT APPLICATION

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



Committee: Conservation Commission (Regular)

Name: Nathalie Morison Telephone: 603-854-0800

Could you be contacted at work?  YES  NO If so, telephone# 603-559-0029

Street address: 85 Spinnaker Way, Portsmouth, NH 03801

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

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

How long have you been a resident of Portsmouth? Since December 2015

### Occupational background:

Coastal Resilience Specialist for the NH Department of Environmental Services Coastal Program  
responsible for providing technical assistance to state, regional, municipal, and local organizations  
implementing coastal resilience measures; gathering and interpreting environmental data related to  
coastal flood risks; and developing recommendations for enhancing coastal resilience in NH.

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

Current alternate since November 2017. Understanding of physical and biological coastal environments and  
processes (e.g., inland and tidal wetlands) and the human behaviors and policies that affect, and are affected by  
these natural resources. Knowledge of quantitative and analytical methods for resource analysis. Familiarity  
with state and local environmental protection standards (e.g., RSA 482-A; Article 10 Portsmouth Zoning  
Ordinance). Skilled in project/grant management, environmental education and outreach, stakeholder  
engagement, meeting facilitation and record keeping.



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: Aside from my demonstrated interest in conservation, I am  
eager to get involved in local government to help fill the looming generational void in leadership as today's  
leaders plan for retirement. Millennials are often rightly accused of being politically dispassionate, quick to  
criticize government for becoming dysfunctional and polarized. Rather than complain, it's time for my  
generation to take more interest and action in local affairs, so that we can learn from the thorough working  
knowledge of those currently serving and take greater responsibility for the community in which we live.  
Please list any organizations, groups, or other committees you are involved in:

NH Coastal Adaptation Workgroup (<http://www.nhcaw.org/>)

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

1) Steve J. Miller, 38 Thornton Street, Portsmouth, NH 03801, 603-433-1160

Name, address, telephone number

2) Kirsten Howard, 142 Cabot Street, Unit 4, Portsmouth, NH 03801, 401-575-8265

Name, address, telephone number

BY SUBMITTING THIS APPLICATION YOU UNDERSTAND THAT:

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

Signature: Natalia Chouinard

Date: 01/08/19

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 Jenkins Avenue, Portsmouth, NH 03801**

# NATHALIE MORISON

## COASTAL RESILIENCE SPECIALIST



232 International Drive, Suite 175  
Portsmouth, NH 03807



603-559-0029



nathalie.morison@des.nh.gov



[www.linkedin.com/in/nathallemorison](http://www.linkedin.com/in/nathallemorison)

### EDUCATION

**MASTER OF ENVIRONMENTAL MANAGEMENT**  
Duke University | 2011-2013

**BACHELOR OF ARTS IN BIOLOGY**  
Occidental College | 2006-2010  
*Magna cum Laude, Phi Beta Kappa*

### CERTIFICATIONS

**CERTIFIED FLOODPLAIN MANAGER (CFM®)**  
Association of State Floodplain Managers  
Expires: 01/31/2020

### AWARDS

**2017 OUTSTANDING TEAMWORK AWARD**  
NH Department of Environmental Services

### PROFILE

Analytical Coastal Resilience Specialist and Certified Floodplain Manager (CFM®) with 6 years of experience providing outreach and technical assistance to help state agencies, coastal municipalities, and other stakeholders understand and adapt to projected coastal flood risks. Proven grant writer and project manager having secured and administered over \$600,000 in competitive grant funding to support coastal resilience efforts. Excellent written and oral communicator and skilled interpersonal collaborator.

### PROFESSIONAL EXPERIENCE

#### NH DEPARTMENT OF ENVIRONMENTAL SERVICES (DES) COASTAL PROGRAM

**COASTAL RESILIENCE SPECIALIST (FULL-TIME) | OCT 2016 – PRESENT**  
**COASTAL RESILIENCE SPECIALIST (PART-TIME) | NOV 2015 – OCT 2016**

- Coordinated development of New Hampshire Coastal Risk and Hazards Commission final report and recommendations: [www.nhcrhc.org/final-report](http://www.nhcrhc.org/final-report)
- Secured and administered over \$500,000 in competitive grant funding to support state and municipal coastal resilience efforts
- Audited DES statutes and administrative rules and identified changes necessary to prepare for projected coastal flood risks
- Supervised creation of a spatial inventory of DES assets vulnerable to projected sea-level rise and storm surge scenarios using GIS
- Planned and organized *Building a Flood Smart Seacoast* workshop series to help coastal property owners address coastal flooding impacts
- Represented DES on the NH Coastal Adaptation Workgroup outreach, social media, website, and research & decision-making committees
- Communicated DES coastal resilience efforts at national, regional, state, and local conferences and meetings (e.g., 2017 National Adaptation Forum, 2018 ME-NH Beaches Conference, 2018 Coastal Climate Summit)

#### HI OFFICE OF PLANNING, COASTAL ZONE MANAGEMENT PROGRAM

**PLANNING & POLICY ANALYST (FULL-TIME) | JUL 2013 – AUG 2015**

- Chaired collaborative process to develop action plan for implementing coastal hazards and adaptation goals in Hawaii Ocean Resources Management Plan
- Convened stakeholder workshops to advise President's Task Force on Climate Preparedness and Resilience
- Secured \$100,000 grant and negotiated contract to develop climate resilient building code amendments
- Administered \$125,000 contract to develop alternative funding mechanisms for shoreline public access
- Synthesized and analyzed information to assist in the formulation of state coastal resilience policies and respond to public and legislative requests

