

# CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH  
DATE: TUESDAY, SEPTEMBER 8, 2015 TIME: 6:30PM

## AGENDA

- 6:30PM - ANTICIPATED "NON-MEETING" WITH COUNSEL RE: PROPERTY NEGOTIATIONS – RSA 91-A:2, I (b).

### I. CALL TO ORDER (6:30PM)

### II. ROLL CALL

### III. INVOCATION

### IV. PLEDGE OF ALLEGIANCE

### PRESENTATION

1. Update of Gateway and Islington Street Project – Nancy Carmer, Economic Development Manager and Peter Rice, Director of Public Works

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

### VI. PUBLIC COMMENT SESSION

### VII. PUBLIC HEARING

#### A. ORDINANCE AMENDING CHAPTER 10 AS FOLLOWS:

- (1) AMEND SECTION 10.440, TABLE OF USES, BY ADDING A NEW USE #10.30 – SHORT-TERM VACATION RENTAL”, MODIFYING THE STANDARDS FOR USE #10.50 – “HOTEL OR MOTEL”, AND COMBINING “CONFERENCE HOTEL” AND “CONFERENCE CENTER” INTO A SINGLE USE;
- (2) INSERT A NEW SECTION 10.837.20 – SHORT-TERM VACATION RENTALS;
- (3) AMEND ARTICLE II – SITE DEVELOPMENT STANDARDS TO ESTABLISH AN OFF-STREET PARKING REQUIREMENT FOR SHORT-TERM VACATION RENTAL; AND
- (4) AMEND ARTICLE 15 – DEFINITIONS, BY REVISING THE DEFINITIONS OF “BED AND BREAKFAST” AND ADDING NEW DEFINITIONS FOR “SHORT-TERM VACATION RENTAL” AND “TRANSIENT”

### VIII. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Grant for Household Hazardous Waste Collection (***Sample motion – move to accept and expend a \$5,801.00 DES grant for the purpose of household hazardous waste collection events and authorize the City Manger to execute any documents which may be necessary for this grant contract***)

## IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. First reading of Annual Omnibus Ordinance Change, Parking and Traffic
- B. Second reading of Ordinance amending Chapter 10 as follows:
  - (1) Amend Section 10.440, Table of Uses, by adding a new use #10.30 – Short-term vacation rental”, modifying the standards for use #10.50 – “Hotel or motel”, and combining “conference hotel” and “conference center” into a single use;
  - (2) Insert a new Section 10.837.20 – Short-Term Vacation Rentals;
  - (3) Amend Article II – Site Development Standards to establish an off-street parking requirement for short-term vacation rental; and
  - (4) Amend Article 15 – Definitions, by revising the definitions of “Bed and Breakfast” and adding new definitions for “Short-term vacation rental” and “Transient”

## X. CONSENT AGENDA

### ***A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA***

- A. Letter from Zhana Morris, The Music Hall, regarding Parking Meter Permit Requests for the Music Hall’s 2015-2016 Season (***Anticipated action – move to refer to the City Manager with power***)

## XI. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from Attorney Francis Bruton, III of Bruton, LLC, regarding Nathan Aviezri Revocable Trust’s request to unmerge lots at 75 Monroe Street (***Sample motion – move to refer to the Planning Director for report back***)
- B. Letter from Gerald Zelin regarding Proposed Zoning Amendments Regulating Short Term Rentals, hotels, and motels by adding a prohibition on gambling at hotels and motels
- C. Letter from James and Catherine Lamond regarding Short-term Vacation Rentals and Bed and Breakfasts Proposed Amendments to the Zoning Ordinance
- D. Letter from Attorney Bernard Pelech regarding Restroatioin of involuntarily merged lots – RSA 674:39aa – 65 Mendum Avenue

## XII. REPORTS AND COMMUNICATIONS FROM CITY OFFICALS

### **A. CITY MANAGER**

#### **Items Which Require Action Under Other Sections of the Agenda**

- 1. Consideration of First Reading of Proposed Ordinance:
  - 1.1 First Reading of Annual Omnibus Ordinance Change, Parking and Traffic (***Action on this item should take place under IX of the Agenda***)

2. Public Hearing/Second Reading of Proposed Resolutions and Ordinances:

- 2.1 Public Hearing/Second Reading of Proposed Ordinance amending Chapter 10, Section 10.440, Table of Uses – Short-Term Vacation Rentals and Other Lodging Uses (***Action on this item should take place under IX of the Agenda***)

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

1. Request to Refer to the Planning Board Proposed Easements for a Bicycle/Pedestrian Path Along North Mill Pond
2. Report Back Re: Request from Patricia L. Russell and Burton J. Russell for Restoration of Involuntarily Merged Lots at 65 Mendum Avenue under RSA 674:39-aa

**Informational items**

1. Events Listing
2. Update on Haven School Playground
3. Master Plan Update
4. Report Back Re: Police Department Recommendations
5. Report Back Re: Whistleblower

**B. MAYOR LISTER**

1. Appointments to be Considered:
  - Appointment of Richard Winstanley to the Cable Television and Communications Committee
  - Appointment of Jolanda Fannin to the Library Board of Trustees filling the expired term of Jody Record until October 1, 2015
  - Reappointment of Ernie Greenslade to the Library Board of Trustees
  - Reappointment of Ronald Cypher to the Parking & Traffic Safety Committee
  - Reappointment of Frederick (Ted) Gray, Jr. to the Parking & Traffic Safety Committee
  - Reappointment of Harold Whitehouse to the Parking & Traffic Safety Committee
2. Appointments to be Voted:
  - Kathleen Bergeron to the Citywide Neighborhood Steering Committee
3. \*Topics for Work Sessions:
  - September 14<sup>th</sup> – Options Re: Irrigation Meters
  - November 23<sup>rd</sup> – Solid Waste & Recycling
4. \*Request to Change Retreat Date from October 3, 2015 to January, 2016
5. Discuss Letter from Attorney General – Charter Questions

**C. ASSISTANT MAYOR SPLAINE**

1. \*Proposal for An Elected Charter Commission (***Postponed from August 17, 2015 City Council meeting***)
2. \*Mayors For Peace – Presentation (***Postponed from August 17, 2015 City Council meeting***)

#### **D. COUNCILOR LOWN**

1. Parking & Traffic Safety Committee Action Sheet and Minutes of the July 9, 2015 meeting (***Postponed from August 17, 2015 City Council meeting***) (***Sample motion – move to approve and accept the minutes of the July 9, 2015 Parking & Traffic Safety Committee meeting***)

#### **E. COUNCILOR SPEAR**

1. Prescott Park Stage Relocation (***Sample motion – move to authorize the City Manager to proceed with the land use reviews regarding the Prescott Park Arts Festival’s proposed stage relocation and concurrently conduct a strategic plan for the long-term use of Prescott Park to include all appropriate stakeholders***)
2. Request to Extend Report Back from Blue Ribbon Committee on Sagamore Creek Land until December 21, 2015

#### **F. COUNCILOR THORSEN**

1. Short Term Rental

### **XIII. MISCELLANEOUS/UNFINISHED BUSINESS**

### **XIV. ADJOURNMENT**

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

*\*Indicates Verbal Report*

### **INFORMATIONAL ITEMS**

1. \*Notification that the minutes of the July 21, 2015 and July 28, 2015 meetings of the Board of Adjustment are now available on the City’s website
2. \*Notification that the minutes of the July 8, 2015 meeting of the Conservation Commission are now available on the City’s website
3. \*Notification that the minutes of the June 10, 2015 and July 1, 2015 meetings of the Historic District Commission are now available on the City’s website
4. \*Notification that the minutes of the July 16, 2015 meeting of the Planning Board are now available on the City’s website
5. \*Notification that the minutes of the August 4, 2015 meeting of the Site Review Technical Advisory Committee are now available on the City’s website

**NOTICE TO THE PUBLIC WHO ARE HEARING IMPAIRED: Please contact Dianna Fogarty at 603-610-7270 one-week prior to the meeting for assistance.**

## LEGAL NOTICE

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Portsmouth City Council on Tuesday, September 8, 2015, at 7:00 p.m., Eileen Dondero Foley Council Chambers, Municipal Complex, 1 Junkins Avenue, Portsmouth, NH on a proposed Ordinance amending Chapter 10 as follows:

- (1) Amend Section 10.440, Table of Uses, by adding a new use #10.30 – Short-term vacation rental”, modifying the standards for use #10.50 – “Hotel or motel”, and combining “conference hotel” and “conference center” into a single use;
- (2) Insert a new Section 10.837.20 – Short-Term Vacation Rentals;
- (3) Amend Article II – Site Development Standards to establish an off-street parking requirement for short-term vacation rental; and
- (4) Amend Article 15 – Definitions, by revising the definitions of “Bed and Breakfast” and adding new definitions for “Short-term vacation rental” and “Transient”

The complete Ordinance is available for review in the Office of the City Clerk and Portsmouth Public Library, during regular business hours.

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

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City Clerk

PM-09132753

**Short-Term Vacation Rentals and Bed and Breakfasts  
Proposed Amendments to the Zoning Ordinance**

ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

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

A. Amend Section 10.440, Table of Uses, as set forth in Attachment A: “Proposed Amendments to Zoning Ordinance, Section 10.440 – Short-Term Vacation Rentals and Other Lodging Uses.”

B. Insert a new Section 10.837.20 – Short-Term Vacation Rentals, as follows

10.837.20 Short-Term Vacation Rentals

10.837.21 Occupancy of a short-term vacation rental shall be limited to no more than two persons per bedroom, as determined by the Code Official.

10.837.22 A dwelling that is used as a short-term vacation rental shall at all times comply with all applicable requirements of the Building Code and other codes adopted by or applicable within the City.

10.837.23 A dwelling that is used as a short-term vacation rental shall be provided with sufficient off-street parking based on anticipated occupancy.

10.837.24 A dwelling that is used as a short-term vacation rental shall at all times be covered by an insurance policy that permits such rental.

10.837.25 The owner of a dwelling used as a short-term vacation rental shall register for the State rooms and meals tax and shall pay all required taxes.

10.837.26 No recreational vehicle, travel trailer, tent or other temporary shelter shall be used on the premises for living or sleeping purposes.

10.837.27 Noncompliance with any condition listed in Sections 10.837.21 through 10.837.26, or any other condition of the granting of a special exception for the short-term vacation rental use, shall be deemed to

constitute abandonment of said use resulting in the termination of the special exception.

C. In Article 11, Site Development Standards, insert the following new uses and requirements under “10. Lodging Establishments”:

Use	Required Parking Spaces
<b>Short-term vacation rental</b>	<b>2 spaces (see also Sec. 10.837.23)</b>

D. In Article 15, Definitions, amend the definition of “Bed and breakfast” as follows:

**Bed and Breakfast**

The provision of short-term lodging ~~and breakfast~~ within an owner-occupied dwelling. ~~The capacity of the dining facilities shall accommodate no more than 25 persons.~~ (See also: hotel, motel, inn.)

**Bed and Breakfast 1**

A bed and breakfast with ~~between 1 and 5~~ **1 or 2** guest rooms, **which may or may not serve breakfast to guests (and their invited guests) in a common room that accommodates no more than 6 persons.**

**Bed and Breakfast 2**

A bed and breakfast with ~~between 6 and 10~~ **3 and 5** guest rooms, **which provides breakfast to guests (and their invited guests) in a common room that accommodates no more than 15 persons.**

E. In Article 15, Definitions, insert the following terms and definitions in alphabetical order:

**Short-term vacation rental**

**The rental of a dwelling unit for less than 30 consecutive days. Short-term rental does not include rooming houses, boarding houses, or bed and breakfast establishments, which are specifically addressed as separate uses in Section 10.440, Table of Uses.**

**Transient**

**A period of time less than 30 consecutive days.**

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:

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Robert Lister, Mayor

ADOPTED BY COUNCIL:

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Kelli L. Barnaby, City Clerk



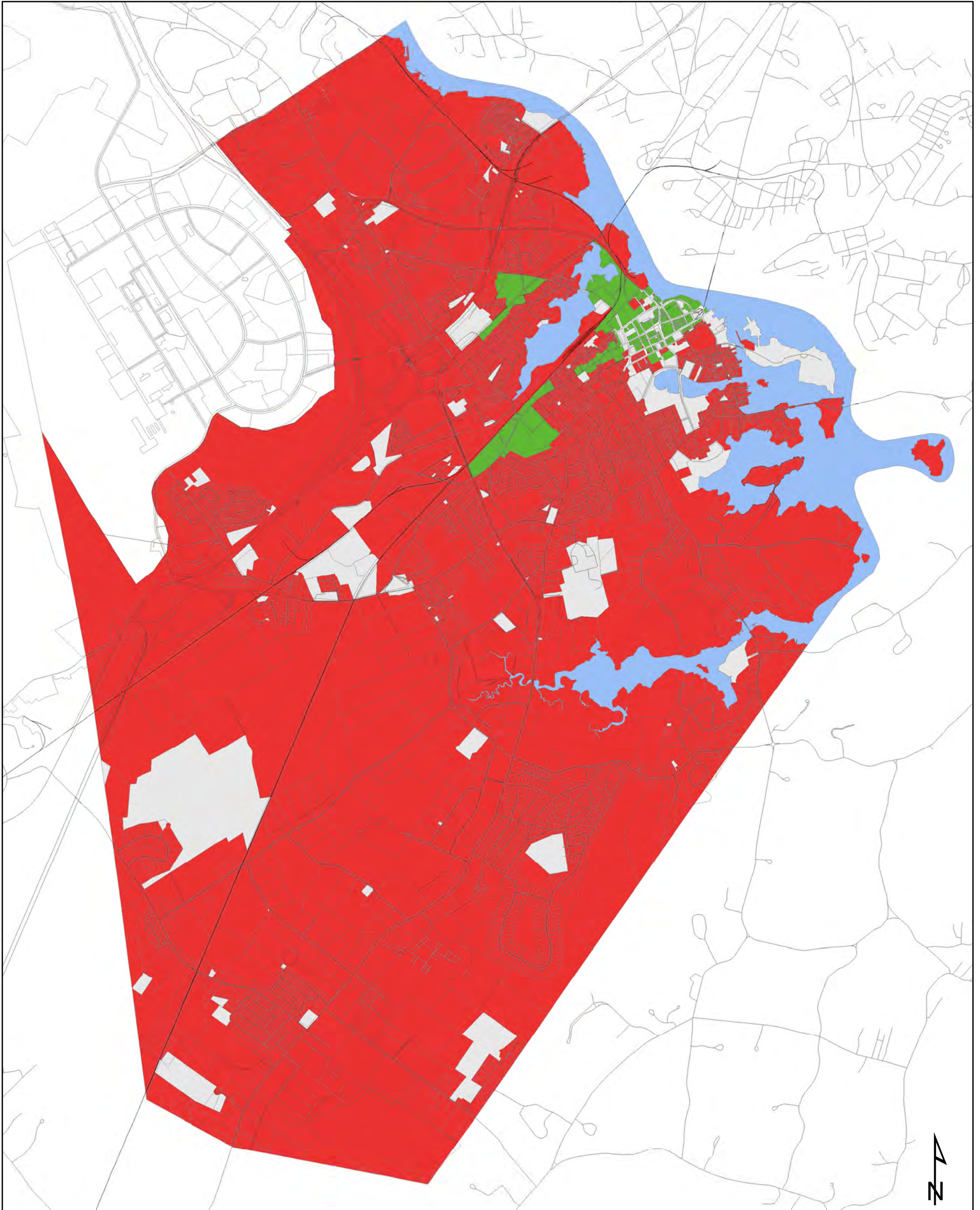
**Attachment A: Proposed Amendments to Zoning Ordinance, Section 10.440 – Short-Term Vacation Rentals and Other Lodging Uses**  
 (deletions from existing language ~~stricken~~; additions to existing language **bolded**; remaining language unchanged from existing)

Use	R	SRA SRB	GRA GRB	GRC (A)	GA/ MH	MRO	MRB	CBA	CBB	GB	GW	B	WB	OR	I	WI	Supplemental Regulations
<b>10. Lodging Establishments</b>																	
10.10 Boarding house	N	N	N	N	N	N	N	N	N	S	S	S	N	N	N	N	
10.20 Bed and breakfast																	
10.21 Bed and Breakfast 1	N	N	S	N	N	S	P	P	P	N	N	P	N	N	N	N	
10.22 Bed and Breakfast 2	N	N	N	N	N	S	P	P	P	N	N	P	N	N	N	N	
<b>10.30 Short-term vacation rental</b>	<b>N</b>	<b>N</b>	<b>N</b>	<b>N</b>	<b>N</b>	<b>N</b>	<b>N</b>	<b>P</b>	<b>P</b>	<b>N</b>	<b>N</b>	<b>P</b>	<b>N</b>	<b>N</b>	<b>N</b>	<b>N</b>	<b>10.837.20 (Short-term vacation rentals)</b>
<del>40.30</del> <b>10.40</b> Inn	N	N	N	N	N	N	S	P	P	P	P	P	N	N	N	N	
<del>40.40</del> <b>10.50</b> Hotel or motel																	
9-51 <b>10.51</b> Up to 125 rooms	N	N	N	N	N	N	N	S	P	S	S	N	N	P	N	N	10.837 (Office Research districts)
9-52 <b>10.52</b> 126 to 250 rooms	N	N	N	N	N	N	N	S	P	S	S	N	N	S	N	N	10.837 (Office Research districts)
9-52 <b>10.53</b> 251 to 500 rooms	N	N	N	N	N	N	N	<del>S</del> <b>N</b>	<del>P</del> <b>S</b>	<del>S</del> <b>S</b>	<del>S</del> <b>S</b>	<del>N</del> <b>N</b>	<del>N</del> <b>N</b>	<del>N</del> <b>N</b>	<del>N</del> <b>N</b>	<del>N</del> <b>N</b>	
9-53 <b>10.54</b> More than 500 rooms	N	N	N	N	N	N	N	<del>S</del> <b>N</b>	<del>P</del> <b>S</b>	<del>S</del> <b>S</b>	<del>S</del> <b>S</b>	<del>N</del> <b>N</b>	<del>N</del> <b>N</b>	<del>N</del> <b>N</b>	<del>N</del> <b>N</b>	<del>N</del> <b>N</b>	
<del>40.50</del> <b>10.60</b> Conference hotel or conference center	N	N	N	N	N	N	N	S	P	P	P	N	N	N	N	N	
<del>40.60</del> Conference-center	N	N	N	N	N	N	N	S	P	P	P	N	N	N	N	N	

[NOTE: No change proposed in Table of Uses from existing Zoning Ordinance for Bed and Breakfast 1 and 2.]




**Draft Proposal- June 15, 2015  
Short-Term Vacation Rental**

**Proposed Amendments Zoning Ordinance-  
Short-Term Vacation Rentals and Other Lodging Uses**



**Legend**

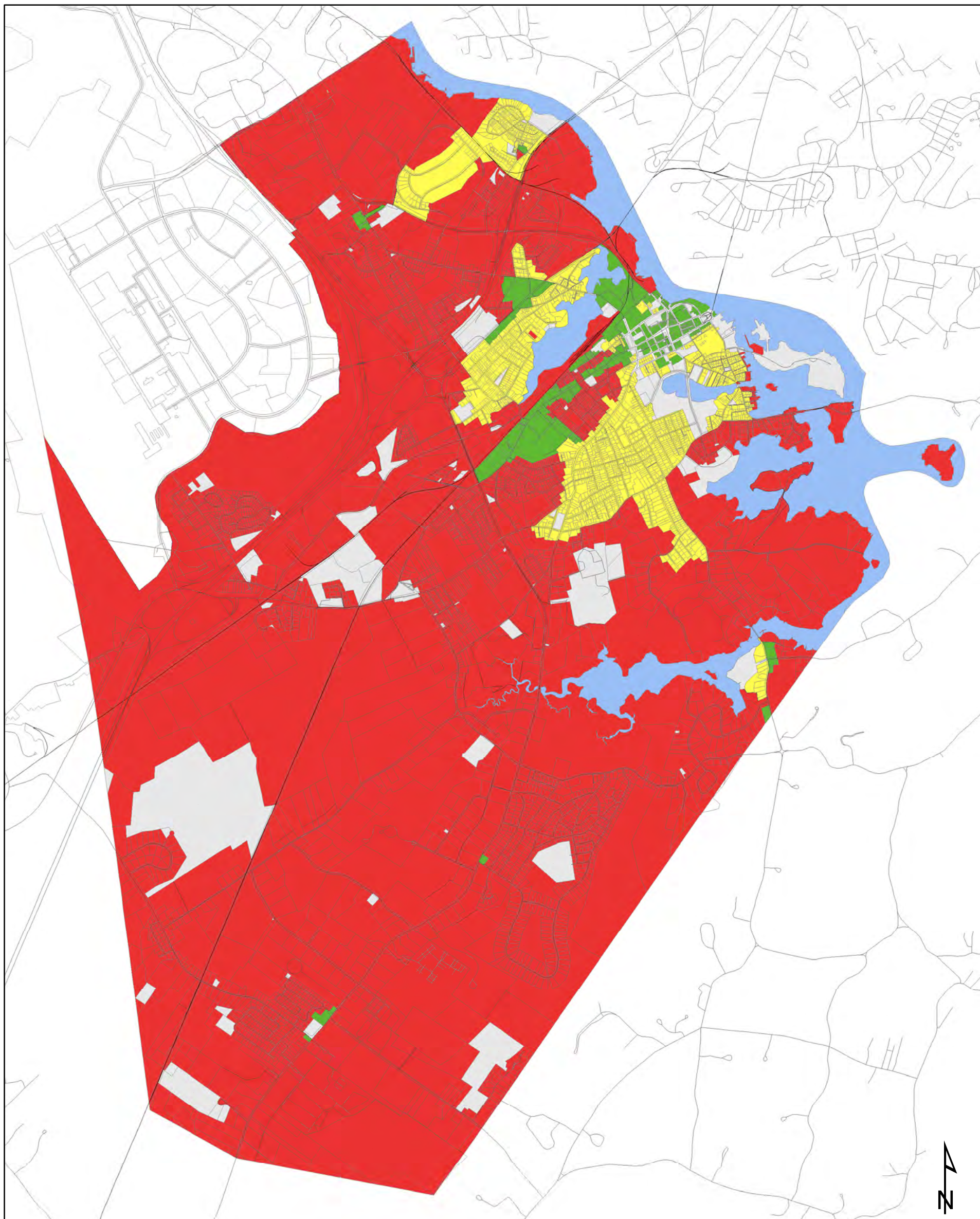
**Short-Term Vacation Rental**

-  Permitted (CBA, CBB, CD4, CD5, B)
-  Not Permitted (R, SRA, SRB, GRA, GRB, GRC, MRO, MRB, CD4-L, GA/MH, GB, GW, WB, OR, I, WI)
-  Municipal/Civic

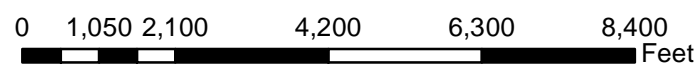
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Draft Proposal- June 15, 2015  
Bed and Breakfast 1





Proposed Amendments Zoning Ordinance-  
Short-Term Vacation Rentals and Other Lodging Uses



**Legend**



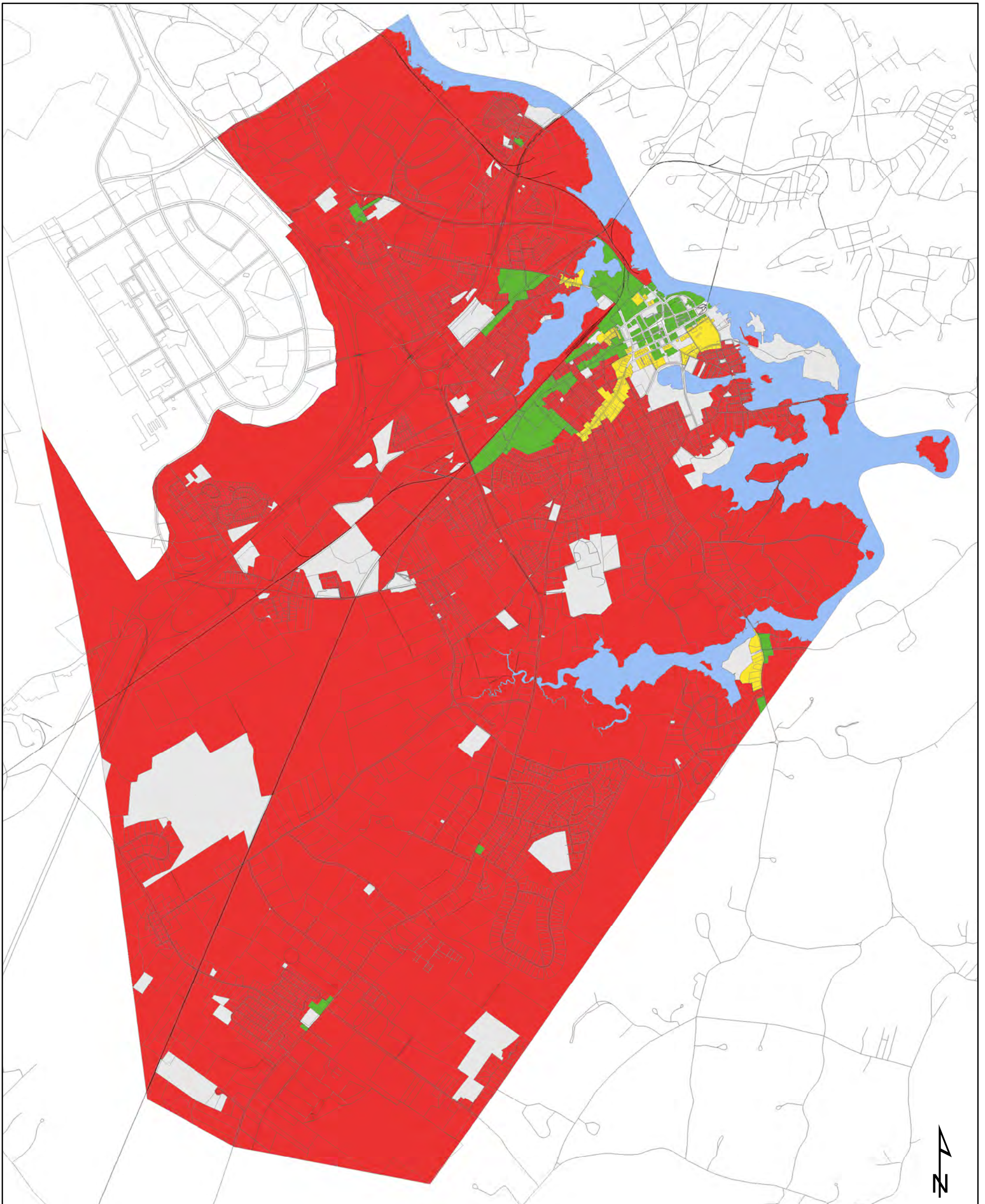
**Bed and Breakfast 1**

-  Permitted (MRB, CBA, CBB, CD4, CD5, B)
-  Special Exception (GRA, GRB, MRO, CD4-L)
-  Not Permitted (R, SRA, SRB, GRC, GA/MH, GB, GW, WB, OR, I, WI)
-  Municipal/Civic

Bed and Breakfast 1  
A bed and breakfast with 1 or 2 guest rooms, which may or may not serve breakfast to guests (and their invited guests) in a common room that accomodates no more than 6 persons.

Draft Proposal- June 15, 2015  
Bed and Breakfast 2





Proposed Amendments Zoning Ordinance-  
Short-Term Vacation Rentals and Other Lodging Uses



**Legend**

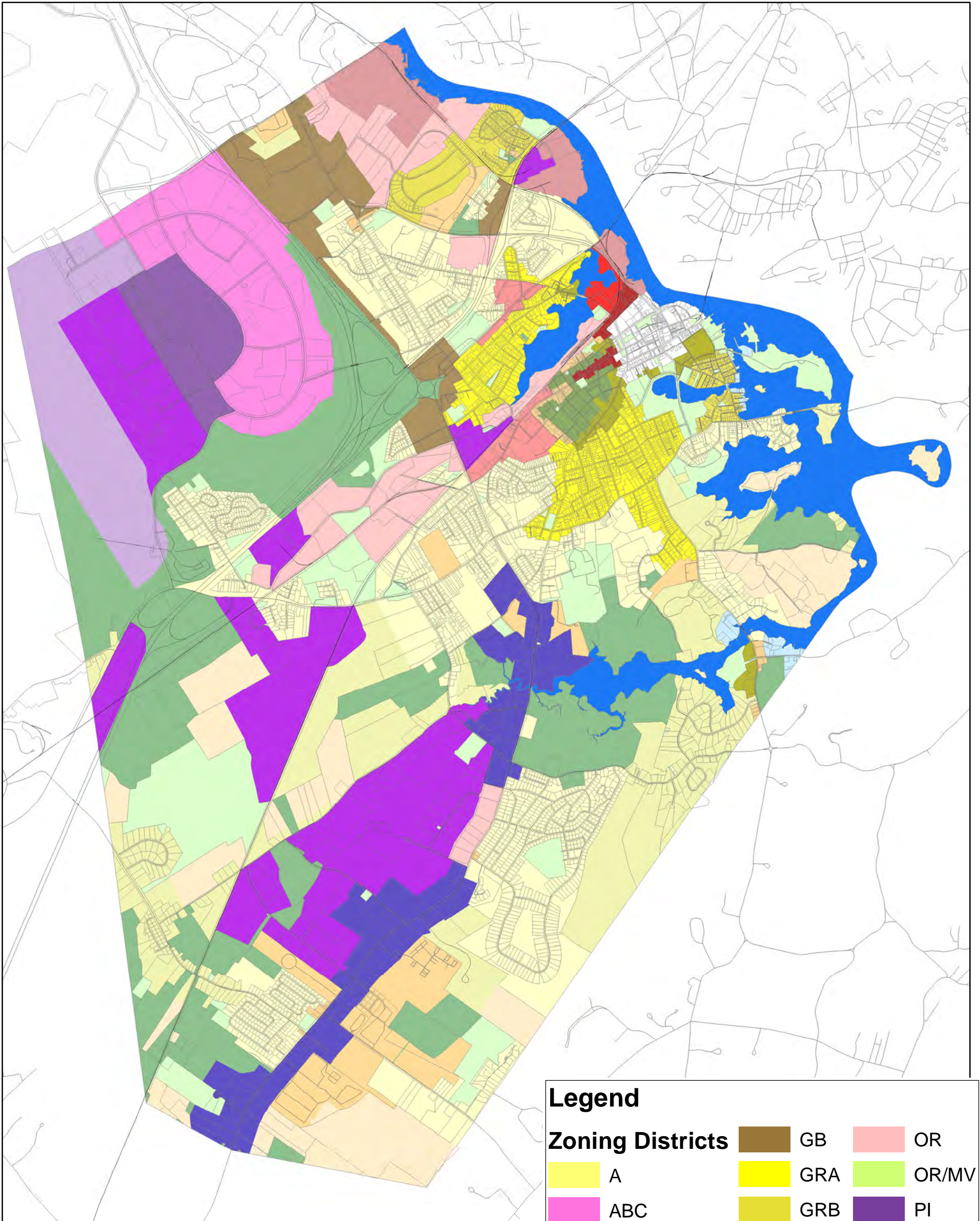
0 1,050 2,100 4,200 6,300 8,400 Feet

**Bed and Breakfast 2**

-  Permitted (MRB, CBA, CBB, CD4, CD5, B)
-  Not Permitted (R, SRA, SRB, GRA, GRB, GRC, GAMH, GB, GW, WB, OR, I, WI)
-  Special Exception (MRO, CD4-L)
-  Municipal/Civic

Bed and Breakfast 2  
A bed and breakfast with between 3 and 5 guest rooms, which provides breakfast to guests (and their invited guests) in a common room that accommodates no more than 15 persons.

