

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, OCTOBER 28, 2019 TIME: 7:00PM

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

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

III. **ROLL CALL**

IV. **INVOCATION**

V. **PLEDGE OF ALLEGIANCE**

PROCLAMATION

1. The George R. Laderbush Memorial Bridge

VI. **ACCEPTANCE OF MINUTES** *(There are no minutes on for acceptance this evening)*

VII. **RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS**

VIII. **PUBLIC COMMENT SESSION**

IX. **VOTE ON ORDINANCES AND/OR RESOLUTION**

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

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

B. **First Reading of Ordinance – Fire Codes:**

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

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

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

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

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

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

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

F. First Reading of Ordinance – Conservation Ordinance:

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

G. First Reading of Ordinance – Wetlands Protection:

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

X. **MAYOR BLALOCK**

1. Approval of Karen Sawyer Conard, New City Manager Employment Agreement
2. Acceptance of Resignation from Amy Schwartz of the Portsmouth Housing Authority
3. Appointment to be Considered:
 - Craig Jewett to the Portsmouth Housing Authority
4. *Appointment to be Voted:
 - Jessica Blasko as a Regular member of the Conservation Commission
5. *Establish Sister City Mayor's Blue Ribbon Committee
 - Stephanie Seacord
 - Valerie Rochon
 - Steve Zadravec
 - Tammi Truax
 - Steve Butzel
6. Sister Cities International Friendship Agreement (***Sample motion – move to authorize Mayor Blalock and the City of Portsmouth to enter into a Sister City Friendship Agreement with the City of Santarcangelo di Romagna, Italy***)

XI. **CITY COUNCIL MEMBERS**

A. ASSISTANT MAYOR LAZENBY AND COUNCILOR PEARSON

1. Safe Water Advisory Group

B. COUNCILOR ROBERTS

1. Parking & Traffic Safety Committee Action Sheets and Minutes of the September 5, 2019 & October 3, 2019 meetings (***Sample motion – move to accept and approve the action sheet and minutes of the September 5, 2019 and October 3, 2019 Parking & Traffic Safety Committee meetings***)
2. Foundry Garage Parking Fees (***Sample motion – move to refer to the Fee Committee for Report Back***)

XII. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Police Department Grant:
- NH Department of Safety – Highway Safety Initiatives - \$20,425.00 (***Sample motion – move to accept and approve the grant to the Portsmouth Police Department, as presented***)
- B. Acceptance of Grant from Great Bay Resource Protection Partnership (***Sample motion – move to accept and approve a grant from the Great Bay Resource Protection Partnership, and further, authorize the City Manager to execute any documents which may be necessary for this grant contract***)
- C. Acceptance of Moose License Plate Conservation Grant (***Sample motion – move to accept and approve a grant from the New Hampshire State Library, as presented***)

XIII. CITY MANAGER'S ITEMS WHICH REQUIRE ACTION

A. CITY MANAGER

City Manager's Items Which Require Action:

1. School Department Teacher Retirement Incentive
2. Odyssey (Michael Warhurst Sculpture)
3. Extending and Modifying Players' Ring Lease – Stewardship Agreement
4. Easement for 119 International Drive, LLC Property Located at 15 & 19 Rye Street

XIV. CONSENT AGENDA

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

Planning Director's Stipulations

- ***The license shall be approved by the Legal Department as to content and form;***
- ***Any removal or relocation of projecting sign, for any reason, shall be done at no cost to the City; and***

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

XV. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Email Correspondence (***Sample motion – move to accept and place on file***)
- B. Letter from Eric Chinburg, Chinburg Properties, requesting a fee waiver of building permit fees, water hookup fees and any impact fees for renovations of Carey Cottage
- C. Letter from Guy A. Pronesti requesting permission to remove sidewalk in front of 100 Pinehurst Road (***Sample motion – move to refer to the City Manager for report back***)

XVI. CITY MANAGER’S INFORMATIONAL ITEMS

- 1. PFAS in Artificial Turf
- 2. Dogs on Decks
- 3. Preliminary Report Back Re: Traffic Crashes, Speeds, and Bike Lane Usage related to Implementation of Middle Street/Lafayette Road Bike Lanes
- 4. Portsmouth Police Department Press Release

XVII. MISCELLANEOUS BUSINESS INCLUDING BUSINESS REMAINING UNFINISHED AT PREVIOUS MEETING

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

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

** Indicates verbal report*

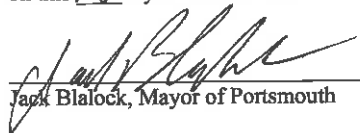
The Council Chambers
City Hall
Portsmouth, New Hampshire

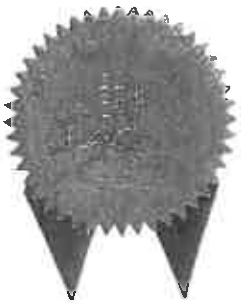
A Proclamation

- Whereas:** the George R. Laderbush Memorial Bridge is being re-dedicated in the honor of George Robert Laderbush, Torpedoman's Mate, 2nd Class (USN) on this historic date of November 11, 2019 (Veterans Day) marking the 101st anniversary of the signing of the Armistice ending World War I; and
- Whereas:** George Robert Laderbush was lost with 69 other members of the crew aboard the *USS Flier* (SS-250) which sank on August 12th 1944, after striking a Japanese mine; and
- Whereas:** the *USS Flier* was one of 52 United States Navy submarines lost in the Pacific Theater during World War II, and George Robert Laderbush was one of a total of 374 officers and 3,131 crew lost on those submarines; and
- Whereas:** the completion of this Woodbury Avenue bridge marks the conclusion of the project by E. D. Swett, Inc. to replace all of the bridges in the Route 1 By-Pass Bridge Project, also including bridges on Maplewood Avenue, Albacore Park, Stark Street, Islington Street and Middle Road.

Now, therefore, I, Jack Blalock, Mayor of the City of Portsmouth, on behalf of the members of the City Council and the citizens of Portsmouth, do hereby proclaim that this bridge will henceforth be identified as the George R. Laderbush Memorial Bridge to honor and remember the full measure of devotion that George R. Laderbush, Torpedoman's Mate, Second Class, gave to his country. It reminds us of the inspirational example he provided of the service so many Portsmouth sailors gave, and continue to give, to the United States Navy.

Given with my hand and the
Seal of the City of Portsmouth,
on this 28 day of October 2019.


Jack Blalock, Mayor of Portsmouth





THE
GEORGE R. LADERBUSH
MEMORIAL
BRIDGE

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On Eternal Patrol - Lost Submariners of World War II

George Robert Laderbush



10/17/2018

On Eternal Patrol - George Robert Laderbush

Rank/Rate	Torpedoman's Mate, Second Class
Service Number	573 07 44
Birth Date	June 26, 1923
From	Portsmouth, New Hampshire
Decorations	Purple Heart
Submarine	<u>USS Flier (SS-250)</u>
Loss Date	August 13, 1944
Location	In Balabac Strait near Mantangule Island
Circumstances	Sunk by a mine
Remarks	George was born in Greenland, New Hampshire.

Photo courtesy of Marga Coulp, niece. Information courtesy of Paul W. Wittmer.

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Laderbush, George Robert



Guiding Principles Related to Code Adoption in Portsmouth

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

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

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

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

1 ORDINANCE #
2 THE CITY OF PORTSMOUTH ORDAINS

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

8 CHAPTER 4

9 ARTICLE I FOOD LICENSING AND REGULATIONS

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

11 *Adopt the following definitions:*

12 He-P 2301 DEFINITIONS

13 (e) "Beverage"

14 (l) "Critical control point"

15 (m) "Critical limit"

16 (p) "Food"

17 (q) "Food Code"

18 (s) "Food processing plant"

19 (u) "Foodborne disease outbreak"

20 (x) "Immediately endangers public health or safety"

21 (y) "Imminent health hazard"

22 (z) "License"

23 (aa) "License holder"

24 (ac) "Major food allergen"

25 (af) "Package"

26 (ah) "Potentially hazardous food"

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

28 (ap) "Regulatory authority"

29 (aq) "Remodeled"

30 (as) "Sanitization"

31 (au) "Sewage"

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

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

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

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

36 **Section 4.105 License.**

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

43

44

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

47

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

49

50 This ordinance shall take effect upon its passage.

51

APPROVED:

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Jack Blalock, Mayor

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56 ADOPTED BY COUNCIL:

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Kelli L. Barnaby, City Clerk

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ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That Chapter 5, Article VIII – **ALARM SYSTEMS** and Article IX – **ADOPTED FIRE CODES** of the Ordinances of the City of Portsmouth be amended as follows (deletions from existing language **stricken**; additions to existing language **bolded**; remaining language unchanged from existing):

CHAPTER 5

FIRE DEPARTMENT AND PREVENTION REGULATIONS

ARTICLE VIII: ALARM SYSTEMS

Section 5.802: SERVICE FEE

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

~~**Section 5.803: PERMISSIBLE UNFOUNDED EMERGENCY CALLS**~~

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

~~A. Unfounded Emergency Calls to Police Department
Five calls per calendar year~~

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

ARTICLE IX: ADOPTED FIRE CODES

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

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

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

SECTION 105 PERMITS

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

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

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

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

Change subsections to read as follows:

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

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

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

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

SECTION 903 AUTOMATIC SPRINKLER SYSTEMS

Change subsection to read as follows with exceptions remaining unchanged:

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

Change subsection to read as follows with exceptions remaining unchanged:

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

SECTION 907 FIRE ALARM AND DETECTION SYSTEMS

Add new item 4 to end of subsection:

907.2.11.1 Group R-1.

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

Add new item 4 to end of subsection:

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

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

Add new subsection to read as follows:

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

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

CHAPTER 10 MEANS OF EGRESS

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

SECTION 1001 ADMINISTRATION

Change subsections to read as follows:

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

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

SECTION 3201 GENERAL

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

CHAPTER 80 REFERENCED STANDARDS

Insert the following Codes and Standards:

New Hampshire State Building Code

Department of Safety
33 Hazen Drive
Concord, NH 03305
(603) 271-~~3294~~**7965**
blidgecodebrd@dos.nh.gov

New Hampshire Architectural Barrier Free Design Code

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

New Hampshire Energy Code

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

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

NH ~~Labor~~ Department of **Labor**
Boiler & Elevator Division
PO Box 2076
Concord, NH 03302-2076
(603) 271-~~2584~~**2585**
www.nh.gov/labor/inspection/boilers-elevators.htm

Amend in the NFPA Section the following referenced Standards:

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

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

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

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

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

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

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

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

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

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

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

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

70-14 -17 National Electric Code

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

54-15 National Fuel Gas Code

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

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

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

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

This ordinance shall take effect upon its passage.

APPROVED:

Jack Blalock, Mayor

ADOPTED BY COUNCIL:

Kelli L. Barnaby, City Clerk

ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That Chapter 12, Part I – **INTERNATIONAL BUILDING CODE**, and Part II – **INTERNATIONAL RESIDENTIAL CODE** of the Ordinances of the City of Portsmouth be amended as follows (deletions from existing language **stricken**; additions to existing language **bolded**; remaining language unchanged from existing):

CHAPTER 12
Part I

INTERNATIONAL BUILDING CODE, 20092015
(Adopted ~~12/04/2017~~–eff. 01/01/2018 _____)

The International Building Code, **20092015** IBC Edition as published by the International Code Council, Inc., and provisions of national codes model codes or standards referred to within the IBC unless specifically excused by this Chapter, is hereby adopted as **Chapter 12, Part I** of the Ordinances of the City of Portsmouth, New Hampshire subject to the following amendments, additions and deletions:

SECTION 101 GENERAL

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

SECTION 110 INSPECTIONS

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

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

SECTION 503 GENERAL HEIGHT AND AREA LIMITATIONS

General note pertaining to Table 503:

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

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

SECTION 506 BUILDING AREA MODIFICATIONS

Change subsections to read as follows:

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

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

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

Exceptions:

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

SECTION 507 UNLIMITED AREA BUILDINGS

Change subsection to read as follows:

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

Exceptions:

Exceptions 1 and 2 remain unchanged.

Edit first section in subsection as follows:

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

Change subsection to read as follows:

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

SECTION 706 FIRE WALLS

706.8 Openings.

Delete Exception 1 without substitution:

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

Edit Exception 2 as follows:

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

SECTION 7156 OPENING PROTECTIVES

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

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

SECTION 903 AUTOMATIC SPRINKLER SYSTEMS

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

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

SECTION 907 FIRE ALARM AND DETECTION SYSTEMS

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

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

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

~~[F] 907.2.1 Group A.~~

~~*Delete Exception without substitution.*~~

~~*Edit subsections as follows:*~~

~~[F] 907.2.2 Group B.~~

~~Delete Exception without substitution.~~

~~[F] 907.2.3 Group E.~~

~~Delete Exception 3 without substitution.~~

~~[F] 907.2.4 Group F.~~

~~Delete Exception without substitution.~~

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

~~Delete Exception 1 without substitution.~~

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

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

~~[F] 907.2.7 Group M.~~

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

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

~~Delete Exception 2 without substitution.~~

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

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

~~Change subsection to read as follows:~~

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

Exceptions:

- ~~1. A fire alarm system is not required in buildings not more than two stories in height where all dwelling units or sleeping units and contiguous attic and crawl spaces are separated from each other and public or common areas by at least 1-hour fire partitions and each dwelling unit or sleeping unit has an exit directly to a public way, egress court or yard.~~
- ~~2. A fire alarm system is not required in buildings that do not have interior corridors serving dwelling units and are protected by an approved automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2, provided that dwelling units either have a means of egress door opening directly to~~

~~an exterior exit access that leads directly to the exits or are served by open-ended corridors designed in accordance with Section 1026.6, Exception 4.~~

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

Add new item 4 to end of subsection:

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

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

Add new item 4 to end of subsection:

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

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

Add new subsection to read as follows:

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

Add new subsection to read as follows:

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

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

Change subsection to read as follows with exceptions remaining unchanged:

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

SECTION ~~916~~17 FIRE SERVICE BUILDING ACCESS

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

SECTION 101~~13~~ EXIT SIGNS

Change subsection to read as follows with exception remaining unchanged:

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

Change subsection to read as follows:

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

SECTION 102~~930~~ EMERGENCY ESCAPE AND RESCUE

Change exception 1 in subsection to read as follows:

102930.1 General.

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

Add new exception to read as follows:

SECTION 1208 INTERIOR SPACE DIMENSIONS

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

1208.2 Minimum ceiling heights.

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

SECTION ~~1704~~ 1705 SPECIAL INSPECTIONS AND TESTS

1704.3.45.2.4 Cold-formed steel trusses. Special inspections shall be required for all light gauge metal roof or floor truss installations. The special inspection shall verify and document the

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

1704.65.5.2 Metal-plate-connected wood trusses. Special inspections shall be required for all metal-plated-wood roof or floor truss installations. The special inspection shall verify and document the proper installation of all required bracing, both temporary and permanent, and any special connection details required by either the design professional or the truss manufacturer.

Add new subsections to read as follows:

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

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

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

SECTION 1809 SHALLOW FOUNDATIONS

Amend Item 1 of subsection to read as follows:

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

SECTION 2701 GENERAL

Change subsection to read as follows:

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

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

Add new sections to read as follows:

SECTION 2703 INSPECTIONS AND TESTS

~~2703.1 Concealing work. Work in connection with an electric system for which a permit is required, shall not be covered or concealed until such work has been inspected and permission to conceal such work has been given by the building official. It shall be the responsibility of the electric permit holder to contact the building official for said~~

~~inspections. Furthermore, the permit holder shall allow a minimum of two work days (48 hours) from the time the building official is notified to the time the inspection is performed.~~

~~2703.2 Service Inspection. All service equipment shall be installed, grounded and bonded before a request is made for a service inspection. It shall be the responsibility of the permit holder to contact the building official for said inspection. The same inspection notification time allowance is required as in Section 2703.1. After satisfactory completing said inspection, the building official shall issue written notification to the local electric utility to allow for meter installation and power connection. It shall be the responsibility of the permit holder to contact the local electric utility for scheduling this power connection.~~

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

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

~~SECTION 2704 QUALIFICATIONS OF ELECTRICIANS~~

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

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

~~SECTION [P] 2901 GENERAL~~

~~Change subsection to read as follows:~~

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

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

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

Change exception 2 in subsection to read as follows:

~~[P] 2902.2 Separate facilities.~~

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

Add new sentences to end of subsection:

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

Add new subsection to read as follows:

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

~~[F] SECTION 3003 EMERGENCY OPERATIONS~~

Add new subsection to read as follows:

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

SECTION 3306 PROTECTION OF PEDESTRIANS

Add new subsection to read as follows:

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

General note pertaining to Chapter 34:

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

CHAPTER 35 REFERENCED STANDARDS

Insert the following Codes and Standards:

New Hampshire State Building Code
Department of Safety

33 Hazen Drive Drive
Concord, NH 03305
(603) 271-~~3294~~**7965**
blidgecodebrd@dos.nh.gov

New Hampshire Architectural Barrier Free Design Code

Governor's Commission on Disability
121 South Fruit Street, Suite 101
Concord, NH 03301-8518
(603) 271-2773
1-800-852-3405 (NH)
<http://www.nh.gov/disability/abcommittee.html>

New Hampshire Energy Code

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

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

NH ~~Labor~~ Department of ~~Labor~~
Boiler & Elevator Division
PO Box 2076
Concord, NH 03302-2076
(603) 271-~~6294~~**2585**
www.nh.gov/labor/inspection/boilers-elevators.htm

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

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

Amend in the NFPA section the following referenced Standards:

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

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

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

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

APPENDIX L – M

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

CITY ORDINANCE - CHAPTER 12
Part II

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

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

SECTION R102 APPLICABILITY

Add new subsections to read as follows:

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

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

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

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

SECTION R105 PERMITS

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

SECTION R107 TEMPORARY STRUCTURES AND USES

SECTION R109 INSPECTIONS

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

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

SECTION R301 DESIGN CRITERIA

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

SECTION R302 FIRE-RESISTANT CONSTRUCTION

Amend Exception 1 in subsection to read as follows:

R302.3 Two-family dwellings.

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

SECTION R310 EMERGENCY ESCAPE AND RESCUE OPENINGS

R310.1 Emergency escape and rescue openings required.

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

Add new exception 2 to read as follows:

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

Add new subsections to read as follows:

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

Change section to read as follows:

SECTION R313 AUTOMATIC FIRE SPRINKLER SYSTEMS

Change subsection to read as follows:

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

Add new subsection to read as follows:

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

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

Delete subsection without substitution:

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

SECTION R314 SMOKE ALARMS

Add new sentence to end of subsection:

~~R314.~~**R314.6 Power source.** Smoke alarms shall be supplied by a branch circuit that also supplies lighting loads serving habitable spaces. Smoke alarm circuit(s) shall be clearly labeled in the electric panel. The branch overcurrent protective device supplying the smoke alarms shall be clearly labeled “Smoke Alarms” in a manner that distinguishes it from other overcurrent protective devices.

SECTION R315 CARBON MONOXIDE ALARMS

Change section to read as follows:

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

Add new subsection to read as follows:

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

SECTION R501 GENERAL

Add new subsection to read as follows:

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

Exceptions:

1. Floor assemblies located directly over a space protected by an automatic sprinkler system in accordance with **Section P2904**, NFPA 13D or NFPA 13R.
2. Floor assemblies located directly over a crawl space not intended for storage or fuel-fired appliances.
3. Portions of floor assemblies can be unprotected when complying with the following:
 - 3.1 The aggregate area of the unprotected portions shall not exceed 80 square feet per story
 - 3.2 Fire blocking in accordance with Section R302.11.1 shall be installed along the perimeter of the unprotected portion to separate the unprotected portion from the remainder of the floor assembly.
4. Wood floor assemblies using dimension lumber or structural composite lumber equal to or greater than 2-inch by 10-inch (50.8 mm by 254 mm) nominal dimension, or other approved floor assemblies demonstrating equivalent fire performance.

CHAPTER 35 REFERENCED STANDARDS

Insert the following Codes and Standards:

New Hampshire State Building Code

Department of Safety
33 Hazen Drive Drive
Concord, NH 03305
(603) 271-**32947965**

bldgcodebrd@dos.nh.gov

New Hampshire Architectural Barrier Free Design Code

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

1-800-852-3405 (NH)

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

New Hampshire Energy Code

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

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

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

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

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

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

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

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

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

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

Amend in the NFPA section the following referenced Standards:

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

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

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

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

SEE 2015 INTERNATIONAL SWIMMING POOL AND SPA CODE

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

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

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

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

This ordinance shall take effect upon its passage.

APPROVED:

Jack Blalock, Mayor

ADOPTED BY COUNCIL:

Kelli L. Barnaby, City Clerk

ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That Chapter 15, Part I – **INTERNATIONAL PLUMBING CODE**, Part II – **INTERNATIONAL MECHANICAL CODE**, Part III – **FUEL GAS INSTALLATIONS**, and Part IV – **NATIONAL ELECTRICAL CODE** of the Ordinances of the City of Portsmouth be amended as follows (deletions from existing language **stricken**; additions to existing language **bolded**; remaining language unchanged from existing):

CHAPTER 15

Part I

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

The City of Portsmouth adopts the State Building Code, which adopts by reference the International Plumbing Code, 2015~~09~~ Edition (IPC) as published by the International Code Council, Inc. is hereby adopted as **Chapter 15, Part I**, of the Ordinances of the City of Portsmouth, New Hampshire subject to the following amendments, additions and deletions.

SECTION 101 GENERAL

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

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

SECTION 106 PERMITS

Change subsection to read as follows:

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

Change subsection to read as follows:

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

SECTION 107 INSPECTIONS AND TESTING

Add new subsection to read as follows:

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

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

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

SECTION 108 VIOLATIONS

Change subsection to read as follows:

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

SECTION 202 GENERAL DEFINITIONS

Change the following definitions to read as follows:

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

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

Amend Section 202 by adding the following definition:

SECTION 305 PROTECTION OF PIPES AND PLUMBING SYSTEM COMPONENTS

Change subsection to read as follows:

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

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

Change subsection to read as follows:

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

SECTION 312 TESTS AND INSPECTIONS

Change subsection to read as follows:

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

Change first sentence to read as follows:

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

SECTION 403 MINIMUM PLUMBING FACILITIES

Change exception 2 in subsection to read as follows:

403.2 Separate facilities.

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

Add new subsection to read as follows:

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

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

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

403.3 Required public toilet facilities.

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

SECTION 405 INSTALLATION OF FIXTURES

Add new subsections to read as follows:

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

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

~~(SECTION 410 DRINKING FOUNTAINS)~~

SECTION 501 GENERAL

Change subsections to read as follows:

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

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

SECTION 605 MATERIALS, JOINTS AND CONNECTIONS

Edit subsection as follows:

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

SECTION 607 HOT WATER SUPPLY SYSTEMS

Add new subsection to read as follows:

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

Change subsection to read as follows:

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

SECTION 608 PROTECTION OF POTABLE WATER SUPPLY

Change subsection to read as follows:

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

SECTION 701 SANITARY DRAINAGE ~~GENERAL~~

SECTION 705 JOINTS

Edit subsections as follows:

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

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

SECTION 91209 WET VENTING

Amend Table 91209.3 as follows:

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

SECTION 9187 AIR ADMITTANCE VALVES

Change subsection to read as follows:

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

SECTION 1003 INTERCEPTORS AND SEPARATORS

Change subsection to read as follows:

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

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

CHAPTER 15 REFERENCED STANDARDS

Insert the following referenced codes and regulations:

New Hampshire State Building Code

Department of Safety
33 Hazen Drive Drive
Concord, NH 03305
(603) 271-~~329~~**47965**
bldgcodebrd@dos.nh.gov

New Hampshire Architectural Barrier Free Design Code

Governor's Commission on Disability
21 South Fruit Street, Suite 101
Concord, NH 03301-8518
(603) 271-2773
1-800-852-3405 (NH)
<http://www.nh.gov/disability/abcommittee.html>

New Hampshire Energy Code

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

Add in the NFPA section the following referenced Standards:

54-~~150~~9**** National Fuel Gas Code 101.2, 102.8.2

Amend in the NFPA section the following referenced Standards:

Change 70-~~140~~**2** to **70-~~170~~**8**** National Electric Code 102.8.1, 502.1,
504.3, 1113.1.3

APPENDIX A – PLUMBING PERMIT FEE SCHEDULE

Appendix A is not adopted as part of this ordinance.

APPENDIX B – RATES OF RAINFALL FOR VARIOUS CITIES

Appendix B is adopted as part of this ordinance without amendment

APPENDIX C – STRUCTURAL SAFETY

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

~~APPENDIX C – GRAY WATER RECYCLING SYSTEMS~~

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

APPENDIX D – DEGREE DAY DESIGN TEMPERATURES

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

APPENDIX E – SIZING OF WATER PIPING SYSTEM

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

~~APPENDIX F—STRUCTURAL SAFETY~~

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

~~APPENDIX G—VACUUM DRAINAGE SYSTEM~~

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

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CHAPTER 15
Part II

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

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

SECTION 102 APPLICABILITY

Add new subsections to read as follows:

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

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

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

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

SECTION 106 PERMITS

Change subsection to read as follows:

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

SECTION 107 INSPECTIONS AND TESTING

Add new subsection to read as follows:

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

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

SECTION 108.0 VIOLATIONS

Change subsection to read as follows:

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

SECTION 501 EXHAUST SYSTEM-GENERAL

Add new subsection to read as follows:

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

SECTION 507 COMMERCIAL KITCHEN HOODS

Add new subsection to read as follows:

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

SECTION 509 FIRE SUPPRESSION SYSTEMS

~~CHAPTER 8 CHIMNEYS AND VENTS~~

SECTION 801 CHIMNEYS AND VENTSGENERAL CHAPTER 15 REFERENCED STANDARDS

Insert the following Codes and Regulations:

New Hampshire State Building Code

Department of Safety
33 Hazen Drive
Concord, NH 03305
(603) 271-~~3294~~**7965**
bldgcodebrd@dos.nh.gov

Guidelines Manual for Two (2) PSIG Gas Systems. 1601.2 (NFPA 54, 5.5.1)
Unitil Corporation.
PO Box 508
325 West Road, Portsmouth, NH 03802-0508,
1-800-552-3047

New Hampshire Energy Code

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

Add in the NFPA section the following referenced Standards:

54-1509 National Fuel Gas Code 1601.2	101.2, 102.8. 2 , 801.1, 1601.1 ,
70-17 05 -National Electric Code	102.8. 1

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

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

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

SECTION 1001 GENERAL

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

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

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

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

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

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

~~Delete the following subsections without substitution:~~

~~5.6.2.3 Copper and Brass~~

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

~~5.6.2.5 Aluminum Alloy~~

~~5.6.2.6 Aluminum Installation~~

~~5.6.3 Metallic Tubing~~

~~5.6.3.1 Steel~~

~~5.6.3.2 Copper and Copper Alloy Brass~~

~~5.6.3.3 Aluminum~~

~~Change subsection to read as follows:~~

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

Section 7.2 Installation of Piping.

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

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

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

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

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

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

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

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

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

Section 12.5 Type of Venting Systems to Be Used

Change subsection to read as follows:

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

Section 12.9 Through the wall vent termination.

Add new subsection to read as follows:

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

End of NFPA 54 Amendments.

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

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

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

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

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CHAPTER 15
PART IV
NATIONAL ELECTRICAL CODE, 2017

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

Change subsection to read:

210.8 Ground-Fault Circuit-Interrupter Protection for Personnel.

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

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

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

~~1) Bathrooms~~

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

~~(3) Outdoors~~

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

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

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

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

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

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

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

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

~~(8) Boathouses~~

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

~~(10) Laundry areas~~

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

~~(1) Bathrooms~~

~~(2) Kitchens~~

~~(3) Rooftops~~

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

~~(4) Outdoors~~

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

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

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

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

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

~~(6) — Indoor wet locations.~~

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

Add new subsection to read as follows:

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

Change subsection to read as follows:

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

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

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

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

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

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

Change subsection to read as follows:

Article 334, Part II. Installation

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

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

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

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

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

334.12 Uses Not Permitted.

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

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

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

~~(3) — As service-entrance cable.~~

Change subsection to read as follows:

334.15 Exposed Work in one and two family dwelling.

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

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

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

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

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

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

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

Change subsection to read as follows:

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

Change subsection to read as follows:

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

338.10 Uses Permitted.

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

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

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

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

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

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

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

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

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

Change subsection to read as follows:

338.12 Uses Not Permitted.

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

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

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

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

This ordinance shall take effect upon its passage.

APPROVED:

Jack Blalock, Mayor

ADOPTED BY COUNCIL:

Kelli L. Barnaby, City Clerk

**Proposed Zoning Ordinance Amendments
Flood Plain District
For October 28, 2019 City Council**

ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

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

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

10.613.10 The Flood Plain District (FP) consists of:

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

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

Area of special flood hazard

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

Extended flood hazard area

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

Historic structure

Any structure that is:

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

Manufactured home park or subdivision

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

Recreational vehicle

A vehicle that is:

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

Violation

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

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

Base flood elevation

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

Development

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

Manufactured home

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

Mean sea level

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

New construction

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

Regulatory floodway

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

Special flood hazard area (SFHA)

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

Substantial damage

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

Substantial improvement

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

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

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

Water surface elevation

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

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

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

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

E. In Section 10.626 – Watercourse Alteration, Relocation or Encroachment, make the following changes:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) Delete existing paragraph 10.628.60 in its entirety.

(5) Amend existing paragraph 10.628.70 as follows:

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

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

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

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

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

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

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

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

This ordinance shall take effect upon its passage.

APPROVED:

Jack Blalock, Mayor

ADOPTED BY COUNCIL:

Kelli L. Barnaby, City Clerk

Article 6 Overlay Districts

10.613 Overlay District Locations

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

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

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

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

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

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

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

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

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

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

Section 10.620 Flood Plain District

10.621 Purpose

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

10.622 Definitions

10.622.10 Rules of Construction

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

10.622.20 Terms Defined for the Flood Plain District

Area of special flood hazard

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

~~100-year flood~~

~~see Base flood.~~

Base flood

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

Base flood elevation (BFE)

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

Basement

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

Breakaway wall

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

Building

See structure in this Section.

Development

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

Extended flood hazard area

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

FEMA

The Federal Emergency Management Agency.

FIRM

See flood insurance rate map.

Flood or flooding

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

Flood insurance rate map (FIRM)

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

Flood insurance study

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

Flood plain or flood-prone area

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

Flood proofing

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

Floodway

See regulatory floodway.

Highest adjacent grade

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

Historic structure

Any structure that is:

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

Lowest floor

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

Manufactured home

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

Manufactured home park or subdivision

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

Mean sea level

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

New construction

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

Recreational vehicle

A vehicle that is:

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

Regulatory floodway

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

Special flood hazard area (SFHA)

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

Start of construction (including substantial improvement)

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

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

Structure

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

Substantial damage

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

Substantial improvement

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

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

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

Violation

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

Water surface elevation

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

10.623 Building Permits

10.623.10 All proposed development in a special flood hazard area shall require a building permit.

10.623.20 The Code Official shall review all building permit applications for new construction or substantial improvements to determine (a) whether the proposed building site will be in a special flood hazard area and (b) if

so, that all new construction or substantial improvements will comply with the requirements of this section.

- 10.623.30 The Code Official shall not grant a building permit until the applicant certifies that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

10.624 Water and Sewer Systems

Where new or replacement water and sewer systems (including on-site systems) are proposed in a special flood hazard area, the applicant shall provide the Code Official with assurance that these systems will be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems will be located to avoid impairment to them or contamination from them during periods of flooding.

10.625 Flood Information

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

~~(a) The as-built elevation (in relation to mean sea level) of the lowest floor (including basement), and whether or not the structure contains a basement;~~

~~(b) If the structure has been flood proofed, the as-built elevation (in relation to mean sea level) to which the structure was flood proofed;~~

~~(c) Any certification of flood proofing.~~

(a) A completed and certified copy of a FEMA Elevation Certificate that includes the as-built elevation (in relation to mean sea level) of the lowest floor of the structure and whether or not the structure has a basement.