# NATHALIE MORISON

## COASTAL RESILIENCE SPECIALIST

### KEY SKILLS

Project Planning & Management  
Grant Proposal Writing  
Facilitating Collaborative Meetings  
Written and Oral Communication  
Outreach and Education  
Coastal Policy Analysis  
Social Media Coordination  
Web Content Management  
Spatial Analysis (GIS)

### TECHNICAL SKILLS

Strong expertise in the following:

#### MS Office

Word, Excel, Power Point, Outlook

#### Adobe Creative Suite

InDesign, Photoshop, Spark

#### Project Management Software

Asana, Basecamp

#### Spatial Analysis Software

ArcGIS

#### Social Media & Website Content Management

Hootsuite, Twitter, Facebook, Instagram,  
WordPress

### PROFESSIONAL EXPERIENCE *(continued)*

#### NC DIVISION OF COASTAL MANAGEMENT

##### ENVIRONMENTAL SPECIALIST *(PART-TIME)* | FEB 2013 – JUN 2013

- Investigated methods for assessing the economic and environmental costs and benefits of sea-level regulations and policies pursuant to NC Session Law 2012-202 and synthesized findings into comprehensive report

#### NC COASTAL FEDERATION

##### COASTAL ADVOCACY FELLOW *(FULL-TIME)* | MAY 2012 – AUG 2012

- Co-authored white paper promoting coastal habitat restoration and low-impact development as nature-based adaptation
- Analyzed discrepancies in state permitting of shoreline stabilization techniques
- Co-developed grant proposal to create, restore, and enhance coastal habitats
- Composed brief on NC participation in Community Rating System
- Performed wetland and oyster reef restoration

### VOLUNTEER EXPERIENCE

#### CITY OF PORTSMOUTH, CONSERVATION COMMISSION

##### ALTERNATE MEMBER | NOV 2017 – PRESENT

- Review land use applications and make recommendations to the City Planning Board and/or DES Wetlands Bureau on activities affecting natural resources.

## **ACTION ITEMS**

### **PARKING and TRAFFIC SAFETY COMMITTEE**

8:00 A.M. – January 10, 2019  
City Hall – City Council Chambers

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MEMBERS PRESENT: Chairman, Doug Roberts  
Deputy City Manager, Nancy Colbert Puff  
Public Works Director, Peter Rice  
Police Captain, Frank Warchol  
Fire Chief, Steven Achilles

Members: Harold Whitehouse, Shari Donnermeyer,  
Mary Lou McElwain, Ralph DiBernardo and  
Steve Pesci (Alternate)

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

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

**Temporary Action Item requiring an ordinance during the annual omnibus:**

- Prohibit parking along entire east side of Wentworth Street, and along the west side of Wentworth Street between Pleasant Street and the end of the Wentworth Home parking lot. (VII.A.)
  - Establish a handicap passenger loading zone on the west side of Middle Street, in front of 504 Middle Street. Loading zone is dependent on business at location, and hours of use tied to hours of operation of business. (VIII.C.)
  - Designate the first parking space on Middle Street, located between 40 and 58 feet south of Madison Street, as a handicap parking space. (VIII.C.)
1. Accepted and placed on file meeting minutes from December 6, 2018.
  2. Accepted and placed on file financial report dated November 30, 2018.
  3. Public Comment Session: 13 speakers: Sandra Rodriguez (VIII.D.), John Sherman (VII.B.), Derrick Horton (NPP), Larry Cataldo (NPP), Paul Novotny (Aldrich Rd), Laura Kennedy (Aldrich Rd), Brian Johnson (NPP), Peter Whelan (NPP), Valerie Fagin (NPP), Dan Umbro (NPP), Elizabeth Bratter (NPP), Donald Tydeman (NPP) and Paul Mannle (NPP).
  4. Written Correspondence: Jeffrey Keefe (NPP).
  5. Request for No Parking on Wentworth Street in the area of the Wentworth Home – **Voted** to prohibit parking along entire east side of Wentworth Street, and along the

west side of Wentworth Street between Pleasant Street and the end of the Wentworth Home parking lot.

6. Request for STOP sign and crosswalk on Bow Street at Chapel Street – **Voted** to refer to staff for report back.
7. Neighborhood Parking Program, review of General Parameters – On a roll call 7-2, **voted** to recommend approval of the Neighborhood Parking Program General Parameters. Chairman Doug Roberts, Deputy City Manager Nancy Colbert Puff, Public Works Director Peter Rice, Police Captain Frank Warchol, Fire Chief Steven Achilles, Shari Donnermeyer and Harold Whitehouse voted in favor. Ralph DiBernardo and Mary Lou McElwain voted opposed.
8. Request for illuminated crosswalk on Middle Road at Riverbrook Condos – **Voted** to implement measures recommended in staff report.
9. Request to address loss of handicap parking space in front of 504 Middle Street – **Voted** to implement measures recommended by staff.
10. Request for parking space in bike lane buffer at 60 Lafayette Road – **Voted** to refer to staff to report back.
11. Request to lower speed limit on Edmond Avenue from 30 mph to 25 mph – **Voted** to remove the speed limit signs indicating 30 mph on Edmond Avenue and follow-up with additional monitoring.
12. Report back on Neighborhood Traffic Calming requests:
  1. Aldrich Road – **Voted** to remove the striping, add more signage and monitor.
  2. Brackett Road – **Voted** to table to the February meeting.
  3. Brackett Lane – **Voted** to table to the February meeting.
  4. South Street – **Voted** to table to the February meeting.
13. Edward Street closure, report back on proposed closure plan – **Voted** to table to the February meeting.
14. Foundry Place Parking Garage usage update, by Parking Director Ben Fletcher – **Voted** to table to the February meeting.
15. Police grants, by Police Captain Frank Warchol. – **Voted** to table to the February meeting.
16. Quarterly Accident Report – No action required by Committee.
17. PTS Open Action Items – No action required by Committee.