# Zoning Districts



0 1,050 2,100 4,200 6,300 8,400 Feet

## Legend

### Zoning Districts

	A		GB		OR
	ABC		GRA		OR/MV
	AI		GRB		PI
	AIR		GRC		R
	B		GW		SRA
	CBA		I		SRB
	CBB		M		WB
	GA/MH		MRB		WI
			MRO		Water
			NRP		

Subject: GRANT OF MATCHING FUNDS PURSUANT TO RSA 147-B:6, I-A

## GRANT AGREEMENT

The State of New Hampshire and the Grantee hereby mutually agree as follows:

### GENERAL PROVISIONS

#### I. IDENTIFICATIONS

<b>1.1 State Agency Name</b> Department of Environmental Services		<b>1.2 State Agency Address</b> 29 Hazen Drive Concord, NH 03301	
<b>1.3 Grantee Name</b> City of Portsmouth		<b>1.4 Grantee Address</b> 680 Peverly Hill Road Portsmouth, NH 03801	
<b>1.5 Effective Date</b> Upon G&C approval	<b>1.6 Completion Date</b> June 30, 2016	<b>1.7 Audit Date</b> N/A	<b>1.8 Grant Limitation</b> \$5,801
<b>1.9 Grant Officer for State Agency</b> Dean F. Robinson II, HHW Coordinator NH Department of Environmental Services		<b>1.10 State Agency Telephone Number</b> 603-271-2047	
<b>1.11 Grantee Signature</b>		<b>1.12 Name &amp; Title of Grantee Signor</b>	
<b>1.13 Acknowledgment: State of New Hampshire, County of _____</b> On ____/____/____, before the undersigned officer, personally appeared the person identified in block 1.12., or satisfactorily proven to be the person whose name is signed in block 1.11., and acknowledged that s/he executed this document in the capacity indicated in block 1.12.			
<b>1.13.1 Signature of Notary Public or Justice of the Peace</b>  (Seal)			
<b>1.13.2 Name &amp; Title of Notary Public or Justice of the Peace</b>			
<b>1.14 State Agency Signature(s)</b>		<b>1.15 Name/Title of State Agency Signor(s)</b>  Thomas S. Burack, Commissioner	
<b>1.16 Approval by Attorney General's Office (Form, Substance and Execution)</b>  By: _____ Attorney, On: ____/____/____			
<b>1.17 Approval by the Governor and Council</b>  By: _____ On: ____/____/____			

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-O, the Grantee identified in block 1.3 (hereinafter referred to as "the Grantee"), shall perform that work identified and more particularly described in the scope of work attached hereto as EXHIBIT A (the scope of work being referred to as "the Project").

3. **AREA COVERED.** Except as otherwise specifically provided for herein, the Grantee shall perform the Project in, and with respect to, the state of New Hampshire.

4. **EFFECTIVE DATE; COMPLETION OF PROJECT.**

4.1 This Agreement, and all obligations of the parties hereunder, shall become effective on the date in block 1.5 or on the date of approval of this Agreement by the Governor and Council of the State of New Hampshire whichever is later (hereinafter referred to as "the Effective Date").

4.2 Except as otherwise specifically provided for herein, the Project, including all reports required by this Agreement, shall be completed in ITS entirety prior to the date in block 1.6 (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 B, attached hereto.

5.2 The manner of, and schedule of payment shall be as set forth in EXHIBIT B.

5.3 In accordance with the provisions set forth in EXHIBIT B, 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 Grantee the Grant Amount. The State shall withhold from the amount otherwise payable to the Grantee 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, compensation to the Grantee for all expenses, of whatever nature, incurred by the Grantee in the performance hereof, and shall be the only, and the complete, compensation to the Grantee for the Project. The State shall have no liabilities to the Grantee 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 GRANTEE WITH LAWS AND REGULATIONS.** In connection with the performance of the Project, the Grantee 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 Grantee, including the acquisition of any and all necessary permits.

7. **RECORDS AND ACCOUNTS.**

7.1 Between the Effective Date and the date seven (7) years after the Completion Date the Grantee 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 seven (7) years after the Completion Date, at any time during the Grantee's normal business hours, and as often as the State shall demand, the Grantee shall make available to the State all records pertaining to matters covered by this Agreement. The Grantee shall permit the State to audit, examine, and reproduce such records, and to make audits of all contracts, invoices, materials, payrolls, records or personnel, data (as that term is hereinafter defined), and other information relating to all matters covered by this Agreement. As used in this paragraph, "Grantee" includes all persons, natural or fictional, affiliated with, controlled by, or under common ownership with, the entity identified as the Grantee in block 1.3 of these general provisions.

8. **PERSONNEL.**

8.1 The Grantee shall, at its own expense, provide all personnel necessary to perform the Project. The Grantee 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 Grantee shall not hire, and it shall not permit any subcontractor, subgrantee, or other person, firm or corporation with whom it is engaged in a combined effort to perform such 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 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, computer programs, computer printouts, notes, letters, memoranda, papers, and

documents, all whether finished or unfinished.

9.2 Between the Effective Date and the Completion Date the Grantee 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 Grantee notice of such termination.

**11. EVENT OF DEFAULT; REMEDIES.**

11.1 Any one or more of the following acts or omissions of the Grantee 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.

11.2 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 Grantee 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 Grantee notice of termination; and

11.2.2 give the Grantee 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 grantee during the period from the date of such notice until such time as the State determines that the Grantee has cured the Event of Default shall never be paid to the Grantee; and

11.2.3 set off against any other obligation the State may owe to the Grantee 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 Grantee 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 Grantee 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 Grantee from any and all liability for damages sustained or incurred by the State as a result of the Grantee'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 Grantee hereunder, the Grantee, may terminate this Agreement without cause upon thirty (30) days written notice.

**13. CONFLICT OF INTEREST.** No officer, member or employee of the Grantee 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 performed, who exercises any functions or responsibilities in the review or 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 interests 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. GRANTEE'S RELATION TO THE STATE.** In the performance of this Agreement, the Grantee, its employees, and any subcontractor or subgrantee of the Grantee are in all respects independent contractors, and are neither agents nor employees of the State. Neither the Grantee 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 Grantee 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 Grantee other than as set forth in Exhibit A without the prior written consent of the State.

16. **INDEMNIFICATION.** The Grantee 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 Grantee of Subcontractor, or subgrantee or other agent of the Grantee. 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 Grantee shall, at its sole 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 workers' 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 \$2,000,000 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 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 or 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 Grantee.

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.

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.

**EXHIBIT A**  
**List of Services**

1. The Grantee shall conduct the collection portion of its Project for **Portsmouth, Newington, Rye, New Castle, and Greenland**, in accordance with the terms and conditions of a contract which incorporates, at a minimum, all of the provisions set forth in Section 3 below between the Grantee and its contracted permitted hazardous waste transporter (the contractor). For purposes of this agreement, the contractor shall mean the primary contractor and the Subcontractor means all additional contractors that the contractor hires for participating in the Project.
2. The Grantee shall spend its grant monies solely for the purpose of paying the Project's contractor and/or for paying the expenses associated with conducting the Project's educational component, as required under the NH Hazardous Waste Rules Env-Hw 1003.07.
3. The Grantee shall enter into a contract with a contractor to perform the household hazardous waste collection project that includes, as a minimum, the following provisions:
  - a. That the contractor shall handle all household hazardous wastes collected at the project site as hazardous wastes, and shall comply with all state and federal laws and regulations governing hazardous waste, including but not limited to, the provisions of RSA 147-A and Chapter Env-Wm 100 through Chapter Env-Hw 1000 involving hazardous waste safety standards, transportation requirements, and requirements for proper generation, treatment, storage, and disposal of hazardous wastes. Said requirements shall include RSA 147-A, Chapter Env-Hw 100 through Chapter Env-Wm 1000, and those of the state(s) through which and to which the waste has been sent;
  - b. That the contractor must act as the generator of the hazardous wastes that it collects at the project site and that the contractor must sign the Project's manifest forms as such generator;
  - c. That the contractor must have all necessary permits and licenses to handle and transport hazardous wastes in New Hampshire and other states associated with the conduct of the project;
  - d. That the contractor may not assign or subcontract any of the duties to be performed under the contract without prior written approval by the Grantee and by the Department. Further, that any additional Subcontractor must also have all necessary permits and licenses to carry out the functions that are the subject of the subcontract;
  - e. That the contractor shall, at its sole expense, obtain and maintain in force, and shall require all Subcontractors to obtain and maintain in force, comprehensive public liability insurance against all claims of bodily injuries, death, or property damage, in amounts and terms complying with, at a minimum, all applicable state requirements for hazardous waste transporters, including NH Code of Administrative Rules Env-Hw 603.12. Such policies shall cover the State and the Grantee as additional insured parties and shall comply, in form and substance, with all applicable provisions of the NH Liability Insurance Act, RSA Ch. 412, and the rules thereunder;
  - f. That the contractor shall transport all household hazardous wastes collected at the project site to an authorized treatment, storage, or disposal facility. Said facility shall be in compliance with appropriate state and federal requirements.

## EXHIBIT A

### Page 2

- g. That the Grantee shall not pay the contractor until after (1) the Department has received copies of all Project manifest forms required under Part Env-Hw 510, including Copy #2 of all Project manifest forms signed by the operator of the permitted hazardous waste facility or facilities to which the Project's collected hazardous wastes were delivered, and (2) the Department has reviewed the Project's collection, handling, transportation, storage, treatment, recycling and disposal of hazardous waste for compliance with applicable state and federal requirements. The Department's payment of funds to the Grantee shall not be construed as a waiver of any past, present or future right, claim, or cause of action related to the performance of this agreement or the enforcement of any applicable State or federal law;
  - h. That the contractor shall adhere to a work plan and a site safety plan, such plans may be reviewed by the Department.
  - i. That the Department may exercise its authority to modify, suspend or terminate the Project if it decides that the Project poses a threat to human health or the environment; and
- 4. The Grantee shall conduct public education activities regarding household hazardous waste in accordance with the provisions of RSA 147-B:6, I-a and Section Env-Hw 1003.07. Said activities shall include those set forth in the Grantee's application for Grant Monies, as approved by the Department.
- 5. The Grantee shall keep a count of persons participating in the Project and to conduct a questionnaire of said persons incorporating, at a minimum, the questions set forth on the Participant Exit Survey.
- 6. The Grantee shall conduct the collection portion of its project on or before the completion date shown in Section 1.7 of the contract. Failure to do so may result in termination of this agreement.
- 7. The Grantee shall allow the Department to have access to and conduct any monitoring of the Project deemed necessary by the Department to ensure its compliance with the terms of the contract and with state and federal statutes and regulations.

**EXHIBIT B**  
**Method of Payment**

1. The State agrees to pay the Grantee the Grant Monies upon the successful completion of the Project. Successful completion shall mean that (1) the Grantee has fulfilled the terms and conditions of this agreement, (2) the Grantee's accounting records, submitted to the Department have been reviewed by the Department, (3) the contractor has fulfilled the terms and conditions of its contract with the Grantee, and (4) the State has received and reviewed all Project manifest forms required in accordance with this contract and all applicable state and federal requirements. No Grant Monies shall be paid to the Grantee until the Department has determined that all the Project's collected hazardous wastes have been delivered to a permitted hazardous waste facility and the Department has reviewed the handling, transportation, and storage, treatment, recycling and/or disposal of the Project's collected hazardous wastes for compliance with applicable state and federal requirements. Said requirements shall include RSA 147-A, Chapter Env-Wm 100 through Chapter Env-Wm 1000, and those of the state(s) through which and to which the waste has been sent. However, the payment of funds to the Grantee shall not be construed as a waiver by the Department of any past, present or future right, claim or cause of action related to the performance of this agreement or the enforcement of all applicable state or federal laws.
2. Upon fulfillment of the terms and conditions of this contract, including all of the conditions of a successful completion of the Project, the Department shall pay to the Grantee Grant Monies in the amount not to exceed **\$5,801**. This amount is based on a rate of **\$0.18 per capita** and on a population base of **32,232** to be made to the Grantee within 30 days of either the Department's receipt of the Grantee to be served by this Project. However, in no case shall the Department pay more than fifty percent (50%) of the total costs of the Project. Payment shall be made to the Grantee within 30 days of either the Department's receipt of the Grantee's invoice or the Department's determination that the Project has been successfully completed in accordance with this contract, whichever is later.
3. Grantee expenses not directly associated with the Project shall not be reimbursable by the Department. Only costs that otherwise would not have been spent by the Grantee were it not for the Project, and the Grantee's coordination thereof, shall be reimbursed by the Department. Nonreimbursable items shall include, but not be limited to, the following: employee benefits, payroll taxes, insurance, rent, utilities, dues, and depreciation.
4. The Grantee agrees to expend monies on the Project in an amount not less than the Project's Grant Monies, in fulfillment of the matching requirement set forth in RSA 147-B:6, 1-a and in Part Env-Wm 1003.
5. The Grantee agrees to pay for all Project costs beyond the amount of Grant Monies.
6. Prior to the Department's awarding of the Grant Monies specified in this agreement, the Grantee agrees to provide the Department with records showing an accounting for all monies spent and/or costs incurred from the Project, including the Project's Grant Monies. Further, the Grantee agrees that no Grant Monies shall be paid by the Department unless and until the Department has reviewed and determined that such costs or expenditures qualify for funding under the terms of this agreement, and all applicable state and federal requirements; provided that the Department's payment of funds to the Grantee shall not be construed as a waiver of any past, present or future right, claim or cause of action related to the performance of this agreement or any applicable state or federal law.
7. The Grantee agrees to submit an invoice to the State for the Grant Monies specified in this agreement. Said invoice shall be submitted to the NH Department of Environmental Services, 29 Hazen Drive, Concord, NH 03301-6509.

**EXHIBIT C**  
**Special Provisions**

1. The State reserves the right to audit the Grantee's expenditures for the Project and to retract and/or seek reimbursement for Grant Monies paid to the Grantee whenever, subsequent to payment of Grant Monies, it becomes known that any of the terms and conditions of this agreement were, in fact, not fulfilled.
2. Paragraph 15 of the General Provisions is amended in that the parties intend the Grantee to retain a Contractor in accordance with Exhibit A of this agreement.

**Certificate of Authorization, City of Portsmouth, New Hampshire**

I Kelli Barnaby, City Clerk for the City of Portsmouth, New Hampshire am responsible for keeping City records. I do hereby certify that:

At the regular City Council meeting held on September 8, 2015, the City Council voted to accept Household Hazardous Wastes Collection grant funds and to enter into a grant contract with the NH Department of Environmental Services. The City Council further authorized the City Manager to execute any documents which may be necessary for this grant contract.

This authorization has not been revoked, annulled or amended in any manner whatsoever, and remains in full force and effect as of the date hereof.

The following person has been appointed to and now remains in the office indicated above:  
John P. Bohenko, City Manager.

**IN WITNESS THEREOF**, I have hereunto set my hand as the City Clerk of Portsmouth, New Hampshire, on this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Kelli Barnaby, City Clerk (seal)

**STATE OF NEW HAMPSHIRE  
COUNTY OF ROCKINGHAM**

On this the \_\_\_\_\_ day of \_\_\_\_\_, 2015, before me, \_\_\_\_\_  
(Notary Justice/Justice of the Peace)

personally appeared Kelli Barnaby who acknowledged herself to be the City Clerk of Portsmouth, New Hampshire, being authorized so to do, executed the foregoing instrument for the purpose therein contained.

**IN WITNESS THEREOF**, I hereunto set my hand and seal.

\_\_\_\_\_  
(Notary Public/Justice of the Peace (seal)

ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That Chapter 7, VEHICLES, TRAFFIC and PARKING of the ordinances of the City of Portsmouth be amended as follows by deletions from existing language stricken and highlighted in **red**; additions to existing language bolded and highlighted in **red**, remaining language unchanged from existing:

*[Explanatory note not part of ordinance. The following amendments to the parking ordinance were either implemented by the Parking and Traffic Safety Committee on a trial basis last year or are part of ongoing improvements to the parking ordinance and are forwarded to the City Council for approval. Each ordinance change is shown on diagrams attached hereto.]*

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**A. Amend:** Chapter 7, Article III – TRAFFIC ORDINANCE, Section 7.326 Limited Parking – Fifteen Minutes

**Section 7.326: LIMITED PARKING – FIFTEEN MINUTES:**

A. No person having control or custody of any vehicle shall cause the same to stop or park for longer than 15 minutes at any time between 9:00 a.m. and 7:00 p.m., Monday through Saturday, and between 12:00 p.m. and 7:00 p.m. Sunday, Holidays not included, on the following streets and locations:

6. Hanover Street:

**c. northerly side, first two spaces east from Bridge Street.**

---

**B. Amend:** Chapter 7, Article III – TRAFFIC ORDINANCE, Section 7.328 Limited Parking – Three Hours

**Section 7.328: LIMITED PARKING – THREE HOURS:**

A. No person having control or custody of any vehicle shall stop or cause the same to stop or park for longer than three hours at any time between the hours of 9:00 a.m. and 7:00 p.m. Monday through Saturday, and between 12:00 p.m. and 7:00 p.m. Sunday, Holidays excluded, on the following streets and locations:

**~~5. Chestnut Street: both sides from State Street to Court Street.~~**

16. Market Street:
- a. westerly side from Market Square to Bow Street, except for the ~~first two parking spaces from Market Square. The first of which is hereby designated for police cruiser parking only and the second of which is designated as a taxi stand (see Section 7.A408)~~ first space closest to Bow Street, which shall be designated as bicycle parking when a bicycle corral is present.
  - b. easterly side from Daniel Street to Deer Street: ~~except for the first two parking spaces from Market Square. The first of which is hereby designated for police cruiser parking only and the second of which is designated as a taxi stand (see Section 7.A408).~~
  - c. both sides from Deer Street to Russell Street.
- 

**C. Amend:** Chapter 7, Article III – TRAFFIC ORDINANCE, Section 7.330: No Parking

**Section 7.330: NO PARKING**

- A. Unless otherwise designated by ordinance, parking shall be prohibited at all times in the following described streets and locations:

20. Chestnut Street:

**c. both sides, entire length of street between State Street and Court Street.**

31. Dearborn ~~Street Place~~: ~~westerly northerly~~ side from Maplewood Avenue to the easterly end of Dearborn ~~Lane Place~~ (entire ~~westerly northerly~~ side).

**32. Dearborn Lane: both sides, from Dearborn Street westerly to property line of 39 Dearborn Street, a distance of 60 feet.**

53. Hanover Street:

a. (Hanover Street Extension): northerly side from ~~Pearl Street Rock St.~~ to Brewster St.

117. State Street:

**g. South side, between Fleet Street and Court Place, when reserved for use by licensed vendor.**

---



**D. Amend:** Chapter 7, Article IVA – BUS STOPS, TAXICAB STANDS & HORSE DRAWN CARRIAGES

**Section 7A.408: TAXI STANDS DESIGNATED**

The following areas are hereby designated as Taxi stands:

**D. State Street: northerly side, 40 feet east from Pleasant Street for a distance of 20 feet, from 7 p.m. to 6 a.m., Monday through Sunday.**

---

**E. Amend:** Chapter 7, Article VA: COMMUNITY CENTER, CITY HALL, DISTRICT COURT PARKING.

~~**Section 7A.501: COMMUNITY CENTER PARKING**~~

~~**Parking in the parking lot at the rear of the Community Center, which said lot is on Chapel Street, shall be restricted to vehicles used by Recreation Department Staff.**~~**Section**

~~**7A.502: CITY HALL PARKING**~~

~~**Parking in the area adjacent to the City Hall and lying between City Hall and Chapel Street shall be restricted to use by visitors with official business at City Hall.**~~

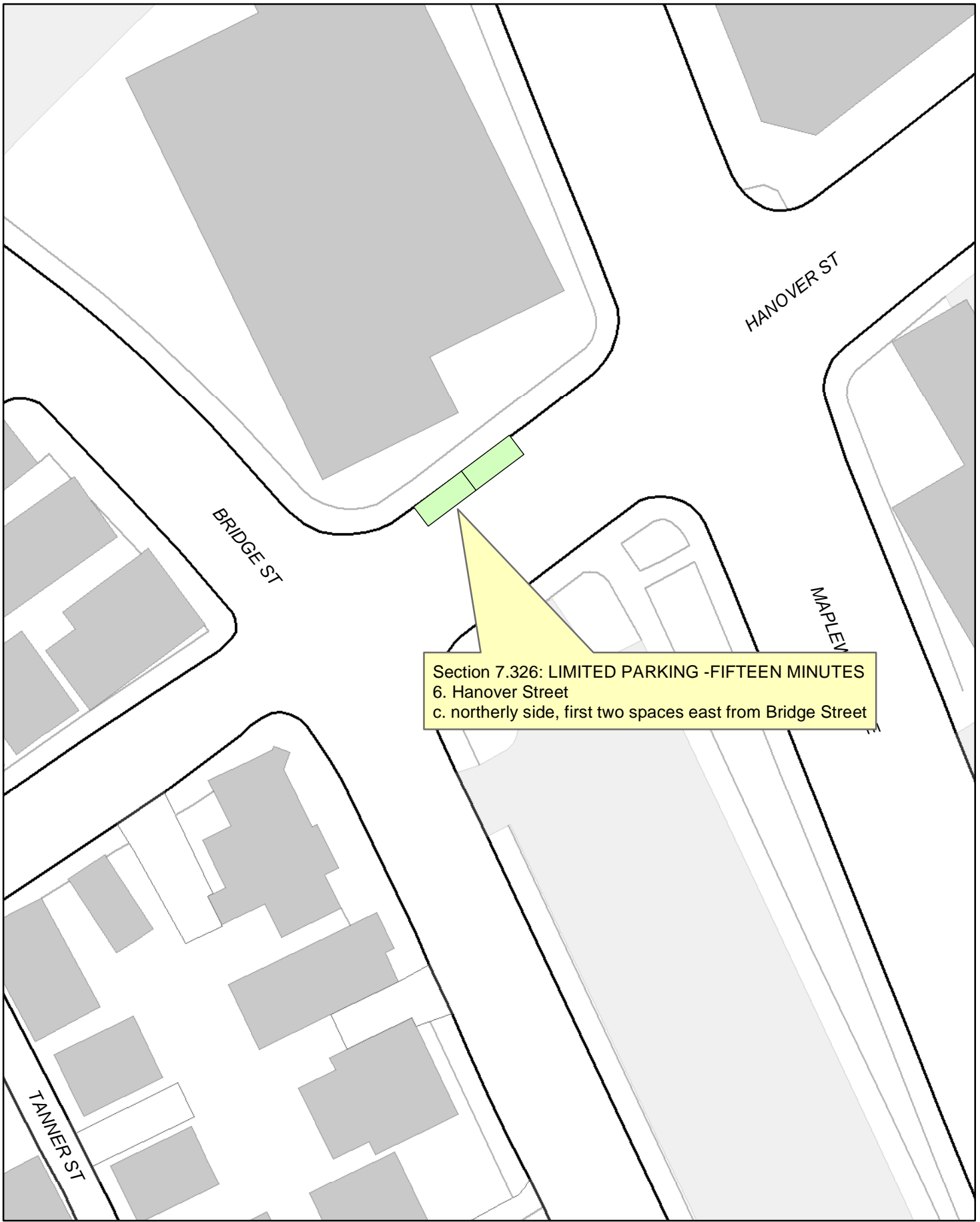
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**F. Amend:** Chapter 7, Article VI – TRUCK LOADING/UNLOADING ZONES, Section 7.601 Truck Loading/Unloading Zones Established:

**Section 7.601: TRUCK LOADING/UNLOADING ZONES ESTABLISHED**

The following locations are established as exclusive “Truck Loading Zones” on Mondays through Saturdays between the hours of 6:00 a.m. and 7:00 p.m. or as otherwise described below with regard to any particular location. During these times only trucks, vans and other commercial delivery vehicles actively engaged in loading or unloading of product, merchandise or equipment (meaning that no more than 10 consecutive minutes pass without loading or unloading activity) may park. Such vehicles may park at the designated locations for a period not to exceed 30 minutes. Unless otherwise determined by ordinance, at all other times these zones shall be open parking for all vehicles.

11. State Street: northerly side, 40 feet east from Pleasant Street for a distance of 20 feet. **In addition, from 7:00 p.m. to 6:00 a.m., Monday through Sunday, this area shall be designated as a taxi stand per Section 7A.408.**
-

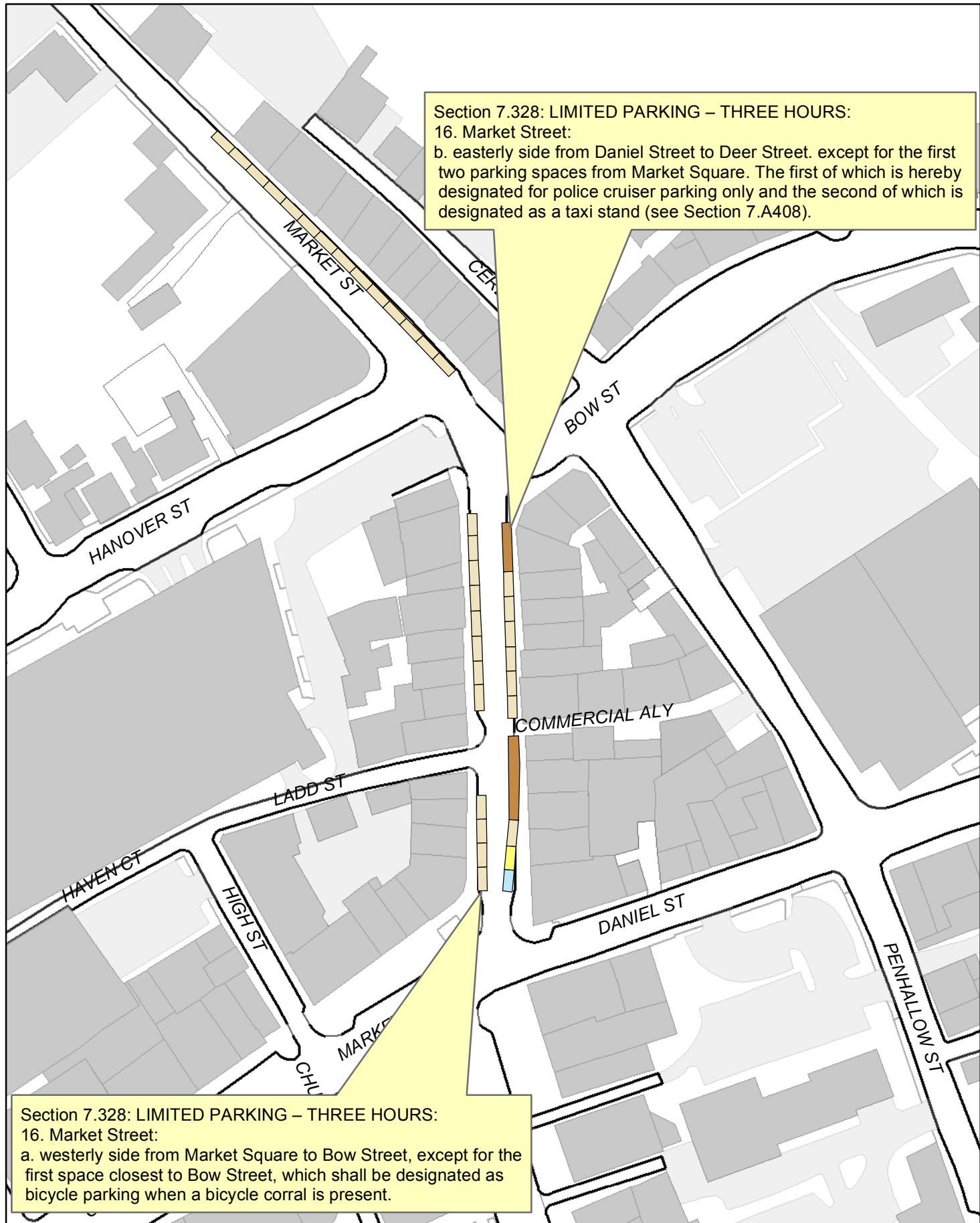


Section 7.326: LIMITED PARKING -FIFTEEN MINUTES  
6. Hanover Street  
c. northerly side, first two spaces east from Bridge Street

**Hanover Street Two Parking Spaces 15 minutes  
Portsmouth, New Hampshire**

Map prepared by Portsmouth Department of Public Works, 6 August 2011  
Map document: U:\Projects\0263 Parking Traffic & Safety\Traffic and Parking Ordinance Changes





Section 7.328: LIMITED PARKING – THREE HOURS:  
 16. Market Street:  
 b. easterly side from Daniel Street to Deer Street. except for the first two parking spaces from Market Square. The first of which is hereby designated for police cruiser parking only and the second of which is designated as a taxi stand (see Section 7.A408).