(b) If a non-residential structure includes floodproofing, a completed and certified copy of the FEMA Floodproofing Certificate for Non-Residential Structures that includes the as-built elevation (in relation to mean sea level) to which the structure was floodproofed and certification of floodproofing.

- 10.625.20 The Code Official shall maintain the above information for public inspection and shall furnish such information upon request.

10.626 Watercourse Alteration, Relocation or Encroachment

10.626.10 In riverine situations, prior to the alteration or relocation of a watercourse the applicant for such authorization shall notify the Wetlands ~~Board~~Bureau of the New Hampshire Department of Environmental Services ~~Department~~ and submit copies of such notification to the Code Official in addition to the copies required by provisions of State law. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Code Official, including notice of all scheduled hearings before the Wetlands ~~Board~~Bureau.

10.626.20 ~~The applicant shall submit to the Code Official certification provided by a registered professional engineer assuring that the flood-carrying capacity of an altered or relocated watercourse can and will be maintained. The Code Official shall obtain, review, and reasonably utilize any floodway data available from Federal, State, or other sources as criteria for requiring that all development located in Zone A meet the following floodway requirement:~~

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

10.626.30 Along watercourses with a designated regulatory floodway, no encroachment, including fill, new construction, substantial improvement or other development, is allowed within the floodway that would result in any increase in flood levels within the community during the base flood discharge. In Zone A, the Code Official shall obtain, review, and reasonably utilize any floodway data available from Federal, State or other sources as criteria for requiring that development meet the floodway requirements of this section.

10.626.40 Along watercourses that have not had a regulatory floodway designated, no new construction, substantial improvement or other development (including fill) shall be permitted within Zone AE on the FIRM, unless it is demonstrated by the applicant that the cumulative effect on the proposed development, when combined with all existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

10.627 Determination of Base Flood Elevation

10.627.10 In a special flood hazard area (SFHA) the Code Official shall determine the base flood elevation in the following order of precedence according to the data available:

10.627.11 In Zone AE, refer to the elevation data provided in the community's flood insurance study and accompanying FIRM;

10.627.12 In ~~an unnumbered Zone~~ A-zone, the Code Official shall obtain, review, and reasonably utilize any base flood elevation data available from any Federal, State or other source including data submitted for development proposals submitted to the community (i.e. subdivisions, site approvals);

10.627.13 ~~In Zone AO the base flood elevation is determined by adding the elevation of the highest adjacent grade to the depth number specified on the FIRM or if no depth number is specified on the FIRM at least 2 feet. In Zone A where a base flood elevation is not available, the base flood elevation shall be at least two feet above the highest adjacent grade.~~

10.628 Construction Standards in Special Flood Hazard Areas and Extended Flood Hazard Areas

10.628.10 In Zones A, ~~AE, AH, AO and A99~~ and AE, any new construction or substantial improvement shall:

- (a) be designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- (b) be constructed with materials resistant to flood damage;
- (c) be constructed by methods and practices that minimize flood damage; and
- (d) be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and located so as to prevent water from entering or accumulating within the components during conditions of flooding.

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

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

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

- (a) be floodproofed so that below two (2) feet above the base flood elevation in Zone A or AE, or below two (2) feet above the base flood elevation of the adjacent special flood hazard area in an extended flood hazard area, ~~the base flood elevation~~ the structure is watertight with walls substantially impermeable to the passage of water;
- (b) have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
- (c) be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section.

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

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

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

10.628.570 For any new construction or substantial improvement, fully enclosed areas below the lowest floor that are subject to flooding are permitted provided they meet the following requirements:

- (a) the enclosed area is unfinished or flood resistant, usable solely for the parking of vehicles, building access or storage;
- (b) the area is not a basement;
- (c) the area shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater certified by a registered professional engineer or architect, or must meet or exceed the following minimum criteria:
 - (i) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - (ii) The bottom of all openings shall be no higher than one foot above grade.
 - (iii) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

~~10.628.60 Any structure proposed to be located on a slope in a special flood hazard area Zones AH and AO shall include adequate drainage paths to guide flood waters around and away from the proposed structure.~~

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

- ~~(a) be fully licensed and ready for highway use, or~~
- (a) be fully licensed, on wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions, or
- (b) meet all standards of ~~Section 60.3(b)(1) of the National Flood Insurance Program Regulations~~ Section 10.623.10 of this ordinance and the elevation and anchoring requirements for manufactured homes in ~~Section 60.3(e)(6) of the Regulations~~ Section 10.628.60 of this ordinance.

10.629 Variances and Appeals

10.629.10 Any order, requirement, decision or determination of the Code Official made under this Section 10.620 may be appealed to the Board of Adjustment as set forth in accordance with the provisions of State law.

10.629.20 If the applicant, upon appeal, requests a variance as authorized by the provisions of State law, the applicant shall have the burden of showing in addition to the usual variance standards under State law:

- (a) That the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense;

- (b) That if the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result; and
- (c) That the variance is the minimum necessary considering the flood hazard, to afford relief.

10.629.30 The Board of Adjustment shall notify the applicant in writing that:

- (a) The issuance of a variance to construct below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and
- (b) Such construction below the base flood elevation increases risks to life and property.

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

10.629.40 The community shall:

- (a) Maintain a record of all variance actions, including their justification for their issuance, and
- (b) Report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

Article 15 Definitions

- Section 10.1510 Rules of Construction
- Section 10.1520 Terms With Specialized Applications
- Section 10.1530 Terms of General Applicability

Section 10.1510 Rules of Construction

- 10.1511 Unless otherwise expressly stated, the following words and terms shall have the meanings shown in this Article.
- 10.1512 When a term is defined both in this Article 15 and in another Article of this Ordinance, the definition in the other Article shall supersede the definition in Article 15. Examples include the definitions relating to Sexually-Oriented Businesses and Telecommunications Facilities in Article 5, and to the Flood Plain District and Airport Approach Overlay District in Article 6.
- 10.1513 Where terms are not defined in this Ordinance and are defined in the Building Code, such terms shall have the meanings ascribed to them therein.
- 10.1514 Where terms are not defined in this Ordinance or in the Building Code, such terms shall have ordinarily accepted meanings such as the context implies.

Section 10.1520 Terms With Specialized Applications

- 10.1521 Terms that are used primarily in Section 10.620, Flood Plain District, are defined in Section 10.622, including:

<p>100-year flood</p> <p><u>Area of special flood hazard area</u></p> <p>Base flood</p> <p>Base flood elevation (BFE)</p> <p>Basement</p> <p>Breakaway wall</p> <p>Building *</p> <p>Development</p> <p><u>Extended flood hazard area</u></p> <p>FEMA</p> <p>FIRM</p> <p>Flood insurance rate map</p> <p>Flood insurance study</p> <p>Flood or flooding</p> <p>Flood plain</p> <p>Flood-prone area</p>	<p>Flood proofing</p> <p>Floodway</p> <p>Highest adjacent grade</p> <p><u>Historic structure</u></p> <p>Lowest floor</p> <p>Manufactured home</p> <p><u>Manufactured home park or subdivision</u></p> <p>Mean sea level</p> <p>New construction</p> <p>Regulatory floodway</p> <p><u>Recreational vehicle</u></p> <p>Special flood hazard area</p> <p>Start of construction</p> <p>Structure *</p> <p>Substantial damage</p> <p>Substantial improvement *</p> <p><u>Violation</u></p> <p>Water surface elevation</p>
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ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That Chapter 8, Article V – **CONSERVATION ORDINANCE** of the Ordinances of the City of Portsmouth be amended as follows (deletions from existing language **stricken**; additions to existing language **bolded**; remaining language unchanged from existing):

ARTICLE V: CONSERVATION ORDINANCE

Section 8.501: PURPOSE

Those properties listed in Section 8.503 are hereby declared to be conservation properties of the City of Portsmouth. **Other than the maintenance of Public Infrastructure described in Section 8.505**, passive recreation is the only permitted use or activity on the conservation properties. Any other use or activity on the conservation properties must be approved by prior vote of City Council. Such approval shall be by a 2/3 majority of those present and voting on the question. Any Council vote under this provision must be preceded by a referral of the question to the Conservation Commission for its review and report back to the Council. The Council shall not vote on the question until either the report has been received from the Conservation Commission or thirty (30) days have passed from the Council vote referring the matter to the Conservation Commission.

Section 8.502: PASSIVE RECREATION

The term “Passive Recreation” shall mean uses of land, or activities on land, which are conducted primarily for leisure purposes and which do not cause damage to the conservation nature of the land.

Section 8.503: CONSERVATION PROPERTIES

<u>Map/Lot</u> <u>Map-Block-Lot</u>	<u>Location</u>	<u>Book/Page</u>	<u>Date</u> <u>Adopted</u>
123/9 0123-0009-000A	235 Maplewood Ave (Adopted 7/16/01)	3577/2037	07/16/2001
201/26 0201-0026-0000	Sagamore Ave	2299/1707	04/07/1997
204/7 0204-0007-0000	Little Harbor Rd	2395/1462	04/07/1997
222/73 0222-0073-0000	Jones Ave	2391/0386	04/07/1997

<u>Map/Lot</u> <u>Map-Block-Lot</u>	<u>Location</u>	<u>Book/Page</u>	<u>Date</u> <u>Adopted</u>
225/8 0225-0008-0000	Elwyn Rd	2289/1810	04/07/1997
263/3 0263-0003-0000	Greenland Rd	2385/0403	04/07/1997
265/20 0265-002D-0000	Banfield Rd	2413/0222	04/07/1997
271/1-8 0271-0001-0008	Lafayette Rd	2851/2879	04/07/1997
274/3 0274-0003-0000	Banfield Rd	2327/1314	04/07/1997
278/1 0278-0001-0000	Greenland Rd	2646/0720	04/07/1997
278/2 0278-0002-0000	Greenland Rd	2235/0417	04/07/1997
278/3 0278-0003-0000	Greenland Rd	2235/0417	04/07/1997
280/3 0280-0003-0000	Greenland Rd	2646/0720	04/07/1997
0232-0008-0001	Lois Street	6014/0575	
283/13 0283-0013-0000	Ocean Rd	2249/0432	04/07/1997
284/3 0284-0003-0000	Heritage Ave	2253/1684	04/07/1997
284/4 0284-0004-0000	Lafayette Rd Suzanne Dr	1615/0129	04/07/1997
288/1 0288-0001-0000	Lang Road (Adopted 4/20/98)	3278/1316	04/20/1998
284/5	Ocean Rd		
284/9 0284-0009-0000	Ocean Rd Heritage Ave	2253/1684	04/07/1997
287/3 0287-0003-0000	Ocean Rd off of Lang Road	2230/0277	04/07/1997
293/10 0293-0010-0000	Ocean Rd	2299/0424	04/07/1997
293/13 0293-0013-0000	Ocean Rd	2249/0432	04/07/1997
294/9 0294-0009-0000	Ocean Rd	2370/1383	04/07/1997
294/22 0294-0022-0000	Ocean Rd	2249/0432	04/07/1997
295/1 0295-0001-0000	Ocean Rd	2230/0275	04/07/1997
295/2 0295-0002-0000	Ocean Rd	2156/0149	04/07/1997

<u>Map/Lot</u> <u>Map-Block-Lot</u>	<u>Location</u>	<u>Book/Page</u>	<u>Date</u> <u>Adopted</u>
295/3 0295-0003-0000	Ocean Rd	2230/0275	04/07/1997
295/5 0295-0005-0000	Ocean Rd	2230/0278	04/07/1997
296/1 0296-0001-0000	Ocean Rd off of Lafayette Road	2747/2301	04/07/1997
296/4 0296-0004-0000	Ocean Rd off of Lafayette Road	2230/0276	04/07/1997
296/6 0296-0006-0000	Ocean Rd off of Lafayette Road	2230/0276	04/07/1997
296/11 0296-0011-0000	Ocean Rd off of Lafayette Road	2484/0311	04/07/1997
296/12 0296-0012-0000	Ocean Rd off of Lafayette Road	2484/0311	04/07/1997
296/13 0296-0013-0000	Ocean Rd off of Lafayette Road	2484/0311	04/07/1997
296/8 0296-0008-0000	Ocean Rd	2215/1493	04/07/1997
296/10 0296-0010-0000	Ocean Rd	2249/0432	04/07/1997
293/16 0293-0016-0000	Ocean Rd	2249/0432	04/07/1997
298/8 0298-0008-0000	Lafayette Rd	2247/0237	04/07/1997
298/5-1 0298-0005-0001	Lafayette Rd	2549/1850	04/07/1997

Section 8.504: ENFORCEMENT

- A. This ordinance may be enforced against the City of Portsmouth by means of an action seeking injunctive relief, which may be filed in the Courts of the State of New Hampshire by any interested party.
- B. Any other person, firm or corporation violating any provision of this ordinance shall be subject to a penalty, upon conviction, of up to \$1,000 per occurrence.
- C. The enforcement provisions of this ordinance shall not be deemed exclusive, but shall be concurrent with any other remedies available at law.

Section 8.505: MAINTENANCE OF PUBLIC INFRASTRUCTURE

Nothing in this ordinance shall prohibit the maintenance of public roadways, sidewalks, drainage and stormwater structures, sewer and water lines and other utilities (“Public Infrastructure”) that cross or abut Conservation Properties. Maintenance shall include replacement if within the existing footprint of the original structure. Any expansion or new use for Public Infrastructure on any Conservation Property would require the approval described in Section 8.501.

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

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

This ordinance shall take effect upon its passage.

APPROVED:

Jack Blalock, Mayor

ADOPTED BY COUNCIL:

Kelli L. Barnaby, City Clerk

**Proposed Zoning Ordinance Amendments
Wetlands Protection
for City Council October 28, 2019**

ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That the Ordinances of the City of Portsmouth, Chapter 10 — Zoning Ordinance, Article 10 – Environmental Protection Standards, Section 10.1010 – Wetlands Protection, be amended as follows (deletions from existing language ~~stricken~~; additions to existing language **bolded**; remaining language unchanged from existing):

A. In Section 10.1016.10, insert the following new paragraph (8):

(8) Construction of fences outside the vegetated buffer strip, provided that any posts are no wider than 3” in any dimension, and that there are no footings and no ground disturbance beyond the installation of the posts.

B. In Section 10.1017.20 – Application Requirements, renumber existing subsection 10.1017.22 as 10.1017.23, and insert the following new subsections 10.1017.22, 10.1017.24 and 10.1017.26:

10.1017.22 Where the proposed project will involve the temporary or permanent alteration of more than 250 sq. ft. of wetland and/or wetland buffer, the application shall provide information about the affected wetland and wetland buffer as follows:

- (1) Up to 1,000 sq. ft. of alteration to the wetland: a wetland characterization that describes the type of wetland (e.g., emergent, scrub-shrub, forested), the percent of invasive species, and whether the wetland is seasonally flooded.**
- (2) More than 1,000 sq. ft. of alteration to the wetland: a functions and values assessment equivalent to the model set forth in Appendix A of *The Highway Methodology Workbook Supplement – Wetland Functions and Values: A Descriptive Approach*, NAEPP-360-1-30a, US Army Corps of Engineers, New England Division, September 1999, as amended.**

- (3) **More than 250 sq. ft. of alteration to the wetland buffer (regardless of the amount of alteration to the wetland): a description of the 100-foot buffer including vegetation type, the percent of the buffer with invasive species, and the percent of the buffer that is paved or developed.**

[...]

10.1017.24 Where feasible, the application shall include removal of impervious surfaces at least equal in area to the area of impervious surface impact. The intent of this provision is that the project will not result in a net loss of pervious surface within a jurisdictional wetland buffer. If it is not feasible to remove impervious surfaces from the wetland buffer at least equal in area to the area of new impervious surface impact, the application shall include a wetland buffer enhancement plan that describes how the wetland functions and values will be enhanced to offset the proposed impact.

10.1017.25 A wetland buffer enhancement plan shall be designed to enhance the functions of the jurisdictional wetland and/or wetland buffer on the lot, and to offset the impact of the proposed project.

- (1) **The wetland buffer enhancement plan shall include a combination of new plantings, invasive species removal, habitat creation areas, improved site hydrology, or protective easements provided offsite.**
- (2) **Where the vegetated buffer strip contains grass or non-native plantings, or is otherwise not intact, the first priority of the wetland buffer enhancement plan shall be to include revegetation of the vegetated buffer strip with native, low-maintenance shrubs and other woody vegetation.**

C. In Section 10.1017.20 – Application Requirements, insert a new subsection 10.1017.26 as follows:

10.1017.26 Where the proposed project involves a use, activity or alteration in a tidal wetland or tidal wetland buffer, the application shall include a living shoreline strategy to preserve the existing natural shoreline and/or encourage establishment of a living shoreline through restoration, as applicable. Said living

shoreline strategy shall be implemented unless the Planning Board determines that it is not feasible.

D. In Section 10.1017.40, insert the following new subsection 10.1017.45:

10.1017.45 Where new impervious surface is proposed in a wetland or wetland buffer, the submission of a plan to compensate for such new impervious surface does not guarantee that a conditional use permit will be granted.

E. In Section 10.1018, insert the following new sections 10.1018.30 and 10.1018.40:

10.1018.30 Porous Pavement in Wetland Buffer

10.1018.31 All new pavement installed in a wetland buffer shall be porous pavement. The Planning Board may allow exceptions to this requirement where it can be demonstrated that the height of ground water, condition of soil, or other factors as described in the application are not appropriate for porous pavement.

10.1018.32 An application that proposes porous pavement in a wetland buffer shall include a pavement maintenance plan addressing erosion control, periodic removal of sediment and debris from the porous surfaces, snow management, and repairs.

10.1018.40 Wetland Boundary Markers

Permanent wetland boundary markers shall be shown on the plan submitted with an application for a conditional use permit and shall be installed during project construction.

F. In Article 15 – Definitions, Section 10.1530 – Terms of General Applicability, insert the following new term and definition:

Living shoreline

Any shoreline management system using native vegetation, alone or in combination with offshore sills, to stabilize the shoreline without interrupting the natural water/land continuum to the detriment of natural shoreline ecosystems.

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

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

This ordinance shall take effect upon its passage.

APPROVED:

Jack Blalock, Mayor

ADOPTED BY COUNCIL:

Kelli L. Barnaby, City Clerk

Article 10 Environmental Protection Standards

Section 10.1010 Wetlands Protection

Section 10.1020 Earth Products Removal and Placement

Section 10.1010 Wetlands Protection

10.1011 Purpose

The purposes of this Section are:

- (1) To maintain, and where possible improve, the quality of surface waters and ground water by controlling the rate and volume of stormwater runoff and preserving the ability of wetlands to filter pollution, trap sediment, retain and absorb chemicals and nutrients, and produce oxygen.
- (2) To prevent the destruction of, or significant changes to, wetlands, related water bodies and adjoining land which provide flood protection, and to protect persons and property against the hazards of flood inundation by assuring the continuation of the natural or existing flow patterns of streams and other water courses within the City.
- (3) To protect, and where possible improve, potential water supplies and aquifers and aquifer recharge areas.
- (4) To protect, and where possible improve, wildlife habitats and maintain ecological balance.
- (5) To protect, and where possible improve, unique or unusual natural areas and rare and endangered plant and animal species.
- (6) To protect, and where possible improve, shellfish and fisheries.
- (7) To prevent the expenditure of municipal funds for the purpose of providing and/or maintaining essential services and utilities which might be required as a result of misuse or abuse of wetlands.
- (8) To require the use of best management practices and low impact development in and adjacent to wetland areas.

10.1012 Relationship to Other Regulations

- 10.1012.10 The provisions and criteria set forth in this Section are in addition to the provisions of applicable state and federal laws and regulations, other sections of this Zoning Ordinance, and other local ordinances and regulations.

- 10.1012.20 Where any provision of this Section conflicts with a state or federal law or regulation, another section of this Zoning Ordinance, or another local ordinance or regulation, the more restrictive provision shall apply.
- 10.1012.30 Nothing in this Section shall permit a use or activity which is contrary to any other provision of the Zoning Ordinance.
- 10.1012.40 Notwithstanding any other provisions of the Zoning Ordinance, the City of Portsmouth and its administrative and operating agencies and instrumentalities shall comply with the provisions of this Section.

10.1013 Jurisdictional Areas

The provisions of this Section 10.1010 apply to the following jurisdictional areas:

- 10.1013.10 Any inland wetland, other than a vernal pool, that is 10,000 square feet or more in area;
- 10.1013.20 Any vernal pool regardless of area.
- 10.1013.30 Any non-tidal perennial river or stream.
- 10.1013.40 The tidal wetlands of Sagamore Creek, Little Harbour, North Mill Pond, South Mill Pond and part of the Piscataqua River, defined as follows:
 - (a) Sagamore Creek: Bounded by the easterly side of Peverly Hill Road and the southerly side of Greenleaf Avenue as these cross Sagamore Creek, and extending along the Creek to Little Harbour.
 - (b) Little Harbour: Extending along the Little Harbour shoreline from the municipal line with the Town of Rye to the southerly side of New Castle Avenue, and including Goose Island, Belle Island, Pest Island and that portion of Shapleigh Island lying south of New Castle Avenue.
 - (c) North Mill Pond: Extending along the entire shoreline of North Mill Pond between Bartlett Street and Market Street.
 - (d) South Mill Pond: Extending along the entire shoreline of South Mill Pond west of the tide gate at Pleasant Street.
 - (e) Piscataqua River: Extending along the shoreline of the Piscataqua River from the northwest side of the I-95 bridge up to and including the waterfront parcel fronting on Porpoise Way.

10.1014 Identification and Delineation of Wetlands and Wetland Buffers

10.1014.10 Wetlands

- 10.1014.11 Wetlands shall be identified by use of the Federal Manual and/or Field Indicators, and shall be delineated by on-site inspection of soil types,

vegetation, and hydrology by a certified wetland scientist at a time when conditions are favorable for such determination.

10.1014.12 A created wetland shall be considered a wetland for the purposes of this section.

10.1014.13 Any area which may have been a wetland but was filled prior to January 1, 1970 or pursuant to properly issued federal, state and local permits granted prior to the adoption of this Ordinance shall be judged according to the conditions existing at the time an application for a building permit or subdivision is filed or submitted.

10.1014.20 Wetland Buffers

10.1014.21 The purpose of a wetland buffer is to reduce erosion and sedimentation into the adjacent wetland, vernal pool or water body, to aid in the control of nonpoint source pollution, to provide a vegetative cover for filtration of runoff, to protect wildlife habitat, and to help preserve ecological balance.

10.1014.22 The required wetland buffer for a jurisdictional wetland or water body shall be defined as all land within 100 feet of the jurisdictional area.

10.1014.23 Wetland buffers, including vegetated buffer strips and limited cut areas, shall be parallel to and measured from the reference line for the applicable jurisdictional area on a horizontal plane.

(1) Inland wetland buffers shall be measured from the edges of inland wetlands and surface water bodies.

(2) Tidal wetland buffers shall be measured from the edges of tidal wetlands and highest observable tide lines.

10.1015 Notification to Planning Director

Notice shall be provided to the Planning Director prior to any construction, demolition, tree cutting, vegetation removal, or other alteration in a wetland or wetland buffer.

10.1016 Permitted Uses

10.1016.10 The following uses, activities and alterations are permitted in wetlands and wetland buffers:

(1) Any use that does not involve the erection or construction of any structure or impervious surface, will not alter the natural surface configuration by the addition of fill or by dredging, will not result in site alterations, and is otherwise permitted by the Zoning Ordinance. Examples of such uses include forestry and tree farming, wildlife refuges, parks and recreational uses, conservation and

nature trails, and open spaces as permitted or required by the Zoning Ordinance or Subdivision Regulations.

- (2) Improvements to existing public rights-of-way and sidewalks.
- (3) The construction of piers or docks, provided that all required local, state and federal approvals have been granted.
- (4) The construction of an addition or extension to a one-family or two-family dwelling that lawfully existed prior to the effective date of this Ordinance or was constructed subject to a validly issued conditional use permit, provided that:
 - (a) The footprint area of the addition or extension, together with the area of all prior such additions and extensions, shall not exceed 25 percent of the area of the footprint of the principal heated structure existing prior to the effective date of this Ordinance or constructed pursuant to a validly issued conditional use permit (this 25 percent limit shall not be based on pre-existing attached or detached garages, sheds, decks, porches, breezeways, or similar buildings or structures);
 - (b) The addition or extension shall be no closer to a wetland or water body than the existing principal structure; and
 - (c) The addition or extension shall conform with all other provisions of the Zoning Ordinance and with all other applicable ordinances and regulations of the City of Portsmouth.
- (5) The use of motor vehicles, except for all-terrain vehicles, when necessary for any purpose permitted by this Ordinance.
- (6) Emergency power generator outside the wetland and vegetated buffer strip, provided that the total coverage by equipment and any mounting pad shall not exceed 10 square feet.
- (7) Uses, activities and alterations that are consistent with a Wetland Protection Plan that has been approved by the Planning Board through the grant of a conditional use permit.
- (8) Construction of fences outside the vegetated buffer strip, provided that any posts are no wider than 3" in any dimension, and that there are no footings and no ground disturbance beyond the installation of the posts.

10.1016.20 Any use, activity or alteration not specifically permitted by Section 10.1016.10 above is prohibited unless authorized by the Planning Board through the grant of a conditional use permit.

- 10.1016.30 When the Planning Director reasonably believes that an existing or proposed use, activity or alteration that is not specifically permitted by Section 10.1016.10 is located in a wetland or wetland buffer, and a conditional use permit has not been granted for such use, activity or alteration, the Planning Director may require a wetland delineation complying with Section 10.1014 in order to verify the location or absence of wetlands and determine whether the use, activity or alteration requires a conditional use permit.

10.1017 Conditional Uses

10.1017.10 General

The Planning Board is authorized to grant a conditional use permit for any use not specifically permitted in Section 10.1016.10, subject to the procedures and findings set forth herein.

10.1017.20 Application Requirements

10.1017.21 The application shall be in a form prescribed by the Planning Board, and shall include the following information:

- (1) Location and area of lot and proposed activities and uses;
- (2) Location and area of all jurisdictional areas (vernal pool, inland wetland, tidal wetland, river or stream) on the lot and within 250 feet of the lot;
- (3) Location and area of wetland buffers on the lot;
- (4) Description of proposed construction, demolition, fill, excavation, or any other alteration of the wetland or wetland buffer;
- (5) Setbacks of proposed alterations from property lines, jurisdictional areas and wetland buffers;
- (6) Location and area of wetland impact, new impervious surface, previously disturbed upland;
- (7) Location and description of existing trees to be removed, other landscaping, grade changes, fill extensions, rip rap, culverts, utilities;
- (8) Dimensions and uses of existing and proposed buildings and structures.
- (9) Any other information necessary to describe the proposed construction or alteration.

10.1017.22 Where the proposed project will involve the temporary or permanent alteration of more than 250 sq. ft. of wetland and/or wetland buffer, the

application shall provide information about the affected wetland and wetland buffer as follows:

- (1) Up to 1,000 sq. ft. of alteration to the wetland: a wetland characterization that describes the type of wetland (e.g., emergent, scrub-shrub, forested), the percent of invasive species, and whether the wetland is seasonally flooded.
- (2) More than 1,000 sq. ft. of alteration to the wetland: a functions and values assessment equivalent to the model set forth in Appendix A of The Highway Methodology Workbook Supplement – Wetland Functions and Values: A Descriptive Approach, NAEPP-360-1-30a, US Army Corps of Engineers, New England Division, September 1999, as amended.
- (3) More than 250 sq. ft. of alteration to the wetland buffer (regardless of the amount of alteration to the wetland): a description of the 100-foot buffer including vegetation type, the percent of the buffer with invasive species, and the percent of the buffer that is paved or developed.

10.1017.223 The application shall describe the impact of the proposed project with specific reference to the criteria for approval set forth in Section 10.1017.50 (or Section 10.1017.60 in the case of utility installation in a right-of-way), and shall demonstrate that the proposed site alteration is the alternative with the least adverse impact to areas and environments under the jurisdiction of this Ordinance.

10.1017.24 Where feasible, the application shall include removal of impervious surfaces at least equal in area to the area of impervious surface impact. The intent of this provision is that the project will not result in a net loss of pervious surface within a jurisdictional wetland buffer. If it is not feasible to remove impervious surfaces from the wetland buffer at least equal in area to the area of new impervious surface impact, the application shall include a wetland buffer enhancement plan that describes how the wetland functions and values will be enhanced to offset the proposed impact.

10.1017.25 A wetland buffer enhancement plan shall be designed to enhance the functions of the jurisdictional wetland and/or wetland buffer on the lot, and to offset the impact of the proposed project.

- (1) The wetland buffer enhancement plan shall include a combination of new plantings, invasive species removal, habitat creation areas, improved site hydrology, or protective easements provided offsite.
- (2) Where the vegetated buffer strip contains grass or non-native plantings, or is otherwise not intact, the first priority of the wetland buffer enhancement plan shall be to include revegetation of the vegetated buffer strip with native, low-maintenance shrubs and other woody vegetation.

10.1017.26 Where the proposed project involves a use, activity or alteration in a tidal wetland or tidal wetland buffer, the application shall include a living shoreline strategy to preserve the existing natural shoreline and/or encourage establishment of a living shoreline through restoration, as applicable. Said living shoreline strategy shall be implemented unless the Planning Board determines that it is not feasible.

10.1017.30 Application Review Procedure

- 10.1017.31 The application for a conditional use permit shall be submitted to the Planning Director.
- 10.1017.32 The Planning Director shall refer the application to the Conservation Commission for review and comment.
- 10.1017.33 The Planning Board or the Planning Director may require the findings of an independent New Hampshire certified wetland scientist or other additional special investigative studies, and may assess the owner reasonable fees to cover the costs of such studies and for the review of documents required by application.
- 10.1017.34 The Planning Board shall hold a public hearing on the application within 90 days of the initial submittal to the Planning Board, and shall issue a letter of decision within 10 days of the public hearing. The time requirements stated herein may be waived by the applicant.
- 10.1017.35 Public notice for public hearings shall be made in accordance with State law.
- 10.1017.36 The application process pursuant to this section may proceed prior to and/or run concurrent with the State and Federal permit processes, but the conditional use permit shall not become effective until the State and Federal permits are received.

10.1017.40 Conditional Use Approval

- 10.1017.41 The Planning Board shall grant a conditional use permit provided that it finds that all other restrictions of this Ordinance are met and that proposed development meets all the criteria set forth in section 10.1017.50 or 10.1017.60, as applicable.
- 10.1017.42 The Planning Board shall evaluate an application for a conditional use permit in accordance with *The Highway Methodology Workbook Supplement – Wetland Functions and Values: A Descriptive Approach*, NAEPP-360-1-30a, US Army Corps of Engineers, New England Division, September 1999, as amended.
- 10.1017.43 The burden of proof that the criteria required for approval of the conditional use permit exist or are met shall be the responsibility of the applicant.

10.1017.44 Economic considerations alone are not sufficient reason for granting a conditional use permit.

10.1017.45 Where new impervious surface is proposed in a wetland or wetland buffer, the submission of a plan to compensate for such new impervious surface does not guarantee that a conditional use permit will be granted.

10.1017.50 Criteria for Approval

Any proposed development, other than installation of utilities within a right-of-way, shall comply with all of the following criteria:

- (1) The land is reasonably suited to the use, activity or alteration.
- (2) There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration.
- (3) There will be no adverse impact on the wetland functional values of the site or surrounding properties;
- (4) Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals; and
- (5) The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this Section.
- (6) Any area within the vegetated buffer strip will be returned to a natural state to the extent feasible.

10.1017.60 Public and Private Utilities within Rights-of-Way in Wetlands and Wetland Buffers

The installation of utilities (including power lines and pipelines) within a right-of-way in an inland wetland or wetland buffer shall comply with all of the following criteria instead of the criteria set forth in section 10.1017.50:

- (1) The proposed construction is in the public interest;
- (2) Design, construction, and maintenance methods will utilize best management practices to minimize any detrimental impact of such use upon the wetland and will include restoration of the site as nearly as possible to its original grade, condition and vegetated state;
- (3) No alternative feasible route exists which does not cross or alter a wetland or have a less detrimental impact on a wetland; and
- (4) Alterations of natural vegetation or managed woodland will occur only to the extent necessary to achieve construction goals.

