

REGULAR MEETING

AGENDA

April 11, 2016

1. Roll Call
2. Pledge of Allegiance to the Flag
3. Public Forum of not more than 30 minutes (5 min limit each speaker)
4. Meeting Notice
5. Reading of the Record
6. Reports:
 - a. City Manager's Report
 - b. City Attorney's Report
 - c. Other Official's Report
 - d. Mayor's Report
7. Licenses and Permits:
 - a. Liquor License – Brass Compass Café
 - b. Liquor & Entertainment Licenses – Archers on the Pier
 - c. Liquor & Entertainment Licenses – Eclipse & The Speakeasy
 - d. Liquor & Entertainment Licenses – The Pearl Restaurant
 - e. Liquor License – Rockland Café
 - f. Liquor License – Primo Restaurant
 - g. Liquor License – Himalayan Restaurant
 - h. Liquor License – Sunfire Mexican Grill
 - i. Lodging House License – Rockland Harbor Hotel
 - j. Approval of Outdoor Service of Alcohol – 250 Main Hotel (Roof Deck)
8. Resolves:
 - #17 Accepting Donations – Library
 - #18 Appointments – Comprehensive Planning Commission

City Council
Mayor MacLellan-Ruf
9. Ordinances in Final Reading and Public Hearing:
 - #41 Chapter 11, Section 11-210 Short-Term Rentals
 - #42 Chapter 19, Article III – Short-Term Rentals (Postponed 03/14/16)
 - # 3 Zoning Map Amendment – TB2 to C1 – Belvidere/Pleasant Streets
 - # 4 Chapter 19, Section 19-302 Definitions; Ed. Institutions
 - # 5 Chapter 19, Article III – Automobile Repair Shops

City Council
City Council
Councilor Clayton
Mayor MacLellan-Ruf
Councilor Clayton
10. Ordinances in First Reading:
 - # 6 Authorizing Quit Claim Deed – Reconveyance of 55 Dodge Mt. Rd.
 - # 7 Chapter 14, Section 14-316 Street Opening – Redundant Text
 - # 8 Chapter 15, Articles I & IV Street Opening Permits
 - # 9 Chapter 19, Section 19-307 Off-Street Parking, Design Standards
 - #10 Chapter. 19, Article III Power Generation Facility Regulations
 - #11 Chapter 16, Article II Power General Facility Regulations
 - #12 Chapter 2, Section 2-509 Disposition of Lien-Acquired Property
 - #13 Chapter 19, Article VI Floodplain Management Ordinance

City Council
Councilor Pritchett
Councilor Pritchett
Councilor Pritchett
Councilor Pritchett
Councilor Pritchett
Councilor Geiger
Mayor MacLellan-Ruf
11. Orders:
 - # 5 Routine Data on Short-Term Rentals (Postponed 03/14/16)
 - #16 Amending Solid Waste Disposal Fees
 - #17 Authorizing Street Closure & Fee Waiver – Lobster Festival Parade

Councilor Pritchett
City Council
City Council

- #18 Authorizing Street Closure & Fee Waiver – Memorial Day Parade
- #19 Authorizing Fee Waiver – Lobster Boat Race Docking Fees
- #20 Authorizing License Agreement – Brass Compass Tables
- #21 Authorizing Extension of Deadline – Mooring Permits
- #22 Authorizing Demolition of Structures – Rockland Street
- #23 Adopting CDBG Housing Guidelines
- #24 Authorizing Application & Acceptance – COPS Grant Program
- #25 Main Street Lighting Project – Move Forward
- #26 Authorizing Banner – Coast Guard City Committee

City Council
Councilor Clayton
Councilor Clayton
City Manager
City Manager
Councilor Geiger
City Manager
Mayor MacLellan-Ruf
City Council

APPLICATION FOR CITY LICENSE
CITY OF ROCKLAND, MAINE
270 Pleasant Street
Rockland, Maine 04841

Name of Applicant Lynn Archer Phone 596-5960

Address of Applicant 1617 Oyster River Rd.
Warren, Me 04864

Name of Business The Brass Compass Cafe Phone 596-5960

Address of Business 305 Main St.
Rockland, Me 04841

Name of Property Owner (if different) same

Type of License(s): Liquor Victualer Entertainment
 Lodging House Commercial Hauler Landscape Contractor

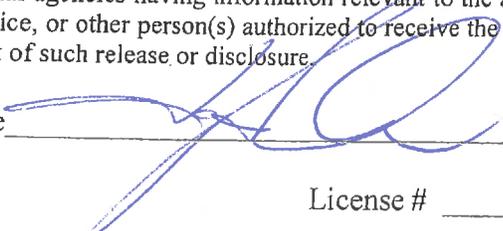
Billiard Room Second Hand Dealer Other (Specify) _____

Type of Business RESTAURANT

Expiration of Current License 5/5/2016

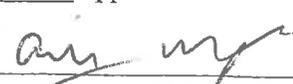
Fee(s) Paid 150.00 Date 3/14/16

The applicant herein agrees to conform with the provisions of the Ordinances of the City of Rockland relating to business licenses and such reasonable rules and regulations as may hereafter be adopted. The applicant hereby gives all persons and governmental agencies having information relevant to the above items permission to release the same to the City Clerk, Chief of Police, or other person(s) authorized to receive the same, and releases any claim that may be alleged to have arisen as a result of such release or disclosure.

Applicant's Signature  Date 3/3/16

Approved By: _____ License # 5839

 Approved Inspected; See Report Code Officer _____ Date _____


 Approved Inspected; See Report Fire Inspector 4/5/16 Date _____


 Approved Inspected; See Report Police Chief 3/24/16 Date _____

City Clerk _____ Date _____

APPLICATION FOR CITY LICENSE
CITY OF ROCKLAND, MAINE
270 Pleasant Street
Rockland, Maine 04841

Name of Applicant Lynn Archer Phone 691-2436

Address of Applicant 1617 Oyster River Rd
Warren, Me 04864

Name of Business Archers on THE Pier Phone 594-2435

Address of Business 58 Ocean St.
ROCKLAND, Me 04841

Name of Property Owner (if different) Harbor Park LLC

Type of License(s): Liquor Victualer Entertainment
 Lodging House Commercial Hauler Landscape Contractor
 Billiard Room Second Hand Dealer Other (Specify) _____

Type of Business Restaurant

Expiration of Current License 5/18/16

Fee(s) Paid 300.00 Date 3/14/16

The applicant herein agrees to conform with the provisions of the Ordinances of the City of Rockland relating to business licenses and such reasonable rules and regulations as may hereafter be adopted. The applicant hereby gives all persons and governmental agencies having information relevant to the above items permission to release the same to the City Clerk, Chief of Police, or other person(s) authorized to receive the same, and releases any claim that may be alleged to have arisen as a result of such release or disclosure.

Applicant's Signature [Signature] Date 3/3/16

Approved By: _____ License # 7563

[Signature] Approved _____ Inspected; See Report _____ Code Officer 4/5/16 Date

[Signature] Approved _____ Inspected; See Report _____ Fire Inspector 4/5/16 Date

[Signature] Approved _____ Inspected; See Report _____ Police Chief 3/24/16 Date

City Clerk _____ Date

APPLICATION FOR CITY LICENSE
CITY OF ROCKLAND, MAINE
270 Pleasant Street
Rockland, Maine 04841

Name of Applicant LABREE ENTERPRISES, LLC. Phone 207 975-2422

Address of Applicant P.O. BOX 1706
ROCKLAND ME 04841

Name of Business ECLIPSE! THE SPEAKEASY Phone 207 576-6661-
EXT 6006

Address of Business 2 PARK DR
ROCKLAND, ME 04841

Name of Property Owner (if different) TRADEWINDS MOTEL INN, INC

Type of License(s): Liquor Victualer Entertainment
 Lodging House Commercial Hauler Landscape Contractor
 Billiard Room Second Hand Dealer Other (Specify) _____

Type of Business RESTAURANT

Expiration of Current License 5-9-16

Fee(s) Paid 300.00 Date 3/17/16

The applicant herein agrees to conform with the provisions of the Ordinances of the City of Rockland relating to business licenses and such reasonable rules and regulations as may hereafter be adopted. The applicant hereby gives all persons and governmental agencies having information relevant to the above items permission to release the same to the City Clerk, Chief of Police, or other person(s) authorized to receive the same, and releases any claim that may be alleged to have arisen as a result of such release or disclosure.

Applicant's Signature [Signature] Date 3/17/16

Approved By: [Signature] License # 4311

Approved Inspected; See Report Code Officer 3/29/16 Date

[Signature] Approved Inspected; See Report Fire Inspector 3/29/16 Date

[Signature] Approved Inspected; See Report Police Chief 3/24/16 Date

[Signature] Approved Inspected; See Report City Clerk 4/1/16 Date

APPLICATION FOR CITY LICENSE
CITY OF ROCKLAND, MAINE
270 Pleasant Street
Rockland, Maine 04841

Name of Applicant Larry Reed Jr. Phone 542-9335

Address of Applicant 52 Mechanic St.
Rockland, ME 04841

Name of Business The Pearl Phone 542-9335

Address of Business 275 Main St.
Rockland, ME 04841

Name of Property Owner (if different) _____

Type of License(s): Liquor Victualer Entertainment
 Lodging House Commercial Hauler Landscape Contractor

Billiard Room Second Hand Dealer Other (Specify) _____

Type of Business Full Service Restaurant

Expiration of Current License New

Fee(s) Paid \$ 300.00 Date 3-24-16

The applicant herein agrees to conform with the provisions of the Ordinances of the City of Rockland relating to business licenses and such reasonable rules and regulations as may hereafter be adopted. The applicant hereby gives all persons and governmental agencies having information relevant to the above items permission to release the same to the City Clerk, Chief of Police, or other person(s) authorized to receive the same, and releases any claim that may be alleged to have arisen as a result of such release or disclosure.

Applicant's Signature [Signature] Date 3-24-16

Approved By: [Signature] License # _____

Approved Inspected; See Report Code Officer [Signature] Date April 8, 2016

Approved Inspected; See Report Fire Inspector _____ Date _____

Approved Inspected; See Report Police Chief [Signature] Date 3/1/16

City Clerk _____ Date _____

APPLICATION FOR CITY LICENSE
CITY OF ROCKLAND, MAINE
270 Pleasant Street
Rockland, Maine 04841

Name of Applicant Wayne Steeves Phone 596-7556

Address of Applicant 441 main Street
Rockland ME 04841

Name of Business Rockland Cafe Phone 596-7556

Address of Business 441 main Street
Rockland ME 04841

Name of Property Owner (if different) Same

Type of License(s): Liquor Victualer Entertainment

Lodging House Commercial Hauler Landscape Contractor

Billiard Room Second Hand Merchant Other (Specify) _____

Type of Business Restaurant

Expiration of Current License 5/4/16

Fee(s) Paid \$150.00 Date 3/28/16

The applicant herein agrees to conform with the provisions of the Ordinances of the City of Rockland relating to business licenses and such reasonable rules and regulations as may hereafter be adopted. The applicant hereby gives all persons and governmental agencies having information relevant to the above items permission to release the same to the City Clerk, Chief of Police, or other person(s) authorized to receive the same, and releases any claim that may be alleged to have arisen as a result of such release or disclosure.

Applicant's Signature Wayne Steeves Date 3/25/2016

Approved By: _____ License # _____

Approved _____ Inspected; See Report _____ Code Officer _____ Date _____

Adm Man
 Approved _____ Inspected; See Report _____ Fire Inspector 4/5/16 Date _____

[Signature]

Police Chief 4/1/16 Date _____

City Clerk _____ Date _____

APPLICATION FOR CITY LICENSE
CITY OF ROCKLAND, MAINE
270 Pleasant Street
Rockland, Maine 04841

Name of Applicant PRICE KUSHNER/MELISSA KELLY Phone 691-3903

Address of Applicant 2 MAIN STREET
ROCKLAND, MAINE 04841

Name of Business PRIMO RESTAURANT Phone 596-0770

Address of Business 2 MAIN STREET
ROCKLAND, MAINE 04841

Name of Property Owner (if different) SAME

Type of License(s): Liquor Victualer Entertainment
 Lodging House Commercial Hauler Landscape Contractor
 Billiard Room Second Hand Merchant Other (Specify) _____

Type of Business RESTAURANT

Expiration of Current License 04/15/16

Fee(s) Paid \$150.00 Date _____

The applicant herein agrees to conform with the provisions of the Ordinances of the City of Rockland relating to business licenses and such reasonable rules and regulations as may hereafter be adopted. The applicant hereby gives all persons and governmental agencies having information relevant to the above items permission to release the same to the City Clerk, Chief of Police, or other person(s) authorized to receive the same, and releases any claim that may be alleged to have arisen as a result of such release or disclosure.