Section 7.328: LIMITED PARKING – THREE HOURS:  
 16. Market Street:  
 a. westerly side from Market Square to Bow Street, except for the first space closest to Bow Street, which shall be designated as bicycle parking when a bicycle corral is present.

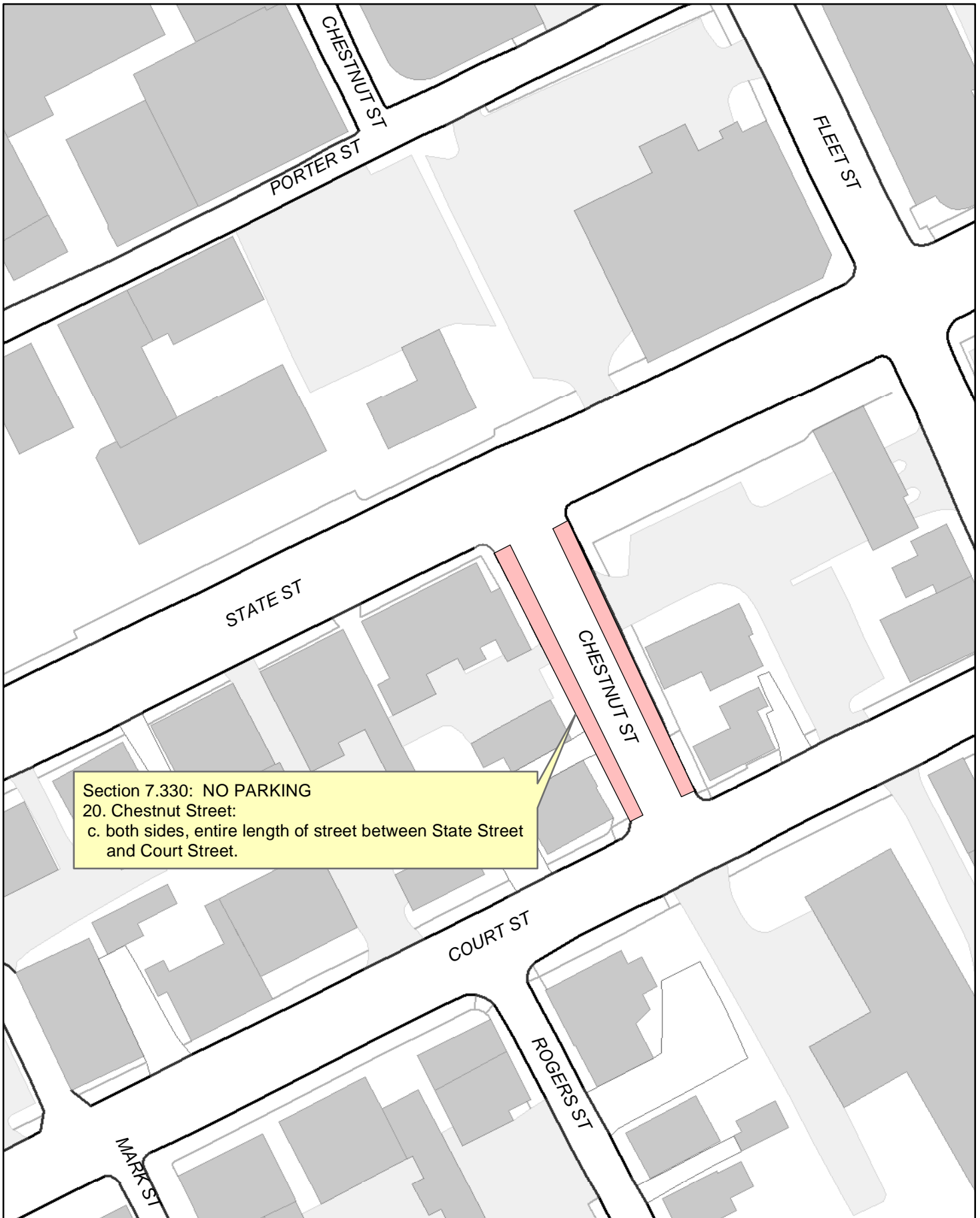
**Market Street Limited Parking  
 Portsmouth, New Hampshire**

Map prepared by Portsmouth Department of Public Works, 6 August 201  
 Map document: U:\Projects\0263 Parking Traffic & Safety\Traffic and Parking Ordinance Changes

**Legend**

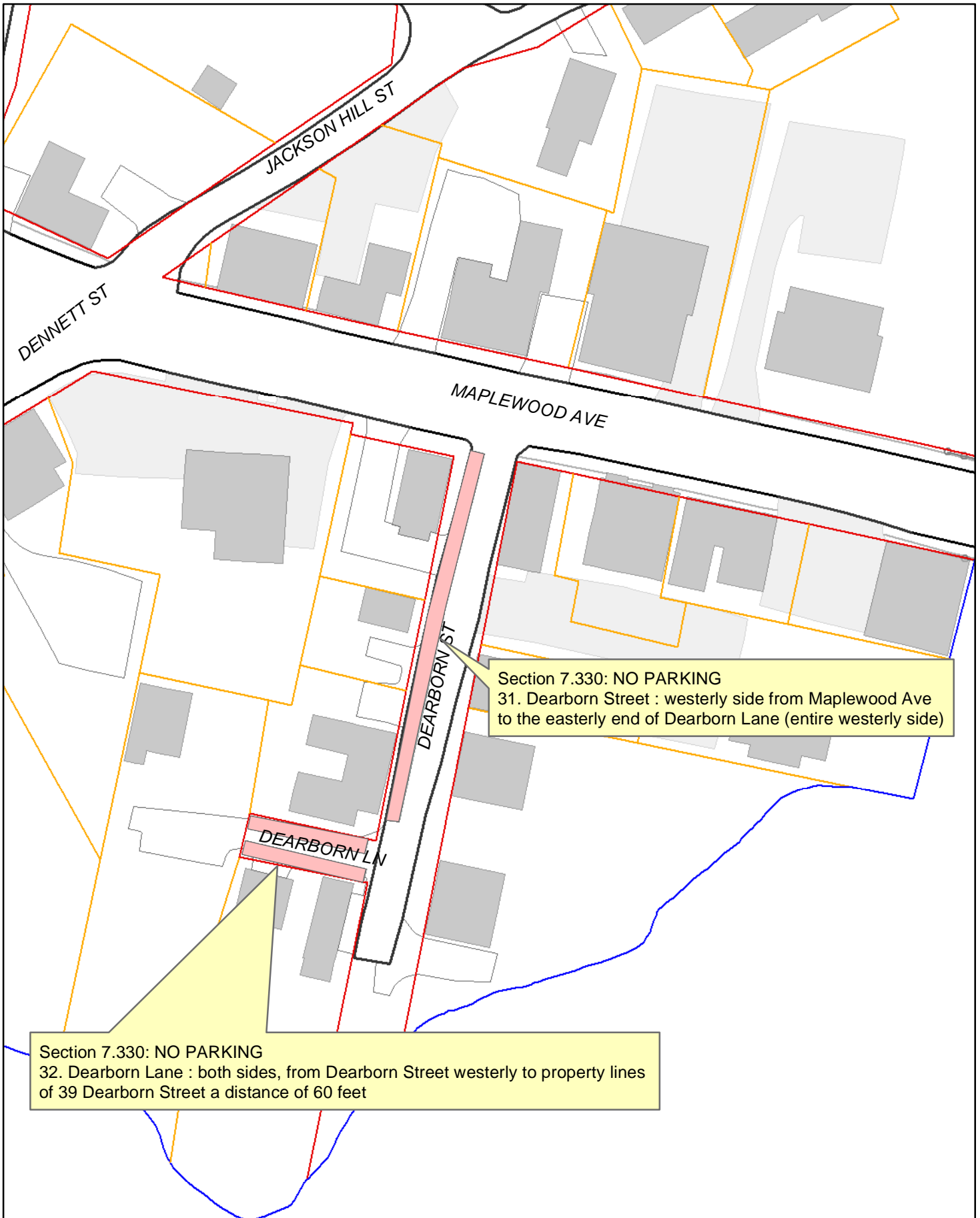
	Three Hour Parking		Taxi
	Police		Loading Zone





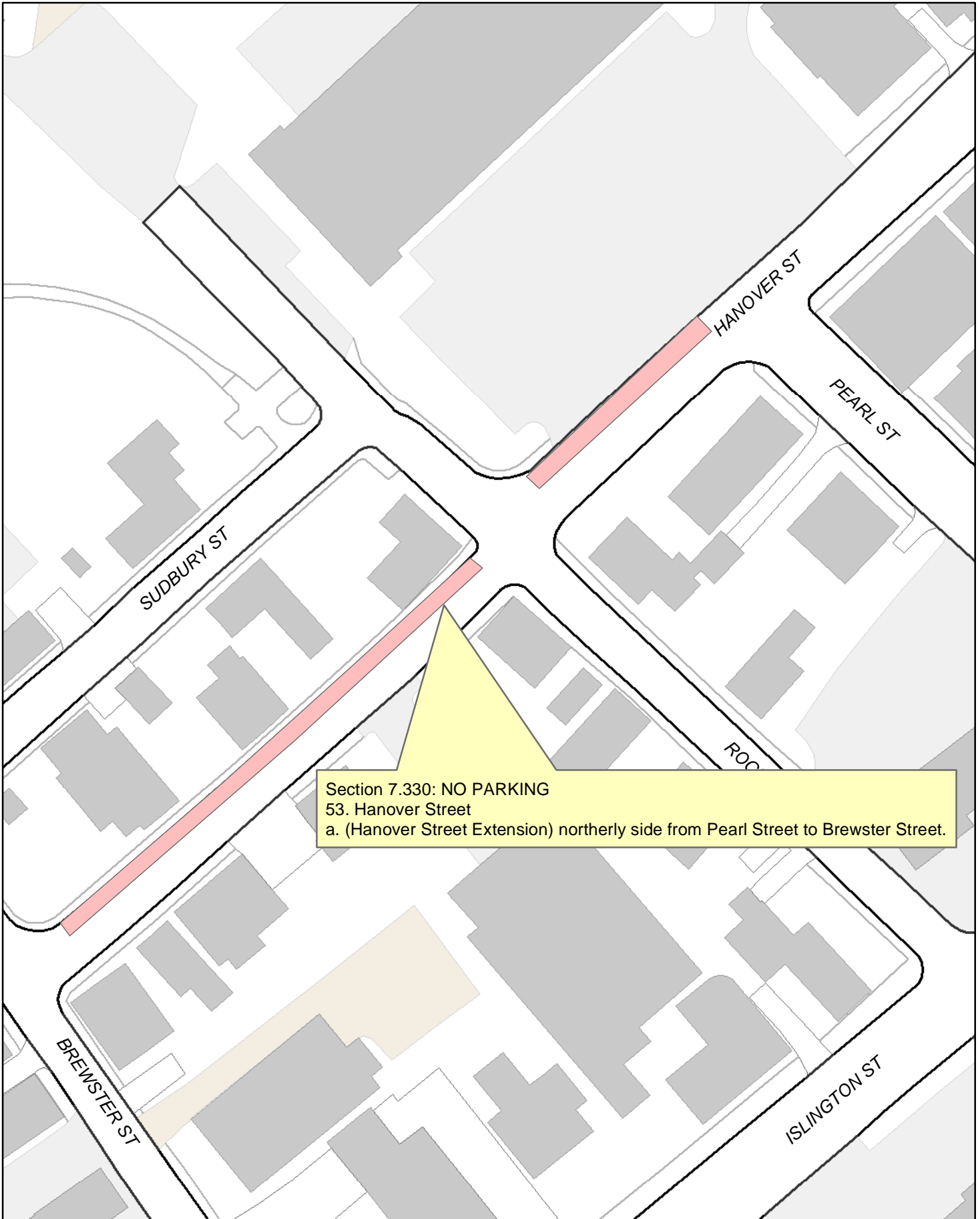
Section 7.330: NO PARKING  
20. Chestnut Street:  
c. both sides, entire length of street between State Street  
and Court Street.

**Chestnut Street No Parking  
Portsmouth, New Hampshire**



**Dearborn Street and Dearborn Lane No Parking  
Portsmouth, New Hampshire**

Map prepared by Portsmouth Department of Public Works, 6 August 2011  
Map document: U:\Projects\0263 Parking Traffic & Safety\Traffic and Parking Ordinance Changes

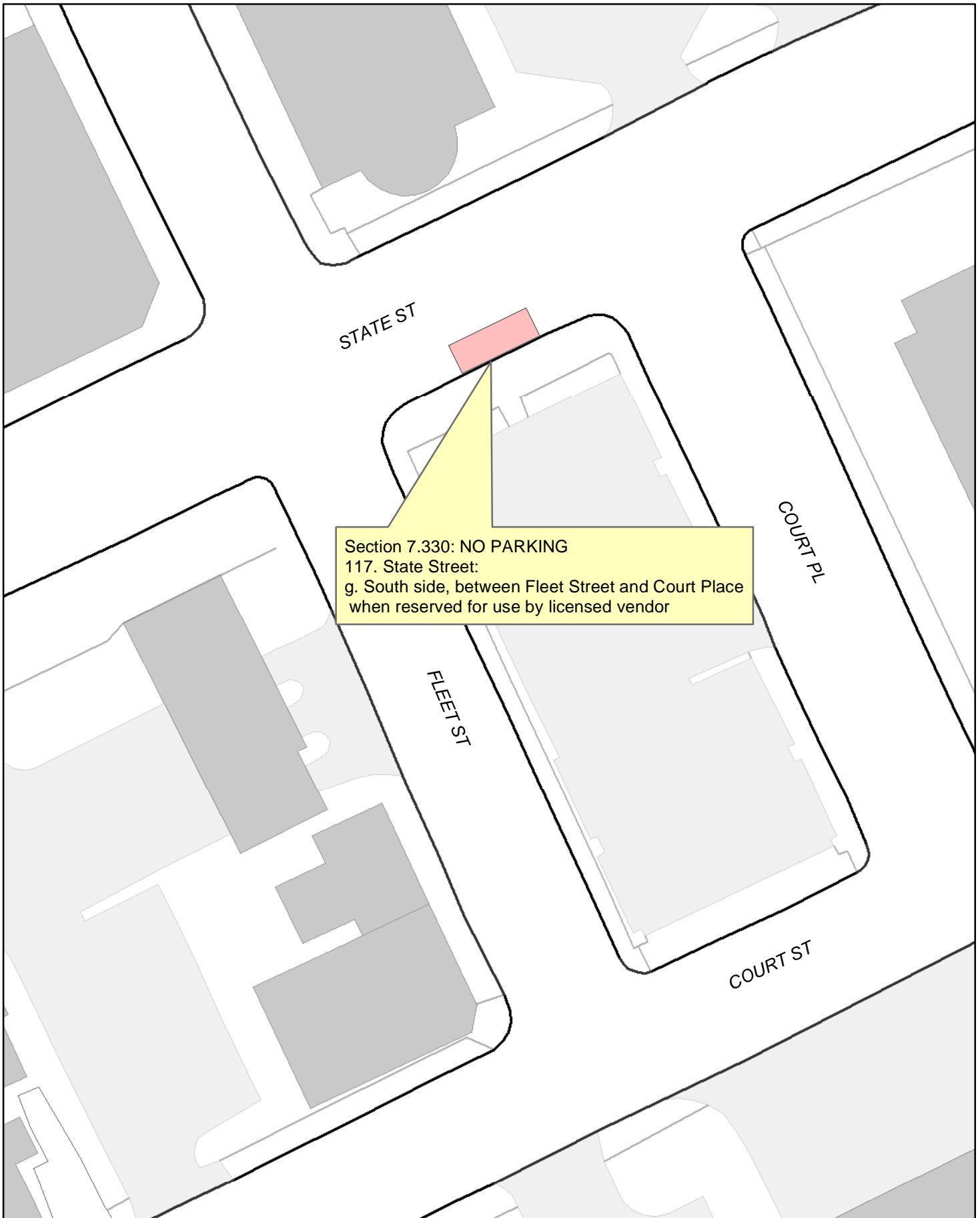


Section 7.330: NO PARKING  
53. Hanover Street  
a. (Hanover Street Extension) northerly side from Pearl Street to Brewster Street.

**Hanover Street Extension  
Portsmouth, New Hampshire**

Map prepared by Portsmouth Department of Public Works, 6 August 2011  
Map document: U:\Projects\0263 Parking Traffic & Safety\Traffic and Parking Ordinance Changes

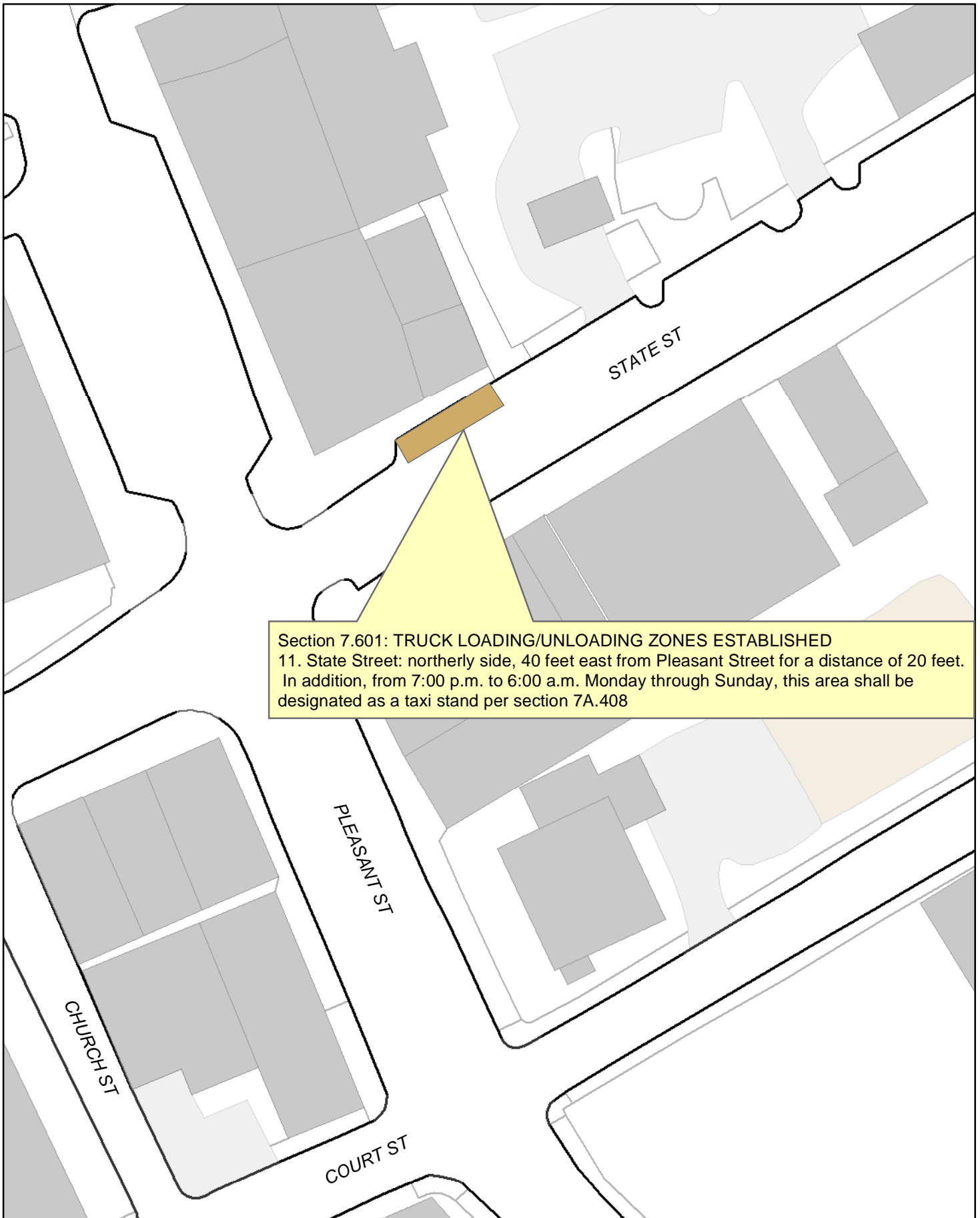




**State Street No Parking  
Portsmouth, New Hampshire**

Map prepared by Portsmouth Department of Public Works, 6 August 2011  
Map document: U:\Projects\0263 Parking Traffic & Safety\Traffic and Parking Ordinance Changes





**Section 7.601: TRUCK LOADING/UNLOADING ZONES ESTABLISHED**  
11. State Street: northerly side, 40 feet east from Pleasant Street for a distance of 20 feet. In addition, from 7:00 p.m. to 6:00 a.m. Monday through Sunday, this area shall be designated as a taxi stand per section 7A.408

**State Street Taxi Stands and Truck Loading Zone  
Portsmouth, New Hampshire**

Map prepared by Portsmouth Department of Public Works, 6 August 2011  
Map document: U:\Projects\0263 Parking Traffic & Safety\Traffic and Parking Ordinance Changes



<b>Ordinance Change/Location</b>	<b>Net change in parking spaces</b>	<b>Comment</b>
A – Change two 3-hour spaces to 15-minute spaces on Hanover Street	0	For new deli
B1, C1 - No Parking on Chestnut Street	-6	Spaces removed as part of African Burial Ground project
B2 - Market Street west side 3 hour limit (seasonal)	-1	Only when bike corral present
B3 - Market Street east side 3 hour limit	0	Wording of ordinance corrected
C2 - Deerborn Street No Parking	0	Wording of ordinance corrected
C3 - Deerborn Lane No Parking	0	Illegal spaces confirmed
C4 - No parking on Hanover Street	-4	To allow access to new Rock Street parking lot
C5 - State Street No Parking (seasonal)	-1	Space licensed to vendor from 7 AM -11 PM, April 15 through November 15.
D1, F1 - State Street taxi stand	0	Shared with existing loading zone
E1 - Old City Hall, Community Center	0	Deleting old ordinance
Additional Actions Affecting On-Street Parking Spaces		
• Crosswalk on State Street at African Burial Ground	-1	
• HarborCorp project on Deer Street and Russell Street	-26	
• New crosswalk on Hanover Street at Portwalk Place	-1	
<b>Total Change in On-Street Spaces</b>	<b>-40</b>	
Additional public spaces from HarborCorp parking garage	+70 to 170	Other than during special events at HarborCorp
<b>Net Change in Private/Public Parking Spaces</b>	<b>+30 to 130</b>	



The Music Hall  
28 Chestnut St.  
Portsmouth, NH 03801

August 17, 2015

John Bohenko  
City Manager  
1 Junkins Ave  
Portsmouth, NH 03801

Dear John:

Please find enclosed the Parking Meter Permit requests for the Music Hall's 2015-2016 Season for the City Council's review at their earliest convenience.

I thank you and the City Council for your continued support of the Music Hall. I look forward to hearing from your office soon.

Sincerely,

Zhana Morris  
Production Manager-The Music Hall  
603-766-2184  
Zmorris@themusichall.org

Enc.: Parking Permit Requests 2015-2016 Season - TMH

Cc: Mark Nelson-Parking and Transportation Director, Peter Rice-Director of Public Works

Ani DiFranco	Fri	9/11/2015	5 spaces
Lucious	Thu	9/17/2015	4 spaces
Joan Armatrading	Thu	9/24/2015	7 spaces
Junie B's School Show	Tue	9/29/2015	2 spaces
Goodnight Moon School Show	Wed	10/14/2015	2 spaces
Mavis Staples/Joan Osborne	Thu	11/12/2015	4 spaces
Click Clack Moo School Show	Tue	11/17/2015	2 spaces
Vaud & the Villains	Sat	1/23/2016	4 spaces
Tao- Seventeen Samurai	Fri	2/5/2016	4 spaces
Alexander Who is Not... School Show	Tue	3/1/2016	2 spaces
Celtic Nights: Spirit Freedom	Sat	3/5/2016	5 spaces
Griffin/Mitchell/Watkins	Fri	3/11/2016	4 spaces
Elephant and Piggies School Show	Tue	3/15/2016	2 spaces
Pink Martini	Wed	3/16/2016	7 spaces
The Moth Mainstage	Sat	3/19/2016	4 spaces
Moscow Festival Ballet	Sat	3/26/2016	9 spaces
Suessical School Show	Tue	4/5/2016	2 spaces
Ira Glass- 3 Acts, 2 Dancers, One Radio	Sat	4/30/2016	4 spaces

Parking Permit Requests 2015-2016 Season - TMH as of 8/17/15

FRANCIS X. BRUTON, III  
CATHERINE A. BERUBE

OF COUNSEL  
JAMES H. SCHULTE

# Bruton & Berube, PLLC

ATTORNEYS AT LAW



August 24, 2015

798 Central Avenue  
Dover, NH 03820

TEL (603) 749-4529  
(603) 743-6300  
FAX (603) 343-2986

[www.brutonlaw.com](http://www.brutonlaw.com)

Honorable Robert Lister  
City Council  
1 Junkins Ave.  
Portsmouth, NH 03801

**RE: Natan Aviezri Revocable Trust**

Dear Mayor Lister:

This office has been asked to assist the Natan Aviezri Revocable Trust with respect to its request to unmerge the lots that it owns within the city of Portsmouth. The lots have been involuntarily merged by the city of Portsmouth for assessing and taxing purposes as five (5) lots appear on one (1) tax card and appear to be assessed together.

Specifically, the Natan Aviezri Revocable Trust is the record owner of lots located off of Monroe and Ward Place. The Trust owns the property pursuant to a Warranty Deed, dated October 8, 2013, and recorded at the Rockingham County Registry of Deeds at B5486, P0562 (see copy enclosed). The City has designated an address of 75 Monroe Street for the five (5) lots. The lots are separately depicted within the records of the Rockingham County Registry of Deeds and are shown on "Plan of a Lot of Land Owned by J. Albert Walker and Arthur W. Walker," dated November 14, 1989 and recorded in the Rockingham County Registry of Deeds as Plan #00412 (see copy enclosed). As late as August 4, 2004, these lots have been conveyed as separate lots (specifically as Lot No. 30, No. 32, Lot No. 33, and a portion of Lots No. 34 and No. 35., pursuant to a Warranty Deed, dated August 4, 2004, recorded at the Rockingham County Registry of Deeds at B4344, P0105 (copy enclosed). Despite the plan and conveyance of the lots as separate lots, the City appears to have merged the five (5) lots into one lot, as depicted on Map 168 as Lot 27 on the tax cards and tax maps of the city of Portsmouth (copy of the tax card enclosed).

Please note that the owner, or any predecessor, of the two lots, have never voluntarily merged the two lots. When the lots were conveyed after 2004, the lots were conveyed as one legal description a multiple properties were being conveyed, however, throughout the previous chain of title the lots have otherwise been conveyed with reference to the lots as separate lots. As the City may be aware, the conveyance of the five (5) lots with a single legal description does, not standing alone, support a finding of voluntary merger of the landowner. See *Roberts v. Town of Windham*, 165 N.H. 186, 192 (2013).

Pursuant to RSA 674:39-aa, the Natan Aviezri Revocable Trust respectfully requests that the city of Portsmouth unmerge the two of the five lost. Specifically, the Trust requests that the

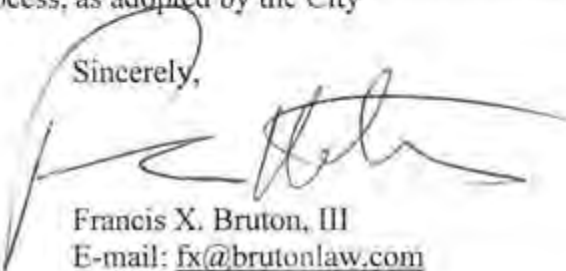
remaining portion of Lots No. 34 and No. 35 owned by the Trust be unmerged from Lots No. 30, No. 32 and No. 33.

As one can see upon visual inspection, Lots No. 30, No. 32 and No. 33 are currently utilized by two structures. However, the portions of Lots No. 34 and No. 35 owned by the Trust are not utilized in any fashion to support the structures on the other lots, and appear to be separate from the other three lots. It is respectfully submitted by the Trust that it believes that there are no facts to support a finding that the five (5) lots were ever voluntarily merged by the Trust or its predecessors in title. It is clear from the City records that the structures were built prior to the enactment of zoning requirement. Thus, the two lots to be unmerged were not necessary, zoning wise, for the construction of the existing two structures. In addition, the physical layout of the two structures shows that there is no use, such as an access way or location of an accessory structure upon the lots No. 34 & No. 35 for the benefit of the other three lots referenced herein. To the extent the City takes the position that the five lots have somehow been voluntarily merged, the burden of proof to show such is upon the City, not the Trust. See RSA 674:39-aa, II(b).

As part of this request, the Trust also specifically requests that the portions of Lot No. 34 & No. 35 that it owns be merged to form one lot and that a new tax card be created and that the lot be depicted on the City tax maps as a separate lot. Once the 2 lots are merged, the resulting lot will satisfy the current zoning restrictions set forth within the Portsmouth Zoning Ordinance to be considered a buildable lot. The Trust anticipates building a single-family house on the newly merged lot.