Adjournment – At 10:09 a.m., **voted** to adjourn.

Respectfully submitted by:

Amy Chastain  
Secretary to the Committee

## MEETING MINUTES

### **PARKING and TRAFFIC SAFETY COMMITTEE**

8:00 A.M. – January 10, 2019  
City Hall – City Council Chambers

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

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

#### **II. ROLL CALL:**

##### Members Present:

Chairman, Doug Roberts  
Deputy City Manager, Nancy Colbert Puff  
Public Works Director, Peter Rice  
Police Captain, Frank Warchol  
Fire Chief, Steven Achilles  
Member, Shari Donnermeyer  
Member, Harold Whitehouse  
Member, Ralph DiBernardo  
Member, Mary Lou McElwain  
Alternate Member, Steve Pesci

##### Staff Advisors Present:

Parking and Transportation Engineer, Eric Eby  
Parking Director, Ben Fletcher  
Planning Director, Juliet Walker

#### **III. ACCEPTANCE OF THE MINUTES:**

Ralph DiBernardo moved to accept the meeting minutes of the December 6, 2018 meeting, seconded by Harold Whitehouse. **Motion passed 9-0.**

#### **IV. FINANCIAL REPORT:**

Public Works Director Peter Rice moved to accept the financial report dated November 30, 2018, seconded by Deputy City Manager Nancy Colbert Puff. **Motion passed 9-0.**

#### **V. PUBLIC COMMENT:**

Derek Horton lives on Marcy Street and commented on the Neighborhood Parking Program (NPP). He stated the additional signage and enforcement in his neighborhood would diminish the appeal and sense of community. The streets were created and maintained for public use. Parking passes will make parking availability more scarce and Portsmouth less welcoming.

John Sherman spoke to action item VII.B. He had safety concerns about crossing from Chapel St. to Bow St. There is no STOP sign or crosswalk in that area. It is hard for drivers to see pedestrians. Mr. Sherman requested a crosswalk for pedestrians to cross safely.

Larry Cataldo is the Islington Creek NPP Coordinator. He presented a letter to the Committee supporting the NPP pilot. He urged the Committee to recommend approval of the NPP to City Council. The parking problems have been in the Islington Creek and

South End neighborhoods for a while. This program will show if the NPP is suitable for Portsmouth, if it is cost effective, and if it causes fewer parking concerns. He stated there are a few houses in the neighborhoods that have no off-street parking and more than three cars. Mr. Cataldo asked for an exception for those residences to be able to get more than three permits.

Sandra Rodriguez spoke to action item VIII.D. She stated parking in front of her house at 60 Lafayette Road was not a problem until the bike lane was installed. The new bike lane eliminated the parking space. They now must park on Willard Avenue. It is a huge inconvenience. There should be room to accommodate some parking in front of the house between the bike lane and the street.

Brian Johnson spoke in support of the South End NPP. Mr. Johnson's building is not technically in the NPP, but he utilizes parking on Hancock St. and Washington St. Mr. Johnson requested that the South End NPP parameters be updated to include not only residents of the South End, but also residents on streets adjacent to the South End. The South End Steering Committee Chairman supports their participation in the program.

Paul Novotny spoke to traffic calming on Aldrich Road. While standing at the bus stop with his kids, he observed that cars coming off Middle St. go much faster than the cars coming off Islington St. The staff assessment has reflected this and shown that cars do speed on Aldrich Rd. The staff assessment also identified Aldrich Rd. as a neighborhood connector road. He disagreed and noted that the Complete Street Guidelines say that it should be a neighborhood slow road.

Elizabeth Bratter of 159 McDonough St. and 342 Cabot St. commented that she has lived in Portsmouth for 37 years and parking during the day has become more challenging in her neighborhood. Ms. Bratter noted that if off-street spaces became available to help balance the demand, then she proposed ending the NPP program at Cromwell St. It could be extended if there were issues. Ms. Bratter supported the NPP because it was a pilot program. The neighborhood should be able to make the decision if they want to continue with or modify the NPP after the pilot program has ended. Ms. Bratter suggested following the Parking Benefit Program model for the NPP. Also, the wording should be changed to allow participants to purchase a guest pass.