Applicant's Signature PRICE KUSHNER Date 03/24/16

Approved By: _____ License # _____

Wm Butler Code Officer April 8, 2016 Date
 Approved Inspected; See Report

Wm Butler for Fire Fire Inspector April 8, 2016 Date
 Approved Inspected; See Report

[Signature] Police Chief 4/1/16 Date

[Signature] City Clerk 4/8/16 Date

APPLICATION FOR CITY LICENSE
CITY OF ROCKLAND, MAINE
270 Pleasant Street
Rockland, Maine 04841

Name of Applicant HIMALAYAN RESTAURANT, LLC Phone 646-506-8265

Address of Applicant 132 BROADWAY
ROCKLAND, MAINE 04841

Name of Business HIMALAYAN RESTAURANT Phone 646-506-8265

Address of Business 1 PAYNE AVENUE
ROCKLAND, MAINE 04841

Name of Property Owner (if different) KEITH WASS

Type of License(s): Liquor Victualer Entertainment
 Lodging House Commercial Hauler Landscape Contractor
 Billiard Room Second Hand Merchant Other (Specify) _____

Type of Business RESTAURANT

Expiration of Current License 05/11/16

Fee(s) Paid \$150.00 Date _____

The applicant herein agrees to conform with the provisions of the Ordinances of the City of Rockland relating to business licenses and such reasonable rules and regulations as may hereafter be adopted. The applicant hereby gives all persons and governmental agencies having information relevant to the above items permission to release the same to the City Clerk, Chief of Police, or other person(s) authorized to receive the same, and releases any claim that may be alleged to have arisen as a result of such release or disclosure.

Applicant's Signature KRISTINA TENZIN Date 03/24/16

Approved By: _____ License # _____

Wm Butler Code Officer 3/31/16 Date
 Approved Inspected; See Report

Wm Butler for Fire Fire Inspector 3/31/16 Date
 Approved Inspected; See Report

Dale Kelly Police Chief 4/1/16 Date

Shant # [Signature] City Clerk 4/1/16 Date

APPLICATION FOR CITY LICENSE
CITY OF ROCKLAND, MAINE
270 Pleasant Street
Rockland, Maine 04841

Name of Applicant ALLAN, PAM COTA Phone 542-6750

Address of Applicant 81 WILLIS DR
HOPE ME. 04847

Name of Business SUNFIRE MEX. GRILL Phone 594-6196

Address of Business 488 B MAIN ST.
ROCKLAND ME. 04841

Name of Property Owner (if different) VINCENT FERRAIULO

Type of License(s): Liquor Victualer Entertainment
 Lodging House Commercial Hauler Landscape Contractor
 Billiard Room Second Hand Merchant Other (Specify) _____

Type of Business DINE IN RESTAURANT

Expiration of Current License MAY 17 2016

Fee(s) Paid \$150.00 Date 3/30/16

The applicant herein agrees to conform with the provisions of the Ordinances of the City of Rockland relating to business licenses and such reasonable rules and regulations as may hereafter be adopted. The applicant hereby gives all persons and governmental agencies having information relevant to the above items permission to release the same to the City Clerk, Chief of Police, or other person(s) authorized to receive the same, and releases any claim that may be alleged to have arisen as a result of such release or disclosure.

Applicant's Signature *Pam Cota* Date 3/30/16

Approved By: *Wm Butts* License # _____

Approved Inspected; See Report Code Officer *4/7/16* Date _____

Approved Inspected; See Report Fire Inspector _____ Date _____

Billie Bell Police Chief *4/1/16* Date _____

City Clerk _____ Date _____

APPLICATION FOR CITY LICENSE
CITY OF ROCKLAND, MAINE
270 Pleasant Street
Rockland, Maine 04841

Name of Applicant Rockland Harbor Hotel, LLC Phone 207-865-6105

Address of Applicant 15 Main St. Suite 210
Freeport, ME 04032

Name of Business Rockland Harbor Hotel Phone 207-594-2131

Address of Business 520 Main St.
Rockland, ME 04841

Name of Property Owner (if different) same

Type of License(s): Liquor Victualer Entertainment
 Lodging House Commercial Hauler Landscape Contractor
 Billiard Room Second Hand Dealer Other (Specify) _____

Type of Business Hotel Operations

Expiration of Current License n/a

Fee(s) Paid \$200.00 Date 3/22/2016

The applicant herein agrees to conform with the provisions of the Ordinances of the City of Rockland relating to business licenses and such reasonable rules and regulations as may hereafter be adopted. The applicant hereby gives all persons and governmental agencies having information relevant to the above items permission to release the same to the City Clerk, Chief of Police, or other person(s) authorized to receive the same, and releases any claim that may be alleged to have arisen as a result of such release or disclosure.

Applicant's Signature [Signature] Date 3/22/16

Approved By: _____ License # _____

[Signature] Code Officer 3/22/16 Date
 Approved Inspected; See Report

[Signature] Fire Inspector 3/29/16 Date
 Approved Inspected; See Report

[Signature] Police Chief 4/1/16 Date

[Signature] City Clerk 4/1/16 Date

*Will inspect before Certificate of Occupancy.

City of Rockland, Maine
Application for Outdoor Sale of Alcohol

Name of Applicant 250 MAIN STREET LLC Phone (207) 594-5994
Address of Applicant 250 MAIN ST. ROCKLAND, ME 04841
Name of Business 250 MAIN Phone (207) 594-5994
Address of Business 250 MAIN ST. ROCKLAND, ME 04841
Location of Proposed Outdoor Sale of Alcohol ROOFTOP DECK
Date Liquor License Issued PENDING

Applications will not be approved unless inspected by the Code Enforcement Officer, Police Chief and Fire Chief and they are satisfied that all necessary steps will be taken to assure public safety and compliance with all applicable laws.

Information Required on all Applications for Outdoor Sale of Alcohol (use back of application for additional space or attach requested information):

1. Site Plan of suitable scale demarcating area for proposed sale and consumption, location of ingress and egress, fencing, buildings, streets, driveways and sidewalks.
2. Method of enclosure of proposed area (fencing - type of construction): Stainless Steel Stations w/ Kerlar Rope
3. Hours and days of operation: 7 days/week, Noon-Midnight
4. Hours and days gate attendant will be present: 7 days/wk, 24 hours/day

Code Officer: _____ Date: _____
 Approved Inspected; See Report

Fire Inspector: Curtis Date: 4/5/16
 Approved Inspected; See Report

Police Chief: [Signature] Date: 4/1/16
 Approved may have comments

City Council Approved
per City Clerk: _____ Date: _____



SCATTERGOOD DESIGN
architecture + planning
30 morning street
portland, maine 04107
707-636-0291
scattergoodesign.com

CONTRACTORS

250 Main Street
Portland, ME

date: no revision

REVISIONS
NO. 1
DATE: 11/11/15
BY: [Redacted]

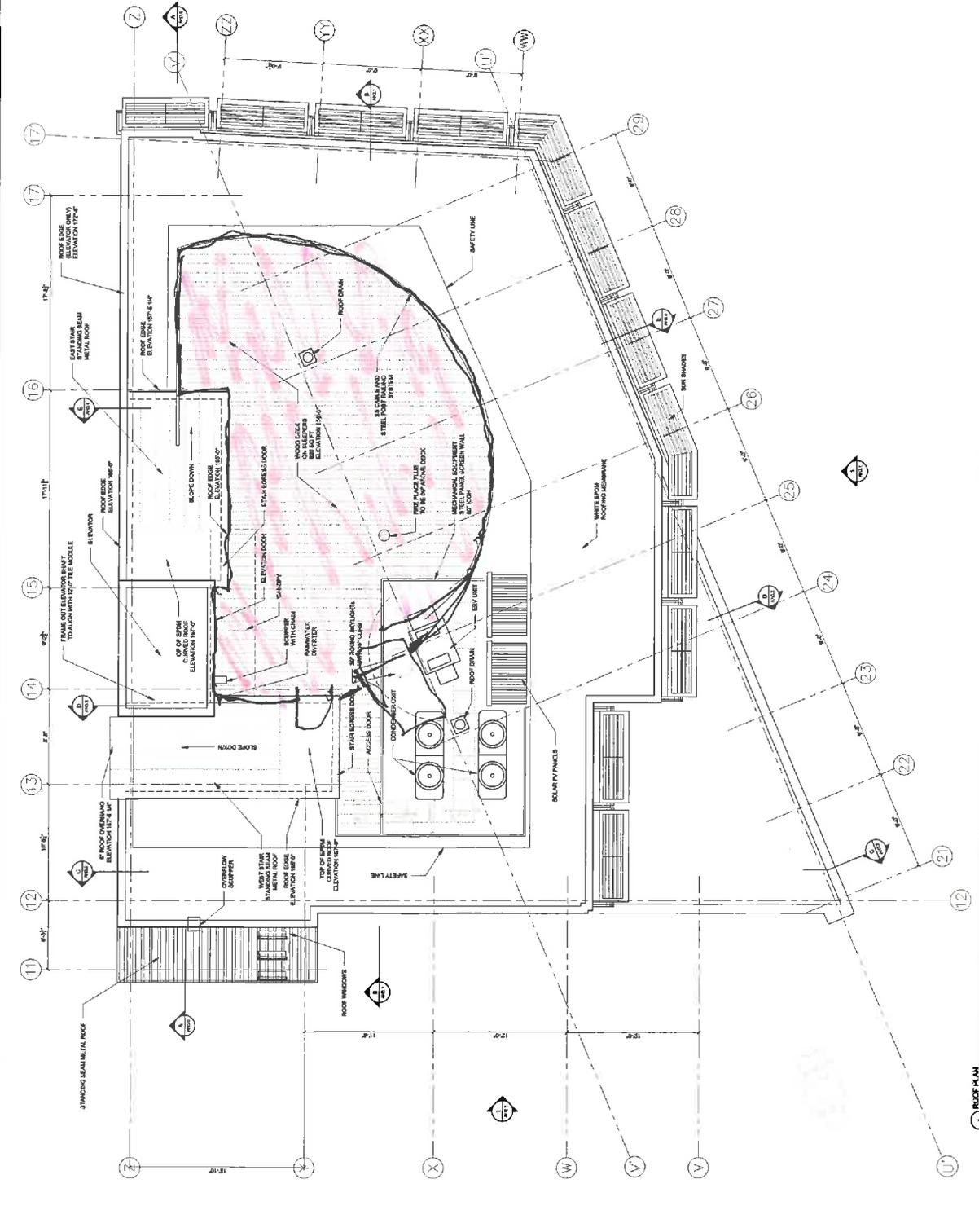
Table with 4 columns: field, scale, date, project #, drawn by, checked by, title

ROOF PLAN

Sheet

AH1.6

1 ROOF PLAN



REVISIONS

CITY OF ROCKLAND, MAINE

RESOLVE # 17

IN CITY COUNCIL

April 11, 2016

RESOLVE Accepting Donations - Library

WHEREAS, the Friends of the Rockland Public Library donated \$845.33 to the Rockland Public Library for 78 books and 4 DVD's, to be receipted into the Library Restricted Donations account (#10062-03150) and the same expended from the Library Restricted Donations Expenditure account (#10062-07003), and donated \$40.97 to the Library to cover the overtime costs for staff member Jessie Blanchard's assistance with the Friends Book & Bake Sale held on March 18, 2016; and

WHEREAS, Kevin & Cheryl Mahoney, Foxborough, MA, donated \$25 to the Library in memory of Harold Dondis, to be receipted into the Restricted Donations account (#10062-03150) and the same expended from the Library Restricted Donations Expenditure account (#10062-07003);

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE CITY COUNCIL AS FOLLOWS:

THAT the City gratefully accepts these donations and directs that a letter of thanks be sent to each donor in recognition of their generous donations.