Should there be any questions regarding the above, please do not hesitate to contact me. Otherwise, please contact this office as to how the City typically addresses unmerger request in order that we can be involved in the process, as adopted by the City

Sincerely,



Francis X. Bruton, III  
E-mail: [fx@brutonlaw.com](mailto:fx@brutonlaw.com)

FXB/mas  
Enclosures

cc: Natan Aviezri Revocable Trust  
Robert P. Sullivan, Esquire, City Attorney

BK 5486 PG 0562

**MAIL TO  
RETURN TO:**

~~Debra Klein and Natan Aviezri  
697 Sagamore Avenue  
Portsmouth, NH 03801~~



054200

2013 OCT -9 PM 12:03

ROCKINGHAM COUNTY  
REGISTRY OF DEEDS

**WARRANTY DEED**

*Know All Persons By These Presents*, that **Historic Portsmouth Holdings, LLC**, a New Hampshire limited liability company of 375 Greenleaf Avenue, Portsmouth in the County of Rockingham and State of New Hampshire, for consideration paid, grants to the Natan Aviezri Revocable Trust, u/t/d May 1, 2006, Debra Klein and Natan Aviezri, Trustees, with an address of 697 Sagamore Avenue, Portsmouth, New Hampshire, 03801, with **Warranty Covenants**, the following described premises:

A certain lot or parcel of land with the buildings thereon, situated in Portsmouth in the County of Rockingham and State of New Hampshire, on the Westerly side of Monroe Street, so-called on the Southerly side of Ward Place, so-called and on the easterly side of Middle Road, so-called, and bounded and describe as follows:

Beginning on the Westerly side of Monroe Street at its intersection with the Southerly side of Ward Place, and at the Northeasterly corner of the described premises, and thence running Southerly along the Westerly side of Monroe Street, 100 feet, more or less to a point; thence turning and running Westerly 100 feet, more or less, to a point; thence turning and running Southerly 35 feet, more or less, to a point; thence turning and running Westerly 50 feet more or less to a point; thence turning and running Northerly 50 feet, more or less to a point; thence turning and running Westerly 96 feet, more or less, to a point on the Easterly side of Middle Road; thence turning and running Northeasterly along the Easterly side of Middle Road to a point at its intersection with the Southerly side of Ward Place; thence turning and running Easterly along the Southerly side of Ward Place, 200 feet, more or less to the point of beginning.

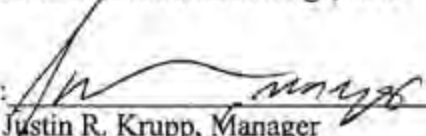
BK 5486 P6 0563

Being a portion of the premises conveyed to the Grantor herein by deed of James A. Mulvey, Trustee of the James A. Mulvey Revocable Living Trust and Peter Brown, Trustee of the Peter Brown Living Trust, recorded in the Rockingham County Registry of Deeds on July 20, 2010, at Book 5127, Page 1300, corrected by Scrivener's Error Affidavit recorded in Book 5207, Page 587 in said Registry.

This is not homestead property of the Grantor.

Dated this 8, day of October, 2013.

Historic Portsmouth Holdings, LLC

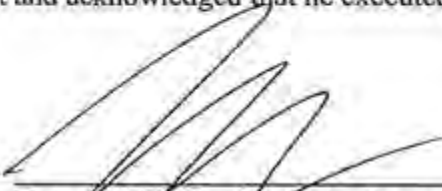
By:   
Justin R. Krupp, Manager

The State of New Hampshire  
County of Rockingham

October 8, 2013

Personally appeared the above named Justin R. Krupp, in his capacity as Manager of Historic Portsmouth Holdings, LLC, known to me or satisfactorily proven to be the person whose name appears in the within document and acknowledged that he executed the same for the purposes contained herein,

Before me,

  
Notary Public/Justice of the Peace  
Print Name:





00412

PLAN OF  
A LOT OF LAND

OWNED BY

J. ALBERT WALKER,  
AND  
ARTHUR W. WALKER.

PORTSMOUTH, N.H.

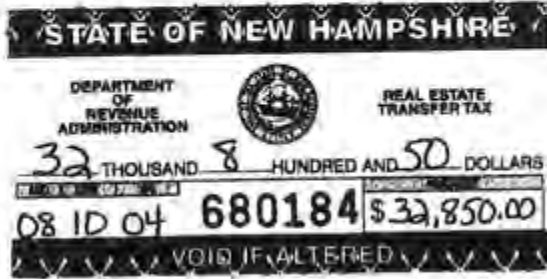
—Nov. 14, 1890.—



Scale 50 feet horizontal

Scale 50 feet vertical

North



067589

2004 AUG 10 PM 1:33

### WARRANTY DEED

*KNOW ALL MEN BY THESE PRESENTS*, that PANGENESIS, L.L.C., a limited liability company, for consideration paid, grants to JAMES A. MULVEY, a married person and PETER BROWN, a married person, with a mailing address of 7 Random Road, Town of Rye, County of Rockingham and State of New Hampshire, as tenants in common, with *WARRANTY COVENANTS*, the following described premises:

Tract I: A certain lot or parcel of land with the buildings thereon, situated in Portsmouth, County of Rockingham and State of New Hampshire, at the intersection of Union and Middle Streets, and bounded and described as follows:

Beginning at the southwesterly corner of the premises herein conveyed at said intersection, then running northerly by said Union Street, ninety-two (92) feet to land now or formerly of Albert E. Rand; thence turning and running easterly by said last-named land, thirty-three (33) feet to a right-of-way; thence turning and running southerly by said right-of-way ninety-two (92) feet to said Middle street at a point forty-two (42) feet from the easterly side of said Union street; thence turning and running westerly by said Middle Street forty-two (42) feet to the point of beginning.

This conveyance is made subject to any right-of-way mentioned in the deed of Rand to Bennett, Rockingham County Registry of Deeds, Book 1046, Page 75.

Meaning and intending to convey the same premises conveyed to Pangenesis, L.L.C. by deed of William W. Mautz and C. Sue Mautz, dated July 21, 1999 and recorded in the Rockingham County Registry of Deeds at Book 3416, Page 2352.

Tract II: A certain tract or parcel of land with the buildings thereon, situated in Hampton, County of Rockingham, State of New Hampshire, and bounded and described as follows:

Beginning at the Southwesterly corner of the parcel, at the corner of Mill Road and High Street; thence running North 6° 45' East by a stone retaining wall marking the Easterly line of

ROCKINGHAM COUNTY  
REGISTRY OF DEEDS

Mill Road 143 feet to a corner; thence turning and running South 79° 23' East 142 feet to an iron pipe in the ground; thence turning and running South 16° 11' West 153.85 feet to an iron pipe in the ground in the Northerly sideline of High Street; thence turning and running North 74° 05' West by said High Street 117.75 feet to Mill Road and to the point of beginning.

Meaning and intending to conveyed the same premises conveyed to Pangenesis, LLC by deed of Paul A. Garland, dated September 30, 1999 and recorded in the Rockingham County Registry of Deeds at Book 3427, Page 1391.

Tract III: A certain lot or parcel of land, with the buildings thereon, situated on the Southerly side of State Street, Portsmouth, County of Rockingham, State of New Hampshire bounded and described as follows:

Northerly by State Street; easterly by land now or formerly of the Advent Church; southerly by Chatham Street; westerly by land now or formerly of Horace A. Massey.

Meaning and intending to convey the same premises conveyed to Pangenesis, LLC by deed of Louis N. Shepherd, Margaret C. Shepherd, formerly Margaret E. Crane, Judith A. Costello and Kevin Costello d/b/a State Street Associates, dated October 15, 1998 and recorded in said Registry at Book 3333, Page 1725.

Tract IV: A certain parcel of land with the buildings thereon, situated in Portsmouth, in the County of Rockingham and the State of New Hampshire, on the Westerly side of Monroe Street, so-called, on the Southerly side of Ward Place, so-called, and on the easterly side of Middle Road, so-called, and bound and described as follows:

Beginning on the Westerly side of Monroe Street at its intersection with the Southerly side of Ward Place, and at the Northeasterly corner of the described premises, and thence running Southerly along the Westerly side of Monroe Street 100 feet, more or less, to a point; thence turning and running Westerly 100 feet, more or less, to a point; thence turning and running Southerly 35 feet, more or less, to a point; thence turning and running Westerly 50 feet, more or less, to a point; thence turning and running Northerly 50 feet, more or less, to a point; thence turning and running Westerly 96 feet, more or less, to a point on the Easterly side of Middle Road; thence turning and running Northeasterly along the Easterly side of Middle Road to a point at its intersection with the Southerly side of Ward Place; thence turning and running Easterly along the Southerly side of Ward Place 200 feet, more or less, to the point of beginning.

The described premises are shown on "Plan of a Lot of Land Owned by J. Albert Walker and Arthur W. Walker", dated November 14, 1898, and recorded in Rockingham Records as Plan #00412, and are described thereon as Lot No. 30, No. 32, No. 33 and a portion of Lots No. 34 and No. 35.

Meaning and intending to convey the same premises conveyed to Pangenesis, L.L.C. by deed of Robert B. Donovan, Successor Trustee of the Frank M. Emery Revocable Trust of 1997, dated August 7, 2000 and recorded in said Registry at Book 3497, Page 0834.

BK4344PG0107

EXECUTED this 6<sup>th</sup> day of August, 2004.

PANGENESIS, L.L.C.



By: Douglas Goforth, Member



By: Kay Goforth, Member

STATE OF CALIFORNIA  
COUNTY OF San Francisco

Personally appeared, before me, this 6<sup>th</sup> day of August, 2004, the above-named Douglas Goforth and Kay Goforth, who acknowledged themselves to be members of Pangenesis, L.L.C., and as such members, being authorized so to do, they executed the foregoing instrument for the purposes therein contained on behalf of said LLC.



Notary Public/Justice of the Peace

My Commission Expires: February 18, 2007



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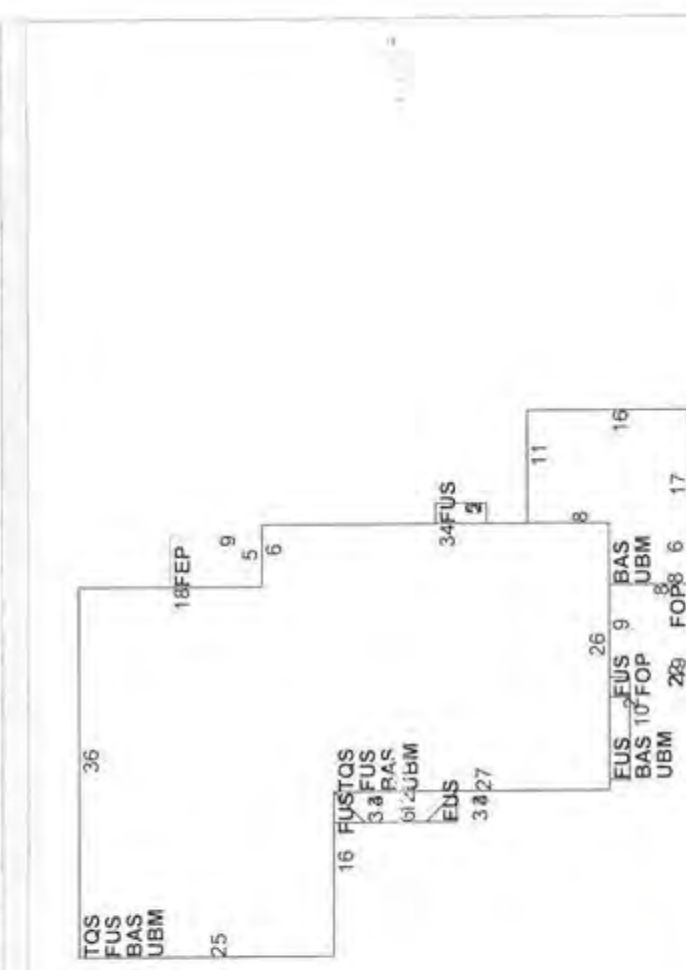
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CONSTRUCTION DETAIL		Element	Cd	Ch	Description
14	Style	Apartment			
94	Model	Commercial			
C+	Grade	C+			
7	Occupancy				MIXED USE
26	Exterior Wall 1	Aluminum Siding			
26	Exterior Wall 2				
03	Roof Structure	Gable/Hip			
03	Roof Cover	Asph/F Gls/Cmp			
05	Interior Wall 1	Drywall/Sheet			
06	Interior Wall 2				
06	Interior Floor 1	Inlaid Sht Gds			
06	Interior Floor 2	Carpet			
02	Heating Fuel	Oil			
05	Heating Type	Hot Water			
01	AC Type	None			
111C	Bldg Use	APT 4-7 UN MDL-94			
20	Total Rooms				
7	Total Bedrms				
7	Total Baths				
01	Kitchen Grd	Average			
00	Heat/AC	NONE			
02	Frame Type	WOOD FRAME			
02	Baths/Plumbing	AVERAGE			
06	Ceiling/Wall	CEIL & WALLS			
02	Rooms/Prtns	AVERAGE			
8	Wall Height				
	% Conn Wall				

OB-OUTBUILDING & YARD ITEMS(L) / XF-BUILDING EXTRA FEATURES(B)		Sub	Sub Description	Unit Price	Yr	Code	Dp	Rt	Cnd	%Cnd	Apr Value
PAV1	PAVING-ASPI	L	2,200	1.50	1995	C	A	50		1,700	
PAV1	PAVING-ASPI	L	836	1.50	1995	C	A	50		600	

BUILDING SUB-AREA SUMMARY SECTION									
Code	Description	Living Area	Gross Area	Eff. Area	Unit Cost	Underprice	Value		
BAS	First Floor	1,911	1,911	1,911	83.89		160,306		
FEP	Porch, Enclosed	0	45	29	54.06		2,433		
FOP	Porch, Open	0	136	34	20.97		2,852		
FUS	Upper Story, Finished	1,709	1,709	1,709	83.89		143,361		
TQS	Three Quarter Story	1,253	1,671	1,253	62.90		105,109		
UBM	Basement, Unfinished	0	1,911	382	16.77		32,044		
		4,873	7,383	5,318			446,106		



Ttl. Gross Liv/Lease Area: 4,873 7,383 5,318 446,106

CURRENT OWNER	TOPO	UTILITIES	STRT/ROAD	LOCATION	DESCRIPTION	CURRENT ASSESSMENT
AVIHZRI NATAN REVOCABLE TRUST KLEIN DEBRA AND AVIHZRI NATAN 697 SACAMORE AVE PORTSMOUTH, NH 03801	0 All Public	1 Paved	1 Urban	RESIDENTL RES LAND RESIDENTL	1110 1110 1110	381,400 256,000 2,300
Additional Owners:	SUPPLEMENTAL DATA					
Other ID: 0168-0027-0000	KONDO CV ENLAW Y/N LOT SPLIT 2015 Rev'd V JMI					381,400
OLD ACCT/NU: 61200	PHOTO					256,000
WARD	2015 Rev'd V JMI					2,300
PREC.	1/2 HSE					
GIS ID: 35220	ASSOC PID#					



RECORD OF OWNERSHIP	BK-VOL/PAGE	SALE DATE	Qtr	WT	SALE PRICE	P.C.	PREVIOUS ASSESSMENTS (HISTORY)
AVIHZRI NATAN REVOCABLE TRUST	5486/0562	10/09/2013	Q	1	918,200	00	381,900/2011 1110
HISTORIC PORTSMOUTH HOLDINGS LLC	5127/1300	07/20/2010	T	1	1,800,000	21	256,000/2012 1110
MILVEY JAMES A REVO LIVING TRUST 1/2 INT	5065/1430	11/10/2009	T	1		44	2,300/2011 1110
MILVEY JAMES A	4785/1229	04/09/2007	T	1		44	2,300/2011 1110
MILVEY JAMES A	4785/1229	04/09/2007	T	1		44	2,300/2011 1110
MILVEY JAMES A	4344/0105	08/06/2004	T	1	2,190,000	21	
<b>Total:</b>					640,200		640,200

EXEMPTIONS	Amount	Code	Description	Number	Amount	Comm. Int.
<b>OTHER ASSESSMENTS</b>						
<b>ASSESSING NEIGHBORHOOD</b>						
NBHHD/SUB		NBHHD NAME	STREET INDEX NAME	TRACING	BATCH	
304/A						
<b>NOTES</b>						
10/13- ADD NEW PHOTO						
APPT LETTER 9/18/13						

Year	Type	Description	Amount	Code	Description	Number	Amount	Comm. Int.
<b>APPRAISED VALUE SUMMARY</b>								
Appraised Bidg. Value (Card)							87,000	
Appraised XF (B) Value (Bidg)							0	
Appraised OB (L) Value (Bidg)							0	
Appraised Land Value (Bidg)							0	
Special Land Value							0	
Total Appraised Parcel Value							639,700	
Valuation Method:							C	
Adjustment:							0	
Net Total Appraised Parcel Value							639,700	

Permit ID	Issue Date	Type	Description	Amount	Instp. Date	% Comp.	Date Comp.	Comments
<b>BUILDING PERMIT RECORD</b>								
<b>LAND LINE VALUATION SECTION</b>								
B Use	Use	Zone	Frontage	Depth	Units	Unit Price	F	S
# Code	Description				AC	0.00	1.00000	0
2	111C APT 4.7 UN MIDL-94				AC	0.00	1.00000	0

Date	Type	IS	ID	CD	Purpose/Result
<b>VISIT/CHANGE HISTORY</b>					
10/16/2013			134	96	Measur-1 Listed
02/10/2010			ST	ER	Exterior Review
02/25/2009			JW	07	Measur/IntDr Info taker
02/25/2009			JW	01	Measur+1 Visit
07/21/2006			JRL	9	Corrv

Permit ID	Issue Date	Type	Description	Amount	Instp. Date	% Comp.	Date Comp.	Comments
<b>LAND LINE VALUATION SECTION</b>								
B Use	Use	Zone	Frontage	Depth	Units	Unit Price	F	S
# Code	Description				AC	0.00	1.00000	0
2	111C APT 4.7 UN MIDL-94				AC	0.00	1.00000	0
Total Card Land Units:			0.00	AC	Parcel Total Land Area: 0.51 AC	Total Land Value: 0		

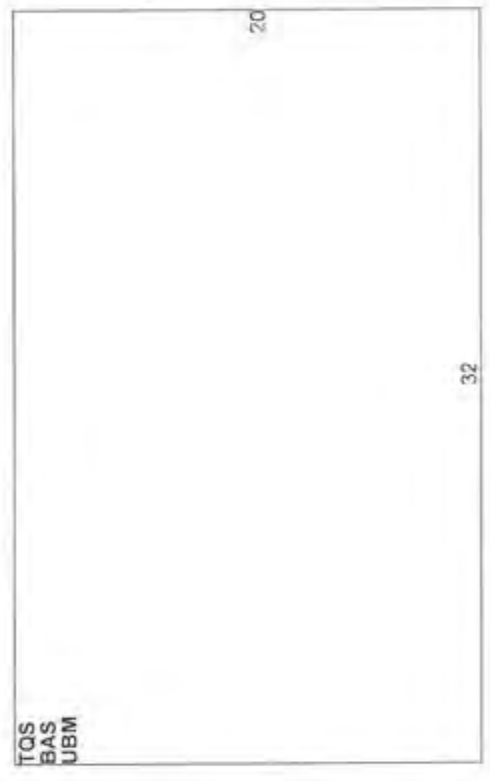
CONSTRUCTION DETAIL		CONSTRUCTION DETAIL (CONTINUED)	
Element	Cd	Ch	Description
Style	14		Apartments
Model	94		Commercial
Grade	C		C
Stories	1.5		
Occupancy	1		
Exterior Wall 1	25		Vinyl Siding
Exterior Wall 2			
Roof Structure	03		Gable/Hip
Roof Cover	03		Asph/F Gls/Cmp
Interior Wall 1	05		Drywall/Sheet
Interior Wall 2	03		Plastered
Interior Floor 1	12		Hardwood
Interior Floor 2	05		Inlaid Sht Gds
Heating Fuel	03		Gas
Heating Type	05		Hot Water
AC Type	01		None
Bldg Use	111C		APT 4-7 UN MDL-94
Total Rooms	4		
Total Bedrms	2		
Total Baths	1		
Kitchen Grd	01		Average
Heat/AC	00		NONE
Frame Type	02		WOOD FRAME
Baths/Plumbing	02		AVERAGE
Ceiling/Wall	06		CEIL & WALLS
Rooms/Prtis	02		AVERAGE
Wall Height	8		
% Conn Wall			

CONSTRUCTION DETAIL (CONTINUED)	
Code	Description
<b>MIXED USE</b>	
111C	APT 4-7 UN MDL-94
	Percentage 100
<b>COST/MARKET VALUATION</b>	
Adj. Base Rate	116.19
Replace Cost	145,005
AYB	1920
EYB	1970
Dep Code	A
Remodel Rating	
Year Remodeled	
Dep %	40
Functional Obslnc	
External Obslnc	
Cost Trend Factor	
Status	
% Complete	60
Overall % Cond	
Apprais Val	87,000
Dep % Ovr	0
Dep Ovr Comment	
Misc Imp Ovr	0
Misc Imp Ovr Comment	
Cost to Cure Ovr	0
Cost to Cure Ovr Comment	

OB-OUTBUILDING & YARD ITEMS(L) / XF-BUILDING EXTRA FEATURES(B)												
Code	Description	L/B	Units	Unit Price	Yr	Code	Dp	Rt	Chd	%Cnd	Apr Value	
<b>BUILDING SUB-AREA SUMMARY SECTION</b>												
Code	Description	Living Area	Gross Area	Eff Area	Unit Cost	Undprcc	Value					
BAS	First Floor	640	640	640	116.19		74,362					
TQS	Three Quarter Story	480	640	480	87.14		55,771					
UBM	Basement, Unfinished	0	640	128	23.24		14,872					
<b>Ttl. Gross Liv/Lease Area:</b>		1,120	1,920	1,248			145,005					



TQS  
BAS  
UBM



70 Kensington Road  
Portsmouth, NH 03801

September 1, 2015

Portsmouth City Council  
Municipal Building  
1 Junkins Ave.  
Portsmouth, NH 03801

Re: September 8, 2015 City Council Meeting -- proposed zoning amendments  
regulating short term rentals, hotels, and motels

Dear Mayor Lister and members of the City Council,

The proposed zoning amendments scheduled for a public hearing and second reading on September 8, 2015 include provisions governing hotels and motels.

Please add a prohibition on gambling at hotels and motels.

This can be accomplished by amending the definitions of hotels and motels in Section 10.1530 of the zoning ordinance by adding the following at the end of those definitions: **“but shall not include casino gambling, keno, or other games of chance.”**

### Analysis

The state legislature may soon legalize casino gambling or keno, as it almost did during the 2015 session.

Portsmouth’s zoning ordinance does not explicitly prohibit gambling. Instead, the ordinance forbids all uses that it does not expressly allow. (Sections 10.132, 10.432, 10.434.40.)

The ordinance allows hotels and motels in certain districts. (Section 10.440, Table of Uses, subsection 10.40.) Section 10.1530 defines “hotels” and “motels.”

The ordinance’s definitions of hotels and motels conclude with the following sentence: “Such activities may include, where allowed, <sup>1</sup> such accessory uses as restaurants, bars, taverns, nightclubs, function rooms, places of public assembly *or recreational facilities.*” (Emphasis added.)

---

<sup>1</sup> At first glance, this “where allowed” clause seemingly permits hotels and motels to operate recreational facilities only if recreational facilities are otherwise allowed in the same district. However, this reasoning is circular, because the zoning ordinance says little about where recreational facilities are allowed. The ordinance mentions “recreational facilities” only three times: (1) in the definitions of hotels and motels; (2) in Section 10.450, subsection 19.18, allowing recreational facilities in the Pease Airport District; and (3) in Section 10.722.20(a), allowing recreational facilities as accessory uses in planned unit residential developments.

*The problem is that the ordinance does not define “recreational” or “recreational facilities.”*<sup>2</sup>

Given this muddy state of affairs, *the operator of a hotel or motel could argue that an attached gambling parlor qualifies as a “recreational facility” allowed by the zoning ordinance.*


Some developers take advantage of loopholes created by such ambiguities. Portwalk III is a good example. The zoning ordinance set a height limit of 60 feet for Portwalk III and defined height based on average building height. The developer successfully argued that a 10 foot high screening wall should be included when calculating average building height, allowing other portions of the building to approach 70 feet in height.

The solution is to eliminate ambiguities by precisely defining critical terms.

For all of those reasons, I recommend that the definitions of hotels and motels in Section 10.1530 of the zoning ordinance be amended by adding the following boldface language: “Such activities may include, where allowed, such accessory uses as restaurants, bars, taverns, nightclubs, function rooms, places of public assembly or recreational facilities, **but shall not include casino gambling, keno, or other games of chance.**”

Thank you for considering this suggestion.

Very truly yours,



Gerald M. Zelin

cc: Robert Sullivan, Esq., City Attorney

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<sup>2</sup> One might consult Section 10.1112.30(4) of the ordinance for an indirect definition of recreational facilities. That section sets *parking standards* for certain “recreational uses,” specifically for amusement parks, tennis courts, driving ranges, golf courses, skating rinks, playing fields, commercial outdoor recreation operations, health clubs, and indoor recreation facilities with no fixed seating. However, Section 10.1112.30 does not purport to define any terms, nor does it use the term “recreational facilities.” The amendment I propose is more explicit and direct.

September 2, 2015

Hon. Robert J. Lister, Mayor  
City of Portsmouth  
City Hall  
Parrott Ave.  
Portsmouth, NH 03801

Re: Short-term Vacation Rentals and Bed and Breakfasts Proposed  
Amendments to the Zoning Ordinance

Dear Mayor Lister and Members of the City Council:

We write in support of the proposed ordinance that would confirm and specify that “short-term vacation rentals” are not permitted in our residential districts. We believe that permitting business activity like this in residentially-zoned areas would be deleterious to our neighborhoods. It also would inevitably lead to permitting other currently-prohibited business activities in residential zones.

Making one’s home available for short-term vacation rentals has traditionally been viewed as a “business” activity and thus prohibited in residentially-zoned areas. According to a recent staff report prepared for the Mayor and City Council of the Santa Monica, CA, “[g]enerally speaking, short-term rentals in residential neighborhoods are typically illegal or severely restricted under most zoning laws. . . . [i]t is normally viewed as a commercial activity and usually considered no different that a hotel.”

Portsmouth is not the only tourist-popular locality to consider the short-term vacation rental question. The recent explosion of such rental activity - enabled and actively encouraged by corporate “short-term rental hosting platforms” such as Airbnb, HomeAway and VRBO - has brought this zoning issue to the fore in many localities.

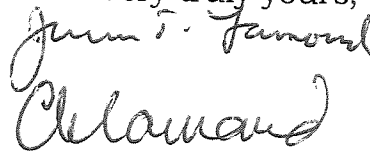
Many communities with relevant characteristics similar to Portsmouth have confirmed existing bans on short-term vacation rentals in their residential districts, or have enacted such explicit bans for the first time. They include such California cities and towns as Santa Monica, Manhattan Beach, Santa Clara, Los Angeles, West Hollywood, Venice, Laguna Beach, Carlsbad, Monterey, Burbank and Carmel by the Sea. They include Florida cities and towns such as Miami Beach, North Miami Beach, Key Biscayne and Ft. Lauderdale. Asheville, NC has recently sought “to toughen enforcement of illegal short-term rentals because they believe the practice degrades neighborhoods and reduces affordable

housing.”<sup>1</sup> Scottsdale, AZ has a ban. And Sedona, AZ has recently strengthened its existing ban by enacting a new enforcement ordinance, a copy of which I have attached. New Orleans, a tourist mecca, has banned them as well.

It bears noting that to allow this type of commercial activity in a residential district could lead to calls to permit other lawful, profit-making activities that are currently not permitted in residentially-zoned districts. If Portsmouth allows one type of business activity but not another, it will no doubt open itself to legal claims that it has acted arbitrarily in favoring some business activities over others in exercising its zoning power.

Your predecessors on the Portsmouth City Council created residential districts for good and sound reasons that remain valid today. Such zoning encourages “neighborhood” living and protects residential areas against business uses. Since the proposed ordinance will make it clear that short-term vacation rentals are not permitted in Portsmouth’s residentially-zoned districts, we support its enactment and ask that you vote its passage.

Very truly yours,

A handwritten signature in cursive script, appearing to read "James and Catherine Lamond".

James and Catherine Lamond  
84 Haven Rd., Portsmouth

Enclosure (1)

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<sup>1</sup> See <http://www.citizen-times.com/story/news/local/2015/05/13/asheville-airbnb-short-term-rental-downtown-city-council-home-apartment-condominium-tourist-visit-enforcement-fine/27233777/>

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Chapter 5.25  
ENFORCEMENT OF RESTRICTIONS ON  
RESIDENTIAL SHORT-TERM VACATION RENTALS

Sections:

- 5.25.010 Title.
- 5.25.020 Findings and purpose.
- 5.25.030 Definitions.
- 5.25.040 Prohibited rental duration.
- 5.25.050 Advertisement of illegal short-term rentals prohibited.
- 5.25.060 Violations and penalties.

**5.25.010 Title.**

This chapter shall be known as the city of Sedona short-term vacation rental enforcement chapter. [Ord. 2008-01, 1-22-08. Code 2006 § 8-4-1].

**5.25.020 Findings and purpose.**

A. The city of Sedona is committed to maintaining its small-town character, scenic beauty and natural resources that are the foundation of its economic strength and quality of life. (Sedona Community Plan, Section 9.2, Recommendations Goal 1.0.) The rental of private homes for temporary occupancy has been identified as a community concern due to the potential for increased traffic, noise, high occupant turnover, and density in single-family residential neighborhoods. The number of occupants occupying such temporary rentals has the potential to exceed standards for the design capacity of such structures and to cause health and safety problems, and as such may constitute threats to the health and safety of neighbors and nearby properties. The purpose of this chapter is to safeguard the peace, safety and general welfare of the residents of Sedona and their visitors and guests by eliminating noise, vandalism, overcrowding, neighborhood uncertainty, high occupant turnover, diminution of neighborhood character, and other secondary effects that have become associated with the illegal short-term rental of single-family dwellings. These regulations are necessary to protect the integrity and small-town character of the city's residential neighborhoods.