10.1017.70 Expiration and Extension

10.1017.71 A conditional use permit shall expire one year after the date of approval by the Planning Board unless a building permit is issued prior to that date.

10.1017.72 The Planning Board may grant a one-year extension of a conditional use permit if the applicant submits a written request to the Planning Board prior to the expiration date. Any other extension may be granted only after a new public hearing on the reconsideration of the application.

10.1017.80 Wetland Protection Plan

10.1017.81 General

10.1017.811 The owner of a parcel that contains more than 5 acres and more than 5 residential structures may apply for a conditional use permit for pre-approval of multiple individual projects over a multi-year time frame by submitting a Wetland Protection Plan conforming to the requirements of this section.

10.1017.82 Submission Requirements and Procedures

10.1017.821 Plan Contents: A Wetland Protection Plan shall include the following information:

- (1) Wetland delineation, wetland buffers (100 feet), limited cut areas (50 feet) and vegetated buffer strips (25 feet).
- (2) Existing buildings, structures, streets, driveways and other site improvements.
- (3) Calculations of existing impervious surface areas (total and within the wetland buffer). For a manufactured housing park these calculations shall be provided for each dwelling site and for the park as a whole.
- (4) Proposed protective measures (e.g., rain gardens, tree plantings, shrub plantings).
- (5) Calculations of areas of protective measures and proposed or potential future impervious surfaces.

10.1017.822 Initial Submission, Review and Approval Procedures: The initial Wetland Protection Plan shall be submitted to the Planning Department and shall be processed following the procedures for an application for a conditional use permit under Section 10.1017.30 and 10.1017.40.

10.1017.823 Effect of Plan Approval: The grant of a conditional use permit for a Wetland Protection Plan represents an overall pre-approval of impacts within the wetland buffer as

described on the Plan, subject to the submission of individual site plans in connection with application for a building permit that represents a change or increase in impervious surface within the wetland buffer.

10.1017.824 Permit Site Plans:

- (1) Following the approval of a Wetland Protection Plan, each application for a building permit that proposes a relocation of or increase in impervious surface within the wetland buffer shall be accompanied by a permit site plan showing the specific impervious surface changes and the specific protective measures proposed as compensation. Said protective measures shall be completed prior to or concurrently with the proposed impervious surface impact for which they provide compensation.
- (2) The Planning Director may approve a permit site plan that is consistent with an approved Wetland Protection Plan.
- (3) If the Planning Director determines that a permit site plan proposes a significant change from the approved Wetland Protection Plan, the owner shall submit an application to the Conservation Commission and Planning Board for an amendment to the conditional use permit.

10.1017.825 Plan Updates: After every 10 building permits have been issued under an approved Wetland Protection Plan, whether authorized administratively or by conditional use permit, the owner shall submit an updated Wetland Protection Plan showing the new existing site conditions and including updated calculations. The updated Plan shall also serve as an application for administrative site plan approval for all site changes that have been made since the previously approved Plan or Plan amendment.

10.1017.83 Wetland Protection Plan Standards

10.1017.831 No net increase in impervious surface within the wetland buffer: Buildings, structures or other impervious surfaces may be constructed, expanded or relocated within the wetland buffer provided that (1) no new impervious surface shall be within 25 feet of the wetland boundary, and (2) any new area converted to impervious surface shall be compensated for at a 1:1 ratio by the conversion of existing impervious surface within the wetland buffer to vegetated open space (lawn or planted areas). Such

compensatory open space does not need to be shown on the approved Wetland Protection Plan, but shall be shown on the permit site plan submitted with the building permit application.

- 10.1017.832 Net increase in impervious surface within the wetland buffer with compensation: Buildings, structures or other impervious surfaces may be constructed, expanded or relocated within the wetland buffer provided that (1) no new impervious surface shall be within 25 feet of the wetland boundary, and (2) the net increase in impervious surface shall be compensated for by protective measures that are shown on the approved Wetland Protection Plan at the following ratios:

Protective Measure	Ratio of protective measure area to net impervious surface area	
	25' -50' from wetland	50' -100' from wetland
Rain garden	3.0:1	2.0:1
Tree plantings	3.0:1	2.0:1
Shrub plantings	3.0:1	2.0:1

- 10.1017.833 Any increase in permanent impervious surface permitted through the provision of compensating protective measures shall also permit a temporary impact within the wetland buffer equal to two times the area of the permanent impact.

10.1018 Performance Standards

10.1018.10 Stormwater Management

All construction activities and uses of buildings, structures, and land within wetlands and wetland buffers shall be carried out so as to minimize the volume and rate of stormwater runoff, the amount of erosion, and the export of sediment from the site. All such activities shall be conducted in accordance with Best Management Practices for stormwater management including but not limited to:

1. *New Hampshire Stormwater Manual*, NHDES, current version.
2. *Best Management Practices to Control Non-point Source Pollution: A Guide for Citizens and City Officials*, NHDES, January 2004.

10.1018.20 Vegetation Management

- 10.1018.21 The required wetland buffer includes two smaller areas where additional standards and criteria apply: a vegetated buffer strip and a limited cut

area. The width of these areas shall be based on the type of jurisdictional area, as follows:

Jurisdictional Area	Vegetated Buffer Strip	Limited Cut Area
Vernal pool	0' - 50'	50' - 75'
Inland wetland, other than vernal pool	0' - 25'	25' - 50'
Non-tidal perennial stream or river	0' - 25'	25' - 75'
Inter-tidal area or tidal wetland as specified in section 10.1013.40	0' - 25'	25' - 50'

10.1018.22 If the vegetated buffer strip specified in Section 10.1018.21 contains an area that has a slope of 10% or more for at least 10 feet in a direction perpendicular to the edge of the jurisdictional area, the required width of the vegetated buffer strip shall be increased to 55 feet from the edge of a vernal pool and to 40 feet from the edge of any other wetland.

10.1018.23 Removal or cutting of vegetation:

- (1) Chemical control of vegetation is prohibited in all areas of a wetland or wetland buffer.
- (2) The removal or cutting of vegetation is prohibited in a wetland or vegetated buffer strip, except that non-chemical control of plants designated by the State of New Hampshire as “New Hampshire Prohibited Invasive Species” is permitted.
- (3) The removal of more than 50% of trees greater than 6" diameter at breast height (dbh) is prohibited in the limited cut area.

10.1018.24 Fertilizers:

- (1) The use of any fertilizer is prohibited in a wetland, vegetated buffer strip or limited cut area.
- (2) The use of fertilizers other than low phosphate and slow release nitrogen fertilizers is prohibited in any part of a wetland buffer.

10.1018.25 Pesticides and herbicides:

The use of pesticides or herbicides is prohibited in a wetland or wetland buffer, except that application of pesticides by a public agency for public health purposes is permitted.

Section 10.1018.30 Porous Pavement in Wetland Buffer

10.1018.31 All new pavement installed in a wetland buffer shall be porous pavement. The Planning Board may allow exceptions to this requirement where it can be demonstrated that the height of ground water, condition of soil, or other factors as described in the application are not appropriate for porous pavement.

10.1018.32 An application that proposes porous pavement in a wetland buffer shall include a pavement maintenance plan addressing erosion control, periodic removal of sediment and debris from the porous surfaces, snow management, and repairs.

10.1018.40 Wetland Boundary Markers

Permanent wetland boundary markers shall be shown on the plan submitted with an application for a conditional use permit and shall be installed during project construction.

Light trespass

The shining of light produced by a luminaire beyond the boundaries of the property on which it is located.

Lighting fixture

The assembly that houses the lamp or lamps.

Outdoor lighting

The illumination of an outside area or object by any man-made device located outdoors that produces light by any means.

Temporary lighting

Lighting which will not be used for more than one thirty (30) day period with at least 180 days passing before being used again. Temporary lighting is intended for uses which by their nature are of limited duration including, but not limited to, holiday decoration, civic events, or construction projects.

Light truck

A truck of 10,000 pounds gross vehicle weight rating or less, including a pickup, van, truck-based station wagon or sport utility vehicle.

Live/work unit

A dwelling unit which includes a nonresidential use that is otherwise allowed in the zoning district in which the unit is located and that is operated by the resident of the dwelling unit, and which complies with the following standards:

- (a) The live/work unit shall not exceed 3,000 sq. ft. gross floor area.
- (b) The nonresidential area shall be between 25 percent and 50 percent of the gross floor area of the unit.
- (c) The nonresidential area shall be limited to the first or main floor only of the live/work unit.
- (d) No workers shall be employed or occupied in the nonresidential use other than residents of the live/work unit.
- (e) The live/work unit shall not include any high hazard use, and shall not include any storage use exceeding 10 percent of the space dedicated to nonresidential activities.

Living shoreline

Any shoreline management system using native vegetation, alone or in combination with offshore sills, to stabilize the shoreline without interrupting the natural water/land continuum to the detriment of natural shoreline ecosystems.

Lot

A single parcel of land in the same ownership throughout as shown or defined on a recorded instrument or defined by metes and bounds and having its principal frontage on a street or on such other means of access as may be determined in accordance with the provisions of law to be adequate as a condition of the issuance of a building permit for building on such land.

Employment Agreement: City Manager

On this ____ day of _____, 2019, now come the undersigned parties, the City of Portsmouth, New Hampshire, acting by and through its City Council (hereinafter “the City” or “the City Council”), and Karen Sawyer Conard (hereinafter “the Employee”), and enter into the following Employment Agreement.

WHEREAS, the City desires to employ the Employee as City Manager of the City of Portsmouth as provided by its Charter.

WHEREAS, the City desires to provide certain benefits, establish certain conditions of employment, and set working conditions of the Employee.

WHEREAS, the City desires to: (1) secure the services of the Employee and provide inducement for her to remain in such employment; and (2) to make possible full work productivity by assuring the Employee's morale and peace of mind with respect to future security.

WHEREAS, the Employee desires to maintain employment as the City Manager of the City.

NOW, THEREFORE, in consideration of the promises and mutual covenants and agreements set forth herein, and for other good and valuable consideration, the receipt of which is acknowledged, the parties agree as follows:

Section 1. Term.

- A. The City agrees to employ the Employee and the Employee agrees to accept employment in the position of City Manager for a three-year term commencing on January 4, 2020 and ending on January 3, 2023. From December 16, 2019 to January 3, 2020, the Employee will serve as Acting City Manager, with all the duties and obligations of City Manager, and entitled to all the benefits defined herein. The City Council and the Employee acknowledge that this is a full-time, year-round position including extensive obligations in the evenings and on week-ends. The Employee agrees to devote all of her professional efforts to the successful fulfillment of her responsibilities to the City Council and the City.
- B. The Employee shall notify the City Council after March 15, 2022 that this Employment Agreement is scheduled to terminate on January 3, 2023. After receipt of such notice, if the City Council does not thereafter notify the Employee prior to June 30, 2022 of its intent to negotiate a new agreement, this Employment Agreement will automatically expire under its terms and conditions on January 3, 2023, and the Employee will not be entitled to the Severance Benefits provided for in Section 10 below. If the City notifies the Employee of its intent to negotiate a successor agreement, the negotiations shall commence within thirty (30) days of the date of that notification. The terms of this Employment Agreement will remain in effect while the parties are engaged in good faith negotiations for a successor agreement. In the event the parties begin good faith negotiations toward a successor agreement, but are unable to negotiate a successor agreement prior to January 3, 2023, this Employment Agreement shall terminate on January 3, 2023, and the Employee shall be entitled to the Severance Benefits provided for in Section 10 below.

Section 2. Duties and Authority.

The Employee will be expected to perform the functions and duties of City Manager as specified in the City Charter, City Ordinances and New Hampshire's General Statutes, and to perform such other legally permissible and proper duties and functions as may be reasonably requested by the City.

Section 3. Compensation.

- A. Base Salary: The City agrees to pay the Employee an annual base salary of \$165,000, subject to ordinary and regular withholdings required by law and/or agreed to by the Employee, payable in installments at the same time that the other City Hall management-level employees.
- B. Effective July 1, 2020 and July 1, 2021, a COLA adjustment percentage increase to the Employee's base salary 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 rolling average of the CPI-U for the Boston-Cambridge-Newton, MA-NH, 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.

Section 4. Health, Life, Dental and Disability Insurance Benefits.

The Employee's health insurance, life insurance, dental insurance and disability insurance benefits shall be the same as those set forth in the collective bargaining agreement currently in place between the City and the City of Portsmouth Professional Management Association. A summary of these benefits is attached as Exhibit 1.

Section 5. Vacation, Sick Leave, Personal Days and Paid Holidays.

Upon commencing employment, the Employee shall be credited with fifteen (15) accrued sick leave days and twenty (20) accrued vacation days. The Employee may only take up to 10 vacation days in the first six (6) months of her employment. In addition, beginning the first day of her employment, the Employee shall accrue sick leave and vacation leave on a monthly basis, in the same manner as other City Hall management-level employees. In year three (3) of the contract (beginning December 16th, 2021), the Employee will begin to accrue vacation at a rate of twenty-five (25) days/year.

Maximum accrued vacation shall not exceed fifty (50) days, measured at the end of the calendar year. In the event the Employee has accumulated more than fifty (50) days of unused vacation at the end of any calendar year, the Employee shall be paid no more than ten (10) accumulated days in excess of fifty (50), such payment to be made in the first payroll in February in the following calendar year.

The Employee shall be entitled to the same paid holidays and personal days which other City Hall management-level employees receive.

Section 6. Vehicle.

During the term of this Agreement, the City agrees to provide the Employee a vehicle stipend of four-hundred and fifty dollars (\$450) per month.

Section 7. Retirement.

The Employee has voluntarily made an irrevocable election not to participate in the New Hampshire Retirement System. On the basis of this election, the City agrees to execute and keep in force all necessary agreements provided by the International City/County Management Association (“ICMA”) Retirement Corporation Section 457 deferred compensation plan for the Employee’s participation. In order to provide a retirement benefit comparable to what the Employee would be entitled to under the New Hampshire Retirement System, the Employee will contribute 7% of her gross salary into the deferred compensation plan; and the City will contribute an amount equal to 11% of the Employee’s gross salary into the deferred compensation plan on the Employee’s behalf, in equal proportionate amounts each pay period. In the event that the New Hampshire Retirement System changes the levels of its annual withholdings and contributions, the parties agree to meet and confer with the intent of amending this Employment Agreement to continue to provide the Employee with a benefit comparable to the adjusted benefit of NHRS.

Section 8: General Business Expenses.

The City hereby agrees to budget and pay 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, and for the good of the City.

The City will pay for the Employee’s initial and ongoing enrollment in the ICMA, with the expectation that the Employee will remain an active member of the ICMA throughout the term of this Employment Agreement. The City also hereby agrees to pay, within budgetary constraints, the necessary expenses of the Employee to continue her professional development and to adequately pursue official functions of the City, including but not limited to the annual conference of ICMA, and other such national, regional and state governmental groups and committees thereof on which Employee serves as a member.

The City recognizes that certain expenses of a non-personal but job related nature are going to be incurred by the Employee, and agrees to reimburse or to pay said general expenses, upon receipt of duly executed expense vouchers, receipts, statements, or personal affidavits. Such expenses may include meals where City business is being discussed or conducted and participation in social events of various organizations when the Employee is representing the City. Such expenditures are subject to annual budget constraints as well as State and City ethics and purchasing policies. The finance director is authorized to disburse such moneys upon receipt of duly executed expense or petty cash vouchers, receipts, statements or personal affidavits.

The City acknowledges the value of having the Employee participate and be directly involved in local civic clubs or organizations. Accordingly, The City shall pay for the reasonable membership fees and/or dues to enable the Employee to become an active member in local civic clubs or organizations.

Section 9: Termination.

- A. In the event the Employee is terminated prior to the expiration of this Agreement by the City for reasons other than “cause” the City agrees to pay the Employee the Severance Benefits outlined in Section 10 below. For purposes of this Agreement, the definition of cause shall be limited to the conviction of a felony or intentional gross misconduct on the part of the Employee in carrying out her duties to the City.
- B. In the event that the City, at any time during the term of this Employment Agreement, reduces the salary or other financial benefits of the Employee in a greater percentage than an applicable across the- board reduction for all employees of the City, or in the event that the City refuses upon written notice to comply with any other provision benefiting the Employee under this Employment Agreement, or in the event that the Employee resigns following a demand by the City that she resign, then, in those events, the Employee may, at her option, within 30 calendar days of the event, be deemed to be terminated and she will be entitled to the Severance Benefits outlined in Section 10 below.
- C. In the event that the City and the Employee begin to negotiate a successor agreement, but fail to reach a successor agreement prior to January 3, 2023 as provided in Section 1B above, this Employment Agreement will terminate on January 3, 2023 and the Employee will be entitled to the Severance Benefits outlined in Section 10 below.

Section 10: Severance.

- A. If the Employee is terminated without cause, the City shall provide the Employee with a payment equal to six (6) months’ base salary at the Employee’s then current rate of pay. This payment will be paid in a lump sum or as salary continuation, at the Employee’s option.
- B. If the Employee is terminated without cause, for a period of six (6) months following termination, the City shall pay the cost to continue health insurance for the Employee and all her covered dependents, after which time, the Employee will be provided access to health insurance continuation pursuant to the provisions of the Consolidated Omnibus Budget Reconciliation Act (“COBRA”).
- C. The acceptance by the Employee of the Severance Benefits provided for in her Employment 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, including all of its employees, elected or appointed officials, officers, agents, representatives and attorneys.

Section 11: Resignation.

In the event the Employee voluntarily resigns her position with the City, then the Employee shall give the City not less than sixty (60) days written notice in advance, such notice to be directed to the Mayor of the City, with a copy to the City Clerk. If the Employee voluntarily resigns, she shall not be entitled to salary after resignation or to the Severance Benefits provided for in Section 10 above, except that the Employee will be paid for her accrued, but unused vacation.

Section 12: Performance Evaluation.

- A. A subcommittee of the City Council, consisting of those City Council members with more than one year of City Council service, shall review and evaluate the performance of the Employee annually during the month of June, or such other month as may be mutually agreed upon, commencing in 2020. This review and evaluation shall be in accordance with specific criteria developed jointly by the entire City Council and the Employee. These criteria may be added to or deleted from as the City Council may from time to time determine, in consultation with the Employee. At the completion of the review and evaluation, the subcommittee shall consult with the entire City Council to provide the Employee with a summary written statement of the findings of the subcommittee and to provide adequate opportunity for the Employee to discuss the review and evaluation with the entire City Council.
- B. Annually, commencing prior to July 1, 2020, the City Council and the Employee shall define such performance objectives as they may determine necessary for the proper operation of the City and in attainment of the City Council's policy objectives and shall further establish a relative priority among those various objectives, these objectives to be reduced to writing. The objectives shall generally be attainable within the time limitations as specified and the annual operating and capital budgets and appropriations provided.
- C. In effecting the provisions of this section, the City Council and the Employee mutually agree to abide by the provisions of applicable law.

Section 13. Hours of Work.

It is recognized that the Employee must devote a great deal of time outside normal office hours on business for the City, and to that end, the Employee shall be allowed to establish an appropriate work schedule. The schedule shall be appropriate to the needs of the City and shall allow Employee to faithfully perform her assigned duties and responsibilities.

Section 14. Ethical Commitments.

The Employee will at all times uphold the tenets of the ICMA Code of Ethics, a copy of which is attached as **Exhibit 2**. Specifically, the Employee shall not endorse candidates, make financial contributions, sign or circulate petitions, or participate in fund-raising activities for individuals seeking or holding elected office, nor seek or accept any personal enrichment or profit derived from confidential information or misuse of public time. City shall support the Employee in keeping these commitments by refraining from any order, direction or request that would require the Employee to violate the ICMA Code of Ethics. Specifically, neither the City Council, nor any individual member thereof shall request the Employee to endorse any candidate, make any financial contribution, sign or circulate any petition, or participate in any fund-raising activity for individuals seeking or holding elected office, nor to handle any matter on a basis other than fairness, impartiality and merit.

Section 15. Outside Work.

The employment provided for by this Agreement shall be the Employee's primary employment. Recognizing that certain outside consulting or teaching opportunities provide indirect benefits to the Employer and the community, the Employee may elect to accept limited teaching, consulting, or other business opportunities with the understanding that such arrangements must

neither constitute interference nor a conflict of interest with her responsibilities under this Agreement. Employee shall disclose outside work performed to the City Council.

Section 16. Moving and Relocation Expenses.

The Employee agrees to establish residence within the City within 12 months of the start of her employment, and thereafter to maintain residence within the City during the term of this Employment Agreement.

The Employee will provide evidence of actual moving expenses to the City by securing quotations from three (3) companies and providing receipts. The Employee shall submit these quotes to the City who will reimburse expenses up to a maximum of \$5,000.

Section 17. Indemnification.

Beyond that required under Federal, State or Local law, the City shall defend, save harmless and indemnify the Employee against any obligation to pay money or perform or not perform action, including without limitation, any and all losses, damages, judgments, interests, settlements, penalties, fines, court costs and other reasonable costs and expenses of legal proceedings including attorney's fees, and any other liabilities arising from, related to, or connected with any tort, professional liability claim or demand or any other threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, arbitral or investigation, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of Employee's duties as City Manager or resulting from the exercise of judgment or discretion in connection with the performance of these duties, unless the act or omission involved willful or wanton misconduct. The Employee may request and the City shall not unreasonably refuse to provide independent legal representation at the City's expense and the City may not unreasonably withhold approval. Legal representation provided by the City to the Employee shall extend until a final determination of the legal action including any appeals brought by either party.

Any settlement of any claim must be made with prior approval of the City in order for indemnification, as provided in this Section, to be available. The Employee recognizes that City shall have the right to compromise and unless the Employee is a party to the suit which Employee shall have a veto authority over the settlement, settle any claim or suit; unless, said compromise or settlement is of a personal nature to Employee. Further, City agrees to pay all reasonable litigation expenses of Employee throughout the pendency of any litigation to which the Employee is a party, witness or advisor to the City. Such expense payments shall continue beyond Employee's service to the City as long as litigation is pending. Further, City agrees to pay Employee reasonable consulting fees and travel expenses when Employee serves as a witness, advisor or consultant to City regarding pending litigation.

Section 18. Bonding.

The City shall bear the full cost of any fidelity or other bonds required of the Employee under any law or ordinance.

Section 19. Other Terms and Conditions of Employment.

The City Council may fix such other reasonable terms and conditions of employment as it may determine from time to time, provided such terms and conditions are not inconsistent with or in conflict with the provisions of the Agreement, the City Charter, or any other federal or state law.

Section 20. Notices.

Notices pursuant to this Agreement shall be given by deposit in the custody of the United States Postal Service, postage prepaid, addressed as follows:

City: Mayor, City of Portsmouth
1 Junkins Avenue
Portsmouth, New Hampshire 03801

Employee: Karen Sawyer Conard

Alternatively, notices required pursuant to this Agreement may be hand-delivered to the recipient. Notice shall be deemed given as of the date of in-hand service or as of the date of deposit of such written notice in the course of transmission in the United States Postal Service.

Section 21. General Provisions.

- A. The text herein shall constitute the entire Agreement between the parties.
- B. The Agreement shall become effective upon execution.
- C. If any provision of this Agreement is found to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable.

IN WITNESS WHEREOF, the City of Portsmouth has caused this Agreement to be signed and executed on this behalf by its Mayor and duly attested by the City Clerk, and the Employee has signed and executed this Agreement on the date first above written.

Dated at Portsmouth, New Hampshire, this _____ day of _____,

WITNESS

Karen Sawyer Conard

WITNESS

Jack Blalock, Mayor
City of Portsmouth, NH

Pursuant to vote of the City Council on

October 28, 2019

CERTIFICATION

I hereby certify that the foregoing Agreement has been approved by the Portsmouth City Council in accordance with the Charter of the City of Portsmouth and the laws of the State of New Hampshire, and that as such the Agreement constitutes a binding legal obligation of the City of Portsmouth, according to its terms.

Robert P. Sullivan, Portsmouth City Attorney

Date

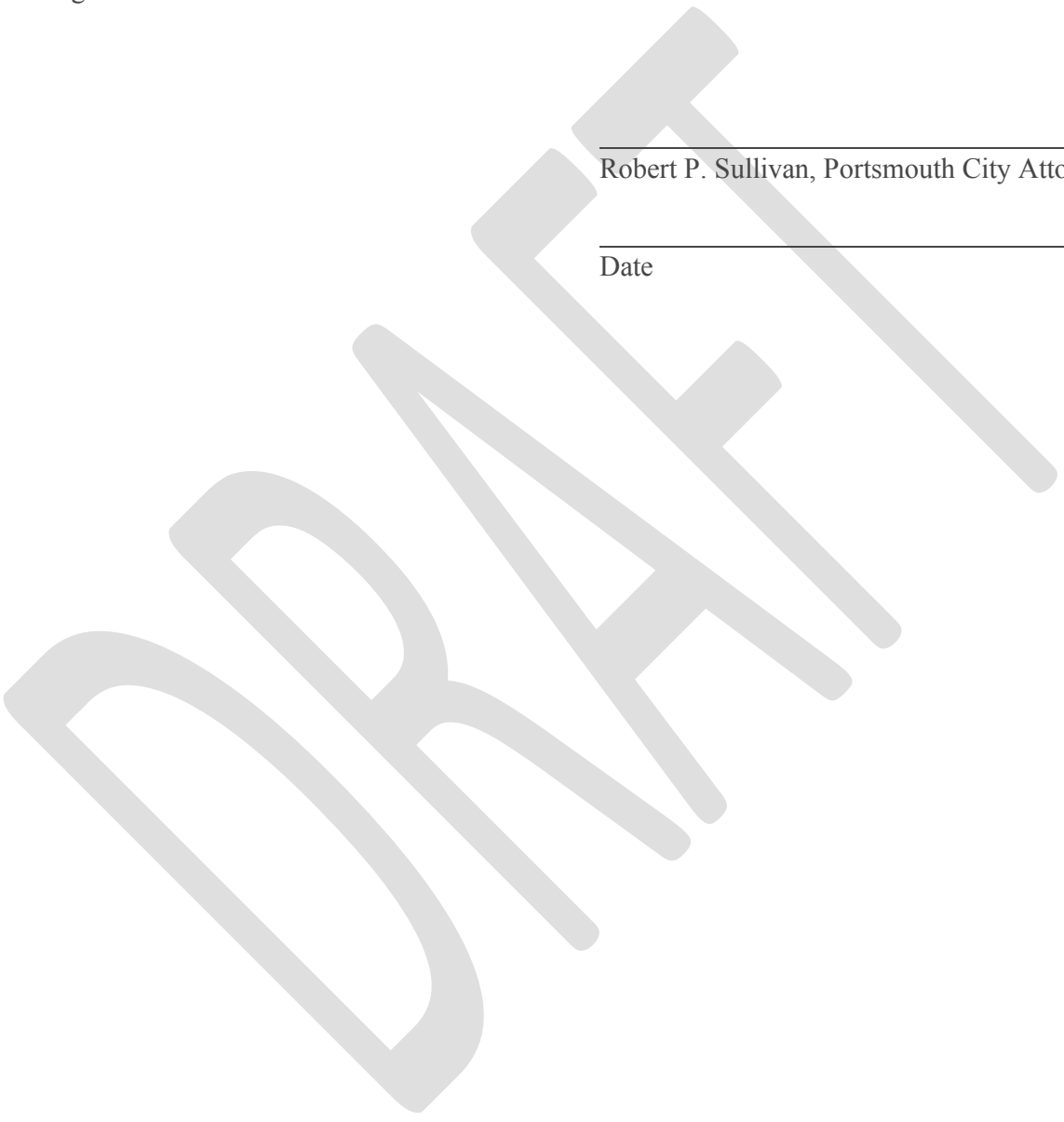


EXHIBIT 1

CITY OF PORTSMOUTH - NON-UNION EMPLOYEES BENEFIT SUMMARY FOR FULL-TIME EMPLOYEES

The City of Portsmouth provides a comprehensive and competitive benefits package to all full-time employees. The following is only a summary of benefits provided by the City of Portsmouth for this bargaining unit. For a more detailed explanation, please refer to your summary plan booklets or the Portsmouth Professional Management Association contract.

Although it is the intention of the City of Portsmouth, New Hampshire to continually provide comprehensive benefits, please be aware that the benefits outlined in this summary may be modified, changed or discontinued through negotiations.

HEALTH INSURANCE

Eligible: 1st of the Month after hire

The City of Portsmouth provides medical insurance through the HealthTrust. The City will provide health insurance for all bargaining unit members for individual, two-person or family coverage. Each employee, if they so choose, shall have the Access Blue Health Insurance Plan. Please see last three pages of this document for a summary of benefits. Summary of Benefits and Coverages (SBC) can be found at <https://www.cityofportsmouth.com/humanresources>- Click on Employee Benefits, password, PortsmouthBenefits.

Employee's Cost per month

	Single	Two-Person	Family
AB20 RX10/20/45 (10%)	\$92.68	\$185.36	\$250.24

Prescription Drugs – CAREMARK

Short-term: \$10 copay for generic prescriptions
 \$20 copay for preferred
 \$45 copay for non-preferred

Long Term: Mail order program: same copays except for 90-day supply.

DENTAL INSURANCE

Eligible: 1st of the Month after hire

hire

The City of Portsmouth shall enroll all members in Delta Dental. The City shall pay 100% of the premium for single, two-person or family plan as may be required. Coverage for dental procedures differs based on the procedures. Please refer to the schedule below for coverage under Delta Dental.

Coverage A-Diagnostic and Preventative - Payable at 100 % - no deductible

1. Cleanings (routine and/or periodontal) four times a calendar year
2. Bitewing x-rays once in a calendar year
3. Full mouth panoramic x-rays once in a three year period
4. X-rays of individual teeth as necessary
5. Evaluations twice in a calendar year
6. Oral Cancer Screening once a year no age limit
7. Fluoride treatment twice in a calendar year up to age 18
8. Sealant application to permanent molars, once per tooth in any period of three consecutive years, for children to age 18
9. Space maintainers to age 15

Coverage B-Restorative - Payable to 80% - no deductible

1. Fillings-includes Resin (white), on all teeth
2. Extractions
3. Root canal therapy
4. Repair of removable dentures
5. Periodontics including periodontal maintenance 4 times year
6. Treatment of Gum Disease

Coverage C-Prosthetics - Payable at 50% - no deductible

1. Bridges
2. Partials
3. Dentures
4. Crowns
5. Rebase and relined dentures
6. Implants
7. Onlays

Maximum contract year Benefit - \$1500 per person per year. Contract year is July 1 – June 30

LONG TERM DISABILITY INSURANCE

Effective: 1st of the month after 6 months

The City provides disability income insurance for members of the Association equal to 66-2/3 of basic monthly earnings not to exceed the maximum monthly benefit of \$10,000. Said insurance shall be effective after the 61st day of disability with benefits payable to age 67. Additional information can be found at <https://www.cityofportsmouth.com/humanresources>- Click on Employee Benefits, password, PortsmouthBenefits.

LIFE INSURANCE

Effective: 1st of the month after 6 months

The City provides a group life insurance policy for eligible members of the Association in the amount of one times your salary rounded up to the nearest one thousand dollars, in accordance with the conditions set forth in the insurance policy. Additional information, including the policy booklet, can be found at <https://www.cityofportsmouth.com/humanresources>- Click on Employee Benefits, password, PortsmouthBenefits.