Dan Umbro commented on the NPP in the Islington Creek Neighborhood. Mr. Umbro works on Islington St. and has parked in the area for 3 years. Mr. Umbro thought that if he needed to pay for a parking permit in a garage, then the participants in the NPP should pay for their permits as well. He requested an amendment to make the program revenue neutral before sending it to the City Council. This program will negatively impact small businesses in the area. Mr. Umbro requested an amendment that would evaluate the employees at each business and provide the appropriate amount of parking permits for the business. Mr. Umbro gave the Committee a petition signed by 40 people opposing the NPP.

Peter Whelan spoke in favor of the South End NPP pilot. He stated parking in the South End is a mess. He gave the Committee a petition signed by 62 people supporting the NPP. These programs are nothing new. Other cities have these types



of parking programs. The residents are asking for a little help with parking. The City is expanding and parking is becoming more of a problem in the South End.

Valerie Fagin is on the South End Steering Committee and has lived in Portsmouth for 30 years. Residents in the South End struggle to find parking during the day because people park there regularly. There are a lot of elderly people in the neighborhood that do not go out because they worry about finding parking when they return to their homes. Ms. Fagin would appreciate the opportunity to try this new program to see if it helps.

Laura Kennedy of Aldrich Road spoke in support of traffic calming. Ms. Kennedy liked the suggestions to remove roadway striping and adding more signage. She asked when those actions would be implemented. She stated the minor changes might not be enough. The residents of Aldrich Road have been asking for traffic calming measures for over 30 years. It may be time to try adding STOP signs or a speed table because this issue is not going away.

Donald Tydeman spoke in support of the South End NPP. He wanted the South End to be included in the program. There are 6 restaurants in that area and parking meters go until 8 p.m., so it is hard to find parking in that area.

Paul Mannle supported the Islington Creek Neighborhood NPP. He commented that this pilot is long overdue and hopes it will provide some relief to residents in the neighborhoods without any negative consequences. We will not know that unless we try it. The enforcement hours for both NPP pilots should match the Downtown Overlay District. Mr. Mannle pointed out that a permit does not guarantee parking. This program will set a 2-hour time limit for on-street parking to give residents a chance to find parking. He requested that the Committee remove a list of streets from the South End pilot because they do not have on-street parking by City Ordinance.

Elizabeth Bratter spoke for a second time. She did an inventory of her side of McDonough St. There has been an increase in parking from other businesses in the area. The parking program would prevent people from parking in non-existent spaces. Ms. Bratter provided her inventory counts to the Committee.

Chairman Doug Roberts noted that he received a letter from Jeffrey Keefe at 200 Marcy St. who objected to the NPP because it would cause undue hardship to his business. Mr. Keefe noted that he was never approached about this program.

Public Works Director Peter Rice noted that an additional letter was dropped off this morning. The person has indicated they were not in support of the NPP.

Mary Lou McElwain commented that it was hard to receive last minute items that could impact their decisions about something on the agenda. There are things they should be reading through before making decisions. Chairman Doug Roberts responded that he agreed and noted that they could try to come up with a better solution in the future.

## **VI. PRESENTATION:**

No presentation.

## VII. NEW BUSINESS:

A. Request for No Parking on Wentworth Street in the area of the Wentworth Home, by Wentworth Home and Fire Department. **Shari Donnermeyer moved to prohibit parking along entire east side of Wentworth Street, and along the west side of Wentworth Street between Pleasant Street and the end of the Wentworth Home parking lot, seconded by Deputy City Manager Nancy Colbert Puff.**

Chief Steven Achilles noted that over the last few months the Fire Department has encountered access issues along Wentworth St. The Wentworth Home is also experiencing issues with on-street parking. It's a two-way street. People assume it is a one-way and parking on both sides. The Wentworth Home is in support of this action item.

Shari Donnermeyer noted that the Wentworth Home was at the last meeting and expressed concern about the NPP because they don't have a lot of parking for their employees. This will create even less parking, but emergency access is a priority. Shari Donnermeyer supported this motion.

Harold Whitehouse questioned who would be in charge of enforcement. Public Works Director Peter Rice responded that typically the Police Department takes the lead on areas outside of the downtown. He stated with the possible implementation of the NPP, they are looking to expand the parking enforcement agents' territory. The Wentworth Home can alert the Parking Division of any issues.

**Motion passed 9-0.**

B. Request for STOP sign and crosswalk on Bow Street at Chapel Street, by John Sherman. **Public Works Director Peter Rice moved to refer to staff for report back, seconded by Deputy City Manager Nancy Colbert Puff.**

Eric Eby stated a site visit was conducted on Wednesday. The members noticed the sight line issues and the blind corner. He stated a crosswalk signifies a safe space to cross, but it does not make a dangerous space safe. He suggested a crosswalk might make more sense on the other side of the intersection.

Chairman Doug Roberts suggested that they could consider alternate solutions like textured pavement.

Steve Pesci noted that they discussed at the site visit whether or not left turns were prohibited from Bow St. toward downtown. That should be clarified in the report back.

**Motion passed 9-0.**

C. Report back on Islington Street/Bartlett Street pedestrian signal concerns. Eric Eby noted that the intersection at Islington St. and Bartlett St. is part of the overall Islington Street Corridor Project. They are planning to bid that out this month and then construction will begin. All of the signal equipment will be replaced at that intersection. There will also be some curbing and striping improvements to improve pedestrian safety. The property lines for Two Brothers Auto Service on the corner are very close to the street. Their legally parked cars block the sight lines for pedestrians. The proposal is to add a street light and two bollards to help define the property line. The sight lines will not be improved greatly, but it is the best they can do. The long-term solution would be either a complete reconstruction or property acquisition of the corner.