B. Since its adoption in 1995, the Sedona Land Development Code has prohibited the rental of any single-family dwelling in residential areas for less than 30 days. Since that time, the short-term vacation rental market nationwide has expanded with the use of professional brokers and Internet listing services. This proliferation requires an expansion of enforcement mechanisms to deter parties who facilitate and solicit this illegal activity. Because there are numerous homeowners, real estate offices, brokers, and other agencies that actively promote short-term rentals to potential Sedona visitors through the Internet and other forms of advertisement, it is necessary to prohibit the promotion and advertisement of short-term vacation rentals for periods of less than 30 consecutive days.

C. Therefore, in an attempt to further promote the aims and goals of the current ban on short-term residential rentals, the city does hereby adopt the following provisions in an attempt to enhance the ability to enforce current prohibitions against short-term rentals in residential neighborhoods. [Ord. 2008-01, 1-22-08. Code 2006 § 8-4-2].

**5.25.030 Definitions.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

"Advertise" or "advertisement" means any written or oral publication, dissemination, solicitation or circulation which is intended to directly or indirectly induce any person to enter into an agreement for the rental of a single-family dwelling in violation of this chapter or the applicable provisions of the Sedona Land Development Code. This definition includes but is not limited to mailings, print advertisements, Internet listings, e-mail publications or other oral, printed or electronic means.

"Enterprise" means any corporation, association, firm, partnership, LLC, or other legal entity.

Facilitate. A person or enterprise "facilitates" if, acting with knowledge that an operator, managing agency or rental agent is committing or intends to commit the offense of renting a single-family dwelling in violation of this chapter, the person or enterprise knowingly provides the operator, managing agency or rental agent with means or opportunity for the commission of said offense.

"Managing agency" or "rental agent" means a person, enterprise or agency representing the owner of the short-term vacation rental, or a person, enterprise or agency owning more than one short-term vacation rental.

"Operator" means the person or enterprise who is owner or proprietor of a short-term vacation rental, whether in the capacity of owner, lessee, sub-lessee, mortgagee in possession, licensee, or any other capacity. Where the operator performs his functions through a managing agency of any type or character, or where the operator performs his or her functions through a rental agent, the managing agency or the rental agent has the same duties as its principal.

"Person" means an individual or a group of individuals.

"Remuneration" means compensation, money, or other consideration given in return for occupancy, possession or use of real property.

"Rent" means the consideration or remuneration charged whether or not received, for the occupancy of space in a short-term vacation rental, valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits, property or services of any kind. Rent may include consideration or remuneration received pursuant to an option to purchase whereby a person is given a right to possess the property for a term of less than 30 consecutive days.

"Rental" means an arrangement between a transient and an operator whereby rent is received in exchange for the right to possess a residential structure.

"Short-term vacation unit" means any structure or any portion of any structure that is rented to a transient for less than 30 consecutive days in a residential zoning district or a planned residential development district as contemplated in the Sedona Land Development Code, including detached single-family dwellings, condominiums, duplexes, townhomes and multiple-family dwellings.

Solicit. A person or enterprise "solicits" if, with the intent to promote or facilitate the short-term rental of a short-term vacation unit in violation of this chapter, such person or enterprise commands, encourages, requests or solicits another person to engage in conduct which would constitute a violation of this chapter.

“Transient” means any person who, at his own expense or at the expense of another, exercises occupancy or possession or is entitled to occupancy or possession by reason of any rental agreement, concession, permit, right of access, option to purchase, license, time-sharing arrangement, or any other type of agreement for a period of less than 30 consecutive calendar days, counting portions of calendar days as full days. [Ord. 2008-01, 1-22-08. Code 2006 § 8-4-3].

**5.25.040 Prohibited rental duration.**

Rental of a short-term vacation unit or units by a person, operator, managing agency or rental agent for less than 30 consecutive days in duration to any transient within any residential zoning district or planned residential development district in violation of the Sedona Land Development Code is prohibited. [Ord. 2008-01, 1-22-08. Code 2006 § 8-4-4].

**5.25.050 Advertisement of illegal short-term rentals prohibited.**

It is class 1 misdemeanor for any person, enterprise, managing agency or rental agent to advertise, solicit or facilitate the rental for less than 30 consecutive days of a short-term vacation unit located within residential districts where such short-term rentals are prohibited by the Sedona Land Development Code. Such activity is prohibited, whether by mailings, print advertisements, Internet listings, or other means. [Ord. 2008-01, 1-22-08. Code 2006 § 8-4-5].

**5.25.060 Violations and penalties.**

Violations of this chapter shall constitute a class 1 misdemeanor, and upon conviction, shall be subject to a mandatory \$1,000 fine, not to exceed \$2,500 plus applicable surcharges or by imprisonment for a period not to exceed six months, or by both such fine and imprisonment. Each day that any violation continues shall be a separate offense punishable as described herein. In the alternative, an action may be commenced as a civil violation. [Ord. 2008-01, 1-22-08; Ord. 2015-09 § 1, 6-23-15. Code 2006 § 8-4-6].

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**The Sedona City Code is current through Ordinance 2015-09, passed June 23, 2015, and Resolution 2015-17, passed June 23, 2015.**

Disclaimer: The City Clerk's Office has the official version of the Sedona City Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

City Website: <http://www.sedonaaz.gov/>  
(<http://www.sedonaaz.gov/>)  
City Telephone: (928) 203-5032  
Code Publishing Company  
(<http://www.codepublishing.com/>)

*Law Offices of*  
**WHOLEY & PELECH**

55 CONGRESS STREET, SUITE B  
P.O. BOX 395  
PORTSMOUTH, NEW HAMPSHIRE 03802-0395

BERNARD W. PELECH\*

JOHN J. WHOLEY  
(1922-2001)

ADMITTED NH & ME BARS



TEL 603-436-6121  
Fax 603-433-7491

bernie@wholey-pelech.com

September 2, 2015

Honorable Mayor Robert Lister  
City Hall  
1 Junkins Avenue  
Portsmouth, NH 03801

**Re: Restoration of involuntarily merged lots - RSA 674:39aa  
65 Mendum Avenue, Portsmouth**

Dear Mayor Lister and Members of the City Council:

As you know from my correspondence of August 6, 2015, I represent Patricia L. Russell and Burton J. Russell, owners of 65 Mendum Avenue in Portsmouth.

I have reviewed Mr. Taintor's Memorandum regarding the history of the lots and I concur that there are actually 4 lots which comprise 65 Mendum Avenue. On the enclosed Tax Map, I have delineated the 4 lots showing their location and dimensions as well as the Book and Page references and dates of each of the 4 separate deeds.

In accordance with Mr. Taintor's recommendation, I would respectfully request that the Council restore the 4 lots shown on the attached Tax Map to their original pre-merger status.

Mr. and Mrs. Russell would then merge the 2 small lots with no frontage on Mendum Avenue with the 2 larger 50' x 103.5' lots which do have frontage on Mendum Avenue.

I have also enclosed hereto the 1906 Charles H. Mendum plan and the 4 deeds which are referenced on the Tax Map. The deeds and plans are color coded so as to be more easily identified.

Thank you for your consideration of this matter.

Sincerely,

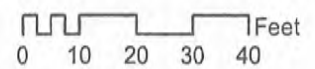
Bernard W. Pelech

Enclosures





65 Mendum Avenue



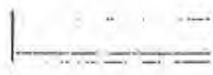
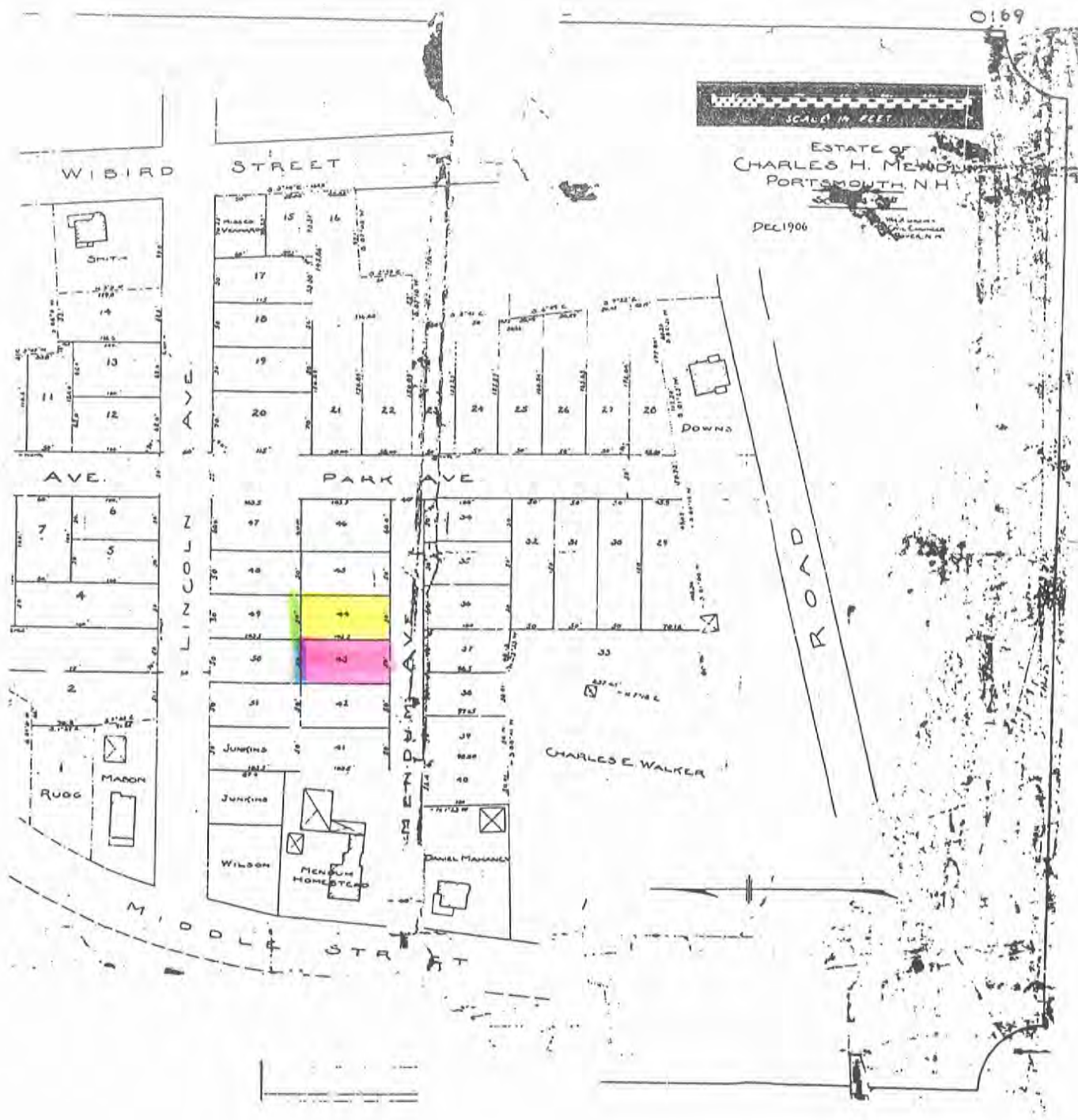
0.69



ESTATE OF CHARLES H. MENDON  
PORTSMOUTH, N.H.

DEC 1906

W. H. WALKER  
City Engineer  
PORTSMOUTH, N.H.



# Know all Men by these Presents,

9  
9

THAT we, Romaine J. Kelley of Portsmouth, County of Rockingham and State of New Hampshire, residuary legatee under the will of John W. Kelley, late of said Portsmouth, and Alice B. Paul of said Portsmouth

for and in consideration of the sum of One Dollar to us in hand, before the delivery hereof well and truly paid by

Thomas D. Noyes of

said Portsmouth

{ Kelley & Paul  
to  
Noyes

the receipt whereof we do hereby acknowledge, have given, granted, bargained and sold, and by these presents do give, grant, bargain, sell, alien, enfeoff, convey and confirm unto the said Thomas D. Noyes his heirs and assigns forever,

{ del. to  
Ed. Patterson & Co.

Lot No. 44 on a plan of land of the estate of Charles H. Mendum now owned by said Kelley and Paul, recorded in Rockingham Records, Book of Plans 1, page 62, bounded and described as follows:—Beginning at the northwesterly corner of the lot herein conveyed at its junction with lot 49, lot 50 and lot 43 heretofore sold to said Noyes, and running in an easterly direction fifty (50) feet to the junction of the lot herein conveyed and lots 48 and 45; thence turning and running in a southerly direction one hundred and three and five-tenths (103.5) feet more or less to Mendum Avenue as called; thence turning and running in a westerly direction by Mendum Avenue fifty (50) feet more or less to lot No. 43 heretofore sold to said Noyes; thence turning and running in a northerly direction one hundred and three and five-tenths (103.5) feet more or less by land of said Noyes to the point begun at.

To have and to hold the said granted premises, with all the privileges and appurtenances to the same belonging to him the said Thomas D. Noyes and his heirs and assigns, to him and their only proper use and benefit forever. And we the said Romaine J. Kelley and Alice B. Paul and our heirs, executors and administrators, do hereby covenant, grant and agree, to and with the said Thomas D. Noyes and his heirs and assigns, that until the delivery hereof we are the lawful owner of the said premises, and are seized and possessed thereof in our own right in fee simple; and have full power and lawful authority to grant and convey the same in manner aforesaid; that the said premises are free and clear from all and every incumbrance whatsoever; and that we and our heirs, executors and administrators, shall and will warrant and defend the same to the said Thomas D. Noyes

and his heirs and assigns, against the lawful claims and demands of any person or persons whomsoever.

And I, Clarence K. Paul, husband wife of the said Alice B. Paul in consideration aforesaid, do hereby release my right of ~~claim~~ the above mentioned premises.

And we and each of us do hereby release, discharge and waive all such rights of exemption from attachment and levy or sale on execution and such other rights whatsoever in said premises and in each and every part thereof, as our Family Homestead, as are reserved or secured to us, or either of us, by the Statute of the State of New Hampshire, passed July 4, 1851, entitled "An Act to exempt the Homestead of Families from attachment and levy or sale on execution," or by any other Statute or Statutes of said State.

In Witness whereof we have hereunto set our hand and seal this sixteenth day of March in the year of our Lord one thousand nine hundred and thirteen.

SIGNED, SEALED AND DELIVERED IN PRESENCE OF US:  
Edward H. Moody  
E. P. Lawrence  
A. R. Hatch }  
Effie B. Wright } to R. D. K.

Romaine J. Kelley (P)  
Alice B. Paul (P)  
Clarence K. Paul (P)

STATE OF NEW HAMPSHIRE, ROCKINGHAM, ss. *October 16* A. D. 1913.  
Personally appeared the above named Romaine J. Kelley, Alice B. Paul & Clarence K. Paul and acknowledged the foregoing instrument to be their voluntary act and deed.

BEFORE ME:

Albert R. Hatch Justice of the Peace.

Received and Recorded Jan 6 - 10 32 A.M. 1914.

John W. Green Registrar

10

# Know all Men by these Presents,

10

THAT *we, John W. Kelley and Alice B. Paul of Portsmouth, in the County of Rockingham and State of New Hampshire*

*Kelley et al*

to

*Noyes*

for and in consideration of the sum of *One Dollar* to us in hand, before the delivery hereof well and truly paid by *Thos. D. Noyes of Portsmouth in the County of Rockingham and State of New Hampshire.*

del. to

*Ed. Peterson Esq*

the receipt whereof *we* do hereby acknowledge, have given, granted, bargained and sold, and by these presents do give, grant, bargain, sell, alien, enfeoff, convey and confirm unto the said *Thomas D. Noyes his* heirs and assigns forever,

A certain parcel of land on *Mendern Avenue* in said *Portsmouth* known as *Lot #43*, bounded and described as follows: -  
*Beginning at the north west corner of Lot #43 and running westerly fifty (50) feet more or less by land of Kelley & Paul, thence turning and running southerly one hundred three feet (103 ft.) more or less by land of Kelley & Paul to Mendern Avenue, thence turning and running easterly by Mendern Avenue fifty (50) feet more or less to land of Kelley & Paul, thence turning and running northerly by said land of Kelley & Paul one hundred three (103) feet more or less to point begun at, being plot of land recorded in Rockingham Records, Vol. 1, Fol. 62.*

To have and to hold the said granted premises, with all the privileges and appurtenances to the same belonging to *him* the said *grantee* and *his* heirs and assigns, to *his* and their only proper use and benefit forever. And *we* the said *grantors* and *our* heirs, executors and administrators, do hereby covenant, grant and agree, to and with the said *grantee* and *his* heirs and assigns, that until the delivery hereof *we are* the lawful owner of the said premises, and *we* seized and possessed thereof in *our* own right in fee simple; and have full power and lawful authority to grant and convey the same in manner aforesaid; that the said premises are free and clear from all and every incumbrance whatsoever; and that *we* and *our* heirs, executors and administrators, shall and will warrant and defend the same to the said *grantee*

and *his* heirs and assigns, against the lawful claims and demands of any person or persons whomsoever. - And *I, Romaine S. Kelley* wife of the said *John W. Kelley* *Blairance K. Paul* husband of said *Alice B. Paul* in consideration aforesaid, do hereby release *my* right of dower in the above mentioned premises.

And *we* and each of us do hereby release, discharge and waive all such rights of exemption from attachment and levy or sale on execution and such other rights whatsoever in said premises and in each and every part thereof, as our Family Homestead, as are reserved or secured to us, or either of us, by the Statute of the State of New Hampshire, passed July 4, 1851, entitled "An Act to exempt the Homestead of Families from attachment and levy or sale on execution," or by any other Statute or Statutes of said State.

In Witness whereof *we* have hereunto set *our* hands and seals this *twelfth* day of *August* in the year of our Lord *one thousand nine hundred and thirteen.*

*Mary Kelley Macarty*  
*Albert R. Hatch*

*John W. Kelley* (P)  
*Romaine S. Kelley* (P)  
*Alice B. Paul* (P)  
*Blairance K. Paul* (P)

STATE OF NEW HAMPSHIRE, ROCKINGHAM, ss. *August 12* A. D. 1913.  
Personally appeared the above named *John W. Kelley, Alice B. Paul, Romaine S. Kelley & Blairance K. Paul* and acknowledged the foregoing instrument to be *their* voluntary act and deed.

BEFORE ME:

*Albert R. Hatch* Justice of the Peace.

Received and Recorded *Jan. 6-10.32.20* 1914

*John W. Green* Register

250  
250

\$5.00  
NHC

# Know all Men by these Presents,

THAT *E. Edward P. Carman* of Portsmouth in the County of Rockingham and State of New Hampshire, widower

*Carman to Noyes*

for and in consideration of the sum of One dollar (\$1.00) to me in hand, before the delivery hereof well and truly paid by *Florence A. Noyes* of said Portsmouth

*E.H. Adams* del. to the receipt whereof I do hereby acknowledge, have given, granted, bargained and sold, and by these presents do give, grant, bargain, sell, alien, enfeoff, convey and confirm unto the said *grantee and her* heirs and assigns forever, a certain

lot of land situate in said Portsmouth on Lincoln Avenue and being lot # 7 on a plan of lots of land made by *William A. Norris, C.E.*, dated August 1909 and recorded in Rockingham Registry of Deeds. Said lot is bounded on the Northeast by lot # 8 on said plan, on the Southeast by land now or formerly of *Samuel Mahoney*, on the Southwest by lot # 10 on said plan owned now or formerly by *one Jackson* and on the Northwest by said Lincoln Avenue. Being the same lot of land conveyed to me by *Fernando W. Hartford* by his deed dated July 9, 1912 and recorded in Rockingham Registry of Deeds Book 739 Page 136. Also another certain lot of land in said Portsmouth bounded and described as follows: Beginning at the Northwest Corner of land now or formerly of *Thomas D. Noyes* and running in an Easterly direction by land now or formerly of said *Noyes in part and land now or formerly of Kelly and Paul in part* fifty (50) feet thence turning and running Northeastly seventeen (17) feet more or less to other land of said grantor, thence turning and running Northwesterly by land named land fifty (50) feet, thence turning and running Southwesterly nineteen (19) feet to the point begun at. Being the small parcel of land on the northerly side of lot # 4 on a plan of land now or formerly of the Estate of *Charles H. Mandum*, recorded in Rockingham Records, Vol. of Plans No 1, page 62. Being the same premises conveyed to me by *Alice B. Paul et al* by their deed dated August - - 1913 and recorded in Rockingham Registry of Deeds Book 739, Page 137.

To have and to hold the said granted premises, with all the privileges and appurtenances <sup>thereunto</sup> belonging, to ~~her~~ the said *grantee* and their ~~only~~ <sup>own</sup> proper use and ~~benefit~~ <sup>school</sup> forever. And I the said grantor ~~for myself~~ and my heirs, executors and administrators, do hereby covenant, grant and agree, to and with the said *grantee* and ~~her~~ heirs and assigns, that until the delivery hereof I am the lawful owner of the said premises, and ~~am~~ seized and possessed thereof in ~~my~~ own right and fee simple; and have full power and lawful authority to grant and convey the same in manner aforesaid; that the said premises are free and clear from all and every incumbrance whatsoever; and that I and my heirs, executors and administrators, shall and will warrant and defend the same to the said *grantee* and ~~her~~ heirs and assigns, against the lawful claims and demands of any person or persons whomever.

~~And I,~~ <sup>wife of the said</sup> ~~in consideration of said do hereby release, discharge and waive all such rights of exemption from attachment and levy or sale on execution and such other rights whatsoever in said premises and in each and every part thereof, as our Family Homestead, as are reserved or secured to us, or either of us, by the Statute of the State of New Hampshire, passed July 4, 1851, entitled "An Act to exempt the Homestead of Families from attachment and levy or sale on execution," or by any other Statute or Statutes of said State, and all other rights and interests therein~~

In witness whereof I have hereunto set my hand and seal, this ~~twentieth~~ <sup>twenty-fifth</sup> day of ~~November~~ <sup>November</sup> in the year of our Lord one thousand nine hundred and 1925.

SIGNED, SEALED AND DELIVERED IN PRESENCE OF US:  
*Edward H. Adams* *Edward P. Carman* (L.S.)  
(L.S.)

STATE OF NEW HAMPSHIRE, ROCKINGHAM, SS. *November 25* A. D. 1925.  
Personally appeared the above named *Edward P. Carman* and acknowledged the foregoing ~~instrument~~ to be his voluntary act and deed.

BEFORE ME, *Edward H. Adams* Justice of the Peace.  
Dec 1 *John W. Groom* Register.  
Received and recorded *Dec 1 1925* A.R. 1925

# Know all Men by these Presents,

THAT I, Edward L. Peterson of Portsmouth in the County of Rockingham and State of New Hampshire.

for and in consideration of the sum of One Dozear to me in hand, before the delivery hereof well and truly paid by Thomas D. Coyce of Portsmouth in said County and State.

Peterson  
Coyce

the receipt whereof I do hereby acknowledge, have given, granted, bargained and sold, and by these presents do give, grant, bargain, sell, alien, enfeoff, convey and confirm unto the said heirs and assigns forever,

del. to Grantee by mail

A certain strip or parcel of land in the rear of lot No. 44 owned by the said Thomas D. Coyce, on a plan of lots of Belcher H. Wendell, recorded in Rockingham Records, Plan Book 1, page 62, and bounded and described as follows: Beginning on the westerly corner of the lot herein conveyed at the junction of lot No. 44 and No. 44 on said plan, and running West one (1) foot more or less; thence turning and running East by lot No. 49 on said plan fifty (50) feet more or less; thence turning at right angles and running South seven (7) feet more or less to the junction of lot No. 44 and No. 45; thence turning and running West by lot No. 44 fifty (50) feet to the point begun at.

To have and to hold the said granted premises, with all the privileges and appurtenances to the same belonging, to the said grantee and his heirs and assigns, to and with the said grantee and his heirs and assigns, that until the delivery hereof I am the lawful owner of the said premises, and by seized and possessed thereof in my own right and fee simple; and have full power and lawful authority to grant and convey the same in manner aforesaid; that the said premises are free and clear from all and every incumbrance whatsoever; and that I and my heirs, executors and administrators, shall and will warrant and defend the same to the said grantee and his heirs and assigns, against the lawful claims and demands of any person or persons whomsoever.

And I, Charlotte M. Peterson, wife of the said Edward L. Peterson, in consideration aforesaid, do hereby release, my right of dower in the above mentioned premises. And we had each of us do hereby release, discharge and waive all such rights of exemption from attachment and levy or sale on execution and such other rights, privileges and immunities to each of us, or either of us, by the Statute of New Hampshire, passed July 1, 1837, entitled "An Act to exempt the Homestead of Families from attachment and levy or sale on execution," or by any other Statute or Statutes of said State, and all other rights and interests in the premises.


In Witness whereof We have hereunto set our hand & seal, this Thirtieth day of December in the year of our Lord one thousand nine hundred and 1915.  
SIGNED, SEALED AND DELIVERED IN PRESENCE OF US:  
T. A. Dimes } Edward L. Peterson. (20)  
Charlotte M. Peterson. (20)

STATE OF NEW HAMPSHIRE, ROCKINGHAM, SS. December 13th A. D. 1915.  
Personally appeared the above named Edward L. Peterson and Charlotte M. Peterson and acknowledged the foregoing instrument to be their voluntary act and deed.

BEFORE ME, T. A. Dimes, Justice of the Peace.  
Received and Recorded April 4-12 40 P.M. 1921. John W. Green Register.

**CITY OF PORTSMOUTH  
PORTSMOUTH, NH 03801**

**Office of the City Manager**

**Date:** September 3, 2015  
**To:** Honorable Mayor Robert J. Lister and City Council Members  
**From:** John P. Bohenko, City Manager   
**Re:** City Manager's Comments on September 8, 2015 City Council Agenda

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**6:30 p.m. Non-meeting with counsel regarding property negotiations in accordance with RSA 91-A:2,I (b).**

For details on this matter, please refer to the confidential envelope inserted in the inside pocket of your binder.

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***Presentation:***

1. **Update of Gateway and Islington Street Project.** As requested by the City Council, on Tuesday evening, Nancy Carmer, Economic Development Program Manager and Peter Rice, Public Works Director, will give an update on the Market Street Gateway and the Islington Street Project.

***Acceptance of Grants and Donations:***

1. **Acceptance of Grant for Household Hazardous Waste Collection.** As you are aware, \$40,000 has been committed from the Water & Sewer Enterprise Fund for two household hazardous waste collection events in the FY '16 budget.

Household hazardous waste collection events help protect our water supply and reduce the potential of hazardous waste being dumped or inappropriately disposed of. In the interest of protecting public health and ensuring household hazardous waste and unwanted household hazardous products are disposed of in an environmentally sound manner, the City has been hosting the collection event for more than thirteen years. Over 200,000 gallons of hazardous waste have been properly disposed of during this time. An average of 675 families take advantage of the collection events every year.

In the spirit of being a good neighbor, the City also offers the services to residents of Newington and Greenland. The expenses are shared between the communities on a prorated basis - per vehicle per community.

A grant in the amount of \$5,801.00 from the Department of Environmental Services (DES) has been applied for and is available to the City to assist in managing the cost of these events. This grant would supplement the City funds proposed in the FY '16 budget ([see attached grant agreement](#)).

*I would recommend the City Council move to accept and expend a \$5,801.00 DES grant for the purpose of household hazardous waste collection events and authorize the City Manager to execute any documents which may be necessary for this grant contract. Action on this matter should take place under Section VIII of the Agenda.*

## ***Items Which Require Action Under Other Sections of the Agenda:***

### **1. First Reading of Proposed Ordinances.**

#### **1.1 First Reading of Annual Omnibus Ordinance Change, Parking and Traffic.**

As a result of the August 17<sup>th</sup> City Council meeting, under Section IX of the Agenda, I am bringing back for first reading the [attached proposed annual omnibus set of ordinances recommended by the Parking and Traffic Safety Committee](#). This year's omnibus changes are detailed on the [attached sheets](#), and address changes to on-street spaces and update wording to reflect current conditions.

By way of background, On March 29, 2000, the City Council adopted Ordinance #4-2000 under Chapter 7, Article 1, Section 7.103 of the Vehicles, Traffic and Parking Ordinance. This ordinance was adopted in order to be more responsive to the changing parking needs of the downtown. Before its adoption, it often took three readings of the City Council to simply change a parking space from a two-hour time restriction to a 15-minute one. This process would often take four to six months to complete.

The current ordinance authorizes the Parking Traffic and Safety Committee to recommend temporary parking and traffic regulations to the City Council for its approval in the form of its monthly meeting minutes. Once the Council approves these minutes, the temporary regulations are in effect for a period not to exceed one year. During that year the Council and the public have the benefit of seeing how a temporary regulation works before adopting it as a permanent change to the parking ordinance. These temporary regulations are presented at one time to the Council for its consideration.

The [attached amendments to Chapter 7, Vehicles, Traffic and Parking](#) for the Council's consideration summarize the temporary parking regulations implemented by the Parking and Traffic Safety Committee between June 13, 2014 and June 11, 2015, as well as updates to reflect current conditions.



In addition, [attached is a summary](#) of the number of new parking spaces created and lost by the annual proposed Omnibus Ordinance change, which lists the ordinance changes and their impact on parking spaces. Further, other changes in the downtown area that affected parking spaces, but were not part of the omnibus ordinance, are included for informational purposes.

As shown in this attachment, the Ordinance changes result in the loss of ten on-street spaces year round. This represents approximately 1 percent of the total 783 on-street spaces in the downtown area. Twenty-eight additional on-street metered spaces are lost due to development projects. However, the HarborCorp project will include the construction of a 523 space parking garage, of which 70 to 170 spaces are projected to be available to the public during typical peak demand of the HarborCorp site. These additional private spaces offset the loss of 40 on-street parking and with the exception of special events will add a net of 30 to 130 spaces.

City staff will be available to answer any questions the City Council may have regarding this matter.