Health Plan Summary

Health Plan Summary	YOUR COST
Visit Copayment Applies each time You visit Your Primary Care Provider (PCP) or Network obstetrical/gynecological specialist.	\$20 per visit
Specialty Visit Copayment Applies each time You visit a specialist. This Copayment also applies each time You visit a Walk-In Center for diagnosis, care and treatment of an illness or injury.	\$20 per visit
Emergency Room Copayment	\$100 per visit
Urgent Care Facility Copayment Applies each time You visit a licensed hospital's urgent care facility for diagnosis, care and treatment of illness or injury.	\$50 per visit
Standard Deductible	N/A
Standard Coinsurance	
Coinsurance Maximum	
Durable Medical Equipment, Medical Supplies and Prosthetics Deductible Coinsurance	N/A N/A 20%
Out-of-Pocket Limit	\$3,000 per Member, per year \$6,000 per family, per year
The Out-of-Pocket Limit includes all Deductibles, Coinsurance, and Copayments You pay during a year for medical and prescription expenses under this medical plan and Your HealthTrust prescription benefit program. It does not include Your premium, amounts over the Maximum Allowed Amount, penalties, or charges for noncovered services. Once the combined Out-of-Pocket Limit is satisfied, You will not have to pay additional Deductibles, Coinsurance, or Copayments for the rest of the year.	

Please note that throughout this schedule any reference to year means plan year unless otherwise noted. Plan year is July 1 through June 30.

Coverage Outline

YOUR COST

Medical/Surgical Care	
I. Inpatient Services	
In a Short Term General Hospital (Facility charges for medical, surgical and maternity admissions)	You pay \$0
In a Skilled Nursing Facility (Facility charges) Up to 100 Inpatient days per Member, per year	
In a Physical Rehabilitation Facility (Facility charges)	
Inpatient physician and professional services (Such as physician visits, consultations, surgery, anesthesia, delivery of a baby, therapy, laboratory and x-ray tests) Skilled Nursing Facility admissions are limited to the number of Inpatient days stated above.	
II. Outpatient Services	
Preventive Care	
Preventive Care and screenings as required by law or permitted by the Plan including, but not limited to: -Immunizations for babies, children and adults (including travel and rabies immunizations) -Cancer screenings such as, mammograms, pap smears, prostatic specific antigen (PSA) screening, routine colonoscopy and sigmoidoscopy -Routine physical exams for babies, children and adults (including one annual gynecological exam) -Lead screening -Outpatient/office contraceptive services -Nutrition counseling -Diabetes management	You pay \$0
Medical/Surgical Care in a Physician’s Office or Walk-In Center or furnished by an Independent Ambulatory Surgical Center, Independent Infusion Therapy Provider, Independent Laboratory Provider, or Independent Radiology Provider	
Medical exams, telemedicine and online visits, consultations, medical treatments and Network Provider services at a Network Walk-In Center	Visit Copayment or Specialty Visit Copayment
Injections (except allergy injections)	You pay \$0
Allergy injections	
Office surgery (including anesthesia)	
Laboratory tests (including allergy testing)	
X-ray tests (including ultrasound)	
MRA, MRI, PET, SPECT, CT Scan, CTA, Chemotherapy, medical supplies and drugs	
Maternity care (prenatal and postpartum visits) Please see Your Subscriber Certificate for information about maternity care.	You pay no Visit Copayment for prenatal or postpartum office visits. Your share of the cost for delivery of a baby is the same as shown for “Inpatient Services” (above) and “Outpatient Facility Care” (below).

YOUR COST	
Outpatient Facility Care in the Outpatient Department of a Hospital, a Short Term General Hospital's Ambulatory Surgical Center, a Hemodialysis Center or Birthing Center	
Medical exams and consultations by a physician, telemedicine and online visits	Visit Copayment or Specialty Visit Copayment
Services of a surgeon, operating room for surgery and anesthesia	You pay \$0
Physician and professional services for the delivery of a baby or management of therapy	
Hemodialysis, chemotherapy, radiation therapy, infusion therapy, MRA, MRI, PET, SPECT, CT Scan, CTA	
Fees for use of a facility, medical supplies, drugs, other ancillaries, observation	
Laboratory and x-ray tests (including ultrasounds)	
Emergency Room Visits and Urgent Care Facility Visits	
Use of the emergency room (The Copayment is waived if you are admitted)	Emergency Room Copayment
Use of a licensed hospital's urgent care facility	Urgent Care Facility Copayment
Physician's fee, surgery, MRA, MRI, PET, SPECT, CT Scan, CTA, medical supplies and drugs	You pay \$0
Laboratory and x-ray tests	
Ambulance Services Medically Necessary Emergency Transport	
III. Outpatient Physical Rehabilitation Services	
Physical Therapy and Occupational Therapy and Speech Therapy Up to a combined maximum of 60 visits per Member, per year	
Cardiac Rehabilitation Visits	Visit Copayment or Specialty Visit Copayment
Chiropractic Care Office visits - up to 12 visits per Member, per year	You pay \$0
X-ray tests furnished by a chiropractor	
Early Intervention Services	Visit Copayment or Specialty Visit Copayment
IV. Home Care	
Physician services Medical exams, injections, medical treatments, surgery and anesthesia, telemedicine and online visits	Visit Copayment or Specialty Visit Copayment
Home Health Agency services	You pay \$0
Hospice	
Infusion Therapy	
Durable Medical Equipment, Medical Supplies and Prosthetics	Subject to the DME Coinsurance

YOUR COST

V. Behavioral Health Care (Mental Health and Substance Abuse Care)

Outpatient/Office/Telemedicine/Online Visits

Mental Health Visits: Unlimited Medically Necessary visits	
Substance Abuse Visits: Unlimited Medically Necessary visits (including detoxification and substance abuse rehabilitation services)	Visit Copayment or Specialty Visit Copayment
Applied Behavioral Analysis: Unlimited Medically Necessary visits for treatment of pervasive developmental disorder or autism.	

Partial Hospitalization and Intensive Outpatient Treatment Programs

Mental Disorders: Unlimited Medically Necessary care	
Substance Abuse Conditions: Unlimited Medically Necessary care for rehabilitation and detoxification	You pay \$0

Inpatient Care

Mental Disorders: Unlimited Medically Necessary Inpatient days	
Substance Abuse Conditions: Medical detoxification days - Unlimited Medically Necessary Inpatient days Substance abuse rehabilitation - Unlimited Medically Necessary Inpatient days	You pay \$0
Scheduled Ambulance Transport Limited to Medically Necessary transport from one facility to another	

VI. Prescription Eyewear

Benefits are limited to a maximum of **\$40** per Member, per year. Please refer to your Prescription Eyewear Rider for more information.

ICMA CODE OF ETHICS

The mission of ICMA is to create excellence in local governance by developing and fostering professional local government management worldwide. To further this mission, certain principles, as enforced by the Rules of Procedure, shall govern the conduct of every member of ICMA, who shall:

1. Be dedicated to the concepts of effective and democratic local government by responsible elected officials and believe that professional general management is essential to the achievement of this objective.
2. Affirm the dignity and worth of the services rendered by government and maintain a constructive, creative, and practical attitude toward local government affairs and a deep sense of social responsibility as a trusted public servant.
3. Be dedicated to the highest ideals of honor and integrity in all public and personal relationships in order that the member may merit the respect and confidence of the elected officials, of other officials and employees, and of the public.
4. Serve the best interests of the people.
5. Submit policy proposals to elected officials; provide them with facts and advice on matters of policy as a basis for making decisions and setting community goals; and uphold and implement local government policies adopted by elected officials.
6. Recognize that elected representatives of the people are entitled to the credit for the establishment of local government policies; responsibility for policy execution rests with the members.
7. Refrain from all political activities which undermine public confidence in professional administrators. Refrain from participation in the election of the members of the employing legislative body.
8. Make it a duty continually to improve the member's professional ability and to develop the competence of associates in the use of management techniques.
9. Keep the community informed on local government affairs; encourage communication between the citizens and all local government officers; emphasize friendly and courteous service to the public; and seek to improve the quality and image of public service.
10. Resist any encroachment on professional responsibilities, believing the member should be free to carry out official policies without interference, and handle each problem without discrimination on the basis of principle and justice.
11. Handle all matters of personnel on the basis of merit so that fairness and impartiality govern a member's decisions pertaining to appointments, pay adjustments, promotions, and discipline.
12. Public office is a public trust. A member shall not leverage his or her position for personal gain or benefit.

Adopted by the ICMA Executive Board in 1924, and most recently revised by the membership in June 2018.

received
10/18/19

October 13, 2019

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

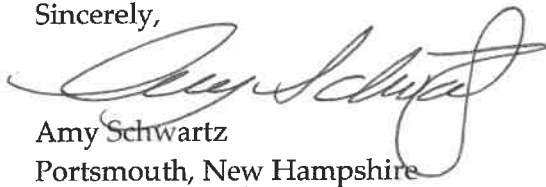
Dear Mayor Blalock:

It is with considerable regret that I submit my resignation as Commissioner for the Portsmouth Housing Authority. I have taken a new job based in Washington, DC which includes considerable travel. I cannot meet the meeting attendance requirements.

I have appreciated my time on the Commission and feel I have contributed in a meaningful way to the PHA and my community. It is important that the work of the PHA be supported by the City, as low-income citizens need continued access to safe and affordable housing in Portsmouth. It has been a privilege to work with Chair Griffin, Executive Director Welsh, the Board members, the staff and the residents for the past 8 years. There have been many exciting changes and the Housing Authority is poised to do even more amazing work in the coming years. It was great to be a part of such an important mission.

Thank you for your support over my term with the PHA.

Sincerely,



Amy Schwartz
Portsmouth, New Hampshire

Cc: Chair Ruth Griffin
Craig Welsh, Executive Director, PHA

CONSIDERATION



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: Portsmouth Housing Authority Initial applicant

Name: Craig Jewett Telephone: 603-396-3208

Could you be contacted at work? YES/NO If so, telephone# 603-895-2412 x16

Street address: 39 Gates Street Portsmouth

Mailing address (if different): P.O. Box 405 Raymond, NH 03077

Email address (for clerk's office communication): craig@jewettconstruction.com

How long have you been a resident of Portsmouth? 12 years

Occupational background:

CEO of Jewett Construction Company, LLC

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

30 years of Commercial Construction knowledge

Served on many past boards

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: Community involvement

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

Board Member of Raymond Economic Development Center (REDC)

CHaD Football Game Finance Committee Member

Incorporator of Kennebunk Savings Bank

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

1) Attorney John Bosen 603-427-5500
Name, address, telephone number

2) Jeff MountJoy Old Port Properties 603-766-0424
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: [Signature] Date: 10/2/19

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 Junkins Avenue, Portsmouth, NH 03801

DRAFT
**SISTER CITIES INTERNATIONAL
FRIENDSHIP AGREEMENT**



Whereas, the cities of Portsmouth, New Hampshire, USA and Santarcangelo di Romagna, Italy share similar goals of international cooperation, mutual prosperity, and world peace; and

Whereas, they believe it to be in their collective interest to broaden and strengthen ties between the two cities; and

Whereas, they place similar values on cultural understanding, training, youth leadership, visitor exchanges, environmental stewardship and citizen diplomacy; and

Whereas, they will identify activities, common to all that can generate new initiatives to further nurture economic, social, and cultural relationships; and

Whereas, the purpose of this relationship is to increase cultural, economic and educational opportunities for both cities, and to increase awareness of both cities as having shared residents' heritage, as well as being historic cities that are cultural destinations; and

Whereas, both cities are committed to mutual support for organizing and developing the experiences, common activities, and future programs of the Friendship City relationship on the basis of expressed desire for mutual cooperation and directions set forth by this declaration.

Now, Therefore, We, the Mayors of Portsmouth, New Hampshire, USA and Santarcangelo di Romagna, Italy, do believe that this pact will further contribute to the cause of world peace and to the development of friendly relations between the peoples of Italy and the United States and our two cities; and

Further, we affix our signatures and our city seals on this declaration to establish our relationship as Sister Cities.

Jack Blalock
Mayor
City of Portsmouth, NH USA
[DATE]

Alice Parma
Mayor
City of Santarcangelo di Romagna, Italy
[DATE]

MEMO

To: Portsmouth City Council
From: Councilors Cliff Lazenby and Nancy Pearson
Date: October 22, 2019

Re: Concept for Next City Council -- Safe Water Advisory Group

Because PFAS (Per- and Polyfluoroalkyl Substances) contamination has impacted the City of Portsmouth with legislative, health advisory and fiscal changes, it would be helpful for the City Council to gather advisory input from local stakeholders, scientists and activists focused on the issue. This idea was developed in consultation with Portsmouth residents and safe water activists Andrea Amico and Lindsey Carmichael over numerous meetings during 2018-19.

Suggested Action

Recommend that the next Mayor and City Council endorse formation of an advisory group related to Safe Drinking Water.

Suggested Mission

To review and communicate the latest science on the health and environmental effects of PFAS, to monitor federal and state level legislative changes, and to anticipate policy changes that could impact the city of Portsmouth.

Suggested Composition

Two City Councilors, two to four community members, one Portsmouth Firefighter, two to three City of Portsmouth staff (Public Works, Health), one Portsmouth School Board member, one medical professional, one to two NH State legislators representing Portsmouth.

Activities the Group Should Be Engaged In

Conduct review of periodic City well monitoring results, legislative trends in NH and other states, current science on PFAS exposure. Provide periodic report back to the City Council as needed. It is suggested that the group meet quarterly or every other month.

ACTIONS

PARKING and TRAFFIC SAFETY COMMITTEE

8:00 A.M. – September 5, 2019
City Hall – Council Chambers

PRESENT: Chairman, Doug Roberts
Public Works Director, Peter Rice
Fire Chief, Todd Germain
Police Captain, Mark Newport
Harold Whitehouse
Mary Lou McElwain
Ralph DiBernardo
Steve Pesci (via conference call)
Jonathan Sandberg

ABSENT: Deputy City Manager, Nancy Colbert Puff

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

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 both sides of Little Harbor Road east of Wentworth Coolidge Mansion driveway. (VIII.A.)

1. Accepted and placed on file meeting minutes from August 1, 2019.
2. Accepted and placed on file financial report dated July 31, 2019.
3. Public Comment Session: one speaker: Molly Wilson (VIII.D.)
4. Request to renew valet parking license for the Marriott Residence Inn, by Jackie Huber – **Voted** to renew the valet parking license for Marriott Residence Inn.
5. Request to renew valet parking license for the Hampton Inn, by Jackie Huber – **Voted** to renew the valet parking license for the Hampton Inn.
6. Request to amend valet parking license for The 100 Club, by Dana Wergen – **Voted** to amend terms of the valet parking license by amending hours to Monday through Sunday from 5:00 PM to 12:00 AM.
7. Request for valet parking spaces on Porter Street for 15 Middle Street, by Alex Ross – **Voted** to refer to staff for report back.

8. Request for parking changes and loading zone at 3 Pleasant Street, by John Chagnon – **Voted** to allow City staff to work with the property owner to create a loading zone and report back for consideration at the next meeting.
9. Report back, request for parking restrictions at the end of Little Harbor Road – **Voted** to prohibit parking along both sides of Little Harbor Road east of Wentworth Coolidge Mansion driveway.
10. Report back, concerns with speeding vehicles on Little Harbor Road – **Voted** to post awareness signage (i.e. Share The Road) on Little Harbor Road.
11. Report back, concerns for pedestrian safety on Middle Road at Essex Avenue crosswalk – **Voted** to direct City staff to investigate interim solutions to address vehicle speeds and pedestrian safety on Middle Road and in the general area.
12. Report back, request for traffic calming measures on South Street between Middle Road and Lafayette Road – **Voted** to direct City staff to work with the neighborhood and develop interim measures for traffic calming.
13. Legal opinion on PTS authority to set parking rates – **Voted** to refer proposed amendment to the Designated Motorcycle Parking Area ordinance to the Legal Department to amend pursuant to the issues raised in this memorandum for referral back to PTS. PTS will then review and approve a draft of the proposed amendment to submit to the City Council for first reading.
14. Parking Principles Discussion – Committee will provide recommended changes to Chairman Doug Roberts and PTS Secretary by September 19, 2019.
15. “Why Speed Kills Cities.” Article by Andrew Small, CityLab – No action required by the Committee.
16. PTS Open Action Items – No action required by the Committee.
17. Meeting minutes approval process – **Voted** to approve process in which the Committee minutes will be forwarded to Committee members electronically or delivered by staff as soon as prepared. Unless a Committee member objects to those minutes within 72 hours of the time when the minutes have been forwarded to that member, the minutes will be deemed to have been approved by that member. If any member objects to any set of proposed minutes, that set of minutes shall be placed on the next available Committee agenda for approval by the full Committee.

Adjournment – At 9:20 a.m., **voted** to adjourn.

Respectfully submitted by:

Amy Chastain
Secretary to the Committee

AMENDED MEETING MINUTES

PARKING and TRAFFIC SAFETY COMMITTEE

8:00 A.M. – September 5, 2019
City Hall – Conference Room A

I. CALL TO ORDER:

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

II. ROLL CALL:

Members Present:

Chairman, Doug Roberts
Public Works Director, Peter Rice
Fire Chief, Todd Germain
Police Captain, Mark Newport
Member, Ralph DiBernardo
Member, Mary Lou McElwain
Member, Steve Pesci (via conference call)
Member, Harold Whitehouse
Alt. Member, Jonathan Sandberg

Absent:

Deputy City Manager, Nancy Colbert Puff

Staff Advisors Present:

Parking and Transportation Engineer, Eric Eby
Parking Director, Ben Fletcher
Planning Director, Juliet Walker

III. ACCEPTANCE OF THE MINUTES:

Mary Lou McElwain moved to accept the meeting minutes of the August 1, 2019 meeting, seconded by Harold Whitehouse. **Motion passed 8-0.**

Steve Pesci abstained from the vote because he was not present at the August meeting.

IV. FINANCIAL REPORT:

Ralph DiBernardo moved to accept the financial report dated July 31, 2019, seconded by Public Works Director Peter Rice. **Motion passed 9-0.**

V. PUBLIC COMMENT:

Molly Wilson completed an application for traffic calming measures and submitted it last summer. Ms. Wilson was concerned about speeding and requested that the speed limit be lowered to 20 mph to match the rest of South Street. Ms. Wilson also requested more signage and visibility to help get kids to the bus stop safely.

VI. PRESENTATION:

No presentation.

VII. NEW BUSINESS:

A. Request to renew valet parking license for the Marriott Residence Inn, by Jackie Huber. Mary Lou McElwain questioned if this renewal was different from the previous agreement. Eric Eby responded that it was not. Mary Lou McElwain questioned where the valet cars went to park, and if it was at the Foundry Garage. Public Works Director Peter Rice responded that there are no agreements with either garage for valet parking. Police Captain Mark Newport added that they have their own private lots.

Public Works Director Peter Rice moved to allow public comment, seconded by Mary Lou McElwain. **Motion passed 9-0.**

Peter Weeks commented that they have their own parking garage at Portwalk.

Public Works Director Peter Rice moved to approve renewal of the valet parking license for Marriott Residence Inn, seconded by Ralph DiBernardo. **Motion passed 9-0.**

B. Request to renew valet parking license for the Hampton Inn, by Jackie Huber. Ralph DiBernardo moved to approve renewal of valet parking license for the Hampton Inn, seconded by Mary Lou McElwain. **Motion passed 9-0.**

C. Request to amend valet parking license for The 100 Club, by Dana Wergen. Eric Eby stated they currently have valet parking in a loading zone on Hanover Street from 6:00 PM to 12:00 AM Monday through Saturday. This request is to extend it to begin at 5:00 PM and add Sundays.

Chairman Doug Roberts clarified that the loading zone was not a shared parking area. Eric Eby stated parking is allowed outside the loading zone and valet parking hours.

Public Works Director Peter Rice moved to amend terms of the valet parking license by amending hours to Monday through Sunday from 5:00 PM to 12:00 AM, seconded by Mary Lou McElwain. **Motion passed 9-0.**

D. Request for valet parking spaces on Porter Street for 15 Middle Street, by Alex Ross. Chairman Doug Roberts commented that this was the former Salvation Army building that is now being converted to an inn. The Committee did a site visit. Chairman Doug Roberts was specifically concerned about cars turning left off of Middle Street onto Porter Street.

Steve Pesci was concerned that if the inn had a courtesy vehicle occupying one of the two requested spaces, then it would leave just one space for valet drop off.

Mary Lou McElwain commented that they needed to consider the school buses that go to the Music Hall and the impact that would have on parking.

Harold Whitehouse questioned if there was a stop sign at Porter Street and Chestnut Street. Eric Eby confirmed there was.

Ralph DiBernardo was concerned that people would back out of the parking spaces instead of driving down the alley. Ralph DiBernardo shared Mary Lou McElwain's concerns about the school buses.

Jonathan Sandberg commented that he understood these cars went to Foundry Place Garage. Public Works Director Peter Rice responded that it is current policy not to have valet parking in the city-owned parking garages.

Chairman Doug Roberts commented that the valet spot was very close to the sidewalk and the building.

Steve Pesci commented that he was concerned about maintaining the pedestrian corridor and ADA accessibility.

Ralph DiBernardo moved to refer to staff for report back, seconded by Harold Whitehouse. **Motion passed 9-0.**

Steve Pesci questioned who set the fee and if it had been adjusted recently. Chairman Doug Roberts responded that fees are set by the Fee Committee, and it has been adjusted recently. Steve Pesci commented that the cost seemed relatively low.

E. Request for parking changes and loading zone at 3 Pleasant Street, by John Chagnon. Harold Whitehouse moved to table request for removal of parking spaces until the Market Square Renovation Plan is completed and to table request for a loading zone until the Planning Board process is completed, seconded by Jonathan Sandberg.

Public Works Director Peter Rice commented that the property owner has requested a short-term adjustment to allow for a temporary loading zone with no loss of parking. Public Works Director Peter Rice recommended that they discuss the proposal with the property owner and allow the loading zone for the interim. Many businesses use the alleyway for a loading zone now, but it will no longer be available in the future. If the loading zone is time specific, there can be two (2) parking spaces available during the day.

Harold Whitehouse and Jonathan Sandberg withdrew the original motion.

Public Works Director Peter Rice moved to allow City staff to work with the property owner to create a loading zone and report back for consideration at the next meeting, seconded by Harold Whitehouse.

Ralph DiBernardo clarified that the loading zone would not be used for construction. Public Works Director Peter Rice responded that the developer had a laydown area in the back for construction equipment and other supplies.

Harold Whitehouse questioned closing down the alleyways from an emergency access perspective. Chairman Doug Roberts responded that it has been discussed at the Historic District Committee. The alleyways would be converted to pedestrian ways and there would be fire access.

Mary Lou McElwain questioned the status of changing the turning lanes in front of Tuscan Market and if that would be impacted by the loading zone. Eric Eby responded that it would not because it doesn't extend that far back.

Motion passed 9-0.

VIII. OLD BUSINESS:

A. Report back, request for parking restrictions at the end of Little Harbor Road.

Mary Lou McElwain moved to prohibit parking along both sides of Little Harbor Road east of Wentworth Coolidge Mansion driveway, seconded by Harold Whitehouse.

Eric Eby commented that when cars are parked on that end of the road it makes it very narrow and hard to get out of the driveways. The parked cars impact sightlines and turning movements. Vehicles can still park further back and people can walk down.

Mary Lou McElwain questioned if this was a permanent change or if it would be on a trial basis. Eric Eby responded that any decision this Committee makes is on a trial basis for up to one-year until it becomes permanent by the City Council through the adoption of the Omnibus.

Jonathan Sandberg questioned if there should be a sign to allow people to unload kayaks then go park somewhere else. Eric Eby responded that people probably already do that and suggested posting NO PARKING signs for now.

Motion passed 9-0.

B. Report back, concerns with speeding vehicles on Little Harbor Road.

Eric Eby commented that staff took vehicle volume and speed counts on Little Harbor Road. The average speed is 19 mph, with an 85th percentile speed of 24 mph. The legal speed limit is 30 mph. If they posted a speed limit it would be 30 mph. The recommendation is to not post the speed limit because it may encourage people to drive faster.

Public Works Director Peter Rice questioned if there were any pedestrian crossing signs on the road. Eric Eby responded there are currently no signs. Public Works Director Peter Rice recommended adding Share The Road awareness signage.

Public Works Director Peter Rice moved to post awareness signage (i.e. Share The Road) on Little Harbor Road, seconded by Ralph DiBernardo. **Motion passed 9-0.**

C. Report back, concerns for pedestrian safety on Middle Road at Essex Avenue crosswalk.

Eric Eby stated traffic cameras and speed recorders were posted. There were not a lot of pedestrians. He stated there were never more than 9 pedestrians per hour crossing at the location. Generally, crosswalks are installed when there are 20 or more pedestrians an hour. Studies have shown that if drivers are not used to seeing pedestrians in a crosswalk that they are less likely to yield at the crosswalk. There are adequate number of gaps in the traffic stream to allow pedestrians to cross safely.

There are warning signs posted and the width of the crosswalk has been increased. However, drivers not yielding is typical for a low usage crosswalk.

Chairman Doug Roberts questioned if it was possible to narrow the roadway width at the crosswalk. Eric Eby responded that it was only 28 feet wide currently. Chairman Doug Roberts questioned if pedestrian flashers would help. Eric Eby responded that flashers would not be recommended because it is a low usage crosswalk. The flashers are expensive and cost approximately \$15,000.

Mary Lou McElwain commented that she thought this area was dangerous. She stated there aren't a lot of people crossing at the crosswalk because it does not feel safe. If efforts were made to make it safer, then more people would use the crosswalk. Mary Lou McElwain suggested adding a sign in the middle of the crosswalk, or adding a police patrol at peak hours. Police Captain Mark Newport commented that they were in the area pretty regularly.

Chairman Doug Roberts suggested adding signage to warn people about the transition to a lower speed as drivers enter the City. He stated it could help slow down traffic.

Jonathan Sandberg commented that he was surprised by the data staff collected because he has often seen cars going above the speed limit. Eric Eby responded that the average was 32 mph. Mary Lou McElwain agreed with Jonathan Sandberg, and commented that it's a busy area that needs to be safer.

Public Works Director Peter Rice stated it is a major corridor and there are many trucks coming into the City from that direction. Crosswalks and speed signs won't change that because people are very comfortable navigating that area at higher speeds because it's a larger road. The City is considering installing a bike path. They should add this item to the Capital Improvement Plan (CIP) for a more comprehensive review.

Chairman Doug Roberts noted that it would be good to do something in the interim while they wait for the CIP. He stated a temporary measure would allow the City to test out a solution. It may make sense to start lowering the speed limit at the bridge.

Ralph DiBernardo commented that they should be looking at the whole corridor from Peverly Hill Road to City Hall when considering a long-term change.

Steve Pesci noted that there were several corridors like this one in the City. Portsmouth should develop standard signage to inform people that they were entering a downtown neighborhood and speed limits are lowering. He stated the Committee should review all speed limits in Portsmouth in the future.

Police Captain Mark Newport added that there was a crosswalk near the NH Park and Ride lot on Route 33 that many people don't see. He stated it should be considered as well.

Mary Lou McElwain was concerned about changing 20 mph areas to 25 mph because it may increase speeding. Mary Lou McElwain questioned why they had 20 mph if it was not enforceable. Chairman Doug Roberts responded that it was historical.

Public Works Director Peter Rice moved to direct City staff to investigate interim solutions to address vehicle speeds and pedestrian safety on Middle Road and in the general area, seconded by Ralph DiBernardo. **Motion passed 9-0.**

D. Report back, request for traffic calming measures on South Street between Middle Road and Lafayette Road. Public Works Director Peter Rice commented that this item was similar in nature to the previous agenda item. Part of the traffic calming application is to have the residents propose solutions and show public support for them.

Chairman Doug Roberts commented that adding a crosswalk in that area would not slow down traffic. It would give pedestrians a false sense of security that they could safely cross. Narrowing the road with bollards or adding police patrol would be better options.

Mary Lou McElwain suggested that the residents in this neighborhood work with Eric Eby and Public Works Director Peter Rice on a solution. Public Works Director Peter Rice responded that they work with residents all the time, and have been talking with this group. He stated staff have suggested having people parking on the street to visually reduce the width of the road. Staff have been working collaboratively with the residents and will continue to do so.

Jonathan Sandberg suggested removing the yellow striping as they did on Aldrich Road. Public Works Director Peter Rice agreed it could be considered.

Public Works Director Peter Rice moved to direct City staff to work with the neighborhood and develop interim measures for traffic calming, seconded by Mary Lou McElwain. **Motion passed 9-0.**

IX. INFORMATIONAL:

A. Legal opinion on PTS authority to set parking rates.

Public Works Director Peter Rice moved to refer proposed amendment to the Designated Motorcycle Parking Area ordinance to the Legal Department to amend pursuant to the issues raised in this memorandum for referral back to PTS. PTS will then review and approve a draft of the proposed amendment to submit to the City Council for first reading, seconded by Ralph DiBernardo. **Motion passed 9-0.**

B. Parking Principles Discussion.

Planning Director Juliet Walker commented that there was a work session this past March to discuss the Parking Principles. It lays out the guiding principles for parking policies. At the workshop there were some staff recommended changes that were discussed. The Council requested that these changes come to each Committee that has a role in parking policies and report back if there were any additional changes. The changes should be discussed by the Committee and a consensus must be made on all changes before it is brought back to City Council. City Council will see a consolidated list of recommended changes from all of the Boards and Committees.

The Committee discussed some of the principles outlined in the revised draft. Planning Director Juliet Walker recommended the Committee consolidate their suggested

changes into one version. This is the process used by the other Boards. Chairman Doug Roberts agreed.

Chairman Doug Roberts noted that 85% of Seacoast motorists ride by themselves. A goal of the parking principles should be to reduce single occupancy vehicle trips. There should be an environmental component added to the overall principles.

Steve Pesci supported Chairman Doug Robert's suggestion. The City should support parking, but parking should not be the primary role of the City.

Jonathan Sandberg commented that it should be the commercial developer's responsibility to provide parking if they want it. Steve Pesci disagreed and stated the working groups made a big change already from making it the City's responsibility to a shared responsibility.

Steve Pesci noted that there was a lot of consensus on most of the discussions during the work session. Everyone agreed on managing pricing. Portsmouth should look at dynamic pricing. There should be references to shared vehicles and micro mobility should be added. There is one point in the draft that says parking should be revenue neutral. The revenue of parking should contribute to funding of a balance of the overall transportation system. He stated it is a good draft.

Ralph DiBernardo clarified that part of the revenue from parking went into the general fund, which helped to reduce taxes. Chairman Doug Roberts confirmed that was correct. Ralph DiBernardo questioned if anything in the principles would change that. Public Works Director Peter Rice responded that would not change. Chairman Doug Roberts commented that administratively the money could be clearly spent on things related to transportation. Excess money can be put into the general fund.

The Committee agreed to forward their changes and suggestions to Chairman Doug Roberts and the PTS Secretary by September 19, 2019. The Committee will review the suggested changes and revisions at the next meeting.

C. "Why Speed Kills Cities." Article by Andrew Small, CityLab.

Chairman Doug Roberts noted that this article had a number of interesting points, and it could be helpful to PTS.

D. PTS Open Action Items.

No Committee discussion.

X. MISCELLANEOUS:

A. Meeting minutes approval process.

Chairman Doug Roberts commented that there are sometimes delays in approving minutes from the previous meeting. This proposal is to change the way the minutes are approved. They would be sent out electronically. If there were no objections to the minutes, then they would be approved. If there were objections then it would be discussed at the next PTS meeting.

Public Works Director Peter Rice moved that the Committee minutes will be forwarded to Committee members electronically or delivered by staff as soon as prepared. Unless a Committee member objects to those minutes within 72 hours of the time when the minutes have been forwarded to that member, the minutes will be deemed to have been approved by that member. If any member objects to any set of proposed minutes, that set of minutes shall be placed on the next available Committee agenda for approval by the full Committee, seconded by Mary Lou McElwain. **Motion passed 8-0.**

Steve Pesci abstained from the vote because there was not enough discussion around the new process, and he felt that 72 hours may be too short of a timeframe.

Mary Lou McElwain requested that the Committee discuss speeding at the next meeting. Chairman Doug Roberts agreed.