Ralph DiBernardo noted that one of the problems is right turn on red during the walk signal. Ralph DiBernardo questioned if it was illegal to make a right on red during a crosswalk signal. Police Captain Frank Warchol responded that you should never be turning into a signalized crosswalk when there is a red light. However, better signage at that intersection would help. Chairman Doug Roberts asked for clarification on the right turn on red issue at the next meeting.

Chief Steven Achilles questioned if there would be proper radius for larger vehicles like fire trucks when taking a left off Islington St. onto Bartlett St. Eric Eby confirmed that they used a turning template for fire trucks for that design.

Steve Pesci commented that this would be a good spot to have a dynamic NO TURN ON RED sign. That would be a great safety feature.

Mary Lou McElwain commented that this intersection would see an increase in traffic because of new developments in the area. She supported revisions to the intersection.

Ralph DiBernardo noted that if they install a dynamic sign, they should use white LED lights instead of red. Eric Eby confirmed that black and white signs have better visibility.

## **VIII. OLD BUSINESS:**

A. Neighborhood Parking Program, review of General Parameters. Chairman Doug Roberts noted that there has been quite a bit of discussion on this program. There have been at least two public hearings and multiple meetings with the neighborhood groups. Chairman Doug Roberts and Deputy City Manager Nancy Colbert Puff have worked together to reformat the rules to combine the two areas and clarify some points. Chairman Doug Roberts went over the changes made as a result of comments made at the December PTS meeting. They include: enforcement hours standardized between neighborhoods, contractor provisions updated to simplify, fewer permits for Islington Creek, transferrable guest permits reduced to one per household, permits to be handled at Foundry Garage - open evenings and weekends, residents can petition for an NPP and form a Steering Committee – petitioners urged to work with existing Neighborhood Committee, businesses will be eligible for one permit net of off-street parking (appears to be only one location on NPP street that uses on-street parking), Islington Creek NPP has been extended by one block beyond Cabot on McDonough Street.

Chairman Doug Roberts mentioned making an amendment to Guest permits.

Chairman Doug Roberts stated City Council referred this action item to PTS to adjust the parameters and bring it back to the Council. He stated this is not an unusual program. Local cities have NPPs and he spoke to specific areas and programs. Also the required 75% threshold of endorsement from the neighborhood is a very high bar. This is just a pilot program. He supports moving the NPP forward to the City Council.

Shari Donnermeyer questioned how long the pilot program would last and what would happen on the last day of the program. Chairman Doug Roberts responded that Public Works suggested running the pilot for 6 months, having an evaluation, and then running the pilot for another 6 months. Chairman Doug Roberts stated he thought they should run the pilot for 6 months and then it should go back to City Council.

Harold Whitehouse questioned if other cities that have these types of programs did a pilot program first. Chairman Doug Roberts was not sure.

Mary Lou McElwain questioned how much enforcement would cost. Chairman Doug Roberts responded that the City Manager put \$100,000 in the budget, which should be more than enough. The cost of the pilot program from City Council's perspective was intended to be free. That may not be the case. It is unclear whether or not this will be revenue neutral. There has been support to have parking meters on the streets, which would help support the program.

Ralph DiBernardo questioned how many signatures were on the Islington Creek petition submitted during public comment. Chairman Doug Roberts responded that there were about 50.

Shari Donnermeyer requested clarification on the process if this moves forward. Chairman Doug Roberts responded that the City Council would have to approve the parameters and then they would have to get 75% of neighborhood support. If they get the support then it would start some time after that. Potentially April or May.

Ralph DiBernardo clarified that the City was able to verify if there is 75% support. Chairman Doug Roberts confirmed that was correct. It will be one vote per household.

Ralph DiBernardo commented that New Castle restricts their parking for all residents. It is not neighborhood specific. Chairman Doug Roberts responded that New Castle is a smaller community with less parking demands.

Steve Pesci thanked the staff for the most recent round of changes. City Council should consider integrating some parking meters to help with revenue neutrality. Parking meters would also be a resource to help the neighborhood with enforcement issues.

Mary Lou McElwain was concerned that businesses did not seem to be involved in the program. She was concerned that the South End trial started with Gate St. and has now been expanded. She is specifically concerned about parking for small businesses.

Shari Donnermeyer clarified that businesses in the South End and Islington Creek would have access to one permit per business. Chairman Doug Roberts confirmed that was correct.

Harold Whitehouse commented that at the last meeting he did not feel that the South End should be included. However, based on the changes made he now felt that both neighborhoods should be included in the 6 month NPP pilot.

**Deputy City Manager Nancy Colbert Puff moved to recommend approval of Neighborhood Parking Program General Parameters to the City Council, seconded by Harold Whitehouse. On roll call, motion passed 7-2.** Chairman Doug Roberts, Deputy City Manager Nancy Colbert Puff, Public Works Director Peter Rice, Police Captain Frank Warchol, Fire Chief Steven Achilles, Shari Donnermeyer and Harold Whitehouse voted in favor. Ralph DiBernardo and Mary Lou McElwain voted opposed.