*I recommend the City Council move to pass first reading and schedule a public hearing and second reading of the attached proposed Ordinance, at the September 21<sup>st</sup> City Council meeting, as presented. Action on this matter should take place under Section IX of the Agenda.*

## 2. **Public Hearing/Second Reading of Proposed Ordinance.**

### 2.1 **Public Hearing/Second Reading of Proposed Ordinance amending Chapter 10, Section 10.440, Table of Uses - Short-Term Vacation Rentals and Other Lodging Uses.** As a result of the August 17<sup>th</sup> City Council meeting, under Section VII of the Agenda, I am bringing back for public hearing and second reading [the attached proposed Ordinance regarding Short-Term Vacation Rentals and Other Lodging Uses.](#)

At the June 15<sup>th</sup> City Council Work Session, there was a general consensus that Short-Term Vacation Rentals should only be allowed in the central business district and the Islington Street corridor, and that Bed and Breakfasts should only be allowed in those areas and the immediately surrounding neighborhoods. Further, the Council indicated that annual inspection and permitting of such uses should be pursued in addition to regulation through zoning.

Based on the work session, staff prepared the [attached revised Ordinance, under Section IX of the Agenda, which maintains the existing limits on Bed and Breakfast uses with respect to zoning districts, and limits Short-Term Vacation Rentals to the central business districts \(including the CD4 and CD5 character districts\) and the Business district.](#) In addition, the revised Ordinance includes a provision (sec. 10.837.27) stating that “Noncompliance with any condition listed ... or any other

condition of the granting of a special exception for the short-term vacation rental use, shall be deemed to constitute abandonment of said use resulting in the termination of the special exception.”

*I recommend that the City Council move to pass second reading and schedule third and final reading of the proposed Ordinance, as presented, at the September 21, 2015 City Council meeting.*

*Action on this matter should take place under Section IX of the Agenda.*

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

1. **Request to Refer to the Planning Board Proposed Easements for a Bicycle/Pedestrian Path Along North Mill Pond.** Based on an initial conceptual plan that was an outcome of the North Mill Pond Study (1997) and recent recommendations from the City’s Bicycle and Pedestrian Plan (2014) and North End Visioning Plan (2015), the proposed North Mill Pond Multi-Use Path would be a paved path for use by bicycles and pedestrians that would extend from Market Street to Maplewood Avenue to Bartlett Street following the shoreline of the North Mill Pond with a short diversion onto Maplewood Avenue. I have requested that staff develop a [conceptual plan](#) of the proposed path, which would be a minimum of 10’ wide with 2’ of clear space on either side and would be located outside of the 25’ wetland buffer zone. On the Bartlett Street end, to avoid conflicts with access to the Ricci Lumber parking and storage areas, a boardwalk along the edge of the Pond is being considered.

Therefore, the City would need an approximate 14’ easement from each of the property owners to proceed with this proposed bicycle/pedestrian path.

*I recommend the City Council move to authorize the City Manager to refer to the Planning Board the proposed request for easements for report back to the City Council.*

2. **Report Back Re: Request from Patricia L. Russell and Burton J. Russell for Restoration of Involuntarily Merged Lots at 65 Mendum Avenue under RSA 674:39-aa.** As you will recall at the August 17<sup>th</sup> City Council meeting, the Council referred the attached request from Attorney Bernard Pelech on behalf of Patricia L. Russell and Burton J. Russell to restore two lots to their premerger status pursuant to RSA 674-39-aa, to the Planning Department for report back. For your review, [attached is a memorandum](#) from Rick Taintor, Planning Director, regarding this matter.

*Action is required on this matter.*

### ***Informational Items:***

1. **Events Listing.** For your information, [attached is a copy of the Events Listing](#) updated after the last City Council meeting on August 17 2015. In addition, this can be found on the City’s website.

2. **Update Re: Haven School Playground.** For your information, the Haven School Playground Improvement project is scheduled to begin this fall.

The City is preparing to move forward with the planned upgrades to the park, which is located at the corner of South and School Streets. A neighborhood meeting to review plans and the construction schedule is planned for late September. A neighborhood mailing and announcement via the newsletter will be sent out.

The project plans, which were developed in coordination with the neighborhood, call for the reuse of the existing play structures along with the replacement of several play panels on the structures. In addition, swings will be installed.

Current paved areas will be reduced and replaced with planted and grass areas. Existing wood fencing will be replaced on the playground's easterly edge. There will be tree removal and the site will be partially regraded to eliminate the need for retaining walls in some areas, creating more usable space in the park and reducing project costs. A brick and concrete walk, new trees, benches and picnic tables will also be installed.

3. **Master Plan Update.** For your information, [attached is a memorandum from Rick Taintor](#), Planning Director, as well as an [updated timetable](#) for completion of the Master Plan.
4. **Report Back Re: Police Department Recommendations.** As requested by Assistant Mayor Splaine at the August 17, 2015 City Council meeting, [attached is a memorandum](#) regarding Police Department recommendations.
5. **Report Back Re: Whistleblower.** In light of the recent issues involving the Police Department and the media policy issue regarding John Connors, the City Council instructed the City staff to review the Whistleblower Protection Act and to come back with a recommendation.

The state of New Hampshire has a Whistleblowers' Protection Act in N.H. RSA 275-E, which provides protection for employees that are discriminated against because of their decision to report, decision to refuse to participate in wrongful activity, or decision to participate in an investigation regarding their employer's activity, or decision to participate in an investigation regarding their employer's activity. N.H. Rev. Stat. Ann. 275-E:2 (LexisNexis 2015). The state also requires employers to post the employee's rights and remedies. N.H. RSA 275-E:7 (please note that this notice is posted in a conspicuous place in each public facility).

Further the law provides Additional Rights And Remedies For Public Employees Only - RSA 275-E:8 and 9

Public employees can issue complaints to the New Hampshire Department of Labor, who has the authority to investigate complaints or information concerning the possible existence of any activity constituting fraud, waste, or abuse in the expenditure of any public funds,

whether state or local, or relating to programs and operations involving the procurement of any supplies, services, or construction by governmental entities within the state.

The identity of the person who filed the complaint shall not be disclosed without his or her written consent, unless such disclosure is to a law enforcement agency that is conducting a criminal investigation.

No governmental entity shall take any retaliatory action against a public employee who, in good faith, files a complaint under this section and the public employee shall be afforded all protections under RSA 275-E:2.

No governmental entity shall threaten, discipline, demote, fire, transfer, reassign, or discriminate against a public employee who files a complaint with the department of labor under RSA 275-E:8 or otherwise discloses or threatens to disclose activities or information that the employee reasonably believes violates RSA 275-E:2, represents a gross mismanagement or waste of public funds, property, or manpower, or evidences an abuse of authority or a danger to the public health and safety.

The City currently has a “Reporting of Illegal Conduct Involving City Employees and Officials” policy, which was issued by the City Manager ([policy attached](#)). However, in accordance with the City Charter, “the commission shall assume all administrative responsibilities, which would otherwise be vested in the City Manager relating to the administration of the Department.” Therefore, this policy was issued by the City Manager and does not apply to the Fire Department or the Police Department. Neither the Fire Department nor the Police Department currently have such a policy.

Currently, there is no City of Portsmouth ordinance regarding whistleblower protection and no information on the City’s website that encourages reporting or explains employee protection. Instead, the City relies on the State statute, the State Department of Labor, and the City’s Code of Ethics.

In order to best evaluate the City’s needs regarding whistleblower protection, the following key issues require consideration:

1. Whether the City should adopt either:
  - a. A policy and process regarding whistleblower protection. This policy would have to be adopted by the City Manager, Fire Commission and Police Commission.
  - b. A City ordinance providing whistleblower protection and a complaint process.
2. Whether the reporting process applies to :
  - a. Only City employees; or
  - b. Should be expanded to taxpayers as well
3. Whether the City should adopt a mandatory duty for its City employees to report wrongdoing.



4. Which department or individual should be responsible for investigating whistleblower complaints?

These are areas that need to be vetted to determine which direction the City Council would like to take. Once a direction is determined, staff could develop a policy/ordinance for City Council consideration and or adoption.

In conclusion, establishing a policy/ordinance is just the first step. Communicating the policy/ordinance to employees is equally crucial. Training regarding the policy and process to report a complaint should be provided to all staff. Additional training should be provided to those with whistleblowing responsibilities, such as managers or designated contacts, so they are able to provide guidance confidently to workers.

# North Mill Pond Multi-Use Path Conceptual Plan

## Legend

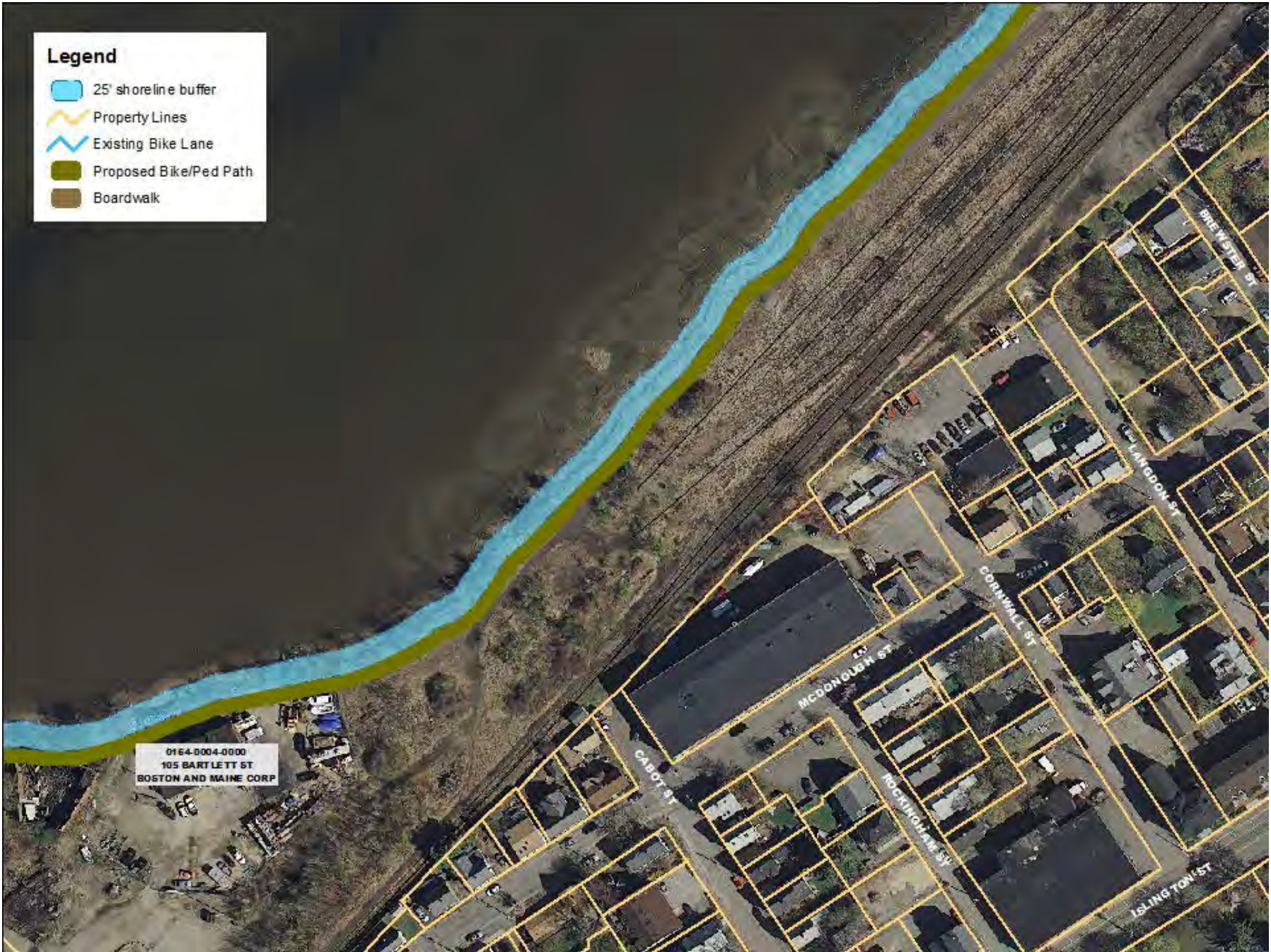
-  Proposed Bike/Ped Path
-  Existing Bike Lanes













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# MEMORANDUM

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**TO:** John P. Bohenko, City Manager  
**FROM:** Rick Taintor, Planning Director *RT.*  
**DATE:** September 1, 2015  
**RE:** Request from Patricia L. Russell and Burton J. Russell for Restoration of Involuntarily Merged Lots at 65 Mendum Ave. Under RSA 674:39-aa

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In a letter dated August 6, 2015, Bernard W. Pelech on behalf of Patricia L. Russell and Burton J. Russell has requested that the City Council restore two lots to their premerger status pursuant to RSA 674:39-11.

## Property Description

The property that is the subject of this request is located at 65 Mendum Avenue and is shown on Assessors Map 148 as Lot 11. The Assessors Map indicates that the lot contains 0.246 acre (10,716 sq. ft.) and has 100 feet of frontage on Mendum Avenue. Attached is an orthophoto showing the parcel in question and abutting parcels.

The request letter states that the existing lot corresponds to two separate lots on a 1906 subdivision plan, and that neither the current owners nor any predecessor in title ever voluntarily merged the two lots.

## Statutory Requirements

RSA 674:39-aa provides that “lots or parcels that were involuntarily merged prior to September 18, 2010 ... shall at the request of the owner, be restored to their premerger status ....” The statute distinguishes between “involuntary” and “voluntary” mergers as follows:

- “Involuntary merger” and “involuntarily merged” mean lots merged by municipal action for zoning, assessing, or taxation purposes without the consent of the owner.
- “Voluntary merger” and “voluntarily merged” mean a merger under RSA 674:39-a, or any overt action or conduct that indicates an owner regarded said lots as merged such as, but not limited to, abandoning a lot line.

RSA 674:39-aa only applies where “no owner in the chain of title voluntarily merged his or her lots.” Further, RSA 674:39-aa,II(b) states “If any owner in the chain of title voluntarily merged his or her lots, then all subsequent owners shall be estopped from requesting restoration.”

RSA 674:39-aa assigns the responsibility for “restoration of involuntarily merged lots” to the City Council. If the merged lots meet the criteria in the statute, the Council must vote to restore them to their premerger status. Conversely, if the merged lots do not meet the criteria in the statute,

the City Council has no jurisdiction to grant a request to split the lots. A decision by the Council regarding a request to restore lots to their premerger status may be appealed to the Zoning Board of Appeals, but no standards for such appeals are set forth in the statute. Unlike other situations where lots are proposed to be merged or separated, there is no role for the Planning Board in this process.

### **Analysis**

The two 1913 deeds that Attorney Pelech provided with his August 6 letter do not completely describe the lot at 65 Mendum Avenue (Assessors Map 148 Lot 11). I have researched the history of this lot in the Assessors files and the Registry of Deeds, and have discovered that the existing lot was created over time from four separate parcels. The two parcels for which Attorney Pelech provided deeds (3/16/1913 and 8/12/1913) created a rectangular lot measuring 100' by 103.5'. However, that lot was subsequently expanded by the addition of two additional pieces at the rear of the lot: one parcel 50 feet wide by 7 to 9 feet deep added in 1915, and a second parcel 50 feet wide by 17 to 19 feet deep added in 1925. The City's GIS reflects this history by showing two dimensions for each side lot line (103.5' and 19' on the left side, and 103.5' and 7' on the right side – see attached parcel map with dimensions).

Deeds from 1958, 1976, 1981 and 2012 all describe 3 separate parcels: the original 100' x 103.5' parcel corresponding to the two 1913 deeds, and the two small parcels at the rear. At some point in time these three parcels appear to have been rearranged into two parcels, possibly by tacking one of the small additions onto the rear of each of the original 1913 parcels. The two resulting parcels were then merged at some time between December 1958 and November 1976.

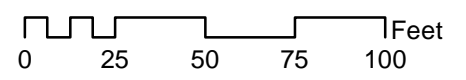
It is important to note that there never existed two lots extending from the current front lot line to the current rear lot line, and therefore it is impossible to split the lot into two lots through the "unmerger" process authorized by RSA 674:39-11. If the City Council determines that the existing parcel at 65 Mendum Avenue must be restored to its premerger status, the action will have to result in four lots, not two, because one cannot get back to the 1913 deeds without first splitting off the small rear parcels. Following a restoration to four lots, it is likely that the owner would voluntarily merge the small rear pieces into the larger front lots, which would reduce (but not eliminate) the zoning nonconformities which the unmerger will create.

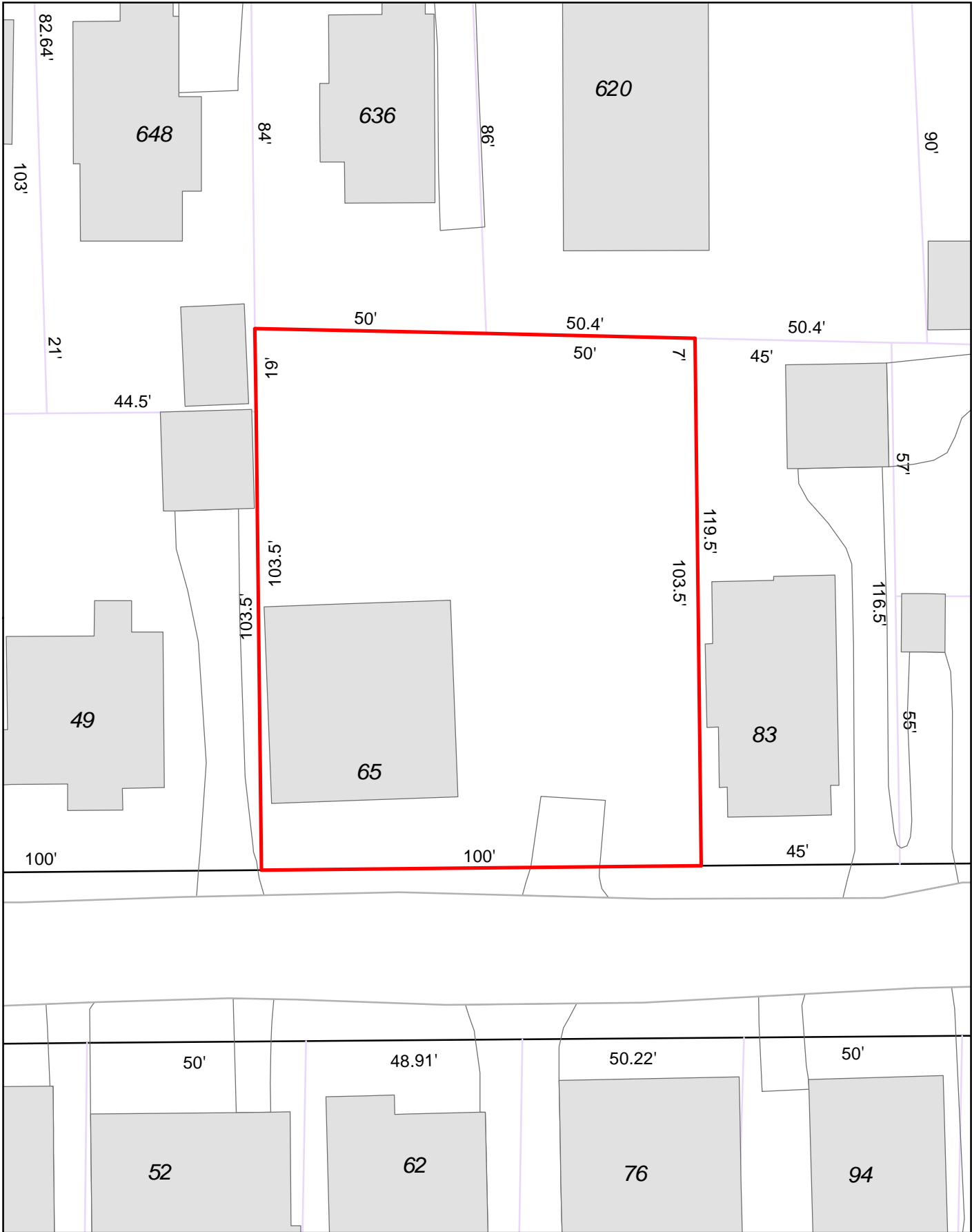
### **Attachments**

- Orthophoto with parcel lines
- Parcel map with dimensions

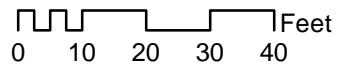


65 Mendum Avenue





65 Mendum Avenue



*Law Offices of*  
**WHOLEY & PELECH**

55 CONGRESS STREET, SUITE B  
P.O. BOX 395  
PORTSMOUTH, NEW HAMPSHIRE 03802-0395

BERNARD W. PELECH

JOHN J. WHOLEY  
(1922-2001)

ADMITTED NH & ME BARS



TEL 603-436-6121  
Fax 603-433-7491

bernie@wholey-pelech.com

August 6, 2015

Honorable Mayor Robert Lister  
City Hall  
1 Junkins Avenue  
Portsmouth, NH 03801

**Re: Restoration of involuntarily merged lots - RSA 674:39aa  
65 Mendum Avenue, Portsmouth**

Dear Mayor Lister and Members of the City Council:

This office represents Patricia L. Russell and Burton J. Russell, owners of 2 adjacent lots located on Mendum Avenue in Portsmouth.

The 2 lots which were involuntarily merged for tax purposes are shown on Tax Map 148 as Lot 11.

The 2 lots are actually located in what was the 1906 subdivision of the Estate of Charles H. Mendum. I have enclosed a copy of that 1906 plan which was recorded in the Rockingham County Registry of Deeds as Plan 0169. I have also enclosed a copy of the deeds from John W. Kelley and Alice B. Paul to Thomas D. Noyes, dated August 12, 1913 and October 16, 1913, which were recorded in the Rockingham County Registry of Deeds at Book 684, Page 9 and 10, on January 6, 1914. These deeds conveyed lots 44 and 43 as shown on the Mendum Plan of 1906.

I have no evidence whatsoever that Mr. and Mrs. Russell or their predecessor in title ever voluntarily merged the 2 lots.

As such, on behalf of my clients, Mr. and Mrs. Russell, I would respectfully request that the 2 lots be restored to their pre-merger status and all zoning and tax maps be updated to identify the pre-merger boundaries of said lots.

Sincerely,

Bernard W. Pelech

Enclosures

10

# Know all Men by these Presents,

10

THAT *Mr. John W. Kelley and Alice B. Paul of Portsmouth, in the County of Rockingham and State of New Hampshire*

*Kelley et al*

to

*Noyes*

for and in consideration of the sum of *One Dollar* to *me* in hand, before the delivery hereof well and truly paid by *Thos. D. Noyes of Portsmouth in the County of Rockingham and State of New Hampshire*

del. to

*Ed. Patterson Esq*

the receipt whereof *we* do hereby acknowledge, have given, granted, bargained and sold, and by these presents do give, grant, bargain, sell, alien, enfeoff, convey and confirm unto the said *Thomas D. Noyes his heirs and assigns forever,*

A certain parcel of land on *Mendern Avenue* in said *Portsmouth* known as *Lot # 403* bounded and described as follows: — Beginning at the north west corner of *Lot # 403* and running westerly fifty (50) feet more or less by land of *Kelley & Paul* thence turning and running southerly one hundred three feet (103 ft.) more or less by land of *Kelley & Paul* to *Mendern Avenue*, thence turning and running easterly by *Mendern Avenue* fifty (50) feet more or less to land of *Kelley & Paul* thence turning and running northerly by said land of *Kelley & Paul* one hundred three (103) feet more or less to point begun at, being plot of land recorded in *Rockingham Records, Vol. 1, Fol. 62.*

To have and to hold the said granted premises, with all the privileges and appurtenances to the same belonging to *him* the said *grantee* and his heirs and assigns, to *me* and their only proper use and benefit forever. And *we* the said *grantors* and *we* heirs, executors and administrators, do hereby covenant, grant and agree, to and with the said *grantee* and *me* heirs and assigns, that until the delivery hereof *we* *are* the lawful owner of the said premises, and *we* seized and possessed thereof in *our* own right in fee simple; and have full power and lawful authority to grant and convey the same in *our* manner aforesaid; that the said premises are free and clear from all and every incumbrance whatsoever; and that *we* and *our* heirs, executors and administrators, shall and will warrant and defend the same to the said *grantee*

and *me* heirs and assigns, against the lawful claims and demands of any person or persons whomsoever. And *we* *Romaine S. Kelley* wife of the said *John W. Kelley* *Blanche K. Paul* husband of *John W. Kelley* in consideration aforesaid, do hereby release *our* right of dower in the above mentioned premises.

And *we* and each of us do hereby release, discharge and waive all such rights of exemption from attachment and levy or sale on execution and such other rights whatsoever in said premises and in each and every part thereof, as our Family Homestead, as are reserved or secured to us or either of us, by the Statute of the State of New Hampshire, passed July 4, 1851, entitled "An Act to exempt the Homestead of Families from attachment and levy or sale on execution," or by any other Statute or Statutes of said State.

In Witness whereof *we* have herewith set *our* hands and seals this *twelfth* day of *August* in the year of our Lord one thousand nine hundred and *thirteen.*

*Mary Kelley Macarty*  
*Albert R. Hatch*

*John W. Kelley* (P)  
*Romaine S. Kelley* (P)  
*Alice B. Paul* (P)  
*Blanche K. Paul* (P)

STATE OF NEW HAMPSHIRE, ROCKINGHAM, ss. *August 12* N. D. 1913  
Personally appeared the above named *John W. Kelley, Alice B. Paul, Romaine S. Kelley & Blanche K. Paul* and acknowledged the foregoing instrument to be *their* voluntary act and deed.

BEFORE ME:

*Albert R. Hatch* Justice of the Peace.

Received and Recorded *June 6-1-1913*

*John W. Lellan* Register



# Know all Men by these Presents,

THAT we, *Romaine J. Kelley* of *Potomac*, County of *Rockingham* and State of *New Hampshire*, residing *Agate* under the will of *John W. Kelley*, late of said *Potomac*, and *Alice B. Paul* of said *Potomac*

for and in consideration of the sum of *One Dollar* to us in hand, before the delivery hereof well and truly paid by

*Thomas D. Noyes* of

said *Potomac*

*Kelley & Paul*  
to  
*Noyes*

the receipt whereof we do hereby acknowledge, have given, granted, bargained and sold, and by these presents do give, grant, bargain, sell, alien, enfeoff, convey and confirm unto the said

*Thomas D. Noyes* his

heirs and assigns forever,

del. to  
*Ed. Patterson-Jones*

*Lot No. 44* on a plan of land of the estate of *Charles H. Maudsion* now owned by said *Kelley* and *Paul*, recorded in *Rockingham Records*, Book of *Plats*, page *62*, bounded and described as follows: Beginning at the northwesterly corner of the lot herein conveyed at its junction with *lot 49*, *lot 50* and *lot 43* heretofore sold to said *Noyes*, and running in an easterly direction *fifty (50)* feet to the junction of the lot herein conveyed and *lots 45* and *45 1/2*; thence turning and running in a southerly direction one hundred and three and five tenths (*103.5*) feet more or less to *Maudsion Avenue* as called; thence turning and running in a westerly direction by *Maudsion Avenue* *fifty (50)* feet more or less to *lot No. 43* heretofore sold to said *Noyes*; thence turning and running in a northerly direction one hundred and three and five tenths (*103.5*) feet more or less by land of said *Noyes* to the point begun at.

To have and to hold the said granted premises, with all the privileges and appurtenances to the same belonging to him the said *Thomas D. Noyes* and

his heirs and assigns, to him and their only proper use and benefit forever. And we the said *Romaine J. Kelley* and *Alice B. Paul* and our heirs, executors and administrators, do hereby covenant, grant and agree, to and with the said *Thomas D. Noyes*

and his heirs and assigns, that until the delivery hereof we are the lawful owner of the said premises, and we seized and possessed thereof in our own right in fee simple; and have full power and lawful authority to grant and convey the same in manner aforesaid; that the said premises are free and clear from all and every incumbrance whatsoever; and that we and our heirs, executors and administrators, shall and will warrant and defend the same to the said *Thomas D. Noyes*

and his heirs and assigns, against the lawful claims and demands of any person or persons whomsoever.

And I, *Clarence K. Paul*, husband of the said *Alice B. Paul* in consideration aforesaid, do hereby release my right of ~~disposal~~ in the above mentioned premises.

And we and each of us do hereby release, discharge and waive all such rights of exemption from attachment and levy or sale on execution and such other rights whatsoever in said premises and in each and every part thereof, as our Family Homestead, as are reserved or secured to us, or either of us, by the Statute of the State of New Hampshire, passed July 4, 1851, entitled "An Act to exempt the Homestead of Families from attachment and levy or sale on execution," or by any other Statute or Statutes of said State.

In Witness whereof we have hereunto set our hand and seal this *seventh* day of *March* in the year of our Lord one thousand nine hundred and *thirteen*.

Witness and delivered in presence of us:  
*Edward H. Hardy*  
*E. P. Lawrence*  
*A. R. Hobbs*  
*Effie B. Wright* for *R. J. K.*

*Romaine J. Kelley* (P)  
*Alice B. Paul* (P)  
*Clarence K. Paul* (P)

STATE OF NEW HAMPSHIRE, ROCKINGHAM, ss. *October 6* A. D. 1913.  
Personally appeared the above named *Romaine J. Kelley*, *Alice B. Paul* & *Clarence K. Paul* and acknowledged the foregoing instrument to be their voluntary act and deed.

BEFORE ME:

*Albert R. Hatch* Justice of the Peace.