XI. ADJOURNMENT:

Harold Whitehouse moved to adjourn the meeting at 9:20 a.m., seconded by Jonathan Sandberg. **Motion passed 9-0.**

Respectfully submitted by:

Becky Frey
PTS Recording Secretary

ACTIONS

PARKING and TRAFFIC SAFETY COMMITTEE

8:00 A.M. – October 3, 2019
City Hall – Conference Room A

PRESENT: Chairman, Doug Roberts
Deputy City Manager, Nancy Colbert Puff
Public Works Director, Peter Rice
Fire Chief, Todd Germain
Police Captain, Mark Newport
Ralph DiBernardo
Mary Lou McElwain
Steve Pesci
Harold Whitehouse
Jonathan Sandberg

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

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

Temporary Action Item requiring an ordinance during the annual omnibus:

- Hanover Street, change two 15-minute spaces in front of former Bubby's Deli back to 3 hours. (VII.A.)
 - Daniel Street, change four 15-minute spaces in front of Old City Hall back to 3 hours, on interim basis. (VII.B.)
 - Daniel Street, change four 15-minute spaces in front of former Provident Bank back to 3 hours. (VII.C.)
 - Loading zone approved in front of 3 Pleasant Street, as shown on Offsite Improvement Plan C6 prepared by Ambit Engineering, revised 9/20/19. (VIII.B.)
1. Accepted and placed on file amended meeting minutes from September 5, 2019.
 2. Accepted and placed on file financial report dated August 31, 2019.
 3. Public Comment Session: one speaker: Barbara Zulkiewicz (traffic and pedestrians in downtown)
 4. Hanover Street, change two 15-minute spaces in front of former Bubby's Deli back to 3 hours. – **Voted** to change the time limit on the first two spaces on the northerly side of Hanover Street east of Bridge Street, to 3 hours.
 5. Daniel Street, change four 15-minute spaces in front of Old City Hall back to 3 hours, on interim basis. – **Voted** to change the time limit on the first four spaces on the northerly side of Daniel Street west of Chapel Street, to 3 hours, on an interim basis.

6. Daniel Street, change four 15-minute spaces in front of former Provident Bank back to 3 hours. – **Voted** to change the time limit on the first four spaces on the southerly side of Daniel Street east of Market Square, to 3 hours.
7. Parker Street, change one-way section between Tanner Court and Hanover Street to two-way traffic. – **Voted** to change the traffic flow on Parker Street, between Tanner Court and Hanover Street, to two-way traffic.
8. Rogers Street corner radius at intersection with Parrott Avenue. – **Voted** to refer to staff for report back at a future meeting on modifying radius to improve safety.
9. Report back, valet parking request for 15 Middle Street.
Voted to approve postponement requested by applicant.
10. Report back, proposed loading zone for 3 Pleasant Street. – **Voted** to approve the request for a loading zone in front of 3 Pleasant Street, as shown on Offsite Improvement Plan C6 prepared by Ambit Engineering, revised 9/20/19 and refer to staff for report back on loading zone hours.
11. Update on traffic calming discussion with residents of South Street.
No action required by the Committee.
12. Joint EDC/PTS meeting on Microtransit, November 8th.
No action required by the Committee.
13. PTS Open Action Items.
No action required by the Committee.
14. Parking Principles, PTS Committee Member comments. Planning Director Juliet Walker will share with the City Council the suggestions and comments provided by PTS Committee members.
15. Discussion of speed limits, legal requirements and reducing speeds on City gateway roads. Staff will report back at a later date on speed limits and speed segments on City gateway roads.

Adjournment – At 8:57 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. – October 3, 2019
City Hall – Conference Room A

I. CALL TO ORDER:

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

II. ROLL CALL:

Members Present:

Chairman, Doug Roberts
Deputy City Manager, Nancy Colbert Puff
Public Works Director, Peter Rice
Fire Chief, Todd Germain
Police Captain, Mark Newport
Member, Ralph DiBernardo
Member, Mary Lou McElwain
Member, Steve Pesci
Member, Harold Whitehouse
Alt. Member, Jonathan Sandberg

City Staff Present:

Parking and Transportation Engineer, Eric Eby
Parking Director, Ben Fletcher
Planning Director, Juliet Walker

III. ACCEPTANCE OF THE MINUTES:

Eric Eby corrected a comment he made at the last meeting about the valet parking in a loading zone for The 100 Club. He stated parking is allowed outside the loading zone and valet parking hours.

Harold Whitehouse moved to accept the meeting minutes of the September 5, 2019 meeting as amended, seconded by Mary Lou McElwain. **Motion passed 9-0.**

IV. FINANCIAL REPORT:

Ralph DiBernardo moved to accept the financial report dated August 31, 2019, seconded by Harold Whitehouse. **Motion passed 9-0.**

V. PUBLIC COMMENT:

Barbara Zulkiewicz, resident, raised concerns about traffic in downtown Portsmouth. It is not safe for pedestrians. State Street and Middle Street are problematic and crosswalks without lights are not as safe.

Chairman Doug Roberts noted that this comes up periodically. Some crosswalks have been updated with flashers, but generally it is an enforcement issue. Police Captain Mark Newport commented that the Police Department have not received more complaints from the downtown area than the rest of the City. Officers are trying to be

more visible around the crosswalks, but there are a lot of them in the City. Ralph DiBernardo added that when the police are present in the downtown they do a good job with the enforcement. Chairman Doug Roberts stated Barbara Zulkiewicz's concern would be noted and the Committee would think of alternate solutions.

VI. PRESENTATION:

No presentation.

VII. NEW BUSINESS:

A. Hanover Street, change two 15-minute spaces in front of former Bubby's Deli back to 3 hours. Ralph DiBernardo clarified that these were all locations that no longer required 15-minute spaces by businesses. Eric Eby confirmed that was correct.

Harold Whitehouse questioned where this request came from. Eric Eby responded that the request came from City Staff.

Steve Pesci moved to change the time limit on the first two spaces on the northerly side of Hanover Street east of Bridge Street, to 3 hours, seconded by Ralph DiBernardo.

Motion passed 9-0.

B. Daniel Street, change four 15-minute spaces in front of Old City Hall back to 3 hours, on interim basis. Chairman Doug Roberts commented that this was because the Post Office was no longer at that location so the 15-minute spaces were not needed.

Jonathan Sandberg questioned if there were other businesses in the area that would benefit from those spaces. Eric Eby responded that there would still be three 15-minute spaces on Daniel Street. Public Works Director Peter Rice added that these spaces are under-utilized today, and there is a need for more parking in the downtown.

Steve Pesci noted that he supported the motion, but it may be helpful to consider putting in some 1-hour spaces in the downtown. Eric Eby responded that patrons only have to pay for the time they want. The limit is 3 hours.

Ralph DiBernardo moved to change the time limit on the first four spaces on the northerly side of Daniel Street west of Chapel Street, to 3 hours, on an interim basis, seconded by Steve Pesci. **Motion passed 9-0.**

C. Daniel Street, change four 15-minute spaces in front of former Provident Bank back to 3 hours. Mary Lou McElwain questioned if the businesses in the area were aware of these changes. Those spaces provide quick access to businesses like coffee shops. Eric Eby responded that they have monitored the spaces and they were all less than 50% used throughout the day. There will still be three 15-minute spaces in the area.

Steve Pesci commented that it was good to provide access to businesses, but the access should not be drive-through style in downtown Portsmouth. The choice between 15-minute or 3-hour parking is too extreme. There should be something in between. It may change the dynamic of use.

Public Works Director Peter Rice moved to change the time limit on the first four spaces on the southerly side of Daniel Street east of Market Square, to 3 hours, seconded by Deputy City Manager Nancy Colbert Puff. **Motion passed 9-0.**

D. Parker Street, change one-way section between Tanner Court and Hanover Street to two-way traffic. Chairman Doug Roberts commented that they did a site visit and this one-way section was less than 50 yards. It is now wider and it would be easier for people if it were all a two-way road.

Public Works Director Peter Rice moved to change the traffic flow on Parker Street, between Tanner Court and Hanover Street, to two-way traffic seconded by Deputy City Manager Nancy Colbert Puff. **Motion passed 9-0.**

E. Rogers Street corner radius at intersection with Parrott Avenue. Eric Eby commented that they did a site visit. There is a large sweeping radius from Parrot Avenue going right onto Rogers Street. That lends itself to high speeds and creates a long crosswalk. The thought is to tighten the radius so that the crosswalk would be shorter and speeds would be reduced. There is a driveway in the middle of the intersection that will need to be considered, and those landowners have been notified. They should be able to try something temporarily to see how it works.

Deputy City Manager Nancy Colbert Puff moved to refer to staff for report back on modifying radius to improve safety, seconded by Public Works Director Peter Rice. **Motion passed 9-0.**

VIII. OLD BUSINESS:

A. Report back, valet parking request for 15 Middle Street.

Deputy City Manager Nancy Colbert Puff moved to approve postponement requested by the applicant, seconded by Public Works Director Peter Rice. **Motion passed 9-0.**

B. Report back, proposed loading zone for 3 Pleasant Street.

Eric Eby showed a diagram of the existing conditions with two alleyways and two curb cuts. The proposal is to close the alleyways on each side of the building. The closures would provide for additional curb space along Pleasant Street. The parking spaces would be shifted down to create a 45-foot loading zone. Outside of the loading zone hours it could be used as regular parking.

Mary Lou McElwain questioned what the hours would be for the loading zone. Eric Eby responded that typically the hours are 6 a.m. to 7 p.m. Mary Lou McElwain commented that it seemed like a big window of time for the loading zone. Chairman Doug Roberts commented that they could evaluate the hours and see what was really needed. They could get a report back from staff.

Ralph DiBernardo noted that the plan showed tables and umbrellas in the alleyways and that may prevent access to utilities. Planning Director Juliet Walker responded the Planning Board approved that plan. That items in that space are all removable.

Public Works Director Peter Rice moved to approve the request for a loading zone in front of 3 Pleasant Street, as shown on Offsite Improvement Plan C6 prepared by Ambit

Engineering, revised 9/20/19 and refer to staff for report back on loading zone hours, seconded by Deputy City Manager Nancy Colbert Puff. **Motion passed 9-0.**

IX. INFORMATIONAL:

A. Update on traffic calming discussion with residents of South Street.

Eric Eby commented that the next step was to coordinate with the neighborhood to find a time to meet. Public Works Director Peter Rice added that this was consistent with what they have done with other neighborhood traffic calming efforts. Bartlett Street went through multiple iterations before bollards were installed.

Harold Whitehouse complimented the Police Department for their enforcement on South Street.

B. Joint EDC/PTS meeting on Microtransit, November 8th.

Planning Director Juliet Walker commented that the Committee was invited to attend the Economic Development Commission/Parking and Traffic Safety Committee joint meeting on Microtransit on November 8, 2019 at 8 a.m. in Conference Room A.

C. PTS Open Action Items. No Committee discussion.

X. MISCELLANEOUS:

A. Parking Principles, PTS Committee Member comments.

Planning Director Juliet Walker commented that she consolidated and added the comments and edits from the Committee to review. If there is a general consensus with the comments and edits presented by the members, then the document will be presented to City Council.

The Committee agreed with the comments and edits. Planning Director Juliet Walker will share with the City Council the suggestions and comments provided by PTS Committee members.

B. Discussion of speed limits, legal requirements and reducing speeds on City gateway roads. Eric Eby commented that the State sets the speed limit at 30 mph. It can be reduced to 25 mph if there is an engineering study performed. There is no provision in the law about going below 25 mph. There should be a reason to have the speed limit reduced.

Chairman Doug Roberts commented that it might be hard to reduce the speed limit if people generally drive at 30 mph or faster. Eric Eby responded that people tend to drive at the speed they are comfortable with on the road. Studies show that the number on the sign has little affect.

Ralph DiBernardo commented that he opposed 20 mph speed limits that weren't legal and cannot be enforced. South Street should be 25 mph. It's a main thoroughfare and it should be a speed limit that can be enforced.

Chairman Doug Roberts questioned how many tickets the Police Department has issued for infractions less than 25 mph and if they had run into issues. Police Captain

Mark Newport was not sure, but whatever the speed limit sign says is what they enforce.

Steve Pesci agreed with Ralph DiBernardo. The Committee should review the rationale of speed limits in the City. It would be better to have a 25 mph speed limit with high compliance than a lower one with low compliance.

Harold Whitehouse commented that he did not agree. There were a lot of schools in that area and the speed limit should be lower.

Mary Lou McElwain commented that the 20 mph was not enforceable and that was the issue.

Ralph DiBernardo commented that 15 mph on South Street in the school zone was hard to drive. Eric Eby commented that state law says it should be 10 mph less than the posted speed limit, so technically it should be 10 mph in the school zone.

Chairman Doug Roberts commented that at the last meeting they talked about notifying people coming in the main entrances to the City that they were entering a more densely populated area. It would be a good approach to start looking at the speed limits on the main roadways into the City.

Steve Pesci questioned if staff had a map that showed the speed limit segments for streets in the City. Eric Eby responded that they have an inventory of all the speed limit signs in the City.

Chairman Doug Roberts suggested that they get a report back from staff about what they think is possible in the near term.

Mary Lou McElwain commented that what is enforceable and what is not enforceable is confusing. The public should be educated. She stated speeding tickets help in reducing speeding. Police Captain Mark Newport added that just having a police presence helps.

Ralph DiBernardo asked Police Captain Mark Newport to convey their appreciation for the Police Department's enforcement. They are doing a great job.

Steve Pesci clarified that he was not supporting people ignore the posted speed limits. If it is posted 20 mph, then they should be going 20 mph. There should be a review of all the speed limits. They could create something modeled similarly to the Parking Principles for speed limits.

Staff will report back at a later date on speed limits and speed segments on City gateway roads.

Mary Lou McElwain commented that there were a lot of open action items and wondered why there were so many outstanding. Public Works Director Peter Rice responded that some are very complicated to accomplish and they don't have the

resources. Chairman Doug Roberts noted that at the next meeting they could go through them and assess the status of each one.

XI. ADJOURNMENT:

Public Works Director Peter Rice moved to adjourn the meeting at 8:57 a.m., seconded by Deputy City Manager Nancy Colbert Puff. **Motion passed 9-0.**

Respectfully submitted by:

Becky Frey
PTS Recording Secretary

Memo

To: Portsmouth City Council
From: Councilor Doug Roberts
Date: October 24, 2019
Re: Foundry Garage Parking Rates

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

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

The hourly rate in Foundry Garage currently is \$1 hour. A monthly pass is \$100 a month for residents and \$125 for non-residents.

PROPOSED FOUNDRY PILOT RATES

\$3 Flat-Rate Passes for Employees

\$3 for a 10-hour pass (70% off)
Passes purchased in advance
Paycheck verification required with purchase
Maximum of 20 uses per month

- Employees, especially those with part-time jobs, are not using Foundry. This could be a new user group. A \$3 flat rate would offer maximum flexibility to match part-time work schedules.

Lower-Cost Monthly Passes for Nonresidents

\$100 for nonresidents as well as residents (20% off)

- Two-thirds of monthly passholders are nonresidents and probably employees.

Additional Discounts for Employers

\$90 for employers buying 3-10 monthly passes (10% off)
Additional discounts for bulk purchases per 2009 City policy
Employers can share passes

- Employers need to actively support employee parking. At a time when employees can be hard to find, parking would be an attractive benefit. In the long run, however, the City should not subsidize a business expense when there is sufficient other demand to fill the garage. “Additional discounts” should expire after two years or when the garage approaches 85% occupancy.

Introductory / Winter Hourly Rate

75 cents per hour (25% off) thru June 1, 2020

A lower rate follows the principle that rates should be lower when occupancy is low. Occupancy has been increasing and in 2020 will likely be at a high point in July and August.

Financial Impact

Reducing the nonresident rate by \$25 and offer additional employer/employee options could reduce revenue from monthly passes 20% or more. More employees and employers will participate, but the total is unknown.

Short-term parking in Foundry is budgeted as \$214,000 for FY2020. If the rate is reduced to 75 cents, that could result in a decline of 25% if new users are not generated.

Employer/employee parking should generate new revenue.

Calling this a pilot program and reviewing rates by June 2020 will limit the loss of revenue needed to pay for the \$25 million garage.

The Hanover garage is slated for repairs beginning 2022 that will result in the loss of 250-300 spaces annually for several years.

Development in the North End will spur demand for Foundry parking. Combined with the Hanover garage work, Foundry could fill quickly. Rates should be reviewed as the garage approaches 85% occupancy.

OFFICE OF HIGHWAY SAFETY GRANT AGREEMENT FFY2020

The State of New Hampshire and the Subrecipient hereby mutually agree as follows:
GENERAL PROVISIONS

Grant Agreement Title: Portsmouth Highway Safety Grant FFY 20

Grant Agreement #: 20-155

Identification and Definitions.

1.1. State Agency Name New Hampshire Department of Safety Office of Highway Safety		1.2. State Agency Address 33 Hazen Drive, 2 nd Floor Concord, NH 03305	
1.3. Subrecipient Name Portsmouth Police Department		1.4. Subrecipient Legal Address 3 Junkins Ave., Portsmouth, NH 03801	
Chief of Police Name: Robert Merner		Chief of Police email: rmerner@cityofportsmouth.com	
Grant Contact Name: Karen Senecal		Grant Contact Email: ksenecal@cityofportsmouth.com	
1.4.1 Subrecipient Type (State Govt, City/Town Govt, County Govt, College/University, Other (Specify) Town Government		1.4.2 DUNS 073976706	
1.5. Subrecipient Phone # 603-610-7416	1.6. Grant Period Start Date 10/1/19	1.7. Completion Date 9/30/20	1.8. Grant Limitation \$ 20,425.00
1.9. Grant Officer for State Agency Kim Roberts		1.10. State Agency Telephone Number 603-271-2131	
"By signing this form we certify that we have complied with any public meeting requirement for acceptance of this grant, including if applicable RSA 31:95-b."			
1.11. Subrecipient Signature 1		Subrecipient Signor 1	
Subrecipient Signature 2		Subrecipient Signor 2	
Subrecipient Signature 3		Subrecipient Signor 3	
1.13. Acknowledgment: I, _____, of _____, on / / , before the undersigned officer, personally appeared _____ in block 1.12., known to me (or satisfactorily proven) to be the person(s) whose name is sign. _____, and acknowledged that he/she executed this document in the capacity indicated in block 1.12.			
1.13.1. Signature of Notary Public or Justice of the Peace (Seal)		1.13.2 Name & Title of Notary Public or Justice of the Peace	
1.14. State Agency Signature(s)		1.15. Name & Title of State Agency Signor(s) Robert L. Quinn, Commissioner NH Department of Safety Date: _____	
1.16. Approval by Attorney General (Form, Substance and Execution) (if G&C approval required) By: _____ Assistant Attorney General, On: / /			
1.17. Approval by Governor and Council (if applicable) By: _____ On: / /			

Grant Documents will be signed after public meeting requirement

2. **SCOPE OF WORK** In exchange for grant funds provided by the State of New Hampshire, acting through the Agency identified in block 1.1 (hereinafter referred to as "the State"), pursuant to RSA 21-P:55-63, the Subrecipient identified in block 1.3 (hereinafter referred to as "the Subrecipient"), shall perform that work identified and more particularly described in the scope of work attached hereto as EXHIBIT B (the scope of work being hereinafter referred to as "the Project").

EXHIBIT A

FFY 2020 OHS Grant Award		
Project Titles	Federal Budget	Maximum Match Required
STEP PSP & Task 20-02-04 FAST Act 402 FAIN Number (Subaward): 69A37519300004020NH0, 69A37520300004020NH0 CFDA: 20.600	\$ 8,681.00	\$ 2,170.25
DUI ENFORCEMENT PSP & Task 20-07-04 FAST Act 402, FAIN Number (Subaward): 69A37519300004020NH0, 69A37520300004020NH0 CFDA: 20.600	\$ 7,584.00	\$ 1,896.00
DISTRACTED DRIVING PSP & Task 20-04-04 FAST Act 402 FAIN Number (Subaward): 69A37519300004020NH0, 69A37520300004020NH0 CFDA: 20.600	\$ 0.00	\$ 0.00
PEDESTRIAN BICYCLE PSP & Task 20-06-04 FAST Act 405h FAIN Number (Subaward): 69A3751830000405hNH0 CFDA: 20.616	\$ 0.00	\$ 0.00
OPERATION SAFE COMMUTE PSP & Task 20-02-11 FAST Act 402 FAIN Number (Subaward): 69A37519300004020NH0, 69A37520300004020NH0 CFDA: 20.600	\$ 3,120.00	\$ 780.00
JOIN THE NH CLIQUE PSP & Task 20-01-04 FAST Act 402 FAIN Number (Subaward): 69A37519300004020NH0, 69A37520300004020NH0 CFDA: 20.600	\$ 260.00	\$ 65.00
DRIVE SOBER OR GET PULLED OVER PSP & Task 20-07-11 Fast Act 402 FAIN Number (Subaward): 69A37519300004020NH0, 69A37520300004020NH0 CFDA: 20.600	\$ 520.00	\$ 130.00
U DRIVE, U TEXT, U PAY PSP & Task 20-04-11 Fast Act 402 FAIN Number (Subaward): 69A37519300004020NH0, 69A37520300004020NH0 CFDA: 20.600	\$ 260.00	\$ 65.00
E-CRASH EQUIPMENT (MDT) PSP & Task 20-03-06 FAST Act 405c FAIN Number (Subaward): 18X920405cNH17, 69A3751830000405cNH0, 69A3751930000405cNH1, 69A3752030000405cNH1 CFDA: 20.616	\$ 0.00	\$ 0.00
E-CRASH EQUIPMENT (Printers/Scanners/Receivers) PSP & Task 20-03-06 FAST Act 405c FAIN Number (Subaward): 18X920405cNH17, 69A3751830000405cNH0, 69A3751930000405cNH1, 69A3752030000405cNH1 CFDA: 20.616	\$ 0.00	\$ 0.00
Total (Project Cost is 80% Federal Funds, 20% Applicant Share)	\$ 20,425.00	\$ 5,106.25

Awarding Agency: Office of Highway Safety (OHS)

Federal Awarding Agency: National Highway Traffic Safety Administration (NHTSA), US DOT NHTSA Region 1 55 Broadway, RTV-8E Cambridge, MA 02142

Is This a Research and Development Project: YES or NO (circle one)

3. **AREA COVERED** Except as otherwise specifically provided for herein, the Subrecipient shall perform the Project in, and with respect to, the State of New Hampshire.
4. **EFFECTIVE DATE: COMPLETION OF PROJECT**
1. This Agreement, and all obligations of the parties hereunder, shall become effective on the date of approval of this Agreement by the Governor and Council of the State of New Hampshire if required (block 1.17), or upon signature by the State Agency as shown in block 1.15.
- 4.2. Except as otherwise specifically provided herein, the Project, including all reports required by this Agreement, shall be completed in ITS entirety prior to the date in block 1.7 (hereinafter referred to as "the Completion Date").
5. **GRANT AMOUNT: LIMITATION ON AMOUNT: VOUCHERS: PAYMENT**
- 5.1. The Grant Amount is identified and more particularly described in EXHIBIT A, attached hereto.
- 5.2. The manner of, and schedule of payment shall be as set forth in EXHIBIT A.
- 5.3. In accordance with the provisions set forth in EXHIBIT A, and in consideration of the satisfactory performance of the Project, as determined by the State, and as limited by subparagraph 5.5 of these general provisions, the State shall pay the Subrecipient the Grant Amount. The State shall withhold from the amount otherwise payable to the Subrecipient under this subparagraph 5.3 those sums required, or permitted, to be withheld pursuant to N.H. RSA 80:7 through 7-c.
- 5.4. The payment by the State of the Grant amount shall be the only, and the complete payment to the Subrecipient for all expenses, of whatever nature, incurred by the Subrecipient in the performance hereof, and shall be the only, and the complete, compensation to the Subrecipient for the Project. The State shall have no liabilities to the Subrecipient other than the Grant Amount.
- 5.5. Notwithstanding anything in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made, hereunder exceed the Grant limitation set forth in block 1.8 of these general provisions.
6. **COMPLIANCE BY SUBRECIPIENT WITH LAWS AND REGULATIONS** in connection with the performance of the Project, the Subrecipient shall comply with all statutes, laws regulations, and orders of federal, state, county, or municipal authorities which shall impose any obligations or duty upon the Subrecipient, including the acquisition of any and all necessary permits.
7. **RECORDS and ACCOUNTS**
- 7.1. Between the Effective Date and the date three (3) years after the Completion Date the Subrecipient shall keep detailed accounts of all expenses incurred in connection with the Project, including, but not limited to, costs of administration, transportation, insurance, telephone calls, and clerical materials and services. Such accounts shall be supported by receipts, invoices, bills and other similar documents.
- 7.2. Between the Effective Date and the date three (3) years after the Completion Date, at any time during the Subrecipient's normal business hours, and as often as the State shall demand, the Subrecipient shall make available to the State all records pertaining to matters covered by this Agreement. The Subrecipient shall permit the State to audit, examine, and reproduce such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, data (as that term is hereinafter defined), and other information relating to all matters covered by this Agreement. As used in this paragraph, "Subrecipient" includes all persons, natural or fictional, affiliated with, controlled by, or under common ownership with, the entity identified as the Subrecipient in block 1.3 of these provisions.
8. **PERSONNEL**
- 8.1. The Subrecipient shall, at its own expense, provide all personnel necessary to perform the Project. The Subrecipient warrants that all personnel engaged in the Project shall be qualified to perform such Project, and shall be properly licensed and authorized to perform such Project under all applicable laws.
- 8.2. The Subrecipient shall not hire, and it shall not permit any subcontractor, sub grantee, or other person, firm or corporation with whom it is engaged in a combined effort to perform the Project, to hire any person who has a contractual relationship with the State, or who is a State officer or employee, elected or appointed.
- 8.3. The Grant Officer shall be the representative of the State hereunder. In the event of any dispute hereunder, the interpretation of this Agreement by the Grant Officer, and his/her decision on any dispute, shall be final.
9. **DATA: RETENTION OF DATA: ACCESS**
- 9.1. As used in this Agreement, the word "data" shall mean all information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, performed, who exercises any functions or responsibilities in the review or computer programs, computer printouts, notes, letters, memoranda, paper, and documents, all whether finished or unfinished.
- 9.2. Between the Effective Date and the Completion Date the Subrecipient shall grant to the State, or any person designated by it, unrestricted access to all data for examination, duplication, publication, translation, sale, disposal, or for any other purpose whatsoever.
- 9.3. No data shall be subject to copyright in the United States or any other country by anyone other than the State.
- 9.4. On and after the Effective Date all data, and any property which has been received from the State or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason, whichever shall first occur.
- 9.5. The State, and anyone it shall designate, shall have unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, all data.
10. **CONDITIONAL NATURE OR AGREEMENT** Notwithstanding anything in this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability or continued appropriation of funds, and in no event shall the State be liable for any payments hereunder in excess of such available or appropriated funds. In the event of a reduction or termination of those funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate this Agreement immediately upon giving the Subrecipient notice of such termination.
11. **EVENT OF DEFAULT: REMEDIES**
- 11.1. Any one or more of the following acts or omissions of the Subrecipient shall constitute an event of default hereunder (hereinafter referred to as "Events of Default"):
- 11.1.1 Failure to perform the Project satisfactorily or on schedule; or
- 11.1.2 Failure to submit any report required hereunder; or
- 11.1.3 Failure to maintain, or permit access to, the records required hereunder; or
- 11.1.4 Failure to perform any of the other covenants and conditions of this Agreement.
- Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:
- 11.2.1 Give the Subrecipient a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely remedied, terminate this Agreement, effective two (2) days after giving the Subrecipient notice of termination; and
- 11.2.2 Give the Subrecipient a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the Grant Amount which would otherwise accrue to the Subrecipient during the period from the date of such notice until such time as the State determines that the Subrecipient has cured the Event of Default shall never be paid to the Subrecipient; and
- 11.2.3 Set off against any other obligation the State may owe to the Subrecipient any damages the State suffers by reason of any Event of Default; and
- 11.2.4 Treat the agreement as breached and pursue any of its remedies at law or in equity, or both.
12. **TERMINATION**
- 12.1. In the event of any early termination of this Agreement for any reason other than the completion of the Project, the Subrecipient shall deliver to the Grant Officer, not later than fifteen (15) days after the date of termination, a report (hereinafter referred to as the "Termination Report") describing in detail all Project Work performed, and the Grant Amount earned, to and including the date of termination.
- 12.2. In the event of Termination under paragraphs 10 or 12.4 of these general provisions, the approval of such a Termination Report by the State shall entitle the Subrecipient to receive that portion of the Grant amount earned to and including the date of termination.
- 12.3. In the event of Termination under paragraphs 10 or 12.4 of these general provisions, the approval of such a Termination Report by the State shall in no event relieve the Subrecipient from any and all liability for damages sustained or incurred by the State as a result of the Subrecipient's breach of its obligations hereunder.
- 12.4. Notwithstanding anything in this Agreement to the contrary, either the State or, except where notice default has been given to the Subrecipient hereunder, the Subrecipient, may terminate this Agreement without cause upon thirty (30) days written notice.
13. **CONFLICT OF INTEREST** No officer, member of employee of the Subrecipient, and no representative, officer or employee of the State of New Hampshire or of the governing body of the locality or localities in which the Project is to be

- approval of the undertaking or carrying out of such Project, shall participate in any decision relating to this Agreement which affects his or her personal interest or the interest of any corporation, partnership, or association in which he or she is directly or indirectly interested, nor shall he or she have any personal or pecuniary interest, direct or indirect, in this Agreement or the proceeds thereof.
14. **SUBRECIPIENT'S RELATION TO THE STATE** In the performance of this Agreement the Subrecipient, its employees, and any subcontractor or subgrantee of the Subrecipient are in all respects independent contractors, and are neither agents nor employees of the State. Neither the Subrecipient nor any of its officers, employees, agents, members, subcontractors or subgrantees, shall have authority to bind the State nor are they entitled to any of the benefits, workmen's compensation or emoluments provided by the State to its employees.
 15. **ASSIGNMENT AND SUBCONTRACTS** The Subrecipient shall not assign, or otherwise transfer any interest in this Agreement without the prior written consent of the State. None of the Project Work shall be subcontracted or subgranted by the Subrecipient other than as set forth in EXHIBIT B without the prior written consent of the State.
 16. **INDEMNIFICATION** The Subrecipient shall defend, indemnify and hold harmless the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted against the State, its officers and employees, by or on behalf of any person, on account of, based on, resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Subrecipient or subcontractor, or subgrantee or other agent of the Subrecipient. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant shall survive the termination of this agreement.
 17. **INSURANCE AND BOND**
 - 17.1 The Subrecipient shall, at its own expense, obtain and maintain in force, or shall require any subcontractor, subgrantee or assignee performing Project work to obtain and maintain in force, both for the benefit of the State, the following insurance:
 - 17.1.1 Statutory workmen's compensation and employees liability insurance for all employees engaged in the performance of the Project, and
 - 17.1.2 Comprehensive public liability insurance against all claims of bodily injuries, death or property damage, in amounts not less than \$1,000,000 per occurrence and \$2,000,000 aggregate for bodily injury or death any one incident, and \$500,000 for property damage in any one incident; and
 - 17.2. The policies described in subparagraph 17.1 of this paragraph shall be the standard form employed in the State of New Hampshire, issued by underwriters acceptable to the State, and authorized to do business in the State of New Hampshire. Each policy shall contain a clause prohibiting cancellation or modification of the policy earlier than ten (10) days after written notice thereof has been received by the State.
 18. **WAIVER OF BREACH** No failure by the State to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event, or any subsequent Event. No express waiver of any Event of Default shall be deemed a waiver of any provisions hereof. No such failure of waiver shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof upon any further or other default on the part of the Subrecipient.
 19. **NOTICE** Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses first above given.
 20. **AMENDMENT** This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Council of the State of New Hampshire, if required or by the signing State Agency.
 21. **CONSTRUCTION OF AGREEMENT AND TERMS** This Agreement shall be construed in accordance with the law of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assignees. The captions and contents of the "subject" blank are used only as a matter of convenience, and are not to be considered a part of this Agreement or to be used in determining the intent of the parties hereto.
 22. **THIRD PARTIES** The parties hereto do not intend to benefit any third parties and this Agreement shall not be construed to confer any such benefit.
 23. **ENTIRE AGREEMENT** This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire agreement and understanding between the parties, and supersedes all prior agreements and understandings relating hereto.