B. Request for illuminated crosswalk on Middle Road at Riverbrook Condos, by Rich Taussig. Eric Eby commented that they put a traffic camera at the intersection. The maximum number of pedestrians was 8 per hour. Usually 15 pedestrians or more an hour is when treatment is warranted. During peak hour there were still 180 gaps long enough for someone to cross without a vehicle needing to yield. Eric Eby did not feel that this warranted the expenditure of \$15,000 for the flashing lights. The signage could be increased and the crosswalk could be widened to be more visible.

**Chief Steven Achilles moved to implement measures recommended in staff report, seconded by Ralph DiBernardo.**

Ralph DiBernardo noted that everyone has a right to bring an issue to the Committee, but this was a request by one individual and not a group of people from that area. The amount of people involved in a request impacts how the Committee considers things. Also, the news highlighted a community that is using red flags on either side of the road to help pedestrians alert cars when they need to cross. It seems like an innovative idea, but it is unclear how effective it will be.

**Motion passed 8-0.**

Chairman Doug Roberts was not present at the time of voting.

C. Request to address loss of handicap parking space in front of 504 Middle Street, by Grazier Chiropractic. Planning Director Juliet Walker commented that there was a site visit yesterday and the Committee heard from the Graziers at the December meeting. Staff was aware of the impact on the property when the bike lane was designed. They looked for a way to provide parking, but it is one of the narrowest sections of the street. There is no way to provide on-street parking in addition to bike lanes. The proposal is to create a shared loading zone or a passenger-loading zone that would be located in the bike lane. Other cities have utilized this method for areas with reduced bike traffic throughout the day. She stated parking is available in the back of the property, but there is a slope that is not ADA friendly. The Committee could also consider implementing a handicap spot that would not be directly in front of the

business, but it would provide an accessible path to it. It is not an ideal walking distance, but it would at least provide parking.

**Public Works Director Peter Rice moved to implement measures recommended by staff, seconded by Police Captain Frank Warchol.** Public Works Director Peter Rice supported staff recommendation because there was an existing handicap space and this is a reasonable compromise.

Shari Donnermeyer clarified that the loading zone would be located where the handicap space was located. Planning Director Juliet Walker responded that the bike lane and buffer would remain, but they would add striping and signage to allow for the loading and unloading of passengers in that area. There would also be signage further up the bike lane to provide warning. This temporary loading zone should only be active while this business is occupying the location. Shari Donnermeyer noted that it was too bad the handicap space was eliminated.

Ralph DiBernardo clarified that the loading zone would be for people only not for delivery and moving trucks as well. Planning Director Juliet Walker confirmed that was correct.

Harold Whitehouse asked if there was a plan to replace the bollards with something else. Chairman Doug Roberts advised him to bring up the issue at the end of the meeting under Miscellaneous on the agenda.

Mary Lou McElwain commented that it was important to accommodate this business and thought this was a good compromise. Mary Lou McElwain felt that it was important the City work with the Graziers and wondered if they could comment on the proposal.

**Mary Lou McElwain moved to allow for public comment by the Graziers, seconded by Harold Whitehouse. Motion passed 9-0.**

Barbara Grazier commented that it was an acceptable plan as long as the handicap van can wait 15 minutes or so for their patient. Sometimes the vans are too large to go in the back.

Public Works Director Pete Rice recommended that they move forward with this as presented because it seemed like a reasonable timeframe. If there is an issue it can be addressed.

Chairman Doug Roberts was in favor of the van dropping a client off and moving around the corner until the client is ready to leave. Barbara Grazier noted that they try to keep this client in a short timeframe to prevent the van and the client from waiting too long.

Chairman Doug Roberts questioned what a typical loading zone time limit was. Planning Director Juliet Walker responded that this would be a passenger loading and unloading only. This business knows their clients and is willing to work with the City. It would be good to try this without setting a time limit and address any issues if they arise.

Dr. Russell Grazier noted that the large handicap van only comes once a week. Cars that drop off patients can move to the back to park.

**Motion passed 8-0.**

Chairman Doug Roberts abstained because he missed part of the discussion.

D. Request for parking space in bike lane buffer at 60 Lafayette Road.  
**Harold Whitehouse moved to implement measures recommended by staff, seconded by Deputy City Manager Nancy Colbert Puff.**

Planning Director Juliet Walker commented that this was a challenging situation. There is width in the buffer for a parking space, but there would not be a marked buffer between the bike lane and the parked car. Staff is concerned about that because even though there is enough width for the bike to move over, bikers may not feel comfortable hugging the curb in that area. The recommendation would be to work with the current property owners to have some temporary parking in the vacant gas station. That property will likely be redeveloped and during that time there would be opportunity to redesign the area. There may be an opportunity to create additional parking. Planning Director Juliet Walker was concerned about adding a parking spot in this location without being able to clearly mark the buffer. It would also be one parking space with no other spaces on either side of the road. It could present a safety hazard.

Public Works Director Peter Rice requested that the motion on the table be withdrawn to further evaluate the options. **Harold Whitehouse withdrew his motion.**

Planning Director Juliet Walker requested guidance from the Committee on what to consider.

Chairman Doug Roberts supported a short-term solution, if possible, and then creating a long-term solution when the area was redeveloped.