Received and Recorded *Jan 6 - 10 32 AM 1914*

*John W. Fuller* Register



## Event Listing by Date

Starting Date: 8/17/2015

Ending Date: 7/31/2016

Start End	Type Description	Location	Requestor	Vote Date
8/22/2015 8/22/2015	BIKE TOUR Emily Christian is the Logistics Associate This event begins in Stratham Hill, over to Kittery, back through Portsmouth by way of Marcy Street to 1B.	Through the City to and from Stratham Hill Park	National Multiple Sclerosis So	1/ 5/2015
8/22/2015 8/22/2015	RIDE John Linville, Event Coordinator is the contact for this event. This event begins at Pease Tradeport at the Great Community College goes to Dover and returns to the college. Registration for this event begins at 7:30 a.m. and start time is at 8:30 a.m.	Pease Tradeport	Pedals for Paws	7/20/2015
9/ 7/2015 9/ 7/2015	ROAD RACE Contact: Sister Mary Agnes	Pease International Tradeport	St. Charles Children's Hme	5/ 4/2015
9/12/2015 9/12/2015	RACE 5K at Pease Tradeport starting at 9:00 am. Contacts: Melissa Mikulski mmikulski@bottomline.com or htinnenet@bottomline.com	Pease Tradeport	Bottomline Technologies	8/ 3/2015
9/12/2015 9/12/2015	SABR Peter Newbury is the contact for thsi event. This event opens a small number of neighborhood streets to pedestrian and cycling activity by diverting motor vehicle traffic and will run for approximately 4 hours. Open Streets Portsmouth is a division of SABR (Seacoast Bicycle Riders advocacy organization).	THIS EVENT IS CANCELED.	Open Streets	6/ 1/2015
9/13/2015 9/13/2015	RIDE Thomas Martin, Race Director and Thomson Riley, Race Director are the contacts for this event. www.PortsmouthCrit.com	Market Square	Portsmouth Criterium Race	6/15/2015
9/13/2015 9/13/2015	ROAD RACE This is part of the Run Portsmouth Road Race Series 5K Races for 2015 Wendy McCooles is the contact for this event. wendy@mybreastcancersupport.org. Telephone No. 759-5640	Portsmouth Middle School	Celebrate Pink 5K Road Race &	12/22/2014
9/18/2015 9/20/2015	FILM EXPO Closure of Chestnut Street for the Telluride by the Sea. ContactChris Curtis at 603-766-2199	Music Hall	Music Hall	7/14/2015
9/19/2015 9/19/2015	WALK Ken La Valley is the contact for this event. This event is from 10:00 a.m. to Noon Registration begins at 8:30 a.m.	Peirce Island	American Foundation for Suicid	3/ 2/2015
9/26/2015 9/27/2015	BIKE TOUR Donna Hepp is the contact for this event. dhepp3@gmail.com or 414-258-3287	Rte. 1B over Memorial Bridge	Granite State Wheelmen	11/17/2014
9/26/2015 9/27/2015	FESTIVAL David Hallowell is the contact for this event.	Pleasant Street	Portsmouth Maritime Folk Festi	12/ 8/2014
9/26/2015 9/27/2015	TOUR This event is for two days. Caroline Ampport Piper is the contact. Tel. (603) 686-4338	South End	Fairy House Tours - FOSE	11/17/2014

## Event Listing by Date

Starting Date: 8/17/2015

Ending Date: 7/31/2016

Start End	Type Description	Location	Requestor	Vote Date
10/10/2015 10/10/2015	RACE This is part of the Run Portsmouth Road Race Series 5K Races for 2015. Catherine Edison of Community Child Care Center of Portsmouth is one of the contacts. CEdison@communitycampus.org and Ben Anderson or Angela Greene of Prescott Park Arts Festival Tel. 436-2848	Start Memorial Bridge Portsmouth - Finish Prescott	Memorial Bridge Road Race	12/22/2014
10/17/2015 10/17/2015	FUND Mary-Jo Monusky, Executive Director is the contact for this event. This event is a 5k walk/fundraiser. Starts and ends at 11 Jewell Court from 9:00 a.m. to 11:00 a.m.	11 Jewell Court - start and finish	Arts in Reach	4/ 6/2015
10/24/2015 10/24/2015	WALK Martha Netsch is the contact for this event. This event gathers at the parking lot area of Prescott Park and walk on the sidewalk across the Memorial Briege to Kittery and back.	Prescott Park Parking Lot	Seacoast Rotary Club	7/20/2015
11/ 8/2015 11/ 8/2015	ROAD RACE Jay Diener is the contact for this event. This event begins at 8:00 a.m.	Portsmouth, New Castle and Rye	Seacoast Half Marathon	4/20/2015
11/26/2015 11/27/2015	RACE Matt Junkin of Seacoast Rotary Club is the contact for this event. mrjunkin@gmail.com; Tel. 591-0083	Strawbery Banke	Seacoast Rotary Club - Turkey	12/ 8/2014
12/31/2015 12/31/2015	FIRST NIGH Barbara Massar, Executive Director is the contact for this event. This event begins at 4:00 p.m. until Midnight www.proportsmouth.org	Throught Downtown	Pro Portsmouth	8/ 4/2015
5/ 1/2016 5/ 1/2016	FAIR Barbara Massar, Executive Director is the contact for this event. This event is Pleasant Street - State Street o Market Square; no parking on Market Street - Bow Street to Isle Shoals Steam Co. entrance. This event is from Noon to 4:00 p.m.	Downtown	Children's Day	8/ 3/2015
5/ 1/2016 5/ 1/2016	RIDE Contact: Melissa Walden, Associate of Development 207-624-0306 Cycle the Seacoast - First riders leaving Redhook Brewery at 7:00 a.m. and the last rider will be in around 3:00 p.m.		American Lung Association	8/17/2015
6/11/2016 6/11/2016	FESTIVAL Barbara Massar is the contact for this event. This event begins at 9:00 a.m. to 4:00 p.m.	Market Square Day - 39th	Pro Portsmouth	8/ 3/2015
6/11/2016 6/11/2016	RACE Barbara Massar, Executive Director is the contact for this event. This is 5K Road Race that begins in Market Square.	Market Square Road Race	Pro Portsmouth	8/ 3/2015
6/25/2016 6/25/2016	MUSIC Barbara Massar, Executive Director is the contact for this event. This event begins at 5:00 p.m. to 9:30 p.m.	Pleasant Street - Street Music Series	Pro Portsmouth	8/ 3/2015
7/ 2/2016 7/ 2/2016	MUSIC Barbara Massar, Executive Director is the contact for this event. This event begins at 5:00 p.m. to 9:30 p.m.	Pleasant Street - Summer in the Street Music Serie	Pro Portsmouth	8/ 3/2015

## Event Listing by Date

Starting Date: 8/17/2015

Ending Date: 7/31/2016

Start End	Type Description	Location	Requestor	Vote Date
7/16/2016 7/16/2016	MUSIC Barbara Massar is the contact for this event. This event begins at 5:00 to 9:30 p.m.	Pleasant Street - Summer in the Street Music Serie	Pro Portsmouth	8/ 3/2015
7/23/2016 7/23/2016	MUSIC Barbara Massar is the contact for this event. This event begins at 5:00 p.m. to 9:30 p.m.	Pleasant Street - Summer in the Street Music Serie	Pro Portsmouth	8/ 3/2015
7/30/2016 7/30/2016	MUSIC Barbara Massar, Executive Director This event is from 5:00 to 9:30 p.m.	Pleasant Street - Summer in the Street Music Serie	Pro Portsmouth	8/ 3/2015

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# M E M O R A N D U M

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**TO:** John P. Bohenko, City Manager

**FROM:** Rick Taintor, Planning Director *RT.*

**DATE:** September 1, 2015

**RE:** Master Plan Status Update

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As you will recall, the Master Plan process began with a formal kick-off meeting at 3S Artspace on April 15, 2015. Since then, the following progress has been made on this project:

- Portsmouth Listens convened a series of Study Circles over a five-week period in May and June. The Study Circles involved 130 community members in 11 facilitated groups. The final reports from the process were presented to the Planning Board on June 25.
- NBBJ, the City's consultant for the Master Plan, reviewed existing plans and reports and met with staff of various City departments to gain a better understanding of the issues facing the City with respect to development, infrastructure, and municipal facilities and services.
- NBBJ prepared a draft update of Existing Conditions report which was submitted to the Planning Board on August 20, 2015. Staff are currently reviewing and commenting on the draft report. The final report is expected to be completed by mid-October.
- The Planning Board held a work session on August 27, 2015 to review the Existing Conditions report and to receive a presentation by NBBJ on alternative approaches to site design and development.

The next step in the process is a series of meetings for further resident input regarding goals and priorities for the Master Plan. These meetings have been scheduled over a period of three weeks and will be held on different evenings and in different locations in order to make them convenient for a wide range of residents. The meeting dates and locations are as follows:

Tuesday, September 22 at the Urban Forestry Center  
Monday, September 28 at the Middle School  
Wednesday, October 7 at the New Franklin School

All meetings will start at 7:00 pm and will be facilitated by the NBBJ consulting team. The meetings are posted on the City's website and will be publicized through the newsletter and other media.

Following this series of meetings we anticipate that Portsmouth Listens will conduct another round of Study Circles focused on particular planning themes and/or areas of the City.

Attached is an updated timetable for completion of the Master Plan.

## Master Plan Project Schedule

Updated September 1, 2015

Target Date	Phases and Milestones
Fri 10/9/15	Consultant submits Final Existing Conditions report
Tue 9/22/15 Mon 9/28/15 Wed 10/7/15	Public Meeting #1 @ Urban Forestry Center Public Meeting #2 @ Middle School Public Meeting #3 @ New Franklin
Fri 10/16/15	Consultant submits Draft Vision, Goals and Priorities report
Fri 12/18/15	Consultant submits Draft Master Plan Outline
Fri 2/20/15	Consultant submits Draft Master Plan to Planning Department
Thu 3/3/16 Thu 3/24/16 Thu 4/7/16	* Planning Board work session #6 - present draft Master Plan * Planning Board work session #7 - review draft Master Plan * Planning Board work session #8 - review draft Master Plan
3/7/16 - 4/1/16	Portsmouth Listens study circles - Reponse to draft Master Plan
Fri 5/13/16	Consultant submits Final Master Plan to Planning Department
Thu 5/26/16	* Planning Board work session #9 - final review (optional)
Thu 6/16/16	* Planning Board Public Hearing/Adoption of Master Plan
Mon 6/20/16	* Presentation of Master Plan to City Council




## CITY OF PORTSMOUTH

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

John P. Bohenko  
City Manager

DATE: September 2, 2015  
TO: Honorable Mayor Robert J. Lister and City Council Members  
FROM: John P. Bohenko, City Manager   
RE: Police Department Recommendations

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At the City Council meeting of August 17, 2015, Assistant Mayor Jim Splaine requested that this office provide recommendations regarding the operations of the Police Department.

Given the recent issues involving the Police Department and the Police Commission the recommendations which I would offer to the City Council are as follows:

1. The Police Commission should be provided with a thorough review of Charter Amendment E which describes the proper function of the Police Commission.
2. The Police Commission should be provided with a thorough review of the Rules of Parliamentary Procedure, by the City's Legal Department.
3. The Police Commission should be provided with a thorough review of the New Hampshire Right-to-Know law, 91-A, by the Legal Department.
4. The Police Commission should adopt an administrative policy requiring that every Police Commission meeting should be preceded by the publication of an agenda at least forty-eight (48) hours prior to the meeting. The Agenda should be filed with the City Clerk. Such an agenda should only be amended in accordance with recognized Rules of Parliamentary Procedure.
5. At every Police Commission meeting an appropriate staff member from the Department should be present to keep minutes, these minutes should be kept in both public and non-public sessions.



6. All public Police Commission meetings should be televised.
7. As required by RSA 91-A:4 the Commission should produce an Action Sheet to serve as the required minutes of each Police Commission public meeting which should be made available for public inspection not more than five (5) business days after the meeting or within seventy-two (72) hours of a non-public session (unless sealed by 2/3rds vote). The Action Sheet should be filed with the City Clerk.
8. The Police Commission should conduct a thorough review of its financial obligations under the City Charter with the City's Finance Director.
9. All contracts executed by the Police Commission should contain a signature line for each Commissioner and should be followed by a provision reading substantially as follows, "Approved by vote of the Police Commission on (put in date)".
10. Because Charter Amendment A delegates authority to the Police Commission to, "appoint such permanent Patrol Officers, Sergeants, Captains, Commanders and Police Chief as they deem necessary", all of which are sworn positions, the City Council may act to place authority over all non-sworn police department employees under control of the City Manager. This could be accomplished by an amendment to the City's Administrative Code.

The foregoing represents my response to the City Council request of August 17, 2015.

cc: Police Commission  
Stephen DuBois, Police Chief



James A. McSweeney  
City Manager

# CITY OF PORTSMOUTH

Municipal Complex, P.O. Box 628  
Portsmouth, New Hampshire 03802-0628  
(603) 431-2000 ext. 201  
FAX (603) 427-1526

**To:** ALL DEPARTMENT HEADS  
KENNETH FANJOY, 1386 UNION PRESIDENT  
DAVE HOLDEN, PROFESSIONAL MANAGEMENT UNION  
PRESIDENT  
DANA PRATT, SUPERVISORY ALLIANCE UNION PRESIDENT

**From:** JAMES A McSWEENEY, CITY MANAGER

**Date:** FEBRUARY 1, 1995

**Subject:** POLICY MEMORANDUM #95-39  
REPORTING OF ILLEGAL CONDUCT INVOLVING  
CITY EMPLOYEES AND OFFICIALS

**EFFECTIVE DATE:** JANUARY 23, 1995

**PURPOSE:** It is the policy of the City of Portsmouth that all employees and officials, both elected and appointed, shall conform their conduct at all times to the dictates of Federal, State and local laws. In accordance with this policy, all employees and public officials, both elected and appointed are encouraged to bring forward any evidence of unlawful conduct on the part of any other municipal employee or public official. In accordance with this policy, employees who bring forward such evidence shall be protected from adverse or retaliatory effects on that employee's terms and conditions of employment as the result of having brought forward such evidence.

**DEFINITIONS:** "Employee" means every person who performs services for compensation in any department, agency or subdivision of the municipal government under the control of the City Manager.

"Public official" means any elected or appointed office holder of the municipal government exclusive of the Charter Departments.

"Unlawful conduct" means any violation of any law or regulation adopted under the laws of the United States, the State of New Hampshire or the City of Portsmouth.

**POLICY MEMORANDUM #95-39, Continued**  
**REPORTING OF ILLEGAL CONDUCT INVOLVING CITY EMPLOYEES AND OFFICIALS**

**PROCEDURE:** All reports of unlawful conduct should be made directly to the office of the City Manager, unless it is the Manager who is the subject of the allegation. If the Manager is the subject of the allegation, the report should be made to the Mayor. It shall be the responsibility of the Manager to take appropriate action in response to any such report. However, in the event that any report of unlawful conduct involves violation of the criminal laws, the matter shall immediately be referred to the Portsmouth Police Department for investigation.

**POLICY:** All employees and public officials are encouraged to report unlawful conduct on the part of any other employee or public official. Any employee or public official who makes such a report in good faith shall not be subject to retaliatory or adverse action affecting either the reporting individual's terms and conditions of employment or status as a public official as the result of having made such report.

**PROTECTION OF EMPLOYEES AND PUBLIC OFFICIALS:** No employee who reports unlawful conduct in good faith, regardless of the outcome of such report, shall be discharged, threatened, or otherwise discriminated against by the City in connection with such employee's compensation, terms, conditions, location or privileges of employment as the result of having made such a report as the result of the cooperation of that employee with any investigation of the report. This provision shall be read to supplement any protection provided to any employee under the provisions of NH RSA 275-E, the so-called "Whistleblower's Protection Act" of the State of New Hampshire. Additionally, to the extent that any employee is subject to a collective bargaining agreement which provides a greater level of protection, the provisions of the collective bargaining agreement shall be determinative.

Adopted January 23, 1995

CC: Mayor and City Council



# 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: Cable Television and Communications

Name: Richard L Winstanley Telephone: 508 542-7787

Initial applicant

MAY 05 2015

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

Street address: 211 Hillside Drive

Mailing address (if different): \_\_\_\_\_

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

How long have you been a resident of Portsmouth? 1 year

Occupational background:

8th grade English teacher (20 years); computer + technology

college instructor / department chair (17 years); college

administrator (9 years)

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

interested consumer; computer technology instructor + IT

department chair include developer of college networking

AS + BS programs

OVER  
➔

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

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

Reasons for wishing to serve: desire to support and hopefully enhance the operation of the Franchise Agreement for the people of Portsmouth

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

Beacon Hospice (in process); previous committees include Cape Fear Hospice, SCUP (Society of College and University Planners)

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

1) Pamela J. Levesque 603 512 5429  
Name, address, telephone number

2) \_\_\_\_\_  
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: Richard P. Winstanley Date: 5/5/15

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



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: Library Trustee

Initial applicant

Name: Jolanda Fannin

Telephone:

603 531 7233

Could you be contacted at work? YES - If so, telephone # 603 531 7233

Street address: 7 Brackett Lane Portsmouth NH

Mailing address (if different): \_\_\_\_\_

Email address (for clerk's office communication):

jfannin35@gmail.com

How long have you been a resident of Portsmouth?

9 years

Occupational background: I currently work as a Sr. Project Manager for LTC Partners on Pease. My past experience includes over 20 years of senior management roles with profit and loss and budget responsibility in with both domestic and international companies.

Please list experience you have in respect to this Board/Commission: I do not have any experience serving on community boards but feel that my past business experience recent participation with 'Portsmouth Listen's' and my passion for the Portsmouth Library's mission have prepared me to be a productive member of the Library Trustees Board.

Have you contacted the chair of the Board/Commission to determine the time commitment involved? No but I have spoken with a current Trustee member Jody Record to understand the commitment that this position requires.

Would you be able to commit to attending all meetings?

YES

Reasons for wishing to serve: The Portsmouth Library is vital institution that provides important services to the community. I have spent many hours there reading to my child, attending movies, reading books, attending functions and learning new skills. I would like to repay the Library by joining the board and supporting the library through my service so the library staff can continue the innovative and exemplary work they currently provide.

Please list any organizations, groups, or other committees you are involved in: I was a part of the Portsmouth Listens Master Plan vision statement process. Through this process I was exposed to many other residents and opinions and gained an appreciation for the effort involved in encouraging and ensuring residents participate in the public life of Portsmouth.

Please list two character references not related to you or city staff members:

(Portsmouth references preferred)

- 1) Laura Ludes 33 Pleasant Point Drive Portsmouth, New Hampshire (603) 498-4685
- 2) Laura Montville 40 Brackett Rd Portsmouth, New Hampshire , (603) 433-2284

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: Jolanda Cofer Date: 8/7/15

If you do not receive the appointment you are requesting, would you be interested in serving on another board or commission? Yes

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

# Jolanda Anne Fannin, MBA, PMP, CSM, ITIL

Phone: 603-531-7233 Email: [jfannin35@gmail.com](mailto:jfannin35@gmail.com)

LinkedIn Profile: [www.linkedin.com/in/jfannin](http://www.linkedin.com/in/jfannin)

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## SUMMARY

- Goal-directed operations executive with a successful background in planning, developing and implementing solutions to address business opportunities
- Well versed in developing strategic plans for implementation and operation of business systems, enterprise project management, product support and training
- Successful background of identifying process improvements and developing cost-effective, quality solutions
- Effective leader with strong communication, team building, organizational, technical and project management skills
- Adept at crisis management, trouble shooting, cross-cultural management and negotiating

## CORE COMPETENCIES

- ◆ Project Management
- ◆ Strategic Planning
- ◆ SaaS / PaaS
- ◆ Tech Start-up Management
- ◆ Business Process Analysis
- ◆ Negotiation Skills
- ◆ System Implementations
- ◆ Emerging Technology
- ◆ Process Improvement
- ◆ Metrics/ Benchmarking
- ◆ Leadership /Coaching
- ◆ Client Management

## PROFESSIONAL EXPERIENCE

### **LTC Partners – A John Hancock Subsidiary** ***Sr. Project Manager -***

**August 2014 - Present**

LTC Partners administer the Long Term Care Insurance Program and the BENEFEDS health insurance on behalf of the Federal Government.

Responsible for Program Management and Project Management for both technical and process initiatives under the PMO.

### **IRISmaps Inc.**

#### ***Director of Operations***

**March 2013 – May 2014**

IRISMaps Corporation, originally a part of Envista Corporation was spun-off to develop a PaaS product based on Google Maps Engine (GME).

Responsible for creating business processes and managing Professional Services including Project Management, Support, Account Management and Support.

- Created new methodology for PaaS implementations
- Implemented SaaS CRM and Support Systems
- Facilitated operations partnership with Google Geo Enterprise Division

### **Envista Corporation**

#### ***Director of Professional Services and Support***

**March 2011 – March 2013**

Led Implementation, Support and Account Management Team

- Developed standardized methodology for implementing and supporting a SaaS system.
- Oversaw the implementation in major US and International Cities including San Francisco, London and Al Ain UAE
- Designed sustainable Account Management Strategy resulting in a 97% renewal rate



Led Strategic Consulting Department including Enterprise Program Management and Custom Solutions Team

- Developed a consulting methodology for providing best practice sales process and technology consulting to enterprise clients including business process reengineering.
- Designed and implemented an enterprise program management methodology enabling Newmarket to partner with their clients and efficiently replace internal resources reducing both project risk and costs.
- Oversaw the development of custom solution projects worth up to \$250k.
- Led a \$2.5 million world-wide software rollout to over 4600 locations providing program and project management, training and consultation.
- Developed and conducted a four month Global Sales Office engagement reviewing business process, analytics, staffing and technology for a global hotel company with over 7000 locations.

**Newmarket International, London, UK**  
*Director of Operations*

July 2005 – July 2007

Led European office operations including: Implementation, Systems Engineering, Office Management and Project Management.

- Managed complete office move including IT, telecoms and fit-out construction.
- Negotiated telecom contracts resulting in a 20% cost reduction per annum.
- Oversaw implementation projects ranging in size from 6 - 69 hotels from \$250,000 to \$3.5 million in revenue.
- Implemented Client Satisfaction Surveys using both email and a third party company to collect feedback.
- Mentored new Director of Operations for Asia-Pacific to ensure success of the candidate and position within Newmarket International.

**Newmarket International, Portsmouth, NH**  
*Implementation Services Manager*

April 2004 – July 2005

Managed Project Office, Consulting, Integration and Training teams including the UK operational teams consisting of 37 Trainers, Consultants, Project Managers and Project office with revenue targets of \$3.2 million.

- Oversaw the creation of implementation methodology for all professional services provided by Newmarket International.
- Oversaw implementation projects ranging in size from 5 - 40 hotels from \$200k to \$3 million in revenue.

**BDA Consulting, Sydney, Australia**  
*Business Consultant*

October 2003 – March 2004

**Projects included:** Business Opportunity Analysis, Competitive Intelligence Research, Technology Project Management and Strategy Formulation

**Micros Systems Inc. Sydney, Australia**

April 2000 – March 2002

*Regional Director of Operations/Major Accounts - Asia Pacific - Hotel Systems*

Led team of 26 multi-national staff based locally and throughout Asia, managed regional product development, implementation teams, customer service, account management and product support with annual operating budget of \$2.5million.

- Designed and implemented region-wide back office accounting system.
- Implemented a Regional Web site for Asia Pacific including information for offices, clients and training programs.
- Project managed a \$2 million full systems implementation including hardware and software at Raffles, The Plaza & Swissotel, The Stamford, Singapore. Liaised between senior corporate executives, local management and project team to achieve contracted service level standards.
- Managed introduction to Asia-Pacific region of new Enterprise software products based on Oracle™ product range with CRM focus.
- Launched regional knowledge support management system which decreased support costs by 5%.
- Introduced Centra® on-line classroom to increase training. Reduced internal training costs by 20% and improved support knowledge.

**Micros Systems Inc., Sydney, Australia**  
***Regional Director, Major Accounts - Asia Pacific***

**July 1997 - April 2000**

Managed International, Regional and Local Major Account Relationships in Asia Pacific. Recruited, trained and managed local and Asia- based account managers. Managed alliance partners and set procedures.

- Established Asia-Pacific Regional Office Major Account Department as part of a new Asia-Pacific Regional Office.
- Developed and streamlined procedures for managing client contact and monthly reporting
- Leveraged the internet to improve procedures, standardized quote and Request for Proposal (RFP) preparation.
- Negotiated, with teams, Major Account Contracts of up to \$4 million.

#### **ADDITIONAL EXPERIENCE**

**International Major Accounts Manager, Micros Systems Inc, Germany**

**May 1996 - July 1997**

**International Systems Consultant, Micros Systems Inc, Germany**

**August 1995 - May 1996**

**Management Information Systems Manager, Ayers Rock Resort Corporation, Australia**

**October 1992 - July 1995**

**Installation and Training Project Manager, General Automation Hotel Systems, Australia**

**March 1991 - Oct 1992**

#### **EDUCATION**

Master of Business Administration, Macquarie University, Sydney, Australia

Bachelor of Science, Purdue University, Indiana, USA

PMP Certification, Project Management Institute

Certified Scrum Master

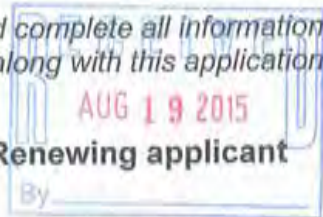
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CITY OF PORTSMOUTH, N.H.  
BOARDS AND COMMISSIONS



APPOINTMENT APPLICATION

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



Committee: Library Board

Name: Ernie Greenslade Telephone: 603 438 8915

Could you be contacted at work?  YES/ NO - If so, telephone # 978 556-3862

Street address: 20 TJ Gonister Ave Portsmouth

Mailing address (if different): \_\_\_\_\_

Email address (for clerk's office communication): egreenslade@comcast.net

How long have you been a resident of Portsmouth? 30+ years

Occupational background:

director of public relations, Northern Essex Community College

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

Reasons for wishing to continue serving: I love the Portsmouth Library, and it has been my honor to play a small role in shaping the range of services that are offered to residents.



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

Prescott Park Arts Festival, Advisory Board  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

1) Glicela Kaplan, 603 770-7183  
Name, address, telephone number

2) Nancy Clayburgh, 603 475-3037  
Name, address, telephone number

BY SUBMITTING THIS APPLICATION YOU UNDERSTAND THAT:

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

Signature: Ernie Greenstone Date: 7/16/15

**CITY CLERK INFORMATION ONLY:**

New Term Expiration Date: 10-1-2018

Annual Number of Meetings: 6 Number of Meetings Absent: 0  
2015

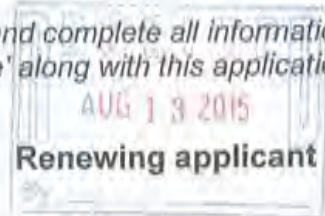
Date of Original Appointment: 12/3/2012

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

CITY OF PORTSMOUTH, N.H.  
BOARDS AND COMMISSIONS

APPOINTMENT APPLICATION

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



Committee: PARKING & TRAFFIC SAFETY

Name: RONALD CYPHER Telephone: 422-9549

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

Street address: 319 SALMON AVE

Mailing address (if different): \_\_\_\_\_

Email address (for clerk's office communication): R-DCYPHER@COMCAST.NET

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

Occupational background:

ESSEX SILVERLINE PLANT SUPERVISOR

U.P.S. DRIVER

GIANT VALU SUPERMKTs. STORE MANAGER

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

Reasons for wishing to continue serving: \_\_\_\_\_

TO CONTINUE TO SERVE THE CITY TO ENSURE FOR  
THE TRAFFIC SAFETY FOR RESIDENTS AND TOURISTS



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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

1) FED GARY 802 SPRINGHURST AVE 436-4863  
Name, address, telephone number

2) ARLPH D. BERNARDO 1374 ESLINGTON ST 436-6895  
Name, address, telephone number

BY SUBMITTING THIS APPLICATION YOU UNDERSTAND THAT:

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

Signature: Ronald Cypher Date: Aug 13, 2015

**CITY CLERK INFORMATION ONLY:**

New Term Expiration Date: 9-17-2018

Annual Number of Meetings: 11 Number of Meetings Absent: 1

Date of Original Appointment: 4-3-2000

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

CITY OF PORTSMOUTH, N.H.  
BOARDS AND COMMISSIONS

APPOINTMENT APPLICATION

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

Committee: Parking & Traffic Safety

AUG 18 2015  
Renewing applicant

Name: Frederick (Fred) Gray Jr Telephone: 436-7865

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

Street address: 808 S. Main Ave

Mailing address (if different): \_\_\_\_\_

Email address (for clerk's office communication): N/A

How long have you been a resident of Portsmouth? 79 years

Occupational background:

Teller, Piscataqua Sugs Bank, Regional  
Director Blue Shield - liaison between  
medical providers & Blue Shield N.H.

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

Reasons for wishing to continue serving: I want to continue  
toward making Portsmouth the finest city  
in NH & continue making a walkable/dri-  
vable city for visitors & residents

OVER  
➔

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

Former president North Church  
of Portsmouth, previous member Portsmouth  
Cante, member & former Director Portsmouth  
Yacht Club, member Inshore Obsolete  
Auto League.

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

- 1) William Wagon, Marcy St (603) 387-5830  
Name, address, telephone number
- 2) Ronald Cypher, Salmon Ave. 422-9549  
Name, address, telephone number

BY SUBMITTING THIS APPLICATION YOU UNDERSTAND THAT:

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

Signature: [Handwritten Signature] (Ted) Date: 8/18/15

**CITY CLERK INFORMATION ONLY:**

New Term Expiration Date: 9/17/2018  
 Annual Number of Meetings: 11 Number of Meetings Absent: 0  
 Date of Original Appointment: 3/7/1999<sup>2015</sup>

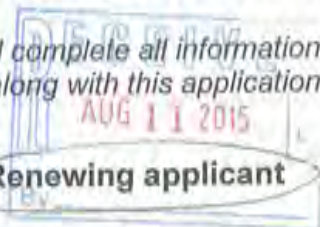
Please submit application to: City Clerk's Office, 1 Junkins Avenue, Portsmouth, NH 03801



CITY OF PORTSMOUTH, N.H.  
BOARDS AND COMMISSIONS

APPOINTMENT APPLICATION

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



Committee: PARKING & TRAFFIC / SAFETY

Name: HAROLD WHITEHOUSE Telephone: 436-8485

Could you be contacted at work?  YES  NO If so, telephone # 436-8485

Street address: 58 HUMPHREY CT.

Mailing address (if different): SAME

Email address (for clerk's office communication): \_\_\_\_\_

How long have you been a resident of Portsmouth? LIFE!!!

Occupational background:  
RETIRED, P.N.S.Y.