SPECIAL PROVISIONS

U.S. Department of Transportation/NHTSA Grant Conditions:

As a result of participating in Federal highway safety grant programs administered by National Highway Traffic Safety Administration (NHTSA) and the US Department of Transportation (USDOT), highway safety subrecipients are required to comply with the following documents:

- Subrecipients agree to comply with all applicable elements of NHTSA's Memorandum: Use of NHTSA Highway Safety Grant Funds for Certain Purchases May 18, 2016 and found at the following Web link.: <https://www.nhtsa.gov/highway-safety-grants-program/resources-guide>. Subrecipients should pay particular attention to the sections on (1) allowable costs for equipment, travel, training, and consultant services; and (2) unallowable costs for equipment, facilities and construction, training and program administration.
- Subrecipients agree to comply with all applicable elements of 2 CFR 200 - the **Uniform Administrative Requirement for Grants, Cost Principles, and Audit Requirements** as promulgated by the U.S. Department of Transportation. This document is found at the following Web link <https://www.nhtsa.gov/highway-safety-grants-program/resources-guide>.
- Subrecipients agree to comply with all applicable Federal basic and incentive grant program requirements as outlined in the **Highway Safety Grant Management Manual** found at the following Web link: <https://www.nhtsa.gov/highway-safety-grants-program>. This document provides information on each of the grant programs.

The following additional provisions apply to highway safety subrecipients as a result of certifications and assurances provided to NHTSA by State Highway Safety Offices in their Highway Safety Plans:

- **Federal Funding Accountability & Transparency Act (FFATA). Data Universal Numbering System (DUNS) Numbers Requirement.** As the recipient of federal highway safety funds, the applicant agency must have a DUNS number. This is a unique nine-character number that identifies the applicant agency and is used by the federal government to track how federal funds are distributed. If the applicant agency is authorized to make sub-awards under this contract, it must: 1) notify potential sub-recipients that no entity may receive a sub-award unless that entity has provided the applicant agency with its DUNS number; and 2) the applicant agency may not make a sub-award to an entity unless the entity has provided its DUNS number to the applicant agency. (<https://fedgov.dnb.com/webform>)

- The State will comply with FFATA guidance, OMB Guidance on FFATA Subaward and Executive Compensation Reporting, August 27, 2010, [Qrntt.ps://www.fsr.gov/documents/OMB_Guidance_on_FFATA_Subaward_and_Executive_Compensation_Reporting_08272010.pdf](http://www.fsr.gov/documents/OMB_Guidance_on_FFATA_Subaward_and_Executive_Compensation_Reporting_08272010.pdf)) by reporting to FSR.gov for each sub-grant awarded:
- Name of the entity receiving the award;
- Amount of award;
- Information on the award including transaction type, funding agency, the North American Industry Classification System code or Catalog of Federal Domestic Assistance number (where applicable), Program source;
- Location of the entity receiving the award and the primary location of performance under the award, including the city, State, congressional district, and country; and an award title descriptive of the purpose of each funding action;
- A unique identifier (DUNS);
- The names and total compensation of the five most highly compensated officers of the entity if:
 - (i) The entity in the preceding fiscal year received –
 - (ii) 80 percent or more of its annual gross revenues in Federal awards;
 - (iii) \$25,000,000 or more in annual gross revenues from federal awards; and
 - (iv) The public does not have access to information about the compensation of the senior executives of the entity through periodic reports filed under section 13 (a) or 15 (d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986;
- Other relevant information specified by OMB guidance.

NONDISCRIMINATION
(Applies to subrecipients as well as States)

The State highway safety agency will comply with all Federal statutes and implementing regulations relating to nondiscrimination ("Federal Nondiscrimination Authorities"). These include but are not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin) and 49 CFR part 21;
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. 324 *et seq.*), and Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681–1683 and 1685–1686) (prohibit discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability) and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. 6101 *et seq.*), (prohibits discrimination on the basis of age);
- The Civil Rights Restoration Act of 1987, (Pub. L. 100–209), (broadens scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal aid recipients, subrecipients and contractors, whether such programs or activities are Federally-funded or not);
- Titles II and III of the Americans with Disabilities Act (42 U.S.C. 12131–12189) (prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing) and 49 CFR parts 37 and 38;
- Executive Order 12898, Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations (prevents discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations); and
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency (guards against Title VI national origin discrimination/discrimination because of limited English proficiency (LEP) by ensuring that funding recipients take reasonable steps to ensure that LEP persons have meaningful access to programs (70 FR 74087–74100).

POLITICAL ACTIVITY (HATCH ACT)
(Applies to subrecipients as well as States)

The State will comply with provisions of the Hatch Act (5 U.S.C. 1501–1508), which limits the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

CERTIFICATION REGARDING FEDERAL LOBBYING
(Applies to subrecipients as well as States)

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

- No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- The undersigned shall require that the language of this certification be included in the award documents for all sub-award at all tiers (including subcontracts, sub grants, and contracts under grant, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

RESTRICTION ON STATE LOBBYING
(Applies to subrecipients as well as States)

None of the funds under this program will be used for any activity specifically designed to urge or influence a State or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any State or local legislative body. Such activities include both direct and indirect (e.g., "grassroots") lobbying activities, with one exception. This does not preclude a State official whose salary is supported with NHTSA funds from engaging in direct communications with State or local legislative officials, in accordance with customary State practice, even if such communications urge legislative officials to favor or oppose the adoption of a specific pending legislative proposal.

CERTIFICATION REGARDING DEBARMENT AND SUSPENSION
(Applies to subrecipients as well as States)

Instructions for Primary Tier Participant Certification (States)

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below and agrees to comply with the requirements of 2CFR parts 180 and 1200.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default or may pursue suspension or debarment.
4. The prospective primary tier participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary tier participant learns its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms *covered transaction*, *civil judgement*, *debarment*, *suspension*, *ineligible*, *participant*, *person*, *principal*, and *voluntarily excluded*, as used in this clause, are defined in 2 CFR parts 180 and 1200. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
6. The prospective primary tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
7. The prospective primary tier participant further agrees by submitting this proposal that it will include the clause titled "Instructions for Lower Tier Participant Certification" including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions and will require lower tier participants to comply with 2 CFR parts 180 and 1200.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any prospective lower tier participants, each participant may, but is not required to, check the System for Award Management Exclusions website (<https://www.sam.gov/>).
9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, the department or agency may terminate the transaction for cause or default.

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS-PRIMARY TIER COVERED TRANSACTIONS

- The prospective primary tier participant certifies to the best of its knowledge and belief, that it and its principals:
 - (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;
 - (b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of record, making false statements, or receiving stolen property;
 - (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.
- Where the prospective primary tier participant is unable to certify to any of the Statements in this certification, such prospective participant shall attach an explanation to this proposal.

Instructions for Lower Tier Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below and agrees to comply with the requirements of 2CFR parts 180 and 1200.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms *covered transaction*, *civil judgement*, *debarment*, *suspension*, *ineligible*, *participant*, *person*, *principal*, and *voluntarily excluded*, as used in this clause, are defined in 2 CFR part 180 and 1200. You may contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Instructions for Lower Tier Certification" including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions and will require lower tier participants to comply with 2 CFR parts 180 and 1200.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transactions that is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any prospective lower tier participants, each participant may, but is not required to, check the System for Award Management Exclusions website (<https://www.sam.gov/>).
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transactions:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in covered transaction by any Federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

BUY AMERICA ACT

(Applies to subrecipients as well as States)

The State and each subrecipient will comply with the Buy America requirement (23 U.S.C. 313) when purchasing items using Federal funds. Buy America requires a State, or subrecipient, to purchase with Federal funds only steel, iron and manufactured products produced in the United States, unless the Secretary of Transportation determines that such domestically produced items would be inconsistent with the public interest, that such materials are not reasonably available and of a satisfactory quality, or that inclusion of domestic materials will increase the cost of the overall project contract by more than 25 percent. In order to use Federal funds to purchase foreign produced items, the State must submit a waiver request that provides an adequate basis and justification for approval by the Secretary of Transportation.

PROHIBITION ON USING GRANT FUNDS TO CHECK FOR HELMET USAGE

(Applies to subrecipients as well as States)

The State and each subrecipient will not use 23 U.S.C. Chapter 4 grant funds for programs to check helmet usage or to create checkpoints that specifically target motorcyclists.

POLICY ON SEAT BELT USE

In accordance with the Executive Order 13043, Increasing Seat Belt Use in the United States, dated April 16, 1997, the Grantee is encouraged to adopt and enforce on-the-job seat belt use policies and programs for its employees when operating company-owned, rented, or personally-owned vehicles. The National Highway Traffic Safety Administration (NHTSA) is responsible for providing leadership and guidance in support of this Presidential initiative. For information and resources on traffic safety programs and policies for employees, please contact the Network of Employers for Traffic Safety (NETS), a public-private partnership dedicated to improving the traffic safety practices of employers, and other traffic safety initiatives at www.trafficsafety.org. The NHTSA website (www.nhtsa.gov) also provides information on statistics, campaigns, and program evaluations and references.

POLICY ON BANNING TEXT MESSAGING WHILE DRIVING

In accordance with Executive Order 13513, Federal Leadership On Reducing Text Messaging While Driving, and DOT Order 3902.10, Text Messaging While Driving, States are encouraged to adopt and enforce workplace safety policies to decrease crashes caused by distracted driving, including policies to ban text messaging while driving company-owned or rented vehicles, Government-owned, leased or rented vehicles, or privately-owned vehicles when on official Government business or when performing any work on behalf of the Government. States are also encouraged to conduct workplace safety initiatives in a manner commensurate with the size of the business, such as establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving, and education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

CASH MANAGEMENT

Cash draw-downs will be initiated only when actually needed for disbursement (i.e., as close as possible to the time of making disbursements). Cash disbursements and balances will be reported in a timely manner as required by NHTSA. 2 CFR Part 200.305.

For subrecipients, recipients must establish reasonable procedures to ensure the receipt of reports on subrecipients' cash balances and cash disbursements in sufficient time to enable them to prepare complete and accurate cash transactions reports to the awarding agency. Recipients must monitor cash draw-downs by their subrecipients to assure that they conform substantially to the same standards of timing and amount as apply to advances to the recipients. 2 CFR 200.305. Failure to adhere to these provisions may result in the termination of draw-down privileges.

OFFICE OF MANAGEMENT AND BUDGET GRANT CONDITIONS

The following documents issued by the Office of Management and Budget (OMB) apply to all Federal grants regardless of the Federal Department making them available:

- **Audit Requirement of Federal Funds:** 2 CFR part 200, subpart F (formerly known as OMB Circular A-133) – These requirements apply to each non-profit organization, each institution of higher education, and local governments as a whole when they or one of their departments receives federal funds. Any non-profit organization, institution of higher education, or local government spending more than \$750,000 in federal funds *from all sources* within a 12-month period must have an audit performed on the use of the funds. OGR defines the 12-month period as July 1 to June 30. The following link provides the full text of this basic federal grant requirement: <https://www.nhtsa.gov/highway-safety-grants-program/resources-guide>.
- **Cost Principles for Federal Grants to State and Local Governments**
 - 2 CFR 200 subpart E – These requirements apply only to state and local government subrecipients. These regulations list and define general categories of costs that are both allowable and unallowable. Examples include the following:
 - The cost of alcoholic beverages is unallowable.
 - Costs incurred by advisory councils are allowable.
 - Audit costs are allowable.
 - Compensation costs are allowable so long as they are consistent with that paid for similar work in other activities of the local government.
 - Entertainment costs are unallowable.
 - Equipment costs are allowable with the prior approval of the HSO. Equipment having a useful life of more than one year or a current per-unit fair market value of \$5,000 or more must be tracked. When replacing equipment purchased with federal funds, the equipment to be replaced may be used as a trade-in or can be sold with the proceeds used to offset the cost of the replacement equipment. In addition, during the period of the contract with HSO, insurance on the equipment is allowable.
 - Travel costs are allowable if pre-approved by the HSO and so long as they are consistent with those normally allowed in like circumstances for non-federally funded activities.
- **Cost Principles for Federal Grants to Non-Profit Organizations and Institutions of Higher Education** - These requirements apply to only the non-profit and higher education sub recipients. These document list and define general categories of costs that are allowable and unallowable. The links below provide the full text of these two basic federal grant requirements.
 - 2 CFR 200 subpart E

CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS UNDER FEDERAL AWARDS

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and sub grants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(J) See §200.322 Procurement of recovered materials.

SPECIAL PROVISION-NH OFFICE OF HIGHWAY SAFETY

- (A) In the event of any conflict or ambiguity between the provisions of the Subrecipient's application and the provisions of the Office of Highway Safety Grant Agreement, including applicable EXHIBITS A and B, the provisions of the Grant Agreement shall govern.
- (B) The New Hampshire Office of Highway Safety (OHS) will review all reports and certifications received to ensure compliance. If findings specific to Highway Safety Programs are detected within an agency's Single Audit, appropriate action shall be taken to ensure that identified sub recipient risks are being timely and appropriately corrected.

I understand that failure to comply with applicable Federal statutes and regulations may subject State officials to civil or criminal penalties and/or place the State in a high risk grantee status in accordance with 2 CFR 200.

I sign these Certifications and Assurances based on personal knowledge, after appropriate inquiry, and I understand that the Government will rely on these representations in awarding grant funds.

Authorized Contract Signatory: _____ Date: _____

Signors Printed Name: _____ Signors Title: _____

EXHIBIT B
GRANT REQUIREMENTS AND INFORMATION

- Officers funded during these overtime enforcement grants shall be dedicated in total to traffic law enforcement, except in the case of a criminal offense committed in the officer's presence, in the case of response to an officer in distress, or in the case of a riot where all available personnel must divert their attention.
- Officers may pull over drivers for any driving offense during patrols. This includes, but is not limited to, suspected drunk driving, speeding, school bus violations, CPS violations, traffic light/stop sign running, and distracted driving.
- Nothing in this grant shall be interpreted as a requirement, formal or informal that a law enforcement officer issue a specified or predetermined number of summons in pursuance of the department's obligation associated with the grant.
- If an officer makes an arrest during the patrol shift, but does not complete the arrest before the shift is scheduled to end, the officer can continue working under the grant to complete that arrest even if the time exceeds the scheduled patrol shift; however, the total request for reimbursement must not exceed the approved budget in the Grant Agreement.
- An officer who stops working a Highway Safety grant to assist with a Non-Highway Safety Grant related issue (i.e. crash, domestic dispute, criminal complaint, etc.), must not count such hours as hours worked on a Highway Safety Grant.
- Departments will be reimbursed for actual hours worked.
- Full-time officers will be reimbursed at an overtime rate of pay as established by the department and/or municipality for hours worked during the enforcement patrols. Part-time officers will be reimbursed at their normal hourly rate of pay.
- The Patrol Activity Report (HS-200) must be signed and dated by an authorized signatory (Police Chief or designee). Individuals working the enforcement patrol may not sign off on the Patrol Activity Report for themselves and if the Chief Law Enforcement Officer (CLEO) works an overtime enforcement patrol, they must comply with 29 CFR Part 541 as it relates to "exempt employees". This will require that the CLEO provide a waiver of 29 CFR, Part 541 from their governing body with any reimbursement requests in which the CLEO has worked. Additionally, the CLEO may not sign off on their own HS200 or that of a spouse, child or sibling who may work an enforcement patrol.
- If weather impedes a particular enforcement detail, this should be noted on the Patrol Activity Report (HS-200).
- Command staff may participate in and be compensated for enforcement details if acting in a traffic enforcement role rather than acting exclusively in a supervisory role overseeing officers engaged in traffic enforcement.
- Failure to comply with reporting requirements may result in non-reimbursement of funds or suspension of grant award.
- Non-participation or non-compliance with the performance measures may result in grant agreement suspension, termination and/non-reimbursement of expenses.

Reimbursement Schedule and Required Paperwork

- Reimbursements are due no later than 15 days after the close of the quarter. Due dates are as follows:
 1. **January 15th** for October-December (Quarter 1)
 2. **April 15th** for January-March (Quarter 2)
 3. **July 15th** for April-June (Quarter 3)
 4. **October 15th** for July-September (Quarter 4)

- Over-Time enforcement patrol reimbursements shall include the following:
 1. Reimbursement Request Cover Letter (HS-1);
 2. Overtime Payroll Reimbursement Form (HS-20) for each project;
 3. Match Tracking Form (HS-22) for each project;
 4. Quarterly Summary Report (HS-200 QSR) for each project;
 5. Patrol Activity Reports (HS-200) for each project; and
 6. Final Report HS-7b to be submitted with final reimbursement

- Equipment reimbursements shall include the following:
 1. Reimbursement Request Cover Letter (HS-1). Note: if submitting equipment reimbursement along with overtime enforcement patrol reimbursements only one (1) Reimbursement Request Cover Letter (HS-1) shall be submitted.
 2. Copy of the detailed equipment invoice;
 3. Copy of Match Tracking Form (HS-22)
 4. Copy of Cancelled Check
 5. Final Equipment Report (HS-8E)

- If no enforcement patrols took place during the quarter you are required to submit the Reimbursement Cover Letter (HS-1) indicating that you are not seeking reimbursement by placing \$0 in the projects where you were awarded funding.

- Failure to file required reports by the submission due dates can result in grant termination or denial of future grants.

- All publications, public information, or publicity released in conjunction with this project shall state "This project is being supported in part through a grant from the NH Office of Highway Safety, with Federal funds provided by the National Highway Traffic Safety Administration" or related social media tag provided by our office.

- Grant agreements shall terminate in the event funds are exhausted and/or not made available by the federal government for this program. If the grantee makes obligations in anticipation of receiving funds under this grant, the grantee does so at their peril and the State of New Hampshire will be under no obligation to make payments for such performance.

I sign these Grant Requirements based on personal knowledge, after appropriate inquiry, and I understand that the Government will rely on these representations in reimbursing grant funds.

Authorized Contract Signatory: _____ Date: _____

Signors Printed Name: _____ Signors Title: _____

Scope of Work

Sustained Traffic Enforcement Patrols (STEP)

In order to have the greatest impact police departments should utilize STEP funding to enforce the Highway safety violations within your community that are the cause(s) of crashes. Local data should be used to identify the factors that cause the crashes as well as when and where the crashes are occurring.

- The locations as well as time and days of the STEP overtime patrols shall support the problem statement identified in your grant application.
- Patrols should be 3-4 hours in length.
- The NHOHS has an expectation that Departments shall have a minimum of three documented stops/contacts per hour. Documented stops/contacts are defined as any grant-funded patrol officer contact with motorists, pedestrians, and/or bicyclists, during the grant-funded patrol periods. Contacts are required to be supported by written or electronic records maintained at the police department. These records must be maintained in a manner that guarantees their accountability during a monitoring review. If fewer than three stops/contacts per hour, the officer must provide an explanation as to why the officer was not able to fulfill three documented stops per hour.
- Departments must keep on file copies of summonses, documented stops/contacts, officers' time schedules under this grant program, and all other pertinent information. Documented stops/contacts are defined as any grant-funded patrol officer contact with motorists, bicyclists, and/or pedestrians, during traffic enforcement periods that can be supported by written or electronic records maintained at the police department. These records must be maintained in a manner that guarantees their accountability during a review or monitoring site visit.
- To maximize grant funding, patrols must consist of one grant-funded officer per cruiser; however, multiple cruisers may be out at one time.

Grantee Initials: _____
Date: _____

Grantee Initials: _____
Date: _____

Grantee Initials: _____
Date: _____

Scope of Work

Impaired Driving Enforcement (DUI)

Emphasis of DUI enforcement patrols should be those locations where there is a higher incidence of DUI related crashes and arrests.

- Enforcement patrols including DUI Saturation patrols must be no more than 4 hours in duration.
- With written approval from the Office of Highway Safety, departments may conduct 6-hour Sobriety Check Points.
- The locations as well as time and days of the DUI overtime patrols shall support the problem statement identified in your grant application.
- The NHOHS has an expectation that Departments shall have a minimum of three documented stops/contacts per hour. Documented stops/contacts are defined as any grant-funded patrol officer contact with motorists, pedestrians, and/or bicyclists, during the grant-funded patrol periods. Contacts are required to be supported by written or electronic records maintained at the police department. These records must be maintained in a manner that guarantees their accountability during a monitoring review. If fewer than three stops/contacts per hour, the officer must provide an explanation as to why the officer was not able to fulfill three documented stops per hour.
- Departments must keep on file copies of summonses, documented stops/contacts, officers' time schedules under this grant program, and all other pertinent information. Documented stops/contacts are defined as any grant-funded patrol officer contact with motorists, bicyclists, and/or pedestrians, during traffic enforcement periods that can be supported by written or electronic records maintained at the police department. These records must be maintained in a manner that guarantees their accountability during a review or monitoring site visit.
- To maximize grant funding, patrols must consist of one granted-funded officer per cruiser; however, multiple cruisers may be out at one time

Grantee Initials: _____
Date: _____

Grantee Initials: _____
Date: _____

Grantee Initials: _____
Date: _____

EXHIBIT B
Scope of Work

High Visibility Mobilizations

AWARDED MOBILIZATIONS ARE INDICATED BY AN NEXT TO THE PROJECT

NOTE: Please e-mail your Field Representative, *in advance*, if a mobilization effort will not be conducted.

Operation Safe Commute Enforcement: The high visibility mobilization allows the state an opportunity to provide a coordinated highway safety initiative during specific dates and times throughout the fiscal year. Media events occur around these concentrated efforts to enhance the awareness and importance of safe driving. The following 12 mandatory patrol date and times are as follows:

Mandatory Dates	Time	Mandatory Dates	Time	Mandatory Dates	Time
October 21, 2019	1500-1900	February 15, 2020	0600-1000	June 11, 2020	0600-1000
November 27, 2019	1500-1900	March 16, 2020	0600-1000	July 2, 2020	1500-1900
December 29, 2019	1300-1700	April 14, 2020	0600-1000	August 10, 2020	0600-1000
January 18, 2020	0600-1000	May 22, 2020	1500-1900	Sept. 4, 2020	1500-1900

Join the NH Clique Enforcement Patrols: The purpose is to enforce the Child Restraint Law for anyone under 18 years of age as well as to educate unbelted occupants 18 years and older regarding the importance of wearing seatbelts. Patrols must be conducted during daylight hours at locations such as elementary schools, high schools, shopping centers, and/or locations where drivers and passengers up to the age of 18 are known to frequent. Prior to officers conducting "Join the NH Clique Patrols", they will be required to complete an Online training course; "Occupant Protection/Child Passenger", sponsored by Police Standards and Training. A certificate of completion verifying that the officers participating in the patrols shall be submitted with the grant reimbursement request (only one certificate per officer is needed for the duration of the grant). **Note:** Officer's time will not be paid for, if this online training was not completed prior to the patrol.

- This mobilization is required to be conducted during the following time-frame- *Dates to Be Determined*

Drive Sober or Get Pulled Over: These two mobilizations will focus on the apprehension of the impaired driver. Locations for patrols should be where the greatest likelihood of finding an impaired driver exists.

At least one 4 hour DUI enforcement effort must be conducted during each campaign-period

- "Drive Sober or Get Pulled Over" - *Friday, December 13, 2019 through Wednesday, January 1, 2020*
- "Drive Sober or Get Pulled Over" - *Friday, August 21, 2020 through Monday, September 7, 2020*

U Drive, U Text, U Pay: This grant focuses on stopping drivers who are distracted including New Hampshire's Hands Free Electronic Device Law, as well as other activities that occur behind the wheel that cause the driver to be distracted. ***At least 4 hours of distracted driving enforcement must be conducted during this time-frame.***

- This mobilization is required to be conducted during the following time-frame- *Dates to Be Determined*

Grantee Initials: _____
Date: _____

Grantee Initials: _____
Date: _____

Grantee Initials: _____
Date: _____



December 3, 2018

Mr. Peter H. Rice
City of Portsmouth
680 Peeverly Hill Road
Portsmouth, NH 03801

Re: City of Portsmouth, Duffy – Protecting Portsmouth’s Water Supply
Great Bay Resource Protection Partnership, Land Protection Transaction Grant
Portsmouth_Duffy_TNC-NHCF_Haas_11.2018

Dear Mr. Rice:

I am very pleased to inform you that the Great Bay Resource Protection Partnership (“GBRPP”) will award the **City of Portsmouth** (“Grantee”) **\$3,500** (“the Grant”) for the *Duffy – Protecting Portsmouth’s Water Supply* project. This award is made possible through funds provided by The New Hampshire Charitable Foundation to the Great Bay Resource Protection Partnership with The Nature Conservancy serving as fiscal agent (“Prime Award”). The Grant is also subject to the documentation requirements set out in Attachment A.

The Great Bay Resource Protection Partnership provides funds through the Land Protection Transaction Grant Program to assist with transaction costs associated with permanent land protection. The grant selection committee is comprised of representatives from Great Bay National Estuarine Research Reserve, New Hampshire Coastal Program, USDA Natural Resources Conservation Service and Piscataqua Regional Estuaries Partnership. We are pleased to partner with you on your important land conservation efforts, and sincerely applaud your commitment to protecting the conservation resources of the coastal watershed.

Purpose of this Grant

This Grant will provide funds for the Grantee’s completion of appraisal transaction costs (“Project”) as described in the Grantee’s proposal dated 11/2/2018.

Term

This Grant period shall start on **December 3, 2018** and shall expire on **December 2, 2019**.

Reporting and Due Dates

Grantee shall submit the documentation required in “Attachment A” with the completed and signed invoice form (enclosed). Invoice submittal must include documentation of the project’s claimed match funds. Payments shall be made based on satisfactory submission of items in “Attachment A” and the enclosed approved invoice form. Eligible transaction costs must have been expended, and all required invoicing documentation must be submitted by 12/2/2019.

Submit all documentation to:

Dea Brickner-Wood
Great Bay Coordinator
Great Bay Resource Protection Partnership
1 Colony Cove Road
Durham, NH 0382

Payment Amount and Schedule

For all of the activities described in the Grantee's proposal, the GBRPP shall pay the Grantee up to **\$3,500** for reimbursement of project expenses. Reimbursements of approved expenses shall be issued to grantees as a one-time lump sum. Payments will be processed within 30 days of receipt of materials in "Attachment A". Payments will be sent to the Grantee, *by check payable to the Grantee.*

Commitment of Match Funds

The Grantee confirms that 50% of the appraisal cost will be used as match for this project.

Please indicate your acceptance of the terms of this letter and accompanying Grant Conditions by signing a copy of this letter and returning it to the Great Bay Resource Protection Partnership.

If you have any questions I may be reached at (603) 868-6112, bluesky24@comcast.net

Sincerely,



Dea Brickner-Wood
Great Bay Coordinator
Great Bay Resource Protection Partnership

Accepted and agreed to:

Signature

Date

Print / Type:
Name _____

Title: _____

Grantee Organization: _____

Attachment A
Land Transaction Grant Program
Great Bay Resource Protection Partnership
Reimbursement of Eligible Grant Expenses Requirements

Grant Program 1: Prospective Project Appraisals

- Invoice Form and budget: Completed, signed and dated (see email attachment).

- Documentation of appraisal costs (invoice from appraiser). Eligible reimbursable appraisal expenses must be incurred after January 1, 2018 and before December 2, 2019.

- Evidence of appraisal completion (copy of cover page and dated appraisal submittal letter).

- Documentation of match funds claimed.

- The Nature Conservancy Disclosure Form (see email attachment).

- W-9 Form download - <http://www.irs.gov/pub/irs-prior/fw9--2014.pdf>



STATE OF NEW HAMPSHIRE
DEPARTMENT of NATURAL and CULTURAL RESOURCES
NH STATE LIBRARY

20 Park Street Concord, New Hampshire 03301

9/26/2019

Abby Mills
Asst. to the Finance Director
City of Portsmouth
1 Junkins Ave.
Portsmouth, NH 03801

Dear Ms. Mills:

I am pleased to inform you that the City of Portsmouth has been awarded a FY 2019/2020 Moose License Plate Conservation grant in the amount of \$7,685 for the conservation project *Preservation, Microfilming and Digitization of Two Portsmouth Military Veterans Records Dated 1865 to 1918*. I congratulate you on preparing a successful grant proposal.

You will soon receive a letter from Charles Shipman, Supervisor of Reference and Information Services here at the NH State Library. The letter will contain your grant agreement and the other documents that need to be returned to the State Library in order for you to receive your grant.

Thank you for recognizing the need to conserve and protect irreplaceable documents that are important to New Hampshire's cultural heritage and for your role in helping to increase public access to New Hampshire's written history.


Sincerely,

A handwritten signature in black ink that reads "Michael York".

Michael York
State Librarian

**CITY OF PORTSMOUTH
PORTSMOUTH, NH 03801**

Office of the City Manager

Date: October 24, 2019
To: Honorable Mayor Jack Blalock and City Council Members
From: John P. Bohenko, City Manager 
Re: City Manager's Comments on October 28, 2019 City Council Agenda

Proclamation:

1. **Proclamation The George R. Laderbush Memorial Bridge.** Attached is a Proclamation regarding The George R. Laderbush Memorial Bridge which will be rededicated on Veterans Day, November 11, 2019 at 10:00 a.m., in honor of George Robert Laderbush, Torpedoman's Mate, 2nd Class (USN).

Public Hearings & Votes on Ordinances and/or Resolutions:

1. **First Reading Re: Amendments to Building, Life Safety and Health Codes.** At the October 7, 2019 City Council meeting, the Council voted to schedule first reading for the October 28, 2019 meeting regarding amendments to the Building, Life Safety and Health Codes.

In December of 2017, the City Council adopted amendments to our Building Code (Chapters 12 and 15), Fire Code (Chapter 5) and our Food Code (Chapter 4) to reflect more current versions of the State Building and Fire Code, formally adopt and amend the 2009 Food Code and certain provisions the N.H. Code of Administrative Rules, He-P 2300, Sanitary Production and Distribution of Food. The amendments to our City Codes revised our local amendments to reflect the updated versions of the State Codes. The State has recently amended the State Building and Fire Codes to incorporate updated version of International Codes. Our current City Codes and local amendments need to be amended again to reflect the updated State Codes. Most of the proposed amendments to the **attached City Codes** are not substantive but are housekeeping in nature to reflect the updated State

Codes (outlined below) and to delete local amendments now made unnecessary due to the State Code updates.

- [Chapter 4, Food Licensing and Regulations](#), adopting definitions and standards for food processing plants from He-P 2300, the N.H. Code of Administrative Rules
- [Chapter 12, Part I](#): International Building Code (IBC), from 2009 to 2015 version, SBC*
- [Chapter 12, Part II](#): International Residential Code (IRC), from 2009 to 2015 version, SBC*
- [Chapter 15, Part I](#): International Plumbing Code (IPC), from 2009 to 2015 version, SBC*
- [Chapter 15, Part II](#): International Mechanical Code, (IMC), from 2009 to 2015 version, SBC*
- [Chapter 15, Part III](#): Fuel Gas Installations, from Fuel Gas Installations to 2015 National Fuel Gas Code
- [Chapter 15, Part IV](#): National Electrical Code, 2017, SBC*
- [Chapter 5, Article IX](#): International Fire Code, 2015: Uniform Fire Code, NFPA 1, from 2009 to 2015, SFC**

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

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

*SBC indicates Codes included in the State Building Code

**SFC indicates Codes included in the State Fire Code

In December of 2017, the City Council finalized Guiding Principles Related to Code Adoption in Portsmouth which recommends prompt revision of our ordinances to reflect the most recently adopted state codes and to evaluate current codes to improve code administration.