**Public Works Director Peter Rice moved to refer to staff for report back, seconded by Mary Lou McElwain. Motion passed 9-0.**

E. Request to lower speed limit on Edmond Avenue from 30 mph to 25 mph, by Marc Stettner. Chairman Doug Roberts commented that the Committee had received a letter from Mark Stettner that raised a number of issues. Chairman Doug Roberts agreed with some of the points and noted that Eric Eby's report showed traffic had increased by 150% and speeds had gone up 25%. Chairman Doug Roberts was in support of going to the 25 mph speed limit.

Harold Whitehouse requested clarification on the Committee's authority to reduce traffic speed limits. Harold Whitehouse questioned if there was a state statute on this. Eric Eby responded that according to state law the default speed limit for most roads is 30 mph. They can be lowered to 25 mph if an engineering traffic study is conducted for the road and it is determined that a speed reduction is warranted.

Public Works Director Peter Rice questioned if they could put temporary reduced speed limits for the time of the construction detour. Eric Eby noted that without the construction this road has very little traffic and speeds are lower than 25 mph. Once the detour is removed those conditions should return. For a temporary construction reduced speed they could only add an advisory sign not a regulatory sign. They would not be able to enforce it.

Chairman Doug Roberts noted that the speed limit sign was at the beginning of the road and may encourage people to speed up. Eric Eby responded that speed limit signs are not required to be posted, so they could remove it. Chairman Roberts supported removing the signs.

Ralph DiBernardo noted that Maplewood Avenue and Woodbury Avenue were both 25 mph. It is inconsistent that this road is 30 mph. Police Captain Frank Warchol responded that those two roads went through significant engineering study and were dropped to 25 mph. Removing the 30 mph sign on Edmond Avenue would be the best solution.

Chairman Doug Roberts requested a report back after the signs are removed to see if it has changed the traffic.

Mary Lou McElwain requested clarification on why removing the sign would reduce speed. Chairman Doug Roberts noted that the surrounding streets were 25 mph, so without a sign, people would assume that Edmond Avenue was also 25 mph.

Steve Pesci suggested looking at speed limit inconsistencies throughout the City on a future agenda.

**Public Works Director Peter Rice moved to remove the speed limit signs indicating 30 mph on Edmond Avenue and follow-up with additional monitoring, seconded by Deputy City Manager Nancy Colbert Puff. Motion passed 9-0.**

F. Report back on Neighborhood Traffic Calming requests:

1. Aldrich Road: Eric Eby commented that there has been a lot of data collection on Aldrich Road. The average speeds were recorded in the 25 mph range and that is appropriate. There are appropriate sight lines for the crosswalk at Sewall Road. A speed limit of 20 mph is not appropriate for that roadway. Eric Eby looked at the speed tables on Madbury Road in Durham, NH. They have done several speed tables and have noticed that some vehicles such as landscape trailers make a lot of noise going over them. There are also pavement gouges where vehicles have bottomed out. The best solution is to recommend parking out in the street similar to the other end of Aldrich Road. The parking cut outs can be temporarily closed off and people can park in the street to make the road narrower. Staff can monitor the results. Signing could be increased as well.

Steve Pesci noted that the memo showed 85<sup>th</sup> percentile of cars were operating within the 25-30 mph and questioned if that meant the road was already working as designed.



Eric Eby responded that Aldrich Road is posted at 20 mph. Steve Pesci sits on the Durham Board as well and noted that the speed tables are heavily debated. Eric Eby added that Madbury Road has different characteristics than Aldrich Road.

Eric Eby showed the speed distribution graphs and showed the majority of cars went 30 mph or less. Engineers generally set the speed of a road based on the 85<sup>th</sup> percentile.

Chairman Doug Roberts noted that 25 mph seemed to be an appropriate speed and noted that accident and pedestrian data should play into the speed determination as well. Eric Eby responded that he did look at the accident data. There have been a total of 11 accidents over the past 16 years. There is not a lot of pedestrian traffic and the road does have sidewalks.

Fire Chief Steven Achilles was concerned about emergency vehicle access if the road was narrowed further with parked cars. It is the first road they can use to cut over for support vehicles to come into Islington St. They should not create a situation that may cause delays when responding to an emergency. Police Captain Frank Warchol supported Fire Chief Steven Achilles comments.

Public Works Director Peter Rice noted that there was a significant effort a few years ago to rebuild the roadway. The neighborhood was included in the design. This was the design that was requested by the neighborhood. Public Works Director Peter Rice did not support investing significant money into this roadway now. Modifying the parking is not a good solution. They should make some small initial changes and adjust more in the future if needed.

**Public Works Director Peter Rice moved to remove the striping, add more signage and monitor, seconded by Ralph DiBernardo. Motion passed 9-0.**

Mary Lou McElwain requested to table the remaining agenda items to next month.

**Chairman Doug Roberts moved to postpone the remaining traffic calming measures, the Edward Street closure, and the informational items other than the Quarterly Accident Report, to the February PTS Meeting, seconded by Mary Lou McElwain. Motion passed 8-0.** Public Works Director Peter Rice was not present for the vote.

2. Brackett Road - Tabled to the February meeting.
3. Brackett Lane - Tabled to the February meeting.
4. South Street - Tabled to the February meeting.

G. Edward Street closure, report back on proposed closure plan.  
Tabled to the February meeting.

## **IX. INFORMATIONAL:**

A. Foundry Place Parking Garage usage and traffic volume update, by Parking Director Ben Fletcher. Tabled to the February meeting.