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

Reasons for wishing to continue serving: TO CONTINUE THE  
PROGRESS OF FINDING SOLUTIONS TO  
OUR PARKING PROBLEMS



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

"TOO NUMEROUS TO MENTION"

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

1) SPRIO MOUFLOUZE - 550 SAGAMORE RD.  
Name, address, telephone number 436-6434

2) JAMES BENIMATAS - LAFAYETTE RD. 436-9063  
Name, address, telephone number

BY SUBMITTING THIS APPLICATION YOU UNDERSTAND THAT:

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

Signature: Harold Whitelhouse Date: 8/11/15

CITY CLERK INFORMATION ONLY:

New Term Expiration Date: 09-17-2018

Annual Number of Meetings: 11-2015 Number of Meetings Absent: Ø

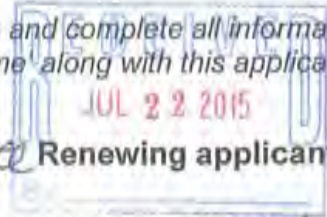
Date of Original Appointment: 9/19/2010

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

CITY OF PORTSMOUTH, N.H.  
BOARDS AND COMMISSIONS

APPOINTMENT APPLICATION

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



Committee: Citywide Neighborhood Steering Committee **Renewing applicant**

Name: Kathleen Bergeron Telephone: 603 433 3261

Could you be contacted at work?  YES  NO - If so, telephone # 603 436 3009

Street address: 199 W. Bird St

Mailing address (if different): \_\_\_\_\_

Email address (for clerk's office communication): khbergeron@aol.com

How long have you been a resident of Portsmouth? 19 years

Occupational background:

Commercial Real Estate Appraiser

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

Reasons for wishing to continue serving: I would like to

continue the good work of the Citywide Neighborhood  
Committee and work to get more citizens involved



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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

- Robert Davis
- 1) Jeanene Savelle 148 Pleasant St. Portsmouth 603 498 9502  
Name, address, telephone number
- 2) Brad Boswert 124 State St. Portsmouth 603 235 7688  
Name, address, telephone number

BY SUBMITTING THIS APPLICATION YOU UNDERSTAND THAT:

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3. This application may be forwarded to the City Council for consideration at the Mayor's discretion; and
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5. Application will be kept on file for one year from date of receipt.

Signature: Kathleen Bergen Date: 7/20/15

**CITY CLERK INFORMATION ONLY:**

New Term Expiration Date: 09-01-2018

Annual Number of Meetings: Not available Number of Meetings Absent: Not available

Date of Original Appointment: 7-19-2010

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

ATTORNEY GENERAL  
DEPARTMENT OF JUSTICE

33 CAPITOL STREET  
CONCORD, NEW HAMPSHIRE 03301-6397

JOSEPH A. FOSTER  
ATTORNEY GENERAL



ANN M. RICE  
DEPUTY ATTORNEY GENERAL

August 27, 2015

Kelli L. Barnaby, MMC, CMC, CNHMC  
City of Portsmouth  
1 Junkins Avenue  
Portsmouth, NH 03801

Re: Charter Amendment Review

Dear Ms. Barnaby:

Pursuant to RSA 49-B:4-a, I have completed my review of the City of Portsmouth's proposed charter amendments and have determined that the proposed amendments to sections 4.3 and Amendment E, are inconsistent with state law.

PROPOSED AMENDMENT TO SECTION 4.3

The proposed amendment to Section 4.3 of the City Charter states as follows:

**SECTION 4.3- THE MAYOR AND THE ASSISTANT MAYOR –**

The Mayor shall be that person who receives the largest number of votes at any municipal election while specifically listed on the ballot as being a candidate for the position of Mayor. Only individuals who are also candidates for the position of City Council may become candidates for the position of Mayor. The City Councilor who has received the largest number of votes for the position of City Councilor shall be assistant Mayor, unless that person has been elected as Mayor. If the Council candidate receiving the largest number of votes has been elected to be Mayor, then the Council candidate receiving the second largest number of votes shall be the Assistant Mayor. If the person elected to the Mayor has not been elected to become a member of the City Council, that person shall hold no office and the Mayor shall be that person who has received the highest number of votes for the position of Mayor and who has been voted to become a member of City Council.

In pertinent part, RSA 44:14, provides that “[i]n all elections of city and ward officers the person having the highest number of votes for any office shall be elected.” Under the scheme of Section

4.3, as the amendment proposes, it would be possible for candidate to be elected as mayor but not be elected to the city council. In such a case, the candidate chosen by the voters to serve as mayor holds no office, which is inconsistent with RSA 44:14.

Currently Section 4.3 of the City Charter states as follows:

A candidate for City Councilor who shall receive the largest number of votes at any election shall become the Mayor. The City Councilor who shall receive the next largest amount of votes shall be the Assistant Mayor. In the event two or more persons shall receive an equal number of votes, and that number of votes is the largest number received by any City Councilor, the person having the longest period of service as a City Councilor shall be the Mayor and the person having the next longest period of service shall be the Assistant Mayor. In the event one person shall receive the largest number of votes and two or more persons shall receive an equal number of votes, and that number shall be next to the largest number of votes received by any Councilor, the person receiving the equal number of votes who has the longest period of service shall be the Assistant Mayor. Where periods of service are equal, ties shall be decided by vote of the Council.

I would recommend maintaining the language as it exists currently until such time that the City Council opts to put forth an amendment whereby the mayor position is elected by the voters at large separately from the city council.

#### PROPOSED AMENDMENT TO AMENDMENT E

The proposed amendment to the paragraph titled “POLICE DEPARTMENT (POLICE COMMISSION)”, states that “[t]he Police Commission shall consist of ~~three~~ five (5) persons: three (3) of whom are to be elected and who shall serve in accordance with the provisions following; one being the City Manager or his/her designee who shall serve such term as determined by the City Manager; and one being the Mayor or his/her designee who shall serve such term as determined by the Mayor.”

Under the New Hampshire Constitution, the Legislature has plenary control over municipalities. *City of Manchester School Dist. v. City of Manchester*, 150 N.H. 664, 666 (2004). As such, municipalities have only the powers delegated to them by the State. *Id.* RSA 105-C:1 provides that “[a]ny town which adopts [RSA Chapter 105-C] may establish a police commission, consisting of 3 commissioners, who shall have been residents of the town for at least 3 years immediately preceding the date of their election or appointment.” Although the RSA 105-C:1 specifies towns, RSA 44:2, expands the statute’s application to cities.<sup>1</sup> As there is

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<sup>1</sup> **RSA 44:2 Provisions Applicable.** – All provisions of statutes, now made or hereafter enacted relating to towns, shall be understood to apply to cities; and all provisions relating to the selectmen and town clerks of towns shall be construed to apply to the mayor and aldermen and clerks of cities, respectively, unless a different intention appears.

no statutory authority allowing the City Manager or Mayor to be participating members of the police commission, this amendment is inconsistent with RSA 105-C:1. I recommend revising the language to read as follows, “[t]he Police Commission shall consist of three (3) persons whom shall be elected at large.”

The proposed amendment to the paragraph titled “APPOINTMENT /ELECTION TERMS,” states in pertinent part that “[i]n the event that a vacancy should occur among the elected members of ~~on~~ the Board, then the next runner-up candidate established out of the last, most recent Board election, shall assume the balance of the vacated term. In the event that the list of candidates from the last election available to fill vacancies becomes depleted, then the Mayor shall appoint any necessary Commissioners.” Pursuant to RSA 105-C:3, (I), when a vacancy occurs on an elected police commission the vacancy is filled by appointment of the municipality’s governing body until the next regular municipal election. As such this amendment is inconsistent with RSA 105-C:3, (I).

I would recommend revising the language to read “[i]n the event of a vacancy on the Police Commission, the vacancy shall be filled by appointment of the City Council until the next regular municipal election.”

The proposed amendment to the paragraph titled “INCOMPATIBLE OFFICES,” states that “[n]o member of the Police Commission shall serve on the Commission while receiving compensation from or holding any other public office within the City of Portsmouth, except for the City Manager or his/her designee.” In light of the comment above, the language “except for the City Manager or his/her designee,” should be struck from the amendment.

This completes the comments my initial review under RSA 49-B:4-a. If you have any further questions, please do not hesitate to contact me at the number listed below.

Sincerely,



Stephen G. LaBonte  
Assistant Attorney General  
Civil Bureau  
(603) 271-3658  
Fax: (603) 223-6296

Cc: Robert Sullivan, Esq.

**ACTION ITEMS AND MINUTES**  
**PARKING and TRAFFIC SAFETY COMMITTEE MEETING**

8:00 A.M. – Thursday, July 9, 2015  
City Hall – Eileen Dondero Foley Council Chambers

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**Action Items requiring an immediate ordinance during the next Council meeting: none**  
**Temporary Action Items requiring an ordinance during the annual omnibus: none**

**ACTIONS:**

- [1] Accepted and placed on file the minutes of the Parking and Traffic Safety Committee Meeting held June 11, 2015.
- [2 (V.A.)] **Action Item:** Request for crosswalk, parking spaces, bike corral on Islington Street at White Heron – **VOTED** to have staff report back at next meeting.
- [3 (V.C.)] **Action Item:** Request for crosswalk on Hanover Street at Fleet Street –**VOTED** to approve construction of a crosswalk on Hanover Street and Fleet Street once funding is available for the required wheelchair ramps.
- [4 (V.D.)] **Action Item:** Request for crosswalk on South Street at Broad Street – **On a roll call 5-4, motion failed.**
- [5 (V.E.)] **Action Item:** Request to remove NO RIGHT ON RED signs at Middle, Miller, and Summer – **VOTED 5-4, motion passed.**
- [6 (V.F.)] **Action Item:** Request to remove NO RIGHT ON RED signs at Congress and Maplewood – **VOTED 6-3, motion failed.**
- [7 (V.G.)] **Action Item:** Request to remove NO RIGHT ON RED signs at Fleet and Congress – **VOTED 6-3, motion passed** to remove the NO RIGHT ON RED sign at Fleet and Congress contingent on traffic signal equipment upgrade to concurrent phasing.
- [8 (V.H.)] **Action Item:** Request to remove NO RIGHT ON RED signs at Fleet and State – **On a roll call 5-4, motion failed.**
- [9 (VI.A.)] **Action Item:** Request for crosswalk on Marcy Street at Humphrey's Court – **VOTED** to accept staff recommendations of posting two Pedestrian Warning signs on Marcy Street approaching Humphrey's Court and conducting a comprehensive analysis of the corridor.
- [10 (VI.B.)] **Action Item:** Request to improve safety of existing crosswalk on Middle Street at Richards Ave and Austin Street – **VOTED** to accept staff recommendations of new Pedestrian Warning signs, review of colored pavement markings, and review of crossing guard needs for the upcoming school year at the crosswalk on Middle Street at Richards Ave and Austin Street.
- [11 (VI.C.)] **Action Item:** Request for crosswalk on Woodbury Ave at Cottage Street – **VOTED** to accept staff recommendation to construct a crosswalk with the required wheelchair ramps at each end, when the funding becomes available in the Department of Public Works.
- [12 (VI.D.)] **Action Item:** Crosswalk bump-outs near Sanders Market on Marcy Street – **VOTED** to accept staff recommendation to look at a crosswalk as part of a Marcy Street Corridor Study.



I. CALL TO ORDER:

Chairman Lown called the meeting to order at 8:00 a.m.

II. ROLL CALL:

**Members Present:**

Councilor, Brad Lown  
City Manager, John Bohenko  
Public Works Director, Peter Rice  
Deputy Fire Chief, James Heinz  
Captain, Frank Warchol, Police Department  
Member, Harold Whitehouse  
Member, Ted Gray  
Member, Shari Donnermeyer  
Member, Ronald Cypher  
Alternate Member, Mary Lou McElwain  
Parking and Transportation Engineer, Eric Eby

**Staff Advisors Present:**

Parking Manager, Joey Giordano  
Transportation Planner, Juliet Walker

III. ACCEPTANCE OF THE MINUTES:

Harold Whitehouse motioned to accept June 11, 2015 meeting minutes. Ron Cypher seconded. Moved to accept PTS Meeting Minutes of June 11, 2015.

**Motion passed 9-0**

IV. FINANCIAL REPORT:

No Financial Report for July 2015.

V. NEW BUSINESS:

A. Request for crosswalk, parking spaces, bike corral on Islington Street at White Heron – Harold Whitehouse explained that this location was one of the on-site visits on Tuesday, July 7<sup>th</sup>. Eric Eby, Parking and Transportation Engineer, provided a detailed explanation of the difficulties and challenges of creating a crosswalk and parking spaces in the area. Public Works Director Rice stated that the City is beginning a corridor design to reconfigure the area and these issues would be addressed.

Harold Whitehouse motioned to have staff report back on crosswalk alternatives at the August meeting. Public Works Director Rice seconded. **Vote 9-0, to have staff report back at August meeting on crosswalk alternatives on Islington Street at White Heron.**

B. Request for safety measures along Elwyn Road – Eric Eby stated a homeowner on Elwyn Road is concerned about a number of accidents due to curvy roadway and speeding. Eric Eby recommended landscape maintenance of the area so all signs are visible. Signs should be replaced if needed. Police Captain Warchol stated that speed patrols will be increased on roadway, and a speed sign will be placed in the residential area.

Public Works Director Rice stated it is an operational issue and is being addressed by the department.

**No action item.**

C. Request for crosswalk on Hanover Street at Fleet Street – Eric Eby and several committee members reviewed this location at an on-site visit on Tuesday, July 7<sup>th</sup>. He stated that it is a good location for a potential crosswalk. A wheel chair ramp would need to be added and one parking space relocated to provide adequate sight lines for pedestrians crossing.

City Manager Bohenko motioned that once funding is made available to proceed with a handicap accessible crosswalk as presented by Eric Eby. Public Works Director Rice seconded.

Ted Gray expressed concerns over the number of crosswalks in the city, and non-compliance of pedestrians. He will vote in opposition of this item.

City Manager Bohenko expressed interest in increasing compliance by using design and/or color in crosswalk areas and conducting a pilot study. Police Captain Warchol stated that the police department currently has a grant, funding pedestrian controls. The crosswalks aide in pedestrian control. Mary Lou McElwain commented on creating variations in crosswalks based on volume of traffic.

**Vote 8-1, to approve construction of a crosswalk on Hanover Street at Fleet Street once funding is available for the required wheelchair ramps. Ted Gray opposing.**

D. Request for crosswalk on South Street at Broad Street – Eric Eby and several committee members reviewed this location at an on-site visit on Tuesday, July 7<sup>th</sup>. Eric Eby stated there is an existing signalized crosswalk at South/Miller/Sagamore. It is 240 feet from the South and Broad location. Eric Eby expressed concerns about traffic in the intersection at South and Broad when the signal is utilized at South/Miller/Sagamore. Pedestrians walk in-between the traffic on South. It is a standard not to have crosswalks within 300 feet of each other. Eric Eby stated that pedestrian warning signs could be installed as an alternative.

City Manager Bohenko expressed concern over a crosswalk at this location due to an established route for children walking to school. This includes a crossing guard. Deviating from the established route may affect the safety of the children.

Ron Cypher expressed concern over the overgrowth of a hedge that is blocking sight lines. He requested that a letter be sent to the property owner. Chairman Lown agreed and Public Works Director Rice stated that the property owner would be contacted.

City Manager Bohenko motioned to approve the crosswalk on South Street at Broad Street for discussion purposes. Public Works Director Rice seconded.

Chairman Lown supports a crosswalk at this location. Eric Eby stated that an engineering design would be required to determine the feasibility of a tip-down wheel chair ramp. Deputy Fire Chief Heinz asked if width of street would be effected. Eric Eby stated street width would not be changed.

Public Works Director Rice is in agreement with Eric Eby and City Manager Bohenko regarding crosswalk concerns at this location and opposes the motion.

**On a roll call 5-4, motion failed.**

**Shari Donnermeyer, City Manager Bohenko, Public Works Director Rice, Police Captain Warchol, Deputy Fire Chief Heinz, voted opposed. Chairman Lown, Ted Gray, Harold Whitehouse, and Ron Cypher, voted in favor.**

E. Request to remove NO RIGHT ON RED signs at Middle, Miller, and Summer – Chairman Lown stated he was contacted by David Mulhern regarding the issue.

Harold Whitehouse expressed concern over safety at Summer and Middle if the sign was removed. He expressed concern over objects that block the view of pedestrians, and their safety if cars were allowed to turn on red.

Eric Eby provided explanation for Right on Red signage. By default, right turns on red are allowed at intersections, unless precluded by signage. Some reasons for signage are sight lines, geometrics and pedestrian phasing. Each intersection would be reviewed on a case by case basis to analyze factors for signage.

City Manager Bohenko motioned to suspend the rules to allow for public comment. Shari Donnermeyer seconded. **Vote 9-0, to suspend the rules.**

David Mulhern, 60 Pinehurst Road, presented the NO RIGHT ON RED signs removal matter to the committee. He provided a detailed explanation on why he believes the signs should be removed. He believes that removing them could be a modest step toward continuing a safe flow of traffic.

Harold Whitehouse motioned to combine all four NO RIGHT ON RED items and vote as one item. Ted Gray seconded.

**On a roll call 7-2, motion failed to combine all four NO RIGHT ON RED items and vote as one item.**

**Chairman Lown, Shari Donnermeyer, Ron Cypher, City Manager Bohenko, Public Works Director Rice, Police Captain Warchol, Deputy Fire Chief Heinz, voted opposed. Ted Gray, Harold Whitehouse, voted in favor.**

Shari Donnermeyer motioned to remove the NO RIGHT ON RED signs at Middle, Miller, and Summer. Public Works Director Rice seconded for discussion purposes.

Public Works Director Rice stated that the equipment at an intersection dictates signage. Due to the equipment at this intersection, he opposes making any changes. A change would also be in conflict with MUTCD, Manual on Uniform Traffic Control Devices, recommendations and design codes.

Eric Eby clarified that the push button signal at this location stops all traffic for pedestrian crossing. The recommendation is no turn on red at that time for pedestrian safety. Harold Whitehouse reiterated his concerns about sight line issues at the location.

Ted Gray favors removing the sign because he believes it is ineffective. Chairman Lown supports removing the signs and agrees with David Mulhern's views. He believes it is an enforcement issue and supports a yield to pedestrian sign.

**Vote 5-4, motion passed to remove the NO RIGHT ON RED signs at Middle, Miller, and Summer. City Manager Bohenko and Public Works Director Rice, voted opposed.**

F. Request to remove NO RIGHT ON RED signs at Congress and Maplewood -

Ron Cypher opposes removing signage on Congress and Maplewood because of high pedestrian traffic in area.

Mary Lou McElwain sought clarification on the redesign of no turn on red light at Islington and Middle. Public Works Director Rice confirmed that it would remain intact.

Harold White believes there is a study to make Congress a two-way street, but Public Works Director Rice clarified: there is no study. Rice stated there was a recommendation to put it into the Capital Improvements Plan for consideration by the City Council.

Public Works Director Rice motioned to consider removing the NO RIGHT ON RED signs at Congress and Maplewood. Shari Donnermeyer seconded. Both will oppose the motion.

Chairman Lown supports the motion to remove the sign because of the inconsistencies as presented by David Mulhern.

Eric Eby clarified: there is a conflict at the intersection due to the simultaneous left turns on Islington and Congress. The right turn on red will conflict with the exclusive left turns.

**Vote 6-3, motion failed to remove the NO RIGHT ON RED signs at Congress and Maplewood.**

G. Request to remove NO RIGHT ON RED signs at Fleet and Congress –

Shari Donnermeyer motioned to remove the NO RIGHT ON RED signs at Fleet and Congress. City Manager Bohenko seconded for discussion purposes.

Public Works Director Rice stated that before the signage could be removed, the traffic lights must be upgraded. They do not have the control system to comply with the requirements of a concurrent

signal. He recommended the motion be modified to include the provision for the upgrade of the traffic lights. Eric Eby stated that concurrent phasing needs to be implemented.

Shari Donnermeyer amended the motion to remove the NO RIGHT ON RED signs at Fleet and Congress contingent on the traffic light upgrade to concurrent phasing.

**Vote 6-3, motion passed to remove the NO RIGHT ON RED sign at Fleet and Congress contingent on traffic signal equipment upgrade to concurrent phasing. City Manager Bohenko, Public Works Director Rice, and Deputy Fire Chief Heinz, voted opposed.**

H. Request to remove NO RIGHT ON RED signs at Fleet and State –

Shari Donnermeyer motioned to remove the NO RIGHT ON RED signs at Fleet and State. Ron Cypher seconded.

Shari Donnermeyer amended the motion to remove the NO RIGHT ON RED signs at Fleet and State contingent on equipment upgrade. Harold Whitehouse seconded.

Harold Whitehouse opposed due to sight lines.

**On a roll call 5-4, motion failed.**

**City Manager Bohenko, Public Works Director Rice, Harold Whitehouse, Police Captain Warchol, Deputy Fire Chief Heinz, voted opposed. Chairman Lown, Shari Donnermeyer, Ron Cypher, Ted Gray, voted in favor.**

VI. OLD BUSINESS:

A. Request for crosswalk on Marcy Street at Humphrey's Court – Eric Eby measured the street between the parked cars. It is 19 feet wide, which is narrow. The street curve limits the sight lines. There is only 100 feet of sight distance, which isn't sufficient for the observed or posted speed limits. A crosswalk is not recommended at this site. As an alternative, Eric Eby is recommending posting two (2) Pedestrian Crossing Warning signs on Marcy Street, one in each direction approaching Humphrey's Court. Additionally, he is recommending that the City conduct a comprehensive analysis of the Marcy Street/New Castle Avenue corridor, between Sanders Market and the New Castle Bridge.

Ted Gray motioned to accept staff recommendations. Harold Whitehouse seconded.

**Vote 9-0, unanimous to accept staff recommendations of posting two Pedestrian Warning signs on Marcy Street approaching Humphrey's Court and conducting a comprehensive analysis of the corridor.**

B. Request to improve safety of existing crosswalk on Middle Street at Richards Ave and Austin Street – Eric Eby conducted a field review of the intersection and recommends new Pedestrian Crossing warning signs that meet current standards. Staff will review the possibility of applying color paint to the pavement between the white stripes of the crosswalks to make markings

more visible. Possible acceptable colors include red, rust, brown, burgundy, tan, clay or similar earth tone equivalents. Additionally, staff will review the need for a crossing guard for the coming school year based on factors including bus routes, school population, and walking routes. Buses will exit from Parrott Avenue onto Junkins Avenue.

Police Captain Warchol asked if the color of paint at crosswalk could match the fluorescent color of the sign. Eric Eby stated that studies have shown no improved safety, and Federal Highway Department is not allowing this color scheme. They are approving the earth tone shades or black.

Deputy Fire Chief Heinz asked if street width would be affected. Eric Eby stated street width would not be changed at this time. He reminded the committee that this corridor is part of the bike lane corridor study currently underway. There will be recommendations from the study that staff may not be aware of at this time.

Harold White motioned to accept staff recommendations.

Shari Donnermeyer seconded.

**Vote 9-0, unanimous to accept staff recommendations of new Pedestrian Warning signs, review of colored pavement markings, and review of crossing guard needs for the upcoming school year at the crosswalk on Middle Street at Richards Ave and Austin Street.**

C. Request for crosswalk on Woodbury Ave at Cottage Street – Eric Eby conducted a field review of the area. He recommends that a crosswalk be installed, along with the required wheelchair ramps at each end, when funding becomes available in the budget.

Ted Gray motioned to accept staff recommendation.

Ron Cypher seconded.

**Vote 9-0, unanimous to accept staff recommendation to construct a crosswalk with the required wheelchair ramps at each end, when funding becomes available in the Department of Public Works.**

D. Crosswalk bump-outs near Sanders Market on Marcy Street - Eric Eby conducted a field review of the area. He determined that the construction of bump-outs would cause the loss of three parking spaces and require extensive drainage system reconstruction to accommodate the change in stormwater patterns from the presence of the bump-outs.

They would also cause problems for snow removal. Additionally, parking spaces would likely be lost in the winter. Also, the construction costs associated with the drainage system would be extensive. Staff recommends the bump-outs not be constructed, and that the pedestrian crossing be reexamined as part of a larger corridor study. Staff is in the process of putting together the project scope.

Mary Lou McElwain stated that she believes the bump-outs are more dangerous for cyclists and the recently installed Pedestrian Crossing sign is an added safety improvement in the area.

Harold Whitehouse motioned to accept staff recommendation.

Ron Cypher seconded.

**Vote 9-0, unanimous to accept staff recommendation to look at a crosswalk as part of a Marcy Street Corridor Study.**

VII. PUBLIC COMMENT:

Judy Miller, 77 Hanover Street, representing the Harbour Hill Condominium Association, requests that the crosswalk on Hanover Street at Fleet Street be reinstated or a temporary crosswalk be installed while waiting for the permanent one to be built. She provided a letter to the committee signed by the Harbour Hill Condominium Association President. The committee approved the construction of the crosswalk once funding is available in a vote of 8-1 earlier in the meeting.

Walter Hamilton, 47 Mariette Drive, asked about the signs on Banfield Road directing the traffic exiting Water Country. He believes the residents would be happier if the traffic was directed up Mirona Road to the traffic circle.

VIII. INFORMATIONAL:

A. New pay and display parking meters to replace single space parking meters – Joey Giordano, Parking Manager, presented options for the single space meters. Proposed changes are: installing smart single space meters in the “15 Minute” spaces; eliminate 110 old single space meters, and replace with 7 “pay and display” meters for an estimated cost of \$52,500. Harold Whitehouse asked about durability during severe cold weather. Joey Giordano confirms that weather is not an issue with the “pay and display” meters: they have heaters inside. However, there are technology limitations with the single space meters.

B. Diagonal parking suggestion from Rick Chellman – Eric Eby reviewed the Pleasant Street site in order to address the concerns of the Fire Department. The fire truck and outriggers were deployed to determine the width needed. The original proposal takes up more room than previously thought. Eric Eby is reconfiguring the design and looking at alternatives on Pleasant Street.

On Penhallow Street and Bow Street, the City can move forward on creating angle parking in the four spaces on the left side of Penhallow Street. This is done by re-stripping. Deputy Fire Chief Heinz agreed that this would be acceptable.

Harold Whitehouse commented on the horse and buggy location on Pleasant Street. Eric Eby mentioned that the agreement with the horse and buggy vendor is no longer in effect, having not been renewed for several years.

C. Proposed bicycle / scooter parking ordinance – Eric Eby states that staff continues to work on the ordinance.

Additional Items:

Resident only parking – Chairman Lown was requested by Councilman Morgan to address the status of the resident only parking matter. Public Works Director Rice stated that a program could be implemented when the new garage is constructed and operational.

Harold Whitehouse requested jaywalking in the Central Business District be addressed at the next committee meeting.

Eric Eby recommended a schedule change for the committee. Currently, the committee meets the second Thursday of each month. Staff recommends changing the schedule to dovetail with City Council so actions can be resolved more quickly. The committee agreed that the meeting date will change, beginning in September 2015. The committee will now meet on the first Thursday of each month and conduct site visits on the Tuesday prior to the meeting.

IX. ADJOURNMENT - At 9:23 a.m., voted to adjourn.

Respectfully submitted by:

Amy Chastain  
Secretary to the Committee





**CONCEPTUAL SITE PLAN  
PRESCOTT PARK STAGE**

08/17/2015



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## M E M O R A N D U M

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**TO:** Honorable Mayor Lister and Members of the City Council  
**FROM:** Eric Spear, City Councilor; Chair, Sagamore Creek Land Blue Ribbon Committee  
**DATE:** September 1, 2015  
**RE:** Completion Date for Blue Ribbon Committee on Sagamore Creek Land

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As you know, the Blue Ribbon Committee on the Sagamore Creek Land has been making progress on its charge to create a plan for public usage of the city-owned land at Sagamore Creek. That work will not likely be completed by the September 21, 2015 date established in the charge. I would request December 21, 2015 be the new conclusion date for the Committee's work.

In June - following input of the boards, commissions, and the public - an Interim report was adopted, which included a vision statement and guidelines. Since that time, the Committee has worked to further develop a plan and held two meetings and a site walk. In the coming months, the Committee plans to obtain public input on a draft master plan of improvements and report back to the City Council.

We look forward to continuing this work and ensuring the Sagamore Creek parcel becomes a well-used and cared for facility for all to enjoy.

cc: John P. Bohenko, City Manager  
David Moore, Assistant City Manager for Special Projects/CD Director

## **MEMO**

TO: Honorable Mayor Robert Lister  
Members of the City Council

FROM: Jack Thorsen, City Councilor

DATE: September 2<sup>nd</sup>, 2015

SUBJECT: Short Term Rental

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*In this memo, I recommend that the City Council approve an amendment permitting by license not unduly withheld, any owner who wishes to rent out one or two rooms to a short term renter, in any part of the city, provided that the owner is presently occupying the property, that the renter is a single group of people, that there is ample off-street parking, and so long as there is no disturbance to abutters. This situation is most closely defined as a Bed and Breakfast 1.*

### **Reasoning**

An owner should, as of right, be permitted to rent out rooms to renters as long as there is no more impact on neighbors than if the owner had invited family or friends to stay for a visit. The fact that there is an exchange of money has no additional impact. It seems to me that if an owner would be allowed to have visitors at any time, arriving and leaving at any time, then the same situation with an exchange of money would have no further adverse effect.

### **License**

Although I personally think that a license should not be necessary, the city may need a means of disallowing, by revocation of the license, any owner who accumulates several verifiable complaints of nuisance to neighbors. The complaint should be substantive and be more than what would be expected with non-paying visitors.

### **Motion**

*To establish a new designation of Private Short Term Rental with all the restrictions of Bed and Breakfast 1, except that it may operate anywhere in the city, only allow one renting group, and that a license to operate may be revoked by the city should the impact of the operation on neighbors be substantially more than that of visiting guests.*

### **Naming Convention**

The name, Private Short Term Rental, can be replaced with any suitable naming convention.

*Thank you for your kind consideration in this matter.*

*Sincerely,*

*Jack Thorsen  
City Councilor  
City of Portsmouth, New Hampshire*