In December of 2017 the City Council finalized Guiding Principles Related to Code Adoption in Portsmouth which recommends prompt revision of our ordinances to reflect the most recently adopted State codes and to evaluate current codes to improve code administration. If the Council votes to pass first reading of the amended ordinance in a form similar to the attached, the City will hold a public information session on the Building and Fire Code updates on Thursday, October 31, 2019 at 9:00 a.m., in Conference Room A. Prior to that informational public meeting on Building and Fire Code updates, the Inspection Department will establish a separate webpage that contains the proposed amendments and code information. The Health Department held its public information session on Food Code updates on Thursday, October 17, 2019 at 2:00 p.m., in Conference Room A and has established a webpage that contains the proposed amendments and state regulations. This outreach to the community supports another of the Council's Guiding Principles Related to Code Adoption [attached](#) in the Agenda packet.

I recommend the following motions:

- a) *Move to pass first reading and schedule a public hearing and second reading of amendments to Chapter 4 (Food Code) for the November 12, 2019 City Council Meeting;*
- b) *Move to pass first reading and schedule a public hearing and second reading of the amendments to Chapter 5 (Fire Code) for the November 12, 2019 City Council Meeting; and,*
- c) *Move to pass first reading and schedule a public hearing and second reading of the amendments to Chapter 12 and Chapter 15 (Building Codes) for the November 12, 2019 City Council meeting.*

2. **First Reading of Floodplain Overlay District Zoning Amendments.** At the October 7, 2019 City Council meeting, the Council voted to schedule first reading for the October 28, 2019 meeting regarding the Floodplain Overlay District Zoning Amendments.

These proposed amendments respond to recommendations included in the City's 2025 Master Plan and as an outcome of the City's Climate Resiliency and Adaptation Initiatives. The proposed amendments to the Zoning Ordinance, Article 6 – Overlay Districts, Section 10.620 – Flood Plain District and Article 15 – Definitions include revisions for complying with National Flood Insurance Program regulations, addressing impacts of climate change and projected sea level rise, and strengthening thresholds for when properties are required to come into compliance with Flood Plain standards for development.

The proposed amendments are listed in the [attached document and a redlined version of the existing Ordinance](#) is provided for reference as well.

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

The Planning Department has scheduled a public informational meeting to go over these amendments and to answer questions from the public. The meeting has been advertised through a press release to the Portsmouth Herald and posted on the City's web page and social media. The meeting is scheduled for Tuesday, October 29, 2019 starting at 6:00 p.m., in Conference Room A in City Hall.

I recommend the City Council move to pass first reading on the proposed amendments to the Floodplain Overlay District and schedule a second reading and public hearing for the November 12, 2019 City Council meeting.

3. **First Reading of a Minor Ordinance Change to Conservation Ordinance.** At the October 7, 2019 City Council meeting, the Council voted to schedule first reading for the October 28, 2019 meeting regarding a minor Ordinance change to the Conservation Ordinance.

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

The proposed Ordinance amendments consist of the following:

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

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

I recommend the City Council move to pass first reading and schedule a public hearing and second reading of the proposed amendments to Chapter 8, Article V at the November 12, 2019 City Council meeting.

4. **First Reading on Wetlands Regulations Zoning Amendments.** At the October 7, 2019 City Council meeting, the Council voted to schedule first reading for the October 28, 2019 meeting regarding the Wetlands Regulations Zoning Amendments.

These proposed amendments will provide additional detail to assist the Conservation Commission and Planning Board in their implementation of wetland protection regulations and include best practices for working in and near wetland environments throughout the City. The proposed amendments to the Zoning Ordinance, Article 10 – Environmental Protection Standards, Section 10.1010 – Wetlands Protection include clarifying the characterization of impacts to the wetland and buffer, adding information related to the compensatory removal of impervious surface and the requirements for a wetland buffer enhancement plan, providing guidance on living shorelines for tidal areas and use of porous pavement in the wetland buffer, and delineating wetland buffer areas.

The proposed amendments are listed in the [attached document](#) and a [redlined version of the existing Ordinance](#) is provided for reference as well.

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

The Planning Department has scheduled a public informational meeting to go over these amendments and to answer questions from the public. The meeting has been advertised through a press release to the Portsmouth Herald and posted on the City’s web page and social media. The meeting is scheduled for Tuesday, October 29, 2019 starting at 6:00 p.m., in Conference Room A in City Hall.

I recommend the City Council move to pass first reading on the proposed amendments to the Wetlands Protection section of the Zoning Ordinance and schedule a second reading and public hearing for the November 12, 2019 City Council meeting.

Acceptance of Grants and Donations:

1. **Acceptance of Police Department Grant.** [Attached is a memorandum](#) from Kathleen M. Levesque, Office of the Chief of Police, regarding the September 24, 2019 Police Commission meeting; the Board of Police Commissioners approved and accepted the following grant:
 - i.) Action: Commissioner Splaine moved to accept the grant in the amount of \$20,425 from the NH Department of Safety for ten different highway safety initiatives, and forward to the City Council for their action.
Seconded by Commissioner Shaheen.

On a Voice Vote: The motion passed to accept the grant in the amount of \$20,425 from the NH Department of Safety for ten different highway safety initiatives, and forward to the City Council for their action.

The Office of the Police Chief submits the information to you pursuant to City Policy Memorandum #94-36, for the City Council's consideration and approval.

I recommend the City Council move to accept and approve the grant to the Portsmouth Police Department, as presented.

2. **Acceptance of Grant from Great Bay Resource Protection Partnership.** The City of Portsmouth has been informed that the Great Bay Resource Protection Partnership will award the City a grant for \$3,500 for the Duffy – Protecting Portsmouth’s Water Supply project. The purpose is for appraising a 112 acre parcel that abuts the Bellamy Reservoir for a potential conservation easement. The City confirms that 50% of the appraisal cost will be used as match for this project. [See attached letter.](#)

I recommend the City Council move to accept and approve a grant from the Great Bay Resource Protection Partnership, and further, authorize the City Manager to execute any documents which may be necessary for this grant contract.

3. **Acceptance of Moose License Plate Conservation Grant.** The City of Portsmouth has been awarded one of the FY2019/2020 Moose License Plate Conservation Grants in the amount of \$7,685 for the conservation project “*Preservation, Microfilming and Digitization of Two Portsmouth Military Veterans Records Dated 1865 to 1918*”. These monies will help preserve legally required and historically significant documents held by the Finance Department that initially were intended to be financed through the City's Capital Improvement Program. The New Hampshire State Library's (NHSL) FY2019/2020 Conservation License Plate Grant Program is designed to help municipalities as well as other public organizations preserve their historic documents. The NHSL Grant awards up to \$10,000 to applicants to conserve publicly owned documents. The program aims to aid in the preservation of New Hampshire's historic manuscripts as well as increase their availability to the public. The Grant requires that these documents not only be professionally preserved but also scanned to preservation microfilm as well as digitized. This is the third Moose License Plate Conservation Grant the City has been awarded, totaling \$27,186 received from this program since FY18.

I recommend the City Council move to accept and approve a grant from the New Hampshire State Library, as presented.

Consent Agenda:

1. **Acceptance of Fire Department Donation.** The Fire Department received a donation in the amount of \$100.00 from Carolyn Hughes Marshall.

I recommend the City Council move to accept and approve the donation to the Portsmouth Fire Department, as presented.

2. **Request for License to Install Projecting Sign.** Attached is a request for a projecting sign license (see attached memorandum from Planning Director Juliet Walker):

- Ahmed R Ahmed, owner of DA Box White Box Jewelers for property located at 55 Congress Street

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

City Manager's Items Which Require Action:

1. **School Department Teacher Retirement Incentive.** In an attempt to achieve savings without compromising education, the School Board approved a retirement incentive package, subject to the approval of the City Council (see attached). The purpose of this program was to provide an incentive to long-term employees who are eligible to retire. The savings would be achieved by replacing employees at the top of the pay scale with new employees who would be paid at a lower rate. I am requesting that the City Council approve the request from the Portsmouth School Board to offer a retirement incentive to teachers. The details are outlined below:

Eligible members who have fifteen (15) years or more service in the district by the end of the 2019-20 school year, and who file an irrevocable commitment to retire from the district on or before January 10, 2020 and who actually retire under the NHRS at the end of the 2019-20 school year can receive

a one-time payment of \$12,000.

Any eligible members who have less than fifteen (15) years or more service in the district by the end of the 2019-20 school year, and who file an irrevocable commitment to retire from the district on or before January 10, 2020 and who actually retire under the NHRS at the end of the 2019-20 school year can receive

a one-time payment of \$10,000.

I recommend the City Council move to approve the proposed School Department Teacher Retirement Incentive for FY20, as presented.

2. **Odyssey (Michael Warhurst Sculpture).** At the March 4, 2019 City Council meeting, the City Council unanimously voted to refer the proposed public art sculpture donation from the Friends of Public Art to Art-Speak for a report back and recommendation. Art-Speak convened the Public Art Committee to review the proposal and unanimously voted to recommend that the City Council accept “Odyssey” the sculpture by Richard Erdman as a gift to be placed in Prescott Park in honor of Michael Warhurst and his 42 years of service as Park Superintendent. [Attached is the Letter of Agreement between the Friends of Prescott Park and the City.](#) The Friends of Prescott Park have reviewed and approved the terms included in the Letter of Agreement.

I recommend the City Council move to authorize the City Manager to execute the Letter of Agreement for acceptance of “Odyssey” and ultimately place it in a suitable location in Prescott Park in accordance with the Prescott Park Master Plan.

3. **Extending and Modifying Players’ Ring Lease - Stewardship Agreement.** Under a Lease Agreement with the City authorized by the City Council on September 3, 2013, the Players’ Ring Company occupies a City property on Marcy Street identified as the Portsmouth Marine Railway building (or Heritage Museum). Under the provisions of that lease, the Players’ Ring has utilized the building for theater purposes and has expended approximately \$150,000 over the term of that lease and its predecessor leases on building improvements such as preservation timber framing, roof and masonry work, and improvements to the exterior siding of the building. The current lease agreement would expire on September 3, 2023.

The Players’ Ring Company is now seeking a grant from the state Land and Community Heritage Investment Program (LCHIP) to do further work on the architectural, historic and cultural features of the Portsmouth Marine Railway building. A requirement of the receipt of that grant is that LCHIP and the City (as owner of the property) enter a five (5) year stewardship agreement with LCHIP. The five (5) years commences to run on the recording of the stewardship agreement at the Rockingham County Registry of Deeds. Even if such a stewardship agreement were recorded today, the term of the stewardship agreement would exceed the term of the Players’ Ring lease.

[The five \(5\) year stewardship agreement \(draft copy attached\) is expansive.](#) It provides LCHIP with significant control over use of the property during its five (5) year term. This includes:

- The City and Players’ Ring would assume detailed obligations with regard to maintenance of the property, avoidance of prohibitive activities and would be required to secure approval from LCHIP for performing any alteration of the premises.
- The City and Players’ Ring would have restoration obligations to LCHIP in the event of casualty, damage or destruction.

- The City and Players’ Ring would have to maintain insurance levels required by LCHIP.
- The City and Players’ Ring would have to agree to indemnify LCHIP and its agents, trustees, directors, officers and employees and independent contractors for any risks arising out of or in connection with injury to any person or physical damage to the property, as well as certain environmental exposures.

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

I recommend the City Council move that the City Manager be authorized to negotiate and execute a stewardship agreement with the Players’ Ring Company and the state Land and Community Heritage Investment Program (LCHIP) as well as any amendments to the lease between the City of Portsmouth and Players’ Ring Company as required to secure a \$25,000 LCHIP grant for improvements to the Portsmouth Marine Railway building.

4. **Easement for 119 International Drive, LLC Property Located at 15 & 19 Rye Street.** 119 International Drive, LLC leases certain property from the Pease Development Authority (PDA). On March 18, 2017, the PDA approved the building concept for improvements located along 15 and 19 Rye Street on the Pease Development. The Portsmouth Planning Board approved the project July 20, 2017 with the stipulation that the applicant/lessee, 119 International Drive, LLC, provide easement rights to the City to allow the Water Department to access shutoffs, valves and other private water infrastructure on the leased property.

Attached is the form of the easement approved by the Legal Department and PDA. This easement document is a-typical in that it conveys limited access rights to the private infrastructure only through the term of the lease.

I recommend the City Council move to authorize the City Manager to accept an easement from 119 International Drive, LLC to allow the City to access water shutoffs, valves and other private water infrastructure.

Informational Items:

1. **PFAS in Artificial Turf.** Recent reporting in the *Boston Globe* and *TheIntercept.com* have identified some potential health concerns related to PFAS and artificial turf. Specifically, it is reported that the manufacturing process for artificial turf uses PFAS chemicals in the extrusion process used to create the “blades of grass” in the artificial turf.

City staff and the City's field design consultant CMA Engineers and their sub-consultant Weston & Sampson are aware of these reports and will ensure the selected field materials are PFAS free. The new athletic fields planned for the former Community Campus site will be specified using suppliers who can provide artificial turf without PFAS.

The project design has completed wetlands permitting, secured approval from the Conservation Commission, completed the Planning Board's Technical Advisory Committee review and was approved by the Planning Board at their October 17, 2018 meeting. The project is anticipated to go out to bid in early 2020.

The Recreation Board with City Council's concurrence selected artificial turf over grass for the new athletic fields because of its playability, safety, and the ability allow continuous play despite weather conditions.

City Staff along with its design team are committed to ensure safe athletic fields. Staff will continue to monitor the studies now underway and work with our consultants to select a certified PFAS-free artificial turf for the project.

2. **Dogs on Decks.** At the October 7, 2019 City Council meeting, Councilor Denton asked if the Council could, by ordinance, waive the requirement that restaurants receive a variance in order to allow dogs on patios and/or decks.

I have checked with both Health Director Kim McNamara and Assistant City Attorney Jane Ferrini on this, and both confirmed: since the State has adopted the Food Code in its regulations, it acts as a "minimum code" we must implement. In other words: we can adopt regulations that are more stringent than the State, but not less. With a few exceptions (service animals, e.g.), animals are not allowed on the premises of a food establishment.

Our long-standing policy has been to enforce this section of the Code upon receipt of a complaint. When City Council adopted the Code in 2017, we specifically added language (**Chapter 4 Section 6-501.115**) to allow dogs on decks through receipt of a variance (**Section 8-103.10-8103.12 of the Food Code**). Cisco Brewers has applied for and been granted a variance.

The requirements to receive a variance are pretty basic, and are intended to ensure safety and good hygiene. The Health Department remains ready to help all restaurants who request a variance.

3. **Preliminary Report Back Re: Traffic Crashes, Speeds, and Bike Lane Usage related to Implementation of Middle Street/Lafayette Road Bike Lanes.** At the October 7, 2019 City Council meeting, staff was asked to provide a report back to City Council on the number of accidents that have occurred on Middle Street since the bike lanes were implemented. It was also requested that the report back include traffic speeds and bike counts. While staff has been able to pull together some preliminary information for Council's consideration, there is more analysis that is still in process. For example, the circumstances around each crash are not provided and the bike lane counts have not yet

been completed for the bike lanes since the flex post delineators were re-installed in July. Once that additional detail has been compiled, we will be reporting back at a future Parking & Traffic Safety Committee meeting later this fall along with any recommended design changes.

Traffic Crashes

City staff requested that the Police Department run a report on the number of crashes reported on Route 1 (Middle Street and Lafayette Road) in the area where the bike lanes were installed. *This report included ALL crashes reported, regardless of circumstances or cause (i.e. these are not crashes related to the bike lanes necessarily).*

Installation of the bike lanes was completed at the end of September 2018, therefore staff requested that the Police run reports comparing crash data for the year immediately prior to the bike lanes being installed (October 1, 2017 to October 1, 2018) with the current year (October 1, 2018 to October 1, 2019).

Pre-Bike Lanes

Between October 1, 2017 and October 1, 2018 the total number of accidents reported for that area was 26.

- Of those 26 accidents, 3 involved personal injury and 6 were non-reportable accidents which means there was less than \$1,000 worth of damage.
- 1 of the personal injury accidents was located at the intersection of Middle Road and Middle Street and the other 2 occurred at Lafayette Road and South Street, and none involved bicyclists or pedestrians.

Post-Bike Lanes

Between October 1, 2018 and October 1, 2019 the total number of accidents for that same area was 25.

- Of those 25 accidents, 2 involved personal injury and 9 were non-reportable accidents which means there was less than \$1,000 worth of damage.
- 1 of the personal injury accidents was located at the intersection of Middle Street and Aldrich Road and the other occurred at Middle Street and Cass Street, and none involved bicyclists or pedestrians.
- 7 of the accidents occurred during the 5-month period when the flex post delineators were installed, the remaining 18 occurred during the 7-month period between late November 2018 and early July 2019 when the flex posts were not installed.

Bicycle Counts

Bicycle counts conducted for a 3-day period in May show an average of 6 to 7 bicyclists per hour. These counts were conducted when the flex post delineators had not yet been re-installed for the year. This is not a significant change from bicycle counts prior to the bike

lanes, but staff will continue to conduct counts during different seasons of the year as well as when the flex post delineators are installed versus not installed to better understand fluctuations in overall usage.

Motor Vehicle Speeds

As safety for pedestrians, bicyclists, and motor vehicles decreases with higher vehicle speeds, one way to gauge overall safety is to review changes in traffic speeds. Vehicle speeds vary along the corridor, but in general the data has shown that there has been an overall decrease of 1 to 2 miles per hour in average vehicle travel speeds since the installation of the bike lanes and posts. The staff has also compared average travel speeds with and without the delineator posts and the indication has been that removal of the posts results in a 1 to 2 mile increase in travel speeds (back to pre-bike lane conditions).

Observations

- The number of crashes would indicate that the bike lanes, with or without the delineators, are not making the road more unsafe for travelers. However, more information is required to compare causes of crashes and circumstances before specific conclusions can be drawn.
 - The addition of the delineator posts has resulted in lowering of travel speeds compared to pre-bike lane speeds.
 - Although bike lane usage has not necessarily increased significantly, there is no indication that the lanes are discouraging bicycle travel and it will be important to track how usage changes over time as the City's bicycle network gets built out.
4. **Portsmouth Police Department Press Release.** For your information, [attached is a Portsmouth Police Department Press Release](#) regarding "Trick or Treat" and the Halloween Parade in Portsmouth, 2019.

MEMORANDUM OF UNDERSTANDING

PORTSMOUTH SCHOOL DISTRICT AND ASSOCIATION OF PORTSMOUTH TEACHERS

RETIREMENT INCENTIVE BENEFIT

*******DRAFT*******

The Portsmouth School District (District) and the Association of Portsmouth Teachers (APT) currently are parties to a collective bargaining agreement that expires on June 30, 2022. These parties desire to create a temporary retirement incentive benefit for the 2019-20 contract year only.

Eligible members who have fifteen (15) years or more service in the district by the end of the 2019-20 school year, and who file an irrevocable commitment to retire from the district on or before January 10, 2020 and who actually retire under the NHRS at the end of the 2019-20 school year can receive

a one-time payment of \$12,000.

Any eligible members who have less than fifteen (15) years of service in the district by the end of the 2019-20 school year, and who file an irrevocable commitment to retire from the district on or before January 10, 2020 and who actually retire under the NHRS at the end of the 2019-20 school year can receive

a one-time payment of \$10,000.

This does not set a precedent or past practice for any other situation.

This agreement is null and void unless approved by the City Council.

Agreed:

For the APT

Date

For the District

Date



CITY OF PORTSMOUTH

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

John P. Bohenko
City Manager

October 23, 2019

This letter outlines the terms and conditions under which the City of Portsmouth would accept the sculpture by Richard Erdman, entitled "Odyssey," as a gift from Friends of Prescott Park (FoPP) to be placed in Prescott Park in honor of Michael Warhurst. Final approval will only become effective upon vote of the Portsmouth City Council.

My recommendation to the City Council will be to accept the gift of "Odyssey" from the Friends of Prescott Park after the completion of the following conditions precedent (and otherwise):

- (1) Demonstration by FoPP that it is in fact the owner of "Odyssey" and that the gift of the sculpture to the City has been properly authorized by FoPP.
- (2) The written agreement of FoPP to make a cash stewardship donation in the amount of \$2,500 into the Public Art Trust. The \$2,500 obligation shall be discharged as follows: one thousand (\$1,000) before installation of the sculpture in Prescott Park and ownership transfers to the City. The remaining \$1,500 in annual installments of three (3) \$500 payments in each of the three years immediately following the initial payment.
- (3) The delivery of the artwork by FoPP to the center fountain of the Formal Garden in Prescott Park or proximate to an infinity pool selected by Weston and Sampson, which will be responsible for site selection and installation design for the sculpture. Weston and Sampson will be instructed by the City to thoughtfully incorporate the sculpture into the overall new design of the park.
- (4) The City shall be responsible for the actual installation of the sculpture.
- (5) The City will allow for the installation of a plaque reading as follows: "Odyssey" by Richard Erdman, Gift of Friends of Prescott Park, to honor Michael Warhurst's 42 Years of Service to Prescott Park, Donated [Insert Date].
- (6) The City accepts the maintenance plan from Richard Erdman Studios, dated August 14, 2019, and "Prescott Park Sculpture Project Planning Committee Recommendations", dated June 11, 2019, which are incorporated herein into this Letter of Agreement by reference.
- (7) As the exact timetable for the renovation of Prescott Park is uncertain as of the date of the signing of this Letter of Agreement, this Letter of Agreement, shall be in effect for a term of three (3) years from the date of its signing. In year two (2) of the term, the parties may mutually decide to extend the Letter of Agreement for a term to be decided at that time.

Until formal written acceptance by the City, the artwork shall remain in every aspect the full responsibility of FoPP.

Subsequent to acceptance by the City of the sculpture, it will become the property of the City of Portsmouth and the City will bear all responsibilities related to it thereafter.

Sincerely,

John P. Bohenko
City Manager
Per vote of the City Council on _____, 2019

Acknowledged and agreed for
Friends of Prescott Park (FoPP):

Signature

Name

Date

Please Return To
Land and Community Heritage Investment Program
3 N. Spring St., Suite 100
Concord, NH 03301

DRAFT

LCHIP
Land & Community Heritage
Investment Program



5-Year Stewardship Agreement

The State of New Hampshire, acting by and through the NH Land and Community Heritage Investment Program ("LCHIP"), the Players' Ring Theatre (the "Recipient"), and the City of Portsmouth (the "Owner") in consideration of a grant in the amount of Twenty-Five Thousand Dollars (\$25,000), and in order to assure that the architectural, historic, and cultural features of the Portsmouth Marine Railway Building, in Portsmouth, New Hampshire, will be retained and maintained in substantially their current or better condition for conservation and preservation purposes throughout the term of this Stewardship Agreement, mutually agree to perform this Stewardship Agreement in accordance with RSA chapter 227-M, the LCHIP Criteria, Guidelines and Procedures (the LCHIP "Guidelines") of LCHIP and all other applicable laws.

The subject of this Agreement is certain real property located in Portsmouth, Rockingham County, New Hampshire, more particularly described in the Legal Description of Property, Exhibit A, which is attached hereto and incorporated by reference herein (the "Property"), said Property including the historic resource known as the Portsmouth Marine Railway Building (hereinafter referred to as the "Resource"), to which the following improvements were made: Repair of historic windows, doors and masonry, and replacement of non-historic windows and doors with more appropriate replacements, and more completely described in Baseline Documentation, Exhibit C, which is incorporated by reference herein.

The Recipient shall record this Stewardship Agreement, in the chain of title of the Property, at the Rockingham County Registry of Deeds within thirty (30) days of the date of execution of this Stewardship Agreement.

RECIPIENT'S COVENANTS

- 1 **Recipient's Covenants: Covenant to Maintain.** Recipient agrees to maintain the Resource throughout the term of this Stewardship Agreement in the same or better structural condition and state of repair as existed on the effective date of this Stewardship Agreement. Recipient's obligation to maintain shall require any necessary replacement, rebuilding, repair, and/or reconstruction, subject to the casualty provisions of paragraphs 6 and 7, to preserve the Resource in substantially the same structural condition and state of repair as existed on the date of this Stewardship Agreement.

All work shall be undertaken in accordance with The Secretary of the Interior's Standards for the Treatment of Historic Properties, 36 C.F.R. 68, as amended, (the "Secretary's Standards").

- 1.1 **Recipient's Covenants: Prohibited Activities.** The following acts or uses are expressly forbidden on, over, or under the Property, except as otherwise conditioned in this paragraph:
 - (a) the Resource shall not be demolished, removed, razed, or otherwise destroyed except as provided in paragraphs 6 and 7;
 - (b) no action shall be undertaken which would adversely affect the structural soundness of the Resource;
 - (c) nothing shall be erected or allowed to grow on the Property which would impair the visibility of the Resource from street level;
 - (d) no other buildings or structures, including, but not limited to satellite-receiving dishes (small rooftop dishes excluded), camping accommodations, or mobile homes, shall be erected or placed on the Property hereafter except for temporary structures required for the maintenance or rehabilitation of the Property, such as construction trailers;
 - (e) the dumping of ashes, trash, rubbish, or any other unsightly or offensive materials is prohibited on the Property;
 - (f) the Property shall not be divided or subdivided in law or in fact and the Property shall not be devised or conveyed except as a unit;
 - (g) no above-ground utility transmission lines, except those reasonably necessary for existing buildings, may be created on the Property, subject to utility easements already recorded;
 - (h) in accordance with RSA 227-M:14, notwithstanding any other provision of law relating to the disposal of publicly-owned real estate, no deviation in the uses of the Property to uses or purposes not consistent with the purposes of RSA chapter 227-M shall be permitted; and

- (i) the sale, transfer, conveyance or release of the Resource from the public trust is prohibited except as provided in RSA 227-M:13.

1.2 **Recipient's Covenants: Covenant of Stewardship.** Recipient agrees to submit on an annual basis a stewardship report to LCHIP, detailing all physical work, undertaken on the Property both on the exterior and the interior of the Resource over the course of the previous year, as well as any stewardship development activities and any changes to the stewardship plan for the Property. Stewardship reports shall be submitted to LCHIP each calendar year on or before December 31.

RECIPIENT'S CONDITIONAL RIGHTS

2 **Conditional Rights Requiring Approval by LCHIP.** Without the prior express written approval of LCHIP, which approval may be withheld or conditioned at the sole discretion of LCHIP, the Recipient shall not undertake any of the following actions:

- (a) increase or decrease the height of, make additions to, change the exterior construction materials or finishes of, or move, improve, alter, reconstruct, or change the facades (including fenestration) and roofs of the Resource;
- (b) remove, demolish, or alter, subject to the maintenance covenants of paragraph 1 hereof, historic features, materials, and finishes located within the interior of the Resource;
- (c) erect any external signs or external advertisements except: (i) such plaque permitted under paragraph 19 of this Stewardship Agreement; (ii) other donor-recognition plaques; (iii) a sign stating solely the address of the Property; (iv) a plaque recognizing the listing of the property on the National Register of Historic Places; (v) a New Hampshire Historical Highway Marker; and (vi) a temporary sign to advertise a special event or the sale or rental of the Property;
- (d) make permanent substantial topographical changes, including but not limited to, excavation for the construction of roads and recreational facilities; and
- (e) change the use of the Property to another use. LCHIP must determine that the proposed use: (i) does not impair the preservation values of the Property; and (ii) does not conflict with the purposes of this Stewardship Agreement.

2.1 **Review of Recipient's Requests for Approval.** When requesting approval to undertake actions set forth in paragraph 2, Recipient shall submit to LCHIP information, including plans, specifications, and designs where appropriate, identifying the proposed activity with reasonable specificity. In connection therewith, Recipient shall also submit to LCHIP a timetable for the proposed activity sufficient to permit LCHIP to monitor such activity. Upon receipt of Recipient's written request for approval, LCHIP shall act upon such request within thirty (30) days of the receipt thereof; and if such request for permission is not denied in writing, such request shall be deemed approved and such permission shall be deemed granted. Recipient shall not undertake any such activity until approved by LCHIP. LCHIP reserves the right to consult with governmental agencies, nonprofit preservation organizations, and/or other advisors deemed

appropriate by LCHIP, concerning the appropriateness of any activity proposed under this Stewardship Agreement. Recipient shall make no change or take any action subject to the approval of LCHIP unless expressly authorized in writing by an authorized representative of LCHIP. It is further agreed that whenever the consent of LCHIP is required or requested, Recipient shall bear the reasonable costs of LCHIP's review, and Recipient agrees that the costs for LCHIP's review shall include reasonable architectural fees and LCHIP's reasonable administrative expenses in processing Recipient's request.

- 3 **Standards for Review.** In exercising any authority created by the Stewardship Agreement to review any construction, alteration, repair, or maintenance, or to review casualty damage or to reconstruct or approve reconstruction of the Building following casualty damage, LCHIP shall apply the Secretary's Standards.
- 4 **Public Access.** Recipient shall make the Property and interior of the Resource accessible to the public during regular operating hours. At other times deemed reasonable by Recipient, persons affiliated with educational organizations, professional architectural associations, and historical societies shall be admitted to study the Property. LCHIP may make photographs, drawings, or other representations documenting the significant historical, cultural, and architectural character and features of the Property and distribute them to magazines, newsletters, or other publicly available media, or use them to fulfill its charitable and educational purposes.

RECIPIENT'S RESERVED RIGHTS

- 5 **Recipient's Reserved Right to Permit Archaeological Investigations.** The Recipient reserves the right to permit archaeological investigations on the Property after receiving written approval from LCHIP. Prior to permitting any such investigations, Recipient shall send written notice to the New Hampshire State Archaeologist (or other person or agency then recognized by the State of New Hampshire as having responsibility for archaeological resources) for review and comment, and to LCHIP, such notice describing the nature, scope, location, timetable, qualifications of investigators, site plan, research proposal, and any other material aspect of the proposed activity. The Recipient and LCHIP shall request the State Archaeologist (or other person or agency, as above) to consider the proposal, to apply the standards as specified in rules implementing RSA 227-C:7, Permits Issued for State Lands and Waters, as amended, and to provide written comments to the Recipient and LCHIP. LCHIP may, in its sole discretion, approve the proposed investigations only if it finds that: (i) the archaeological investigations shall be conducted by qualified individuals and according to a specific research proposal; (ii) the proposed activities will not harm state or federally recognized rare, endangered, or threatened species; and (iii) the proposed activities will not be materially detrimental to the purposes of this Stewardship Agreement.
- 5.1 **Recipient's Reserved Rights Not Requiring Further Approval by LCHIP.** Subject to the provisions of paragraphs 1, 1.1, 1.2 and 2, the following rights, uses, and activities of or

by Recipient on, over, or under the Property are permitted by this Stewardship Agreement and by LCHIP without further approval by LCHIP:

- (a) the right to engage in all those acts and uses that: (i) are permitted by governmental statute or regulation; (ii) do not substantially impair preservation values of the Property; and (iii) are not inconsistent with the purposes of this Agreement;
- (b) the right to maintain and repair the Resource strictly according to the Secretary's Standards. As used in this subparagraph, the right to maintain and repair shall mean the use by Recipient of like-kind materials and colors, applied with workmanship comparable to that which was used in the construction or application of those materials being repaired or maintained, for the purpose of retaining in good condition the appearance and construction of the Resource. The right to maintain and repair as used in this subparagraph shall not include the right to make changes in appearance, materials, colors, and workmanship from that existing prior to the maintenance and repair without the prior approval of LCHIP in accordance with the provisions of paragraphs 2 and 2.1;
- (c) the right to continue all manner of existing use and enjoyment of the Resource consistent with the purposes of this Stewardship Agreement; and
- (d) the right to conduct at or on the Property educational and nonprofit activities that are not inconsistent with the protection of preservation values of the Property.

CASUALTY DAMAGE OR DESTRUCTION; INSURANCE

- 6 **Casualty Damage or Destruction.** In the event that the Resource or any part thereof shall be damaged or destroyed by fire, flood, windstorm, hurricane, earth movement, or other casualty, Recipient shall notify LCHIP in writing within fourteen (14) days of the damage or destruction, such notification including what, if any, emergency work has already been completed. Recipient shall undertake no repairs or reconstruction of any type, other than temporary emergency work to prevent further damage to the Resource and to protect public safety, without LCHIP's prior written approval. Within thirty (30) days of the date of damage or destruction, if required by LCHIP, Recipient at its expense shall submit to LCHIP a written report prepared by a qualified restoration architect and/or an engineer who is/are acceptable to Recipient and LCHIP, which report shall include the following:
- (a) an assessment of the nature and extent of the damage;
 - (b) a determination of the feasibility of the restoration of the Resource and/or reconstruction of damaged or destroyed portions of the Resource; and
 - (c) a report of such restoration/reconstruction work necessary to return the Resource to the condition existing at the date hereof.
- 7 **Review After Casualty Damage or Destruction.** If, after reviewing the report provided pursuant to paragraph 6 and assessing the availability of insurance proceeds after satisfaction of any mortgagee's/lender's claims under paragraph 8, Recipient and LCHIP agree that the purposes of the Stewardship Agreement will be served by such restoration/reconstruction, Recipient and LCHIP shall establish a schedule under which

Recipient shall complete the restoration/reconstruction of the Resource in accordance with plans and specifications consented to by the parties up to at least the total of the casualty insurance proceeds available to Recipient.

- 7.1 If, after reviewing the report and assessing the availability of insurance proceeds after satisfaction of any mortgagee's/lender's claims under paragraph 8, Recipient and LCHIP agree that restoration/reconstruction of the Property is impractical or impossible, or agree that the purposes of the Stewardship Agreement would not be served by such restoration/reconstruction, Recipient may, with the prior written consent of LCHIP, alter, demolish, remove, or raze the Resource, and/or construct new improvements on the Property. Recipient and LCHIP may agree to extinguish this Agreement in whole or in part in accordance with the laws of the State of New Hampshire.
- 7.2 If, after reviewing the report and assessing the availability of insurance proceeds after satisfaction of any mortgagee's/lender's claims under paragraph 8, Recipient and LCHIP are unable to agree that the purposes of the Stewardship Agreement will or will not be served by such restoration/reconstruction, the matter may be addressed by either party informally through candid and open communication. If informal dialogue does not resolve the issue, any party may seek alternative resolution such as voluntary mediation prior to bringing legal action. If agreement cannot be reached, the party may bring an action at law or in equity in any court of competent jurisdiction to enforce the terms of this Agreement, to enjoin the violation by permanent injunction, and to require the restoration/reconstruction of the property to its condition prior to the breach and for such damages as appropriate.
- 8 **Insurance.** For the term of this Agreement, Recipient shall keep the Resource covered for full replacement value through a qualified insurance provider against loss from the perils commonly insured under standard fire and extended coverage policies and comprehensive general liability insurance against claims for personal injury, death, and property damage. Recipient shall deliver to LCHIP, within ten (10) business days of LCHIP's written request therefore, certificates of such insurance coverage. In the event of a catastrophic loss of the Resource, Recipient shall return to LCHIP a portion of the insurance proceeds equal to the amount of the LCHIP Grant Award, adjusted by a percentage equal to the percentage that the value of the Resource has appreciated or depreciated since the signing of this Agreement. The Recipient may request a waiver of this recapture from the LCHIP Board of Directors by presenting a proposal to repair or rebuild the Resource in conformance with the Secretary's Standards. Waivers for other good cause may be granted at the sole discretion of the Board. Provided, however, that whenever the Property is encumbered with a mortgage or deed of trust, nothing contained in this paragraph shall jeopardize the prior claim, if any, of the mortgagee/lender to the insurance proceeds.

INDEMNIFICATION; TAXES

- 9 **Indemnification.** Recipient hereby agrees to pay, protect, indemnify, hold harmless and defend at its own cost and expense, LCHIP, its agents, trustees, directors, officers and employees, or independent contractors from and against any and all claims, liabilities, expenses, costs, damages, losses, and expenditures (including reasonable attorneys' fees and disbursements hereafter incurred) arising out of or in connection with injury to or death of any person; physical damage to the Property; the presence or release in, on, or about the Property, at any time, of any substance now or hereafter defined, listed, or otherwise classified pursuant to any law, ordinance, or regulation as a hazardous, toxic, polluting, or contaminating substance; or other injury or other damage occurring on or about the Property, unless such injury or damage is caused by LCHIP or any agent, trustee, director, officer, employee, or independent contractor of LCHIP. In the event that Recipient is required to indemnify LCHIP pursuant to the terms of this paragraph, the amount of such indemnity, until discharged, shall constitute a lien on the Property with the same effect and priority as a mechanic's lien. Provided, however, that nothing contained herein shall jeopardize the priority of any recorded lien of mortgage or deed of trust given in connection with a promissory note secured by the Property.
- 10 **Sovereign Immunity.** Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This reservation of immunity covenant shall survive the termination of this Stewardship Agreement.
- 11 **Taxes.** Recipient shall pay immediately, when first due and owing, all general taxes, special taxes, special assessments, water charges, sewer service charges, and other charges which may become a lien on the Property unless Recipient timely objects to the amount or validity of the assessment or charge and diligently prosecutes an appeal thereof, in which case the obligation hereunder to pay such charges shall be suspended for the period permitted by law for prosecuting such appeal and any applicable grace period following completion of such action. In place of Recipient, LCHIP is hereby authorized, but in no event required or expected, to make or advance upon three (3) days prior written notice to Recipient any payment relating to taxes, assessments, water rates, sewer rentals and other governmental or municipality charge, fine, imposition, or lien asserted against the Property. LCHIP may make such payment according to any bill, statement, or estimate procured from the appropriate public office without inquiry into the accuracy of such bill, statement, or assessment or into the validity of such tax, assessment, sale, or forfeiture. Such payment if made by LCHIP shall constitute a lien on the Property with the same effect and priority as a mechanic's lien, except that such lien shall not jeopardize the priority of any recorded lien of mortgage or deed of trust given in connection with a promissory note secured by the Property.

ADMINISTRATION AND ENFORCEMENT

- 12 **Written Notice.** Any notice which either Recipient or LCHIP may desire or be required to give to the other party shall be in writing and shall be delivered by one of the

following methods: by overnight courier postage prepaid, registered or certified mail with return receipt requested, or hand delivery; if to Recipient, then at 105 Marcy St., Portsmouth, NH 03801; if to Owner, then at 1 Junkins Avenue, Portsmouth, NH 03801; and if to LCHIP, then at 3 North Spring Street, Suite 100, Concord, NH 03301. The party receiving Notice shall have two (2) weeks to respond to the Notice, before any action is undertaken by the other party. Each party may change its address set forth herein by a notice to such effect to the other party.

- 13 **Evidence of Compliance.** Upon request by Recipient, LCHIP shall promptly furnish Recipient with certification that, to the best of LCHIP's knowledge, Recipient is in compliance with the obligations of Recipient contained herein or that otherwise evidences the status of this Agreement to the extent of LCHIP's knowledge thereof.
- 14 **Inspection.** With appropriate prior notice to Recipient, representatives of LCHIP or its designee shall be permitted at all reasonable times to inspect the Property, including the interior of the Resource.
- 15 **LCHIP's Remedies.** LCHIP may, following reasonable written notice to Recipient, institute suit(s) to enjoin any violation of the terms of this Stewardship Agreement by ex parte, temporary, preliminary, and/or permanent injunction, including prohibitory and/or mandatory injunctive relief, and to require the restoration of the Property and Resource to the condition and appearance that existed prior to the violation. LCHIP shall also have available all legal and other equitable remedies to enforce Recipient's obligations hereunder.

In the event Recipient is found to have violated any of its obligations, Recipient shall reimburse LCHIP for any costs or expenses incurred in connection with LCHIP's enforcement of the terms of this Agreement, including but not limited to all reasonable court costs, and attorney's, architectural, engineering, and expert witness fees.

Exercise by LCHIP of one remedy hereunder shall not have the effect of waiving or limiting any other remedy, and the failure to exercise any remedy shall not have the effect of waiving or limiting the use of any other remedy or the use of such remedy at any other time.

- 16 **Notice from Government Authorities.** Recipient shall deliver to LCHIP copies of any notice of violation or lien relating to the Property received by Recipient from any government authority within five (5) days of receipt by Recipient. Upon request by LCHIP, Recipient shall promptly furnish LCHIP with evidence of Recipient's compliance with such notice or lien where compliance is required by law.
- 17 **Notice of Proposed Sale.** Recipient shall promptly notify LCHIP in writing of any proposed sale of the Property and provide the opportunity for LCHIP to negotiate an agreement similar in purpose to this Stewardship Agreement with the new owners prior

to sale closing. This Stewardship Agreement is being recorded at the Rockingham County Registry of Deeds so as to run with the land. No sale shall be permitted to a party unwilling to enter into such an agreement.

- 18 **Liens.** Any lien on the Property created pursuant to any paragraph of this Stewardship Agreement may be confirmed by judgment and foreclosed by LCHIP in the same manner as a mechanic's lien, except that no lien created pursuant to this Agreement shall jeopardize the priority of any recorded lien of mortgage or deed of trust given in connection with a promissory note secured by the Property.
- 19 **Signage.** Recipient agrees to maintain a plaque on the site, which may be provided by LCHIP in support of the restoration and preservation of the Property. LCHIP will provide a plaque, not to exceed 14 by 10 inches in size. LCHIP reserves the right to assess a fee to the applicant to cover the cost of the plaque. If LCHIP determines, at its sole discretion, that the structure is not being maintained in a way that satisfactorily protects its natural, cultural, or historic value, even after expiration of the term of the stewardship agreement, LCHIP may require that the LCHIP plaque be removed and returned to LCHIP.

BINDING EFFECT; ASSIGNMENT

- 20 **Runs with the Land.** Except as provided in paragraph 7, the obligations imposed by this Agreement shall be effective for the duration of this Agreement and shall be deemed to run as a binding servitude with the Property. This Agreement shall extend to and be binding upon Recipient and LCHIP, their respective successors in interest and all persons hereafter claiming under or through Recipient and LCHIP, and the words "Recipient" and "LCHIP" when used herein shall include all such persons. Any right, title, or interest herein granted to LCHIP also shall be deemed granted to each successor and assign of LCHIP and each such following successor and assign thereof, and the word "LCHIP" shall include all such successors and assigns.

Anything contained herein to the contrary notwithstanding, an owner of the Property shall have no obligation pursuant to this instrument where such owner shall cease to have any ownership interest in the Property by reason of a bona fide transfer. The restrictions, stipulations, and covenants contained in this Agreement shall be inserted by Recipient, verbatim or by express incorporation by reference, in any subsequent deed or other legal instrument by which Recipient divests itself of either the fee simple title to or any lesser estate in the Property or any part thereof, including by way of example and not limitation, a lease of all or a portion of the Property.

- 21 **Assignment.** LCHIP may convey, assign, or transfer this Agreement to a unit of federal, state, or local government or to a similar local, state, or national organization that is a "qualified organization" under Section 170(h) of the Federal Internal Revenue Code whose purposes, *inter alia*, are to promote preservation of historical, cultural, or

architectural resources, provided that any such conveyance, assignment, or transfer requires that the purposes for which the Stewardship Agreement was granted will continue to be carried out.

22 **Recording and Effective Date.** Applicant shall do and perform at its own cost all acts necessary to the prompt recording of this instrument in the land records of the Rockingham County Registry of Deeds. Recipient and LCHIP intend that the restrictions arising under this Agreement shall take effect on the day and year this instrument is recorded.

22.1 **Expiration Date.** Without further action, this Agreement shall expire 5 years to the day after the date this Agreement is recorded.

EXTINGUISHMENT

23 **Extinguishment.** Recipient and LCHIP hereby recognize that circumstances may arise that may make impossible the continued ownership or use of the Property in a manner consistent with the purposes of this Stewardship Agreement and necessitate extinguishment of the Agreement. Such circumstances may include, but are not limited to, partial or total destruction of the Resource resulting from casualty. Extinguishment must be the result of a judicial proceeding in a court of competent jurisdiction.

INTERPRETATION

24 **Interpretation.** The following provisions shall govern the effectiveness, interpretation, and duration of the Stewardship Agreement.

- (a) Any rule of strict construction designed to limit the breadth of restrictions on alienation or use of Property shall not apply in the construction or interpretation of this Agreement, and this instrument shall be interpreted broadly to effect its purposes and the transfer of rights and the restrictions on use herein contained.
- (b) This instrument may be executed in two counterparts, one of which may be retained by Recipient and the other to be retained by LCHIP. In the event of any disparity between the counterparts produced, the counterpart retained by LCHIP shall in all cases govern.
- (c) This instrument is made pursuant to RSA chapter 227-M, but the invalidity of such act or any part thereof shall not affect the validity and enforceability of this Agreement according to its terms, it being the intent of the parties to agree and to bind themselves, their successors, and their assigns for the term of this Agreement to each term of this instrument whether this instrument be enforceable by reason of any statute, common law, or private agreement in existence either now or hereafter. The invalidity or unenforceability of any provision of this instrument shall not affect the validity or enforceability of any other provision of this instrument or any ancillary or supplementary agreement relating to the subject matter thereof.

- (d) Nothing contained herein shall be interpreted to authorize or permit Recipient to violate any ordinance or regulation relating to building materials, construction methods, or use. In the event of any conflict between any such ordinance or regulation and the terms hereof, Recipient promptly shall notify LCHIP of such conflict and shall cooperate with LCHIP and the applicable governmental entity to accommodate the purposes of both this Agreement and such ordinance or regulation.
- (e) To the extent that Recipient owns or is entitled to development rights which may exist now or at some time hereafter by reason of the fact that under any applicable zoning or similar ordinance the Property may be developed to a more intensive use (in terms of height, bulk, or other objective criteria related by such ordinances) than that to which the Property is devoted as of the date hereof, such development rights shall not be exercisable on, above, or below the Property during the term of the Agreement, nor shall they be transferred to any adjacent parcel and exercised in a manner that would interfere with the purposes of the Agreement.
- (f) To the extent that any action taken by LCHIP pursuant to this Agreement gives rise to a claim of breach of contract, Recipient and LCHIP agree that the sole remedy on the part of Recipient shall be reimbursement of actual direct out-of-pocket expenses reasonably incurred by Recipient as a result of such breach and that Recipient shall not have any right to indirect, consequential or monetary damages in excess of such actual direct out-of-pocket expenses.

AMENDMENT

- 25 **Amendment.** If circumstances arise under which an amendment to or modification of this Stewardship Agreement would be appropriate, Recipient and LCHIP may by mutual written agreement jointly amend this Agreement, provided that no amendment shall be made that will adversely affect the qualification of this Agreement or the status of LCHIP under any applicable laws, including Sections 170(h) and 501(c)(3) of the Federal Internal Revenue Code and the laws of the State of New Hampshire. Any such amendment shall be consistent with the protection of preservation values of the Property and the Purpose of this Agreement; shall not permit additional development on the Property other than the development permitted by this Agreement on its effective date; shall not permit any private inurement to any person or entity; and shall not adversely impact the overall architectural, historic, cultural, natural habitat, and open-space values protected by this Agreement. Any such amendment shall be executed in two counterparts, one of which may be retained by Recipient and the other to be retained by LCHIP. In the event of any disparity between the counterparts produced, the counterpart retained by LCHIP shall in all cases govern. Nothing in this paragraph shall require Recipient or LCHIP to agree to any amendment or to consult or negotiate regarding any amendment.

THIS AGREEMENT and attached exhibits reflect the entire agreement between the Recipient and LCHIP. Any prior or simultaneous correspondence, understandings, agreements, and representations are null and void upon execution hereof, unless set out in this instrument.

TO HAVE AND TO HOLD, the said Stewardship Agreement, unto the said LCHIP and its successors and permitted assigns.

IN WITNESS WHEREOF, Recipient and LCHIP have set their hands under seal on the days and year set forth below.

For: Players' Ring Theatre

Print Name: _____

Title: _____

Date: _____

THE STATE OF NEW HAMPSHIRE

_____ (COUNTY), SS.

On the ____ day of _____ 20__, before me personally appeared _____, known to me (or satisfactorily proven) to be the person whose name appears above, and s/he acknowledged that s/he executed this document in the capacity indicated above.

Notary Public/Justice of the Peace
My commission expires:

For: City of Portsmouth

Print Name: _____

Title: _____

Date: _____

THE STATE OF NEW HAMPSHIRE

_____(COUNTY), SS.

On the ____ day of _____ 20__, before me personally appeared _____, known to me (or satisfactorily proven) to be the person whose name appears above, and s/he acknowledged that s/he executed this document in the capacity indicated above.

Notary Public/Justice of the Peace
My commission expires:

For: LCHIP

Dorothy T. Taylor
LCHIP Executive Director
for the State of New Hampshire

Date: _____

THE STATE OF NEW HAMPSHIRE

_____(COUNTY), SS.

On the ____ day of _____ 20__, before me personally appeared Dorothy T. Taylor, known to me (or satisfactorily proven) to be the person whose name appears above, and she acknowledged that she executed this document in the capacity indicated above.

Notary Public/Justice of the Peace
My commission expires:

SCHEDULE OF EXHIBITS

- Exhibit A Legal Description of Property (**needs to be recorded with Stewardship Agreement**)
- Exhibit B Project Agreement (**does not need to be recorded with Stewardship Agreement**)
- Exhibit C Baseline Documentation (**does not need to be recorded**)

The Baseline Documentation, produced in two counterparts, one to be retained by the LCHIP and one to be retained by the Recipient, and incorporated herein by reference, provides an accurate representation of the Property and the Resource as of the effective date of this agreement. In the event of any discrepancy between the two counterparts produced, the counterpart retained by LCHIP shall control.

Return to:
City of Portsmouth

EASEMENT AGREEMENT

KNOW ALL MEN BY THESE PRESENTS, that 119 International Drive, LLC, a New Hampshire limited liability company with a principal address of One New Hampshire Avenue, Suite 101, Portsmouth, County of Rockingham, State of New Hampshire (hereinafter "GRANTOR");

FOR CONSIDERATION PAID, in the amount of One Dollar (\$1.00), the receipt of which is hereby acknowledged, grants to the City of Portsmouth, its employees, agents or assigns acting on behalf of the City of Portsmouth, New Hampshire, a municipal corporation organized under the laws of the State of New Hampshire, having its principal place of business at 1 Junkins Avenue, Portsmouth, County of Rockingham, State of New Hampshire (hereinafter "GRANTEE"),

WITH QUITCLAIM COVENANTS, a twenty (20) foot wide easement located in Portsmouth, County of Rockingham, State of New Hampshire, on land known as Tax Map 305, Lot 4, owned by the Pease Development Authority and leased to 119 International Drive, LLC, located along 15 & 19 Rye Street, Portsmouth, New Hampshire bounded and described as follows:

Beginning at a point on the northwesterly side of Rye Street and running N 30° 53' 04" W a distance of 111.61 feet, more or less, to a point; thence turning and running N 48° 16' 04" E a distance of 22.00 feet, more or less, to a point; thence turning and running N 28° 59' 14" W a distance of 20.51 feet, more or less; thence turning and running S 48° 16' 04" W a distance of 22.69 feet, more or less, to a point; thence turning and running N 30° 53' 04" W a distance of 16.96 feet, more or less; thence continuing N 13° 49' 14" W a distance of 59.66 feet, more or less, to a point; thence turning and running N 85° 29' 17" W a distance of 72.91 feet, more or less, to a point; thence turning and running S 04° 30' 43" W a distance of 20.00 feet, more or less, to a point; thence turning and running S 85° 29' 17" E a distance of 58.46 feet, more or less, to a point; thence turning and running S 13° 49' 14" E a distance of 45.22 feet, more or less, to a point; thence continuing S 30° 53' 04" E a distance of 151.60 feet, more or less, to a point; thence turning and running along Rye Street N 51° 31' 11" E a distance of 20.16 feet, more or less, to the point of beginning.

The total easement area is 7,189 square feet and is further shown on a plan titled, "Plan to Show Water Line Easement on Land Known as Tax Map 305, Lot 4 owned by Pease Development Authority Leased to 119 International Drive, LLC located along 15 & 19 Rye Street Portsmouth,

New Hampshire” prepared by Knight Hill Land Surveying Services, dated June 10, 2019 and attached hereto as Exhibit A.

This Easement conveys to the GRANTEE a non-exclusive easement for the purpose of enabling the City of Portsmouth to access private water infrastructure, including mains, water shutoffs (domestic water and sprinkler) and valves for the limited purpose of leak detection and similar infrastructure inspection services and for access to valves for purposes of turning on and shutting off municipal water service. GRANTEE shall have no responsibility for installation, maintenance, operation or replacement of the water infrastructure, except for any damage caused by Grantee’s negligence.

The rights granted pursuant to this Easement shall be conterminous with the GRANTOR’s lease from the Pease Development Authority for the land known as Tax Map 305, Lot 4, located along 15 & 19 Rye Street, Portsmouth, New Hampshire, and this Easement shall terminate upon the termination of said lease.

This is an exempt transfer per R.S.A. 78-B:2(I).

IN WITNESS WHEREOF, 119 International LLC has signed this Easement Agreement on this ____ day of _____ 2019.

119 INTERNATIONAL DRIVE, LLC

Witness

By: _____
Daniel L. Plummer, Manager

STATE OF NEW HAMPSHIRE
COUNTY OF ROCKINGHAM

Then personally appeared the above-named Daniel L. Plummer, Manager of 119 International Drive, LLC this ____ day of _____ 2019, known to me or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument, and acknowledges that he executed the same as his free act and deed for the purposes therein contained.

Notary Public/Justice of the Peace
Commission Expires: _____

MEMORANDUM

TO: John Bohenko, City Manager

FROM: Juliet T. H. Walker, Planning Director *JTW*

DATE: October 22, 2019

RE: City Council Referral – Projecting Sign:
Address: 55 Congress Street
Business Name: DA Box White Box Jewelers
Business Owner(s): Ahmed R Ahmed

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

Sign dimensions: 35" x 35"
Sign area: 8.5 sq. ft.

The proposed sign complies with zoning requirements. If a license is granted by the City Council, no other municipal approvals are needed. Therefore, I recommend approval of a revocable municipal license, subject to the following conditions:

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



Spot for New sign

Sign is 35" x 35"



8ft from
bottom of
sign to ground



CITY COUNCIL E-MAILS

October 7th (after 4:00 p.m.) – October 24, 2019 (9:00 a.m.)

OCTOBER 28, 2019 Council Meeting

Below is the result of your feedback form. It was submitted by Jacqueline Cali-Pitts (cali0917@aol.com) on Monday, October 7, 2019 at 16:18:15

address: 40 Bedford wayregture ulate y

comments: Please forgive the lateness of this message, hb 102 has been retained in committee. . This bill would give cities and towns the power to regulate these products, It is the constitution and the legislature in play here, Has the municipal association been contacted? How about the attorney general. California has experienced a 120% rise in heavy plastic bag use, I have seen convoluted legislation but truly could not figure this one out,and all it's ramifications. Postpone. 3rd reading so more work can be done not .just understand it after we pass it ...sounds familiar. We all agree we need to stop what is happening to our planet it is how we go about it that is in question

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Tara Schoff (cgmschoff@gmail.com) on Monday, October 7, 2019 at 17:07:58

address: 134 Fairview Ave.

comments: I oppose the mandated cost-sharing plan that requires residents to pay even 20% of the cost of the sewer expansion.

The cost for residents to tie-in to the sewer line will be a significant financial burden - there should be no other expense.

The City created this situation and should bear the costs of installation. The residents should not be penalized which they will be under this proposal.

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Paul Messier (pemess@icloud.com) on Monday, October 7, 2019 at 18:44:08

address: 171 Walker Bungalow Rd.

comments: City of Chatham, MA, is in the middle of a new sewer collection system. Some low pressure, some gravity.

-City pays the whole shot.

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Denise Croteau (Jeffdenise111@comcast.net) on Tuesday, October 8, 2019 at 17:06:05

address: 241 Walker Bungalow Rd, Portsmouth

comments: Hello City Counsel members,

I attended the City Council meeting last night and feel the need to follow up with you on a few points. First off, thank you for tabling the vote on the funding plan for the Sagamore Ave. sewer project. However, I would like to express three concerns regarding the public dialogue session. First, the insistence that all discussion of the project be limited to one half of the council members means that the other half did not hear my neighbors concerns first hand. I do not trust the city manager to relay our statements accurately and without spin. There was simply too much information. Second, with only 45 minutes scheduled for discussion, it was very poor form for the city manager to use up a significant portion of that time reading his proposal to us. If that information had been made available prior, the limited discussion time would not have been used up in that way. Third, I found it unbelievable that the city manager cut-off and talked over some of my neighbors including David Witham whose comments I was eager to hear.

In closing, thank you for tabling the vote. Hopefully going forward, the full city council can have a thoughtful discussion of the sewer extension with the residents of Portsmouth.

Respectfully,
Denise Croteau

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Manuel Garganta (souzagar@aol.com) on Wednesday, October 9, 2019 at 12:29:07

address: 471 Colonial Drive

comments: Dear Council Members,

After watching then listening(Technical Difficulties) to the Council Meeting on Oct. 7, 2019 I began wondering why Councilor Perkins wants to build housing at the Pease TradePort?

It was never the mission of the PDA to become a residential landlord.

Knowing Peter Loughlin laid out very good reasons why this is not a good idea..

Why would any one want to place housing that would probably include children on a place that has environmental problems?

The PDA has done a remarkable job in creating an economic engine that is the envy of every Municipality that has to deal with a base closure.

I agree with Mr. Bohenko that "the state can take our revenue" which they would love to.

Is this just a campaign ploy? I sincerely hope not. I do hope calmer heads prevail on the rest of the council. We have greater issues that need to be addressed in the City than this.

Please do not poke the Bear, it could come back to bite us.

Sincerely,
Manuel S. Garganta

includeInRecords: on
Engage: Submit



Nancy Colbert Puff
Deputy City Manager
Portsmouth, NH

10-21-2019

Fee Waiver Request

Carey Cottage Project at 400 Little Harbor Road Portsmouth, NH

Dear Nancy,

Thank you for your email October 7th offering to place our fee waiver request on the October 28, 2019 City Council agenda. You asked that we itemize the fees and this letter provides such itemization:

Chinburg Properties would like to request a waiver of building permit fees and water hookup fees for the renovation of Carey Cottage located at 400 Little Harbor Rd. Portsmouth NH. The anticipated amount of the Building permit is \$20,000 and the expected water hookup fee is \$2,000. There is no change of use for the building so we would also like to ask for a waiver of any impact fees related to the project. As you are aware, saving this historic structure will be an expensive endeavor, all funded by a local non-profit, and every little bit helps in getting this project completed.

Please let me know.

Thank you,

Eric Chinburg
President, Chinburg Properties

RECEIVED

October 17th, 2019

OCT 17 2019

Robert, Peter & John,

CITY MANAGER
PORTSMOUTH, NH

Good morning, this is a hard copy of the email sent earlier today. Per Robert's letter dated July 18th, 2019 we have removed any construction on the City of Right of Way, which was the end of a stone wall and the rain garden referenced is not in the City Right of Way. I have obtained the attached signed petition referenced in the July 18th letter to remove the sidewalk, signed by all the neighbors required except one at 60 Pinehurst Road.

We're respectfully requesting that we can remove the sidewalk as this represents 92.3% of our neighbors. Alternatively, if we are not granted permission with the sidewalk removal, we would ask that we can rebuild the sidewalk with pavers, as both 60 Pinehurst and 85 Pinehurst have bricks and pavers as their sidewalks. The pavers we would use are Unilock Brussels Block, details found on the link <https://unilock.com/products/driveways/brussels-block/?region=5> which are easily cleaned of snow and debris. Your decision timing in this matter is crucial as we're coming into cold weather and we would like to finish the sidewalk removal or sidewalk next week. Thank you for your consideration and time, enjoy your day.

Best,



Guy A Pronesti
107 Union Street
Portsmouth, NH, 03801
guy.pronesti@gmail.com
603-903-7555

Petition for Removal of the Sidewalk in Front of 100 Pinehurst Road

July 24th, 2019

Good day I'm asking my neighbors to sign this petition to remove my sidewalk in front of our home and put lawn. Here's the story behind the request, as you know there's a defunct sidewalk that runs on the West side of the street from the Mullhern's front yard to the middle of our neighbors yard to the South (Rosemary's old house) and dies in the middle of that yard. This was originally put in back in 1957 for Rosemary's house as before she bought it there was a daycare in the basement, it was only used for a few years and hasn't been maintained, cleared of snow and the city will not do so. It's basically a huge hazard, drainage issue as storm water runs down it towards the end of the street or in to the street itself. Not to mention it is broken, covered in moss and potentially very dangerous to anyone who would use it. It's pointless to have a sidewalk for 3.5 houses that doesn't start at a street or end on a street corner. Now to my question.

This past winter I asked the then Highway Foreman Renny if I could remove the sidewalk in front of our house, who told me I could remove the sidewalk in front as long as we kept the grade the same. So when I began to remove the sidewalk someone from the city saw it and DPW came out and said I couldn't. When I contacted DPW and let them know I had permission they said Renny no longer worked for the City, and I would have to meet with Peter Rice the head of DPW. This past week I met with Peter and the City Attorney Bob Sullivan, they agreed it is a hazard, unsafe and unsightly. They said if I had a petition signed by my neighbors from Lookout Lane down the street to the South end and all agreed I could remove the sidewalk and everyone else could as well, meaning the Mullhern's, Steven's, us and Allison and her husband. We would be able to remove it ourselves at anytime or wait for the city to remove it. Your support and signature would be greatly appreciated so we can make our home and neighborhood not a storm water contributor, safer and more attractive staying within the history and beauty of our Pinehurst/Lookout neighborhood.

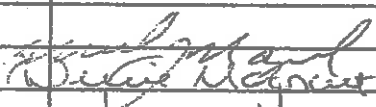
<u>Address</u>	<u>Signature</u>	<u>Name</u>	<u>Phone Number</u>
60 Pinehurst Road			
65 Pinehurst Road		Dan + Lisa Wyand	617-549-4999
84 Pinehurst Road		Rob + Jen Stevens	603-828-1963
85 Pinehurst Road		LINDSEY JIM MICHAEL	603-957-1231
97 Pinehurst Road		SANDRA N. VALENT	603-373-8554
100 Pinehurst Road		Mr & Mrs Guy A. Pronesti	603-903-7555
115 Pinehurst Road		M/M DAVID - LINDA UNDERHILL	
124 Pinehurst Road		Allyson + Endri	603 828 735
125 Pinehurst Road		Sam Witherspoon	207-838-2761
140 Pinehurst Road			
150 Pinehurst Road		Michelle Long	603-828-8091
153 Pinehurst Road		Gay Ertler	603 828 1470
155 Pinehurst Road			

Petition for Removal of the Sidewalk in Front of 100 Pinehurst Road

July 24th, 2019

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<u>Address</u>	<u>Signature</u>	<u>Name</u>	<u>Phone Number</u>
60 Pinehurst Road			
65 Pinehurst Road			
84 Pinehurst Road			
85 Pinehurst Road			
97 Pinehurst Road			
100 Pinehurst Road		Mr & Mrs Guy A. Pronesti	603-903-7555
115 Pinehurst Road			
124 Pinehurst Road			
125 Pinehurst Road			
140 Pinehurst Road		DEWIDE MAGUAIT	603 436 1344
150 Pinehurst Road			
153 Pinehurst Road			
155 Pinehurst Road			

Portsmouth Police Department

Press Release

Date of Release: October 14th, 2019

Reference: “Trick or Treat” & the Halloween Parade in Portsmouth, 2019

Contact: Chief Merner’s Office: 610-7423, Kathe Levesque

The date and time for “Trick-or-Treat” activities in Portsmouth this year will be Wednesday, October 30th, from 5:30 p.m. until 8:30 p.m.

The Portsmouth Police Department encourages families participating in this activity to review and practice personal safety as they walk through neighborhoods at this time of day, as driver visibility can be diminished by the darkness setting in.

Portsmouth’s famous Halloween Parade will take place on Thursday evening, October 31st. The Parade will step off from Peirce Island at 7 p.m. More details on this event will be available on the City’s Website.

CHIEF OF POLICE

Distribution:

Portsmouth City Manager

Portsmouth Director of Public Works

Local Media

Police Department Personnel