Sponsor: City Council
Originator: City Council

CITY OF ROCKLAND, MAINE

RESOLVE # 18

IN CITY COUNCIL

April 11, 2016

RESOLVE Appointments – Comprehensive Planning Commission

BE IT HEREBY RESOLVED BY THE CITY COUNCIL AS FOLLOWS:

THAT the Mayor's appointments of the following persons to the Comprehensive Planning Commission for the terms listed to fill vacancies on the Commission are hereby confirmed:

Carole Black, 88 Summer Street – 2017

Julie Lewis, 34 Holmes Street – 2016

Sponsor: Mayor MacLellan-Ruf

Originator: Mayor MacLellan-Ruf

CITY OF ROCKLAND, MAINE
ORDINANCE AMENDMENT #41
(As Amended 01/11/16 & 03/14/16)
IN CITY COUNCIL

October 14, 2015

**ORDINANCE AMENDMENT: Licensing of Lodging Houses and
Permitting of Short-Term Rentals**

WHEREAS, Title 30-A, Maine Revised Statutes, Section 3811, provides that no person may serve as a common innkeeper or tavernkeeper without a license; and

WHEREAS, the Rockland Code of Ordinances does not currently provide for the licensure of innkeepers of short-term rentals,

NOW, THEREFORE, THE CITY OF ROCKLAND HEREBY ORDAINS THAT CHAPTER 11, Licenses, Permits and Franchises, ARTICLE II, Licenses, When Required, SECTION 11-210, Lodging Houses, BE AMENDED AS FOLLOWS:

Sec. 11-210 Lodging Houses And Short-Term Rentals

1. Lodging House License.

A. License Required. No person shall operate a Lodging Hhouse for five (5) lodgers or more, without first obtaining annually a one-year license therefor from the City Council.

B. Definitions. For the purposes of this subsection¹

“Lodging house” means a house or other residential structure where lodgings for four or more but fewer than 16 persons not within the 2nd degree of kindred to the person operating the lodging house are offered for rent. “Lodging house” does not include dormitories of charitable, educational or philanthropic institutions, or the emergency use of private dwellings at the time of conventions or similar public gatherings.

C. Certifications; Public Hearing. Such license shall not be granted except upon the certification of the Police Chief, Fire Chief, Code Enforcement Officer (Building Inspector), and Plumbing Inspector pursuant to this Section and ~~as per Section 11-106 of this Ordinance.~~

Prior to granting such licenses, the City Council shall hold a public hearing, notice of which shall be posted in ~~a two~~ public locations / and advertised at least seven days before the ~~hearing meeting.~~

There shall be a non-refundable application and/ or annual license fee for the Lodging House License which shall be set by Order of the City Council.

D. Standards. Following the public hearing, the City Council may condition or deny any Lodging House license upon the basis of a recommended condition or denial of certification by either the Police Chief, Fire Chief, Code Enforcement Officer, or Plumbing Inspector pursuant to Section 11-106. The City Council may condition, suspend or revoke a Lodging House License, following a public hearing, on the basis of the licensee’s non-compliance with any applicable law, ordinance, or regulation, or license certification, condition, or criteria.

State Law Reference: 30-A M.R.S. § 3801 & § 3811.

2. Short-Term Rentals Permit.

A. Purpose. The purpose of the Short-Term Rentals Permit is to authorize the use of legally-existing single-, two-, and multi-family structures for the accommodation of short-term guests, for compensation, for periods of less than one month, while ensuring the safety of the occupants and minimizing the impact of such use on the surrounding neighborhood. Short-Term Rentals Permits and the revenue they make available to homeowners helps makes Rockland affordable for persons on fixed or limited incomes; enhances and diversifies accommodations available to visitors and tourists; and provides travelers with affordable accommodations from which to explore Rockland and the Midcoast region. If not made the subject of appropriate, limited regulations, however, the use of residential properties for short-term rentals may create adverse impacts on surrounding residential uses including, without limitation, increased levels of traffic, parking demand, light and glare, and noise. Such impacts are deleterious to the public health, safety, and welfare of the neighborhood and the City because they impair the livability and desirability of Rockland neighborhoods for year-round residential uses.

B. Permit Required. Effective November 1, 2016, no person shall operate a Short-Term Rental without first obtaining annually a one-year permit therefor from the Code Enforcement Office.

C. Definitions. For the purposes of this Subsection¹:

- (1) “Minimum Stay Period” means the minimum number of nights for which a Short-Term Rental may be rented to guests. Guests may stay for less than the minimum stay period provided that the STR remains vacant until the end of the minimum stay period. (For example, if the minimum stay period is four (4) nights, this does not preclude rental to guests for two (2) nights, provided the unit remains unrented for the two (2) subsequent nights before being occupied again as a short-term rental.)
- (2) “Owner-Occupied” describes a dwelling unit that is such owner’s primary residence and is occupied, including over-night, by such owner when any part of the structure is rented as a short-term rental.
- (3) “Short-Term Rental” (“STR”) means the use of all or part of a legally-existing dwelling unit for rental to a person or persons unrelated to the owner or occupant of

¹ See Ch. 19, Art. III, Sec. 19-302 for definitions of words and phrases not defined herein.

the unit, for consideration, for periods of less than one month, as follows:

(a) Short-Term Rental – 1 (“STR-1”) means either:

- (i) an owner-occupied single-family structure in which not more than one bedroom is rented or offered for rent to one person or one family for periods of less than one month, or
- (ii) a dwelling unit in a two-family structure in which one unit is occupied by the owner of the entire structure that is rented or offered for rent by one person or one family for periods of less than one month.

(b) Short-Term Rental – 2 (“STR-2”) means either:

- (i) a single-family structure that is not occupied by its owner that is rented or offered for rent to one person or one family for periods of less than one month, or
- (ii) one dwelling unit in a non-owner occupied two-family structure rented or offered for rent to one person or one family for periods of less than one month.

(c) Short-Term Rental – 3 (“STR-3”) means one dwelling unit in a multi-family or mixed-use structure that is rented or offered for rent to one person or one family for periods of less than one month.

D. Eligibility. The City Clerk may accept applications for Short-Term Rentals from only those persons who are eligible to apply, as follows:

- (1) Short-Term Rental Permits may not be granted to a renter, lessee, or other party who is not the owner of the proposed short-term rental or the owner’s property manager, and no renter or lessee of a dwelling unit may sub-let the rented or leased premises as a short-term rental;
- (2) Where the proposed short-term rental is a single-family structure, the applicant must demonstrate in the application either that (a) the structure is the applicant’s primary residence, (b) the applicant’s primary residence is at another residence within the City of Rockland, or (c) the applicant has contracted with a property manager with its principal place of business in Rockland, Thomaston, Owls Head, Rockport, or Warren which contract requires such property manager to provide around-the-clock on-site response capacity to address complaints arising from the short-term rental of the structure;
- (3) Where the proposed short-term rental is an approved accessory apartment, the applicant must demonstrate in the application that the applicant owns and maintains his/her primary residence at the primary structure on the same lot to which the short-

term rental is accessory;

- (4) Where the proposed short-term rental is a unit in a duplex or two-unit condominium, the applicant must demonstrate that the applicant owns and maintains his/her primary residence in the other unit in the duplex or two-unit condominium, or if such unit is not the primary residence of the applicant, that the applicant either (a) maintains his/her primary residence elsewhere in Rockland or has contracted with a property manager with its principal place of business in Rockland, Thomaston, Owls Head, Rockport, or Warren which contract requires such property manager to provide around-the-clock on-site response capacity to address complaints arising from the short-term rental in the structure.

E. Application; Fee. The City Council may establish a non-refundable application fee for Short-Term Rental Permits, and/or a permit fee which may include a graduated fee schedule on the basis of the number of rooms of the facility and/or other criteria such as residency.

F. Notice. Within seven (7) days of receipt of a complete application for a Short-Term Rental Permit, the City Clerk shall submit the application to the Code Enforcement Officer and, by U.S. Mail, First Class, provide notice of such application to the owner(s) of record of abutting parcels, including owner(s) of record of parcels located directly across a street or other way from the subject parcel, at least seven (7) days prior to issuing such license. Such notice shall include the name, address, and telephone number of the person(s) responsible for management of the STR. Notice is effective upon mailing.

G. Permitting Authority; Review Criteria. The authorized Permitting Authority shall grant, grant with conditions, or deny applications for Short-Term Rental Permits, applying the level of review criteria ("Review Level") as defined below, consistent with Table 11-210(2), no sooner than fourteen (14) days after the Clerk mails notice of such application to abutters pursuant to Subsection E and no later than thirty (30) days when the Code Enforcement Officer is the Permitting Authority, or sixty (60) days when the Planning Board is the Permitting Authority. When the application is for the renewal of a current Short-Term Rental Permit and the permittee is in compliance with this and other applicable Ordinances, the City Clerk may grant an administrative extension of such current permit for up to thirty (30) days when reasonably necessary to allow the continuance of the accommodations during the permit review and renewal process. All Short-Term Rentals are also subject to the Additional Requirements set forth in Subsection G.

Review Level I:

Applicant shall provide satisfactory evidence of current insurance providing coverage for bodily injury and property damage sustained or caused by the owner, guests, and others admitted to the premises. Evidence of such insurance must be available for inspection at all times while a unit or structure is used as a STR.

Applicant shall provide the name, address, and telephone number of the person(s) who will be responsible for management of the STR.

Applicant shall provide two on-site parking spaces for a single-family structure and three on-site spaces for a two-family structure.

Applicant shall not currently be in violation of any applicable law, ordinance, or regulation relating to a short-term rental, lodging house, bed and breakfast establishment, hotel or motel, or other commercial residential facility.

Review Level II:

Applicant shall demonstrate compliance with applicable² building, fire prevention, and life safety codes upon inspection by the Code Enforcement Officer and Fire Chief or their designees.

Applicant shall provide satisfactory evidence of current insurance providing coverage for bodily injury and property damage sustained or caused by the owner, guests, and others admitted to the premises. Evidence of such insurance must be available for inspection at all times while a unit or structure is used as a STR.

Applicant shall provide the name, address and telephone number of the person(s) who will be responsible for management of the STR.

Applicant shall provide two on-site parking spaces if a single-family structure; one and one-half on-site parking spaces for each dwelling unit in a two- or multi-family structure.

Applicant shall not currently be in violation of any applicable law, ordinance, or regulation relating to a short-term rental, lodging house, bed and breakfast establishment, hotel or motel, or other commercial residential facility.

When the Planning Board is the Permitting Authority under Table 11-210(2), it shall grant, condition, or deny the application by taking into consideration the following factors: location, character and natural features of the site and adjoining property; fencing and screening; landscaping, topography, and natural drainage; traffic hazards, vehicular access, circulation and parking; pedestrian circulation; signage, and lighting; compatibility with existing uses; availability of necessary public services; and compliance with applicable requirements of all City ordinances.

Planning Board review of the STR is only required for initial applications, applications where the property at which an STR is located has changed ownership, or applications after an STR license has been suspended. Otherwise, for STR license renewals, the Code Office shall be the Permitting

² See Chapter 4 – Buildings, Inspections & Enforcement.

Authority.

Table 11-210(2)

<u>Type of Accommodation</u>	<u>Type of Structure</u>	<u>Minimum Stay Period</u>	<u>Permitting Authority in Residential AA, A, and B Zones</u>	<u>Permitting Authority in Other Zones</u>	<u>Review Level</u>
<u>STR-1</u>	<u>Single-Family (rental of one room in owner-occupied structure or one unit in an owner-occupied two-family structure)</u>	<u>1 night up to less than 1 month</u>	<u>Code Office</u>	<u>Code Office</u>	<u>I</u>
<u>STR-2</u>	<u>Single-Family (whole house)</u>	<u>3 nights up to less than 1 month</u>	<u>Planning Board</u>	<u>Code Office</u>	<u>I</u>
	<u>Two-Family (one unit rented monthly and one unit rented less than one month)</u>	<u>3 nights up to less than 1 month</u>	<u>Planning Board</u>	<u>Code Office</u>	<u>I</u>
<u>STR-3</u>	<u>Multi-Family or Mixed Use</u>	<u>3 nights up to less than 1 month</u>	<u>Planning Board</u>	<u>Planning Board</u>	<u>II</u>

H. Additional Requirements. In addition to the standards set forth in Section 11-106 and other applicable law, ordinance, or regulations, the following criteria shall apply to applications for Short-Term Rentals:

- (1) The occupancy classification of a single-family structure, or a unit in a two-family or multi-family structure, used as a STR shall be in compliance with that of a “one-family dwelling” as described in Chapter 24 § 24.1.1.1 of NFPA 101 Life Safety Code/2012;
- (2) Short-term rentals shall be to a single person or family;
- (3) The maximum occupancy (for STR-2) shall be limited to two people per existing bedroom plus no more than two additional children under the age of twelve;
- (4) Provided that there are approved fire separations between dwelling units in an existing duplex or condominium structure, each unit under separate, unrelated or affiliated ownership shall be considered a single-family structure for the purposes of Short-Term Rentals Permit provisions. New condominium units established after October 1, 2015, may not be used for Short-Term Rentals;
- (5) Multi-family dwellings must be a permitted use in the zone in which it is located in order to rent any unit as a STR-3;
- (6) An approved functional sprinkler system is required in any multi-family dwelling in which a single unit is used as a STR-3;

- (7) A multi-family structure located in zones other than Residential "A," "AA," or "B," "TB-1," or "TB-2" zones, and where the zone in which the multi-family dwelling is located permits Lodging, Rooming or Boarding Houses and/or Hotels, shall be permitted to rent any or all dwelling units for any period less than a month. Such multi-family dwelling must have approved functional sprinkler and fire alarm systems. The total number of guests occupying such STR-3 shall not exceed sixteen (16);
- (8) No detached accessory building, recreational vehicle, trailer, tent, or other mobile residential equipment other than a mobile home may be permitted or rented as a short-term rental;
- (9) The use of a dwelling unit as a STR does not violate any applicable condition of municipal approval, covenant, or other lawful restriction on the use of the parcel;
- (10) Notwithstanding anything to the contrary in Section 19-315, signage identifying, advertising, providing wayfinding, or otherwise relating to the use of a dwelling as a STR is not permitted, either on- or off-site;
- (11) The Permittee must maintain accurate, up-to-date records of all rental transactions in the STR, including the number of guests and the duration of their stays. Such records must be available for review by the Code Enforcement Officer upon request;
- (12) The Permittee must post in plain sight to visitors near the entrance a Notice that identifies the name, address, phone number(s), e-mail address, and emergency contact of the operator of the STR, and, when the STR is not subject inspection by the City's Code Enforcement Officer and Fire Chief pursuant to Table 11-210(2), the following disclaimer:

NOTICE

The Operator of these accommodations, [print permittee's name] has been granted a City of Rockland Short-Term Rentals Permit, Permit No. _____, pursuant to Rockland Code of Ordinances, Ch. 11, Art. II, Sec. 11-210(2). THE GRANTING OF THIS PERMIT DOES NOT CONSTITUTE A FINDING BY THE CITY OF ROCKLAND OR OTHER CODE ENFORCEMENT AUTHORITY THAT THE PREMISES ARE IN COMPLIANCE WITH APPLICABLE BUILDING, PROPERTY MAINTENANCE, FIRE PREVENTION, LIFE SAFETY, OR OTHER APPLICABLE CODES OR REGULATIONS. No inspection for compliance with such regulations has been conducted, and none is required for Operator to acquire a Short-Term Rental Permit or to conduct that business at these premises so long as the Operator's use of the premises is in conformance with and does not exceed the scope of the Short-Term Rentals Permit;

(13) The Permittee must assure that each advertisement of the STR includes Permittee's City of Rockland Short-Term Rentals Permit number;

(14) Renters of short-term rentals may not sublease any portion of the short-term rental to another person, family, or entity; and

(15) The Permittee shall maintain permit eligibility in conformance with Sec. 11-210(2)(D) continuously during the permit period.

(16) No food prepared at the STR may be served by or on behalf of the Permittee to guests without current state certification for such food service, when required.

I. Complaints. Complaints regarding STRs filed with the Police Department shall be brought to the attention of the Code Enforcement Officer as soon as practicable. Any person may also file a complaint with the Code Enforcement Officer. The Code Enforcement Officer shall establish and maintain a log of all complaints for each STR received and substantiated by the City. The Code Enforcement Officer shall seek the correction of all substantiated complaints by the Permittee.

J. Suspension, Revocation, or Denial of Permit. The Permitting Authority may deny any Short-Term Rental Permit upon failure of the applicant to meet all regulations set forth in this section. When, in the judgement of the Code Enforcement Officer, the nature and/or number of complaints warrants further review of the STR, he shall provide a report of the same to the City Council for its consideration. The City Council may condition, suspend, or revoke a Short-Term Rental Permit, following a public hearing, on the basis of the licensee's non-compliance with any applicable law, ordinance, or regulation, or license certification, condition, or criteria.

3. Penalties.

A. Operation Without Permit. Whoever operates a lodging house or, after November 1, 2016, a short-term rental without a license or permit therefor shall be penalized with a fine of five hundred dollars (\$500) for the first offense and additional fines of one thousand dollars (\$1,000) for each additional offense, to be recovered upon complaint before the Maine District Court in Rockland, for the use of the City. Each rental of any room or other short-term rental shall constitute a separate offense.

B. Violation of Law, Ordinance, or Regulation. A lodging house licensee or short-term rental permittee who violates any applicable law, ordinance, or regulation and who, following notice by the Code Enforcement Officer fails to abate such violation within the period prescribed shall be penalized with a fine of two hundred and fifty dollars for each such violation, to be recovered upon complaint before the Maine District Court in Rockland, for the use of the City. Each day such violation is allowed to continue shall constitute a separate violation.

C. In addition to or instead of such penalty(ies), in the sole the discretion of the City, the City may seek an injunction prohibiting the operation of the lodging house or short-term rental until the offense or violation shall have been abated.

4. Transitional Provisions. Notwithstanding anything to the contrary herein, the provisions in this Ordinance Amendment relating to the permitting of short-term rentals, and penalties for violations of such provisions, shall be implemented as follows:

A. Reservations.

(1) Persons or entities who operated a short-term rental in Rockland at any time between January 1, 2015, and December 31, 2015, which STR is not of a type that may be permitted as a STR-1, STR-2, or STR-3, and who received reservations for short-term rentals at the same premises between January 1, 2016, and May 31, 2016, may honor such reservations and provide such short-term rentals without a permit therefor. No new reservations for short-term rentals may be accepted after the effective date of this ordinance unless such rentals were offered for rent in 2015 prior to December 31, and would fall within the definition of a STR-1, STR-2, or STR-3.

(2) Persons or entities who operated a short-term rental in Rockland at any time between January 1, 2015, and December 31, 2015, which STR, if permitted, would fall within the definition of a STR-1, STR-2, or STR-3, and who receive reservations for short-term rentals at the same premises for dates between January 1, 2016, and prior to October 30, 2016, may honor such reservations and provide such short-term rentals without a permit therefor.

B. Registration. All parties operating Short-Term Rentals prior to November 1, 2016, are required to register each such Short-Term Rental with the Code Office, utilizing a form therefor provided by the Code Office and providing the requested information, including address, operator, level of occupancy, and emergency contact information. So long as a short-term rental complies with either provision A(1) or A(2) above and registers with the City, an STR permit shall not be required from the City until after October 31, 2016.

C. Permitting. Notwithstanding the foregoing registration requirement, the Code Office shall make applications to operate STR-1, STR-2, and STR-3 accommodations available as of the effective date of this ordinance.

Sponsor: City Council
Originator: Code Enforcement Officer

First Reading 3/14/16
First Publication 3/24/16
Public Hearing 4/11/16
Final Passage _____
Second Publication _____
Effective Date _____

Postponed 10/14/15 to 11/09/15
Postponed 12/14/15 to 01/11/16
Postponed 01/11/16 to 03/14/16
Amended 01/11/16 & 03/14/16 and sent
Back to First Reading.

MEMORANDUM

To: Mayor MacLellan-Ruf & City Councilors
Cc: City Manager, Code Enforcement Officer, City Attorney
From: Eileen Wilkinson, Chair, Comprehensive Planning Commission
Date: 04/06/16
Re: Ordinance Amendments 2015-41 & 42

Mayor MacLellan-Ruf and Members of the City Council:

The Comprehensive Planning Commission met on March 31, 2016, and pursuant to Ch. 19, Art. IV, Sec. 19-404 discussed and formulated recommendations regarding the amended proposed short-term rental regulations. The following are synopses of the Commission’s recommendations and votes on this subject:

Ordinance Amendment #41 – Licensing of STRs:

1. Sec. 11-210(2). Motion: Switch the order of paragraphs B – Permit Required and C – Definitions, so that the definitions precede the statement that a permit is to be required.

Vote: 5 – 0.

2. Sec. 11-210(2)(C). Add the definition for “Family” from 19-302.

Vote: 5 – 0.

3. Sec. 11-210(2)(D)(2) and (4). Replace the limitation of the domicile of the owner or property manager to certain towns with a 15 mile mainland radius limitation.

Vote: 5 – 0.

4. Sec. 11-210(2)(E). Delete the semi-colon between “Application” and “Fee.” Consider removing residency as a stated, potential criteria for a graduated fee schedule.

Vote: 4 – 1.

MEMORANDUM

5. Sec. 11-210(2)(G). Add requirements that (a) the City be listed as a Certificate Holder for the required insurance(s), and (b) that the insurance cover the use of the property as a short-term rental.

Vote: 5 – 0.

6. Sec. 11-210(2)(H)(2). Change “person” to “individual.”

Vote: 5 – 0.

7. Sec. 11-210(2)(H)(7). Delete paragraph beginning “A multi-family structure located in zones other than....” and move it to Sec. 11-210(1)(D). Delete reference to STR-3 in final sentence.

Vote: 5 – 0.

Ordinance Amendment #42 – Zoning for STRs:

Recommended its adoption.

Vote: 5 – 0.

Thank you for the opportunity to serve the city of Rockland.

Eileen Wilkinson, Chair

CITY OF ROCKLAND, MAINE

**ORDINANCE AMENDMENT #41
(As Amended 11/09/15 & 03-14-16)**

IN CITY COUNCIL

October 14, 2015

**ORDINANCE AMENDMENT: Licensing of Lodging Houses and
Permitting of Short-Term Rentals**

WHEREAS, Title 30-A, Maine Revised Statutes, Section 3811, provides that no person may serve as a common innkeeper or tavernkeeper without a license; and

WHEREAS, the Rockland Code of Ordinances does not currently provide for the licensure of innkeepers of short-term rentals,

NOW, THEREFORE, THE CITY OF ROCKLAND HEREBY ORDAINS THAT CHAPTER 11, Licenses, Permits and Franchises, ARTICLE II, Licenses, When Required, SECTION 11-210, Lodging Houses, BE AMENDED AS FOLLOWS:

Sec. 11-210 Lodging Houses And Short-Term Rentals

1. Lodging House License.

A. License Required. No person shall operate a Lodging Hhouse for five (5) lodgers or more, without first obtaining annually a one-year license therefor from the City Council.

B. Definitions. For the purposes of this subsection¹

“Lodging house” means a building other than a single-, two-, or multi-family structure in which a licensed operator provides, for a fee, sleeping accommodations for sixteen (16) or fewer persons on either a transient or permanent basis, with or without meals served to occupants only, but without separate kitchen facilities for individual occupants; provided however that the building may include a separate, additional dwelling unit occupied by the owner or manager that includes kitchen facilities for such or owner or manager’s personal use. house or other residential structure where lodgings for four or more but fewer than 16 persons not within the 2nd degree of kindred to the person operating the lodging house are offered for rent. “Lodging house” does not include dormitories of charitable, educational or philanthropic institutions, or the emergency use of private dwellings at the time of conventions or similar public gatherings. [Staff]

C. Certifications; Public Hearing. Such license shall not be granted except upon the certification of the Police Chief, Fire Chief, Code Enforcement Officer (Building Inspector), and Plumbing Inspector pursuant to this Section and as per Section 11-106 of this Ordinance.

Prior to granting such licenses, the City Council shall hold a public hearing, notice of which shall be posted in atwø public locations / and advertised at least seven days before the

hearingmeeting.

There shall be a non-refundable application and/ or annual license fee for the Lodging House License which shall be set by Order of the City Council.

D. Standards. Following the public hearing, the City Council may condition or deny any Lodging House license upon the basis of a recommended condition or denial of certification by either the Police Chief, Fire Chief, Code Enforcement Officer, or Plumbing Inspector pursuant to Section 11-106. The City Council may condition, suspend or revoke a Lodging House License, following a public hearing, on the basis of the licensee's non-compliance with any applicable law, ordinance, or regulation, or license certification, condition, or criteria.

E. Multi-Family Structures. Notwithstanding the definition of "Lodging House" in Subsection 11-210(1)(B), a multi-family structure located in zones other than Residential "A," "AA," "B," "TB-1," or "TB-2" zones, and where the zone in which the multi-family dwelling is located permits Lodging, Rooming or Boarding Houses and/or Hotels, may be permitted to rent any or all dwelling units for any period less than a month, whether or not the units in such multi-family structure have separate kitchen facilities. Such multi-family dwelling must have an approved functional sprinkler and fire alarm systems. [Comps]

State Law Reference: 30-A M.R.S. § 3801 & § 3811.

2. Short-Term Rentals Permit.

A. Purpose. The purpose of the Short-Term Rentals Permit is to authorize the use of legally-existing single-, two-, and multi-family structures for the accommodation of short-term guests, for compensation, for periods of less than one month, while ensuring the safety of the occupants and minimizing the impact of such use on the surrounding neighborhood. Short-Term Rentals Permits and the revenue they make available to homeowners helps makes Rockland affordable for persons on fixed or limited incomes; enhances and diversifies accommodations available to visitors and tourists; and provides travelers with affordable accommodations from which to explore Rockland and the Midcoast region. If not made the subject of appropriate, limited regulations, however, the use of residential properties for short-term rentals may create adverse impacts on surrounding residential uses including, without limitation, increased levels of traffic, parking demand, light and glare, and noise. Such impacts are deleterious to the public health, safety, and welfare of the neighborhood and the City because they impair the livability and desirability of Rockland neighborhoods for year-round residential uses.

BC. [Comps] Definitions. For the purposes of this Subsection¹:

(1) Family. Two or more persons related by blood, marriage, civil union, or adoption who reside together as a single housekeeping unit, sharing common kitchen and bathroom facilities. A "family" for zoning purposes may also consist of (1) two or more persons related by blood, marriage, civil union, or adoption and no more than three additional persons who are not so related, or (2) no more than three unrelated persons, who occupy a dwelling unit as a single housekeeping unit, sharing

¹ See Ch. 19, Art. III, Sec. 19-302 for definitions of words and phrases not defined herein.

common kitchen and bathroom facilities. [Comps]

(24) “Minimum Stay Period” means the minimum number of nights for which a Short-Term Rental may be rented to guests. Guests may stay for less than the minimum stay period provided that the STR remains vacant until the end of the minimum stay period. (For example, if the minimum stay period is four (4) nights, this does not preclude rental to guests for two (2) nights, provided the unit remains unrented for the two (2) subsequent nights before being occupied again as a short-term rental.)

(32) “Owner-Occupied” describes a dwelling unit that is such owner’s primary residence and is occupied, including over-night, by such owner when any part of the structure is rented as a short-term rental.

(43) “Short-Term Rental” (“STR”) means the use of all or part of a legally-existing dwelling unit for rental to a person or persons unrelated to the owner or occupant of the unit, for consideration, for periods of less than one month, as follows:

(a) Short-Term Rental – 1 (“STR-1”) means either:

(i) an owner-occupied single-family structure in which not more than one bedroom is rented or offered for rent to one person or one family for periods of less than one month, or

(ii) a dwelling unit in a two-family structure in which one unit is occupied by the owner of the entire structure that is rented or offered for rent by one person or one family for periods of less than one month.

(b) Short-Term Rental – 2 (“STR-2”) means either:

(i) a single-family structure that is not occupied by its owner that is rented or offered for rent to one person or one family for periods of less than one month, or

(ii) one dwelling unit in a non-owner occupied two-family structure rented or offered for rent to one person or one family for periods of less than one month.

(c) Short-Term Rental – 3 (“STR-3”) means one dwelling unit in a multi-family or mixed-use structure that is rented or offered for rent to one person or one family for periods of less than one month.

CB. [Comps] Permit Required. Effective November 1, 2016, no person shall operate a Short-Term Rental without first obtaining annually a one-year permit therefor from the Code Enforcement Office.

D. Eligibility. The City Clerk may accept applications for Short-Term Rentals from only

those persons who are eligible to apply, as follows:

- (1) Short-Term Rental Permits may not be granted to a renter, lessee, or other party who is not the owner of the proposed short-term rental or the owner's property manager, and no renter or lessee of a dwelling unit may sub-let the rented or leased premises as a short-term rental;
- (2) Where the proposed short-term rental is a single-family structure, the applicant must demonstrate in the application either that (a) the structure is the applicant's primary residence, (b) the applicant's primary residence is at another residence within the City of Rockland, or (c) the applicant has contracted with a property manager with its principal place of business on the mainland within a fifteen mile radius of Rockland, Thomaston, Owls Head, Rockport, or Warren [Comps] which contract requires such property manager to provide around-the-clock on-site response capacity to address complaints arising from the short-term rental of the structure;
- (3) Where the proposed short-term rental is an approved accessory apartment, the applicant must demonstrate in the application that the applicant owns and maintains his/her primary residence at the primary structure on the same lot to which the short-term rental is accessory;
- (4) Where the proposed short-term rental is a unit in a duplex or two-unit condominium, the applicant must demonstrate that the applicant owns and maintains his/her primary residence in the other unit in the duplex or two-unit condominium, or if such unit is not the primary residence of the applicant, that the applicant either (a) maintains his/her primary residence elsewhere in Rockland or has contracted with a property manager with its principal place of business in Rockland, Thomaston, Owls Head, Rockport, or Warren which contract requires such property manager to provide around-the-clock on-site response capacity to address complaints arising from the short-term rental in the structure.

E. Application; [Comps] Fee. The City Council may establish a non-refundable application fee for Short-Term Rental Permits, and/or a permit fee which may include a graduated fee schedule on the basis of the number of rooms of the facility and/or other criteria such as residency. [Comps]

F. Notice. Within seven (7) days of receipt of a complete application for a Short-Term Rental Permit, the City Clerk shall submit the application to the Code Enforcement Officer and, by U.S. Mail, First Class, provide notice of such application to the owner(s) of record of abutting parcels, including owner(s) of record of parcels located directly across a street or other way from the subject parcel, at least seven (7) days prior to issuing such license. Such notice shall include the name, address, and telephone number of the person(s) responsible for management of the STR. Notice is effective upon mailing.

G. Permitting Authority; Review Criteria. The authorized Permitting Authority shall grant, grant with conditions, or deny applications for Short-Term Rental Permits, applying the level of review criteria ("Review Level") as defined below, consistent with Table 11-210(2), no sooner than fourteen (14) days after the Clerk mails notice of such application to abutters pursuant to

Subsection E and no later than thirty (30) days when the Code Enforcement Officer is the Permitting Authority, or sixty (60) days when the Planning Board is the Permitting Authority. When the application is for the renewal of a current Short-Term Rental Permit and the permittee is in compliance with this and other applicable Ordinances, the City Clerk may grant an administrative extension of such current permit for up to thirty (30) days when reasonably necessary to allow the continuance of the accommodations during the permit review and renewal process. All Short-Term Rentals are also subject to the Additional Requirements set forth in Subsection H.

Review Level I: Applicant shall provide satisfactory evidence of current insurance providing coverage for the use of the premises as a short-term rental and for bodily injury and property damage sustained or caused by the owner, guests, and others admitted to the premises. Evidence of such insurance must be available for inspection at all times while a unit or structure is used as a STR, and Applicant shall cause the City to be named as a certificate holder for each such policy.
[Comps]

Applicant shall provide the name, address, and telephone number of the person(s) who will be responsible for management of the STR.

Applicant shall provide two on-site parking spaces for a single-family structure and three on-site spaces for a two-family structure.

Applicant shall not currently be in violation of any applicable law, ordinance, or regulation relating to a short-term rental, lodging house, bed and breakfast establishment, hotel or motel, or other commercial residential facility.

Review Level II: Applicant shall demonstrate compliance with applicable² building, fire prevention, and life safety codes upon inspection by the Code Enforcement Officer and Fire Chief or their designees.

Applicant shall provide satisfactory evidence of current insurance providing coverage for the use of the premises as a short-term rental and for bodily injury and property damage sustained or caused by the owner, guests, and others admitted to the premises. Evidence of such insurance must be available for inspection at all times while a unit or structure is used as a STR, and Applicant shall cause the City to be named as a certificate holder for each such policy.
[Comps].

² See Chapter 4 – Buildings, Inspections & Enforcement.

Applicant shall provide the name, address and telephone number of the person(s) who will be responsible for management of the STR.

Applicant shall provide two on-site parking spaces if a single-family structure; one and one-half on-site parking spaces for each dwelling unit in a two- or multi-family structure.

Applicant shall not currently be in violation of any applicable law, ordinance, or regulation relating to a short-term rental, lodging house, bed and breakfast establishment, hotel or motel, or other commercial residential facility.

When the Planning Board is the Permitting Authority under Table 11-210(2), it shall grant, condition, or deny the application by taking into consideration the following factors: location, character and natural features of the site and adjoining property; fencing and screening; landscaping, topography, and natural drainage; traffic hazards, vehicular access, circulation and parking; pedestrian circulation; signage, and lighting; compatibility with existing uses; availability of necessary public services; and compliance with applicable requirements of all City ordinances.

Planning Board review of the STR is only required for initial applications, applications where the property at which an STR is located has changed ownership, or applications after an STR license has been suspended. Otherwise, for STR license renewals, the Code Office shall be the Permitting Authority.

Table 11-210(2)

<u>Type of Accommodation</u>	<u>Type of Structure</u>	<u>Minimum Stay Period</u>	<u>Permitting Authority in Residential AA, A, and B Zones</u>	<u>Permitting Authority in Other Zones</u>	<u>Review Level</u>
<u>STR-1</u>	<u>Single-Family (rental of one room in owner-occupied structure or one unit in an owner-occupied two-family structure)</u>	<u>1 night up to less than 1 month</u>	<u>Code Office</u>	<u>Code Office</u>	<u>I</u>
<u>STR-2</u>	<u>Single-Family (whole house)</u>	<u>3 nights up to less than 1 month</u>	<u>Planning Board</u>	<u>Code Office</u>	<u>I</u>
	<u>Two-Family (one unit rented monthly and one unit rented less than one month)</u>	<u>3 nights up to less than 1 month</u>	<u>Planning Board</u>	<u>Code Office</u>	<u>I</u>
<u>STR-3</u>	<u>Multi-Family or Mixed Use</u>	<u>3 nights up to less than 1 month</u>	<u>Planning Board</u>	<u>Planning Board</u>	<u>II</u>

H. Additional Requirements. In addition to the standards set forth in Section 11-106 and other applicable law, ordinance, or regulations, the following criteria shall apply to applications for Short-Term Rentals:

- (1) The occupancy classification of a single-family structure, or a unit in a two-family or multi-family structure, used as a STR shall be in compliance with that of a “one-family dwelling” as described in Chapter 24 § 24.1.1.1 of NFPA 101 Life Safety Code/2012;
- (2) Short-term rentals shall be to a single individual person [Comps] or family;
- (3) The maximum occupancy shall be limited to two people per existing bedroom plus no more than two additional children under the age of twelve;
- (4) Provided that there are approved fire separations between dwelling units in an existing duplex or condominium structure, each unit under separate, unrelated or affiliated ownership shall be considered a single-family structure for the purposes of Short-Term Rentals Permit provisions. New condominium units established after October 1, 2015, may not be used for Short-Term Rentals;
- (5) Multi-family dwellings must be a permitted use in the zone in which it is located in order to rent any unit as a STR-3;
- (6) An approved functional sprinkler system is required in any multi-family dwelling in which a single unit is used as a STR-3;
- ~~(7) A multi-family structure located in zones other than Residential “A”, “AA,” “B,” “TB-1,” or “TB-2” zones, and where the zone in which the multi-family dwelling is located permits Lodging, Rooming or Boarding Houses and/or Hotels, shall be permitted to rent any or all dwelling units for any period less than a month. Such multi-family dwelling must have approved functional sprinkler and fire alarm systems. The total number of guests occupying such STR-3 shall not exceed sixteen (16); [Comps]~~
- (78) No detached accessory building, recreational vehicle, trailer, tent, or other mobile residential equipment other than a mobile home may be permitted or rented as a short-term rental;
- (89) The use of a dwelling unit as a STR does not violate any applicable condition of municipal approval, covenant, or other lawful restriction on the use of the parcel;
- (910) Notwithstanding anything to the contrary in Section 19-315, signage identifying, advertising, providing wayfinding, or otherwise relating to the use of a dwelling as a STR is not permitted, either on- or off-site;
- (1011) The Permittee must maintain accurate, up-to-date records of all rental transactions in the STR, including the number of guests and the duration of their stays. Such records must be available for review by the Code Enforcement Officer upon request;

(1142) The Permittee must post in plain sight to visitors near the entrance a Notice that identifies the name, address, phone number(s), e-mail address, and emergency contact of the operator of the STR, and, when the STR is not subject inspection by the City's Code Enforcement Officer and Fire Chief pursuant to Table 11-210(2), the following disclaimer:

NOTICE

The Operator of these accommodations, [print permittee's name] has been granted a City of Rockland Short-Term Rentals Permit, Permit No. , pursuant to Rockland Code of Ordinances, Ch. 11, Art. II, Sec. 11-210(2). THE GRANTING OF THIS PERMIT DOES NOT CONSTITUTE A FINDING BY THE CITY OF ROCKLAND OR OTHER CODE ENFORCEMENT AUTHORITY THAT THE PREMISES ARE IN COMPLIANCE WITH APPLICABLE BUILDING, PROPERTY MAINTENANCE, FIRE PREVENTION, LIFE SAFETY, OR OTHER APPLICABLE CODES OR REGULATIONS. No inspection for compliance with such regulations has been conducted, and none is required for Operator to acquire a Short-Term Rental Permit or to conduct that business at these premises so long as the Operator's use of the premises is in conformance with and does not exceed the scope of the Short-Term Rentals Permit;

(13) The Permittee must assure that each advertisement of the STR includes Permittee's City of Rockland Short-Term Rentals Permit number;

(14) Renters of short-term rentals may not sublease any portion of the short-term rental to another person, family, or entity;

(15) The Permittee shall maintain permit eligibility in conformance with Sec. 11-21-(2)(D) continuously during the permit period; and

(16) No food prepared at the STR may be served by or on behalf of the Permittee to guests without current state certification for such food service, when required.

I. Complaints. Complaints regarding STRs filed with the Police Department shall be brought to the attention of the Code Enforcement Officer as soon as practicable. Any person may also file a complaint with the Code Enforcement Officer. The Code Enforcement Officer shall establish and maintain a log of all complaints for each STR received and substantiated by the City. The Code Enforcement Officer shall seek the correction of all substantiated complaints by the Permittee.

J. Suspension, Revocation, or Denial of Permit. The Permitting Authority may deny any Short-Term Rental Permit upon failure of the applicant to meet all regulations set forth in this section. When, in the judgement of the Code Enforcement Officer, the nature and/or number of complaints warrants further review of the STR, he shall provide a report of the same to the City Council for its consideration. The City Council may condition, suspend, or revoke a Short-Term Rental Permit, following a public hearing, on the basis of the licensee's non-compliance with any

applicable law, ordinance, or regulation, or license certification, condition, or criteria.

3. Penalties.

A. Operation Without Permit. Whoever operates a lodging house or, after November 1, 2016, a short-term rental without a license or permit therefor shall be penalized with a fine of five hundred dollars (\$500) for the first offense and additional fines of one thousand dollars (\$1,000) for each additional offense, to be recovered upon complaint before the Maine District Court in Rockland, for the use of the City. Each rental of any room or other short-term rental shall constitute a separate offense.

B. Violation of Law, Ordinance, or Regulation. A lodging house licensee or short-term rental permittee who violates any applicable law, ordinance, or regulation and who, following notice by the Code Enforcement Officer fails to abate such violation within the period prescribed shall be penalized with a fine of two hundred and fifty dollars for each such violation, to be recovered upon complaint before the Maine District Court in Rockland, for the use of the City. Each day such violation is allowed to continue shall constitute a separate violation.

C. In addition to or instead of such penalty(ies), in the sole the discretion of the City, the City may seek an injunction prohibiting the operation of the lodging house or short-term rental until the offense or violation shall have been abated.

4. Transitional Provisions. Notwithstanding anything to the contrary herein, the provisions in this Ordinance Amendment relating to the permitting of short-term rentals, and penalties for violations of such provisions, shall be implemented as follows:

A. Reservations.

(1) Persons or entities who operated a short-term rental in Rockland at any time between January 1, 2015, and December 31, 2015, which STR is not of a type that may be permitted as a STR-1, STR-2, or STR-3, and who received reservations for short-term rentals at the same premises between January 1, 2016, and May 31, 2016, may honor such reservations and provide such short-term rentals without a permit therefor. No new reservations for short-term rentals may be accepted after the effective date of this ordinance unless such rentals were offered for rent in 2015 prior to December 31, and would fall within the definition of a STR-1, STR-2, or STR-3.

(2) Persons or entities who operated a short-term rental in Rockland at any time between January 1, 2015, and December 31, 2015, which STR, if permitted, would fall within the definition of a STR-1, STR-2, or STR-3, and who receive reservations for short-term rentals at the same premises for dates between January 1, 2015, and prior to October 30, 2016, may honor such reservations and provide such short-term rentals without a permit therefor.

B. Registration. All parties operating Short-Term Rentals prior to November 1, 2016, are required to register each such Short Term Rental with the Code Office, utilizing a form therefor provided by the Code Office and providing the requested information, including address, operator, level of occupancy, and emergency contact information. So long as a Short-Term Rental complies with either provision C(1) or C(2) above and registers with the City, an STR permit shall not be required from the City until after October 31, 2016.

C. Permitting. Notwithstanding the foregoing registration requirement, the Code Office shall make applications to operate STR-1, STR-2, and STR-3 accommodations shall be available as of the effective date of this ordinance.

Sponsor: City Council
Originator: Code Enforcement Officer

CITY OF ROCKLAND, MAINE
ORDINANCE AMENDMENT #42
(As Amended 11/09/15)
IN CITY COUNCIL

October 14, 2015

ORDINANCE AMENDMENT: **Zoning Provisions for ~~Transient~~
Residential Accommodations Short Term Rentals**

THE CITY OF ROCKLAND HEREBY ORDAINS THAT CHAPTER 19, Zoning And Planning, ARTICLE III, Zoning Ordinance, BE AMENDED AS FOLLOWS:

Sec. 19-302 Words And Phrases Defined

For the purpose of this Article certain words and phrases are defined as follows:

* * *

Bed and Breakfast Establishments. Except as permitted pursuant to Ch. 11, Art. II, Sec. 11-210(2), the following definition shall apply:

- a. ~~The following definition shall apply: Bed and Breakfast.~~ Any dwelling in which two (2) or more bedrooms for transient lodging or boarding and lodging are provided and offered to the public one or more persons or families by the owner for compensation for less than one week. Except as otherwise provided, this property shall also be the full-time, permanent residence of its owner during periods of operation. There shall be no provisions for cooking in any individual guest room. The maximum guest occupancy shall be 16 / night
- b. No food or drink of any kind shall be sold to the general public.
- c. For a Bed and Breakfast in a residential zone, no more than eight (8) rooms may be rented unless the property has multiple buildings existing prior to April 10, 2002. In that case, additional rooms may be rented in the additional building or buildings up to a total of twelve (12) rooms on the property. The expansion must be made wholly within the building existing as of April 10, 2002.

Unless presented together initially, each multiple existing building being opened as a Bed and Breakfast Inn will require its own Site Plan Review and approval from the Planning Commission.

Dwelling Unit: A room or suite of rooms that are arranged, designed, used, or intended for use as a self-contained housekeeping unit, separated from other such rooms or suites of rooms, and contains living, kitchen, and sleeping facilities for one person, or one family, including single-family homes and the separated units in a duplex, apartment house, multi-family

dwelling, and residential condominium.

~~A room or suite of rooms that is used as a habitation, which is separate from other such rooms or suites of rooms, and which contains living, cooking, and sleeping facilities, includes single family houses, and the units in a duplex, apartment house, multifamily dwellings, and residential condominiums.~~

Dwelling, One-Family or Dwelling, Single-Family: The use, for zoning purposes, of a single-family structure by its owner or the owner's tenant as a residence for a person or a family for a term of at least one month, except as otherwise provided under Title 30-A, Maine Revised Statutes, Section 4357-A – Community Living Arrangements, as amended.

~~A building containing not more than one (1) dwelling unit in which the dwelling unit is occupied by members of a single family with not more than three (3) outsiders, if any, accommodated in rented rooms, with exceptions as mandated in Title 30-A Section 4357-A: Community living arrangements, as amended.~~

Structure, Single-Family: A building containing not more than one (1) dwelling unit.

Dwelling, Two-Family: The use, for zoning purposes, of each dwelling unit in a two-family structure by its owner or the owner's tenant as a residence for one person or a family for a term of at least one month.

~~A building containing not more than two (2) dwelling units in which each dwelling unit is occupied by members of a single family with not more than three (3) outsiders, if any, accommodated in rented rooms.~~

Structure, Two-Family: A building containing two (2) dwelling units.

Dwelling, Multi-Familyple. The use, for zoning purposes, of each dwelling unit in a multi-family structure by its owner or the owner's tenant as a residence for one person or a family for a term of at least one month, including apartment houses and apartment hotels, but excluding boarding houses, inns, lodging houses, hotels, motels, and other transient residential accommodations **short term rentals.**

Dwelling: Multiple. ~~A "multiple dwelling" means a building or portion thereof used or intended to be used or occupied as a permanent residence, more or less, by three (3) or more families living independently of each other, including apartment houses and apartment hotels, but excluding boarding houses, lodging houses, hotels and motels. The latter terms shall mean a building or buildings divided into individual rooms or suites of rooms which are rented or used or designed to be used primarily for sleeping purposes where the building(s) has only general kitchen and dining facilities or where the rooms which are rented contain no extensive cooking facilities.~~

Structure, Multi-Family: A building containing three (3) or more dwelling units.

Family. Two or more persons related by blood, marriage, civil union, or adoption who

reside together as a single housekeeping unit, sharing common kitchen and bathroom facilities. A “family” for zoning purposes may also consist of (1) two or more persons related by blood, marriage, civil union, or adoption and no more than three additional persons who are not so related, or (2) no more than three unrelated persons, who occupy a dwelling unit as a single housekeeping unit, sharing common kitchen and bathroom facilities.

~~“Family” means one (1) or more persons living, sleeping, cooking and eating on the same premises as a single house keeping unit, as distinguished from a group occupying a boarding house, lodging house, or hotel. Such unit shall not exceed five (5) persons not related by blood or marriage.~~

Hotel: A commercial establishment offering sleeping accommodations for seventeen (17) or more travelers and others on a transient or semi-permanent basis, sometimes including varying levels of accessory services for occupants and/or the general public such as restaurants, shops, and meeting rooms.

~~A building or groups of buildings under the same management in which there are sleeping accommodations for more than sixteen (16) persons and primarily used by transients for lodging with or without meals.~~

* * *

Kitchen Facility(ies). “Kitchen Facility,” both in its singular or plural form, shall mean an area that contains any, some, or all of the following facilities for food preparation, storage, and/or sanitation: a stove, oven, convection oven, microwave, hotplate or other cooking or food warming equipment; any size refrigerator or freezer; and/or any type of sink, including a bar sink or wet-bar but not including a bathroom sink.

Lodging Facilities. A facility that offers accommodations for a fee.

Lodging, ~~or~~ Rooming, or Boarding House: A building other than single-, two-, or multi-family structure in which a licensed operator provides, for a fee, sleeping accommodations for sixteen (16) or fewer persons on either a transient or permanent basis, with or without meals served to occupants only, but without separate kitchen facilities for individual occupants; provided however that the building may include a separate, additional dwelling unit occupied by the owner or manager that includes kitchen facilities for such owner or manager’s personal use.

Lodging or Rooming House: Buildings that provide sleeping accommodations for sixteen (16) or fewer persons on either a transient or permanent basis, with or without meals, but without separate cooking facilities for individual occupants.

* * *

Transient Residential Accommodation Short Term Rental (“TRA STR”). The use of all or part of a legally-existing dwelling unit for short-term rental to a person or family unrelated to the owner or lessee of the unit, for consideration, for periods of less than one month.

Sec. 19-309 Special Use Classes ~~Exceptions and Exemptions~~

* * *

3. ~~Transient Residential Accommodations~~ **Short Term Rentals**.

A. ~~Permitted Transient Residential Accommodations~~ **Short Term Rentals**. In any zone, existing single-, two-, and multi-family structures may be used as ~~Transient Residential Accommodations~~ **Short Term Rentals** upon the issuance of a ~~Transient Residential Accommodations~~ **Short Term Rentals** Permit for the premises pursuant to Chapter 11, Article II, Section 11-210. Notwithstanding anything to the contrary in this section, Planning Board review of ~~Transient Residential Accommodations~~ **Short Term Rentals** as a Special Use Class shall not be required when the Code Office is the designated Permitting Authority pursuant to Chapter 11, Article II, Section 11-210(2).

B. ~~Prohibited Transient Residential Accommodations~~ **Short Term Rentals**. No person may offer for rent, rent, operate, or otherwise use any parcel in the City of Rockland for ~~Transient Residential Accommodations~~ **Short Term Rentals** if:

(1) Such person has not secured or maintained a valid ~~Transient Residential Accommodations Permit~~ **Short Term Rentals Permit** for the premises; or

(2) The accommodations are ~~an accessory apartment,~~ a detached accessory building, recreational vehicle, trailer, tent, or other mobile residential equipment other than a mobile home.

Sponsor: City Council
Originator: Code Enforcement Officer

First Reading 11/9/15
First Publication 11/19/15
Public Hearing 12/14/15
Final Passage _____
Second Publication _____
Effective Date _____

Postponed 10/14/15 to 11/09/15
Postponed 12/14/15 to 01/11/16
Postponed 1/11/16 to 3/14/16

CITY OF ROCKLAND, MAINE

ORDINANCE AMENDMENT #3

IN CITY COUNCIL

March 14, 2016

ORDINANCE AMENDMENT Authorizing Zoning Map Amendment

THE CITY OF ROCKLAND HEREBY ORDAINS THAT THE OFFICIAL ZONING MAP OF THE CITY OF ROCKLAND BE AMENDED AS FOLLOWS:

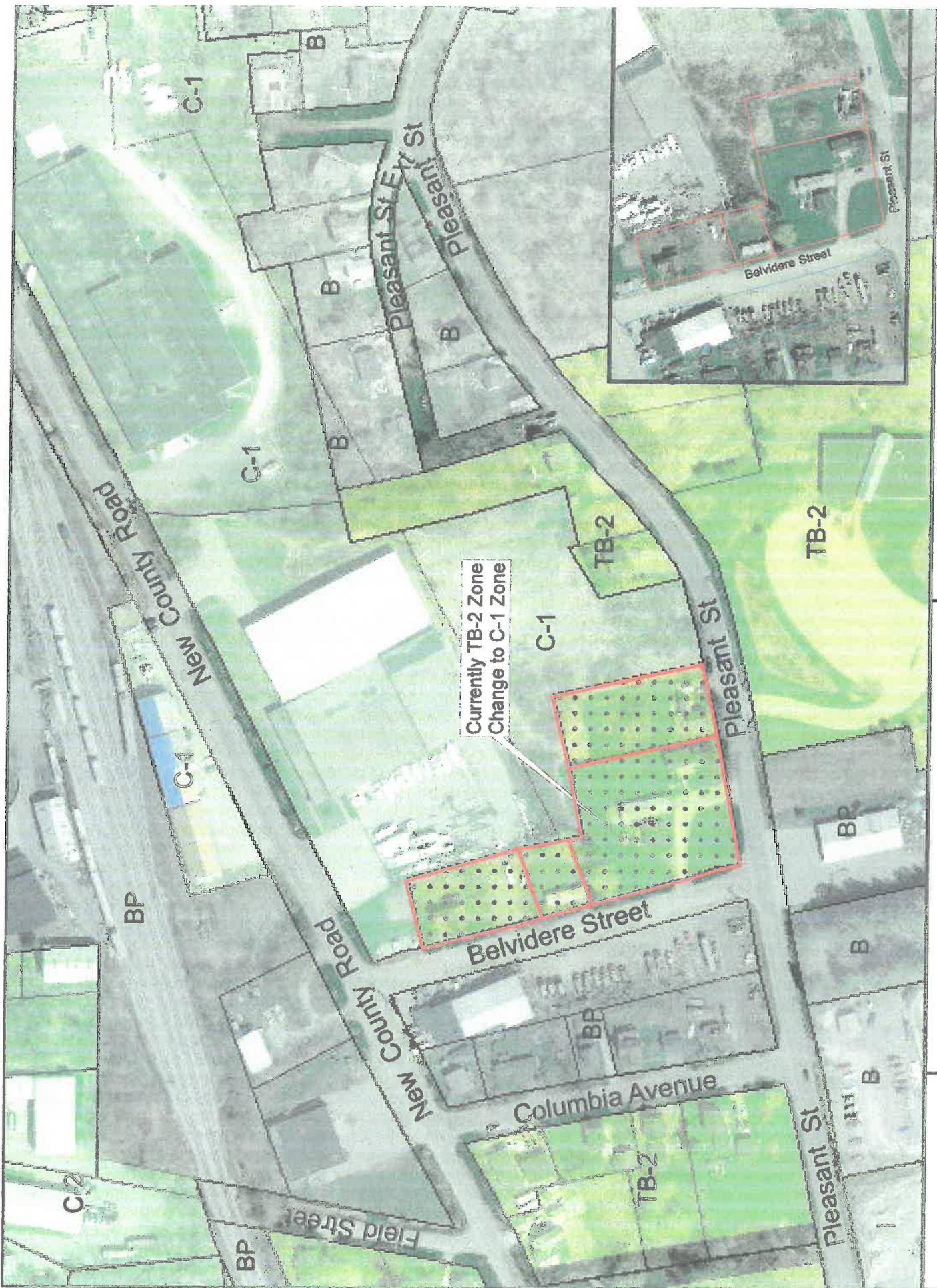
THAT on the official Zoning Map of the City of Rockland, Maine, the following parcels shall be removed from the Transitional Business 2 (“TB-2”) Zone, and added to the Commercial 1 (“C-1”) Zone:

<u>Address:</u>	<u>Tax Map:</u>
15 Belvidere Street	50-B-4
19 Belvidere Street	50-B-3
183 Pleasant Street	50-B-8
185 Pleasant Street	50-B-7

The amended Zoning Map of the City of Rockland, Commercial 1 Zone, shall thenceforth encompass, in part, the area defined by the listed parcels, and shall follow the boundary lines of such parcels (see attached map).

Sponsor: Councilor Clayton
Originator: Councilor Clayton

First Reading 3/14/16
First Publication 3/24/16
Public Hearing 4/4/16
Final Passage _____
Second Publication _____
Effective Date _____



Currently TB-2 Zone
Change to C-1 Zone



**CITY OF
ROCKLAND
KNOX COUNTY
MAINE**



Change from TB-2 to C-1

Printed: 3/11/2016
1 inch = 167 feet
0 40 80 160 240 Feet



DISCLAIMER

Tax maps are compiled from aerial photography existing surveys, deeds, and landowner's descriptions. They are to be used for assessment purposes only and not for conveyance.

MEMORANDUM

To: Mayor MacLellan-Ruf & City Councilors
Cc: City Manager, Code Enforcement Officer, City Attorney
From: Eileen Wilkinson, Chair, Comprehensive Planning Commission
Date: 04/06/16
Re: Ordinance Amendments 3

Mayor MacLellan-Ruf and Members of the City Council:

The Comprehensive Planning Commission met on March 31, 2016, and pursuant to Ch. 19, Art. IV, Sec. 19-404 discussed and formulated recommendations regarding the proposed authorizing zoning map amendment. The following are synopses of the Commission's recommendations and votes on this subject:

Ordinance Amendment #3 – Authorizing Zoning Map:

Recommended its adoption.

Vote: 5 – 0.

Thank you for the opportunity to serve the city of Rockland.

Eileen Wilkinson, Chair

CITY OF ROCKLAND, MAINE

ORDINANCE AMENDMENT #4

IN CITY COUNCIL

March 14, 2016

ORDINANCE AMENDMENT Amending Definition of "Educational Institutions" in the Waterfront Zone

THE CITY OF ROCKLAND HEREBY ORDAINS THAT CHAPTER 19, Zoning and Planning, ARTICLE III, Zoning Ordinance, SECTION 19-304, Zone Regulations, BE AMENDED AS FOLLOWS:

Sec. 19-304 Zone Regulations

* * *

22. Waterfront Zone Regulations.

A. Purpose. The purpose of this zone and its subzones is to further the maintenance of safe and healthful conditions; prevent and control water pollution; control building sites, placement of structures and land use; visual as well as actual points of access to coastal waters.

* * *

C. Definitions. In addition to the definitions in Section 19-302, the following definitions apply to the waterfront zones and subzones:

* * *

(5) Educational Institutions. Any educational institution ~~the primary goal~~ part of the function of which is marine-related or marine-dependent education.

First Reading 3/14/16
First Publication 3/24/16
Public Hearing 4/11/16
Final Passage
Second Publication
Effective Date

Sponsor: Mayor MacLellan-Ruf
Originator: City Manager

CITY OF ROCKLAND, MAINE

ORDINANCE AMENDMENT # 5

IN CITY COUNCIL

March 14, 2016

ORDINANCE AMENDMENT Conditionally Permitting Automobile
Repair in Commercial 1 and Commercial 2

THE CITY OF ROCKLAND HEREBY ORDAINS THAT CHAPTER 19, Zoning and Planning, ARTICLE III, Zoning Ordinance, SECTION 19-304, Zone Regulations, BE AMENDED AS FOLLOWS:

Sec. 19-302 Words and Phrases Defined

* * *

Automobile Body Shops. Any premises where motor vehicle repair activities such as motor vehicle painting and body and fender work is conducted.

Automobile Repair. The maintenance and repair of motor vehicles, including such activities as engine overhauls and tune-ups, transmission and drive train repairs, exhaust system repairs, carburetor cleaning, brake work, glass replacement, and incidental motor vehicle services including oil changes, lubrication, tire repairs, sales, mounting, and rotations, and alignments, including Automobile Service Stations. Automobile repair shall not include activities performed at automobile body shops. ~~Any premises where motor vehicle maintenance, repair or servicing activities such as engine tuneups, lubrication, carburetor cleaning and activities such as engine and mechanical overhauls are conducted. Motor vehicle repair shall not include activities such as motor vehicle painting and body or fender work.~~

Automobile Sales, Small-Scale Used. Any facility where twelve (12) or fewer vehicles are kept on premises for sale.

Automobile Service Stations. Any premises where the primary use is the retail supply, installation and/or dispensing of gasoline and/or other motor fuels, lubricants, batteries, tires, and motor vehicle accessories.

* * *

Car Wash. Any area or building with equipment for washing cars, trucks, and/or other motor vehicles.

* * *

10. Commercial 1 Zone “C-1” Regulations

A. Purpose.

The purpose of the Commercial 1 Zone is to accommodate general highway-oriented business uses on large parcels.

B. Use Regulations.

* * *

(2) Conditional Uses.

The following uses are permissible with the approval of the Planning Board under the provisions of the Site Plan Review Ordinance (Chapter 16, Article II), regardless of whether or not a structure is involved. The Planning Board shall review and grant, grant with conditions or deny permission for a conditional use by applying the process and standards for site plan review and shall take into consideration the following factors: the location, character and natural features of the site and adjoining property; fencing, screening; landscaping; topography, natural drainage, and provisions for storm and ground water; traffic hazards, vehicular volume, access, impact on public ways and intersections, on-site circulation and parking; pedestrian access, safety and circulation; signage, and lighting; noise; hours of operations; compatibility with existing uses; availability of necessary public services; compliance with applicable requirements of all City Ordinances. The Planning Board Chair, subject to challenge and motion by the Board at a meeting duly noticed, may agree to accept for the Board’s review fewer than all the mandatory submission requirements set forth in Chapter 16, Article II, except that a site plan shall be required of every applicant.

(a) Automobile Repair;

(b) Car washes;

(c) Commercial outdoor recreational uses;

(d) Interior boat storage and repair, at parcels fronting on New County Road;

(e) Light industrial uses, at parcels fronting on New County Road.

(f) Manufacturing, at parcels fronting on New County Road;

(g) Warehousing;

* * *

11. Commercial 2 Zone "C2" Regulations

A. Purpose. The purpose of the Commercial 2 Zone is to accommodate general business uses on smaller parcels that are increasingly pedestrian-oriented as the areas approach Downtown.

B. Use Regulations. In a Commercial 2 Zone "C2" no building or land shall be used, and no building shall hereafter be erected or structurally altered, unless otherwise provided for in this Article.

(1) Permitted Uses

Uses allowed in Commercial 1 Zone, excluding:

- (a) Compartmentalized storage buildings; and
- (b) Veterinaries.

(2) Conditional Uses

The following uses are permissible with the approval of the Planning Board under the provisions of the Site Plan Review Ordinance (Chapter 16, Article II), regardless of whether or not a structure is involved. In granting, denying, and/or imposing conditions, the Planning Board shall undertake a review, applying the process and standards outlined in Chapter 16, Sections 16-201 through 16-206 for site plan review and shall take into consideration the following factors: location, character and natural features of the site and adjoining property; fencing and screening; landscaping, topography and natural drainage; traffic hazards, vehicular access, circulation and parking; pedestrian circulation; sign, and lighting; compatibility with existing uses; availability of necessary public services; compliance with applicable requirements of all City Ordinances.

(a) Commercial outdoor recreational uses.

(b) Automobile Repair;

(c) Car washes;

(32) Prohibited Uses

(a) Any use which is annoying, dangerous, detrimental, injurious, obnoxious, or unsightly to the comfort, health, or property of individuals, or of the public, by reason of dust, fumes, gas, noise, odor, smoke, vapor, or vibration;

(b) Any use specifically named in Section 19-304-10-B (2).

* * *

12. Commercial 3 Zone "C3" Regulations.

A. Purpose. The purpose of the Commercial 3 Zone is to accommodate general highway-oriented business uses on large parcels.

B. Use Regulations. In a Commercial 3 Zone "C3" no building or land shall be used, and no building shall hereafter be erected or structurally altered, except as provided herein, unless otherwise provided for in this Article.

(1) Permitted Uses

- (a) Uses allowed in Commercial 1 Zone,
- (b) Sole source pharmacy (It is the intention of the City Council that this ordinance amendment shall apply to applications pending or permitted on or after November 29, 2004.)
- (c) Storage buildings, compartmentalized with individual cubicles less than four thousand (4000) cubic feet per cubicle.
- (d) Boat storage facility.
- (e) Automobile~~Motor vehicle~~ repair.
- (f) Construction Services, provided that there shall be no processing of raw materials on site nor shall there be stockpiling of products other than for retail sales.
- (g) Automobile Service Stations.
- (h) Car washes.

* * *

13. Plaza Commercial Zone "PC" Regulations.

A. Purpose. The purpose of the Plaza Commercial Zone is to accommodate commercial centers for highway-oriented businesses.

B. Use Regulations. In a Plaza Commercial Zone "PC" no building or land shall be used, and no building shall hereafter be erected or structurally altered, except as provided herein, unless otherwise provided for in this Article.

- (1) Permitted Uses:
 - (a) Business services;
 - (b) Financial services;
 - (c) Human health services;
 - (d) Lodging facilities;
 - (e) Automobile~~Motor vehicle~~ service stations ~~(excluding motor vehicle body work and major engine repair);~~
 - (f) Car washes;
 - (g)~~f~~ Movie theaters and other places of entertainment;
 - (h)~~g~~ Office buildings;
 - (i)~~h~~ Personal services;
 - (j)~~i~~ Professional services;

(kj) Restaurants;

(lk) Retail and/or auxiliary wholesale business, any generally recognized;

(ml) Social services;

(nm) Accessory uses;

* * *

Sponsor: Councilor Clayton
Originator: Code Enforcement Officer

First Reading 3/14/16
First Publication 3/24/16
Public Hearing 4/11/16
Final Passage _____
Second Publication _____
Effective Date _____

MEMORANDUM

To: Mayor MacLellan-Ruf & City Councilors
Cc: City Manager, Code Enforcement Officer, City Attorney
From: Eileen Wilkinson, Chair, Comprehensive Planning Commission
Date: 04/06/16
Re: Ordinance Amendments 5

Mayor MacLellan-Ruf and Members of the City Council:

The Comprehensive Planning Commission met on March 31, 2016, and pursuant to Ch. 19, Art. IV, Sec. 19-404 discussed and formulated recommendations regarding the proposed amendment Conditionally Permitting Automobile Repair in Commercial 1 and Commercial 2. The following are synopses of the Commission's recommendations and votes on this subject:

Ordinance Amendment #5 – Conditionally Permitting Automobile Repair in Commercial 1 and Commercial 2:

Recommended its adoption with the deletion of changes to Sec. 19-302(13).

Vote: 4 – 1.

Thank you for the opportunity to serve the city of Rockland.

Eileen Wilkinson, Chair

**CITY OF ROCKLAND, MAINE
ORDINANCE AMENDMENT #6
IN CITY COUNCIL**

April 11, 2016

ORDINANCE AMENDMENT Authorizing Quitclaim Deed – 55 Dodge Mountain Rd

THE CITY OF ROCKLAND HEREBY ORDAINS AS FOLLOWS:

THAT the City Manager is hereby authorized, on behalf of the City, to issue a municipal quitclaim deed to Carolee Pittard for property located at 55 Dodge Mountain Road, as shown on Rockland Tax Map #87-A-44, in substantial conformance with the terms, conditions and provisions of the Reconveyance Agreement incorporated herein by reference. If Ms. Pittard fails to sign the Reconveyance Agreement and comply with its requirements by July 9, 2016, the City Manager is authorized to solicit bids for the sale of said property.

Sponsor: City Council
Originator: City Manager

RECONVEYANCE AGREEMENT
55 Dodge Mountain Road (Tax Map 87-A-44)

The City of Rockland (the “City”) and **Gerard T. Pittard** and **Carolee S. Pittard** (collectively, the “Grantee”) hereby agree to the City’s reconveyance of real property and fixtures located at **55 Dodge Mountain Road** in the City of Rockland, County of Knox, and State of Maine, Rockland Tax Map 87, Block A, Lot 44 (the “Premises”), pursuant to the City of Rockland Code of Ordinances (“Rockland Code”), Chapter 2, Article V, Section 2-509(15) as follows:

WHEREAS, on September 10, 2014, the City filed a Certificate of Lien on the Knox County Registry of Deeds in Book 4837, Page 51, to secure the payment of unpaid real property tax, pursuant to 36 M.R.S. § 942;

WHEREAS, on March 10, 2016, any equitable right the Grantee may have had to redeem title to the Premises by paying the overdue tax expired, and title to the Premises passed to the City of Rockland pursuant to 36 M.R.S. § 943;

WHEREAS, Maine law and Section 2-509(15) of the Rockland Code authorizes the City Council to convey property acquired by statutory lien foreclosure;

WHEREAS, on May 9, 2016, the City Council authorized the City Manager to enter into this Reconveyance Agreement and, upon the effective date of Ordinance Amendment #2016-06, to issue a quitclaim deed to the Grantee or its assign for the Premises,

NOW, THEREFORE, in consideration of the mutual promises, covenants, and agreements herein, the parties hereto agree as follows:

1. Payment of Delinquent Real Estate Taxes. Pursuant to Rockland Code, Chapter 2, Article V, Section 2-509(15)(F)(1), the Grantee shall, no later than **July 9, 2016** (the “Reconveyance Deadline”), pay to the City of Rockland all delinquent real estate taxes on the Premises, as follows:

FY 2014:	\$ 178.04 (including lien expenses and interest as of March 10, 2016, with interest accruing thereafter at \$0.03 <i>per diem</i>)
FY 2015:	\$2,707.86 (including lien expenses and interest as of March 10, 2016, with interest accruing thereafter at \$0.52 <i>per diem</i>)
FY 2016:	\$2,607.76 (including interest as of March 10, 2016, with interest accruing thereafter at a rate of \$0.50 <i>per diem</i>)
Subtotal:	\$5,493.66;

2. Payment In Lieu of Taxes. Pursuant to Rockland Code, Chapter 2, Article V, Section 2-509(15)(F)(2), the Grantee shall, no later than the Reconveyance Deadline, make a payment to the City of Rockland in the amount that Grantee would have paid in taxes for Fiscal Year 2017, had the City not become the owner of the Property as a result of the statutory foreclosure on the City’s lien:

FY 2017 (estimated): \$2,565.20

Subtotal: \$2,565.20

In the event of a an increase in the mil rate from FY 2016 to FY 2017, Grantee shall pay the difference between the payment in lieu of tax estimated herein, and the product of the new mil rate and the assessed value of the Property on April 1, 2016 divided by 1,000. In the event of a decrease in the mil rate from FY 2016 to FY 2017, the City shall pay Grantee the difference between the payment in lieu of tax estimated herein, and the product of the new mil rate and the assessed value of the Property on April 1, 2016 divided by 1,000.

3. Insurance. The Grantee shall pay to the City the actual cost to insure the Premises during the period of its ownership, in the approximate amount of \$100.00 (actual amount may vary), on or before the Reconveyance Deadline;

4. Registry Filing Fee. Grantee shall pay to the City the actual cost to the City for all filing fees imposed by the Knox County Registry of Deeds for the filing of the Quit Claim Deed issued by the City upon full compliance by the Grantee with the requirements of this Reconveyance Agreement, and of any other document or discharge triggered thereby;

5. Reconveyance. The City shall release to the Grantee or its assign the City's right, title, and interest in the Premises, without warranty or covenant, upon the payment and/or performance of the charges, fees, interest, other payments, and repairs required by this Agreement within the applicable deadline(s);

6. Extension. The City Manager may extend the Reconveyance Deadline, for cause, but for no longer than sixty (60) days;

7. Representations; Indemnification. The undersigned represents that he is the former owner of the Property; that, prior to the aforementioned statutory lien foreclosure, he neither encumbered, conveyed, released, alienated, or otherwise granted his interest in the Property to any other party; and that he is authorized and has the capacity to perform the undertakings set forth in this Reconveyance Agreement. The Grantee shall defend, indemnify, and hold the City of Rockland harmless from any and all liabilities, losses, claims, demands, judgments, costs, and expenses (including reasonable attorney's fees) of any nature arising from or in connection with the use, occupancy, maintenance, and repair of the Property by the Grantee, their guest(s), invitee(s), or permittee(s), or by any trespasser(s), during the period of the City's ownership of the Property;

8. Remedies.

A. City of Rockland's Remedies. In the event that the Grantee shall fail to perform any term, condition, or obligation set forth in this Agreement within the deadline imposed therefor, the City shall not be obligated to reconvey the Premises to the Grantee, may sell and convey the Premises to another party, and shall not be obligated to repay any payment or partial payment made by or on behalf of the Grantee to the City; provided, however, that if the City shall sell the Premises within one year of the effective date of this Agreement, the City shall repay to Grantee any payment by or on behalf of the Grantee to the City for taxes, sewer charges, finance charges,

insurance coverage, or document preparation to the extent the proceeds of such sale of the Premises, less any real estate broker or agent fee or charge, transaction costs, and additional carrying costs incurred by the City, permit.

B. Grantee's Remedies. In the event that the Grantee shall sign this Agreement and fully perform all obligations imposed herein, and the City of Rockland shall have authorized the reconveyance but fail to release its interest in the Premises for reasons other than a breach of this Agreement by the Grantee, or the destruction of the Premises, the City shall either reconvey the Premises to the Grantee, or pay to the Grantee any sums realized from the sale of the Premises, less any amounts owed to the City pursuant to this Agreement and/or incurred by the City with respect to the Premises. Notwithstanding anything to the contrary in this Agreement or in the ordinance amendment authorizing the reconveyance, the City shall not be obligated to reconvey the Premises to the Grantee in the event she and/or her guest(s) engage in any criminal activity at the Premises during the period of the City's ownership.

IN WITNESS WHEREOF, the parties have executed this Reconveyance Agreement effective as of May __, 2016.

WITNESS:

CITY OF ROCKLAND:

by: Stuart H. Sylvester, City Clerk

by: James D. Chaousis II
its: City Manager

As to Form:

Kevin J. Beal, City Attorney

WITNESS