B. Police grants, by Police Captain Frank Warchol. Tabled to the February meeting

C. Quarterly Accident Report. Police Captain Frank Warchol commented that there were 8 accidents from September 15, 2018 to the end of the year. There were 7 pedestrian accidents and 1 bicycle accident. He summarized the end of year accident results. In 2017 there were 1,154 accidents and in 2018 there were 1,152 accidents.

Chairman Doug Roberts received an email from the pedestrian who was struck at Hanover St. and Market St. That intersection could be put on the agenda for evaluation. Police Captain Frank Warchol responded that it was evaluated. Since 2015 there have been 4 car accidents at that intersection. Based on that it is not seen as an unsafe intersection at this time.

Chairman Doug Roberts requested a monthly report on accidents, if possible. Police Captain Frank Warchol confirmed he would look into it.

D. PTS Open Action Items. No action required by the Committee.

**X. MISCELLANEOUS:**

Harold Whitehouse commented that the Committee should take a stand regarding the concerns over the proposed parking for the McIntyre Project. He stated they are only proposing 77 spaces for 77 condos.

**Harold Whitehouse moved the PTS Committee go on record opposing the McIntyre plan based on the proposed parking issue.** No second.

Mary Lou McElwain noted that she would like further discussion on the topic.

Planning Director Juliet Walker recommended that the Committee wait until there was a formal proposal in front of the Planning Board. All that has been presented so far is a conceptual plan.

**Motion failed.**

**XI. ADJOURNMENT – at 10:09 a.m., VOTED to adjourn.**

Respectfully submitted by:

Becky Frey  
PTS Recording Secretary

# CITY OF PORTSMOUTH PORTSMOUTH, NH 03801

**DATE:** January 22, 2019  
**TO:** Honorable Mayor Blalock and City Council Members  
**FROM:** Nancy Pearson, Councilor and Rebecca Perkins, Councilor  
**RE:** Worth Lot Demonstration Project

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At the December 17, 2018 City Council meeting, the Council voted to direct the City Manager to pursue a partnership for a demonstration project with The Music Hall for an event activating the Worth Lot in 2019 in accordance with the vision in the Vaughan Worth-Bridge Strategic Revitalization Committee report. That vision recommended “that the City Manager invite and cooperate with community-led (or City-led) initiatives to illustrate the concepts of the proposed future uses through demonstration projects...” It further recommended that the City “transform the surface parking at the Bridge Street and Worth Lot as well as the Vaughan Mall to extend the vibrant downtown fabric emanating from Market Square into new and renewed public spaces to create more opportunity for Portsmouth’s civic life to grow”.

Following-up on the Council recommendation, the City Manager has met with City staff and the Music Hall representatives on details of a 4-hour event on a summer late afternoon/evening in 2019 that will activate the Worth Lot. The proposed event would consist of a concert that the Music Hall will coordinate and manage. In addition, the Music Hall will coordinate and manage 5 local food vendors and restricted beer and wine sales by the Music Hall’s professional bartenders in a beer garden atmosphere. The event will include a police detail to monitor access and egress and overall logistics.

In order to allow sufficient time to move ahead with event planning and arrange for advance press promotion, the City Council needs to approve the sale of beer and wine at the event.

***Motion: To request the City Council to approve the sale of beer and wine for a one day event in the summer of 2019 as part of the Worth Lot Demonstration Project.***

c.: John P. Bohenko, City Manager

January 22, 2019

Chairman Clyde Carson  
Municipal and County Government Committee  
New Hampshire House of Representatives  
Legislative Office Building  
Room 301  
33 North State Street  
Concord, NH 03301

**RE: Portsmouth City Council Supports HB 102**

Chairman Carson,

The Portsmouth City Council supports reporting HB 102, relative to municipal ordinances regarding the use of plastics, Ought to Pass. Neither our support nor reporting HB 102 Ought to Pass are necessarily endorsing the regulation of single-use plastics, but simply endorsing municipalities having the clear authority to regulate them if they so choose. Residents have sought to regulate single-use plastic bags in Portsmouth since at least 2014 and presented different City Councils a draft ordinance for consideration in both 2015 and 2017. While several City Councilors have maintained that the authority to regulate single-use plastics currently exists under R.S.A. 149-M, Solid Waste Management, enacting this enabling legislation would unequivocally permit municipalities to regulate their distribution.

Very Respectfully,

Josh Denton  
City Councilor

CC: Vice Chairman Bruce Tatro; Clerk Timothy Josephson; Rep. Marjorie Porter; Rep. Susan Treleaven; Rep. Julie Gilman; Rep. David Meader; Rep. Paul Dargie; Rep. Jim Maggiore; Rep. Donna Mombourquette; Rep. Laurel Stavis; Rep. James Belanger; Rep. Vincent Paul; Rep. Migliore; Rep. Max Abramson; Rep. Tom Dolan; Rep. Derek Kittredge; Rep. John MacDonald; Rep. Mona Perreault; Rep. Tony Piemonte; Rep. Kevin Pratt; Rep. Bartlett (Mer 19); Rep. Spand (Straf 6); Rep. Martin (Hills 23); Rep. Von Plinsky (Ches 7); and Rep. J. Schmidt (Hills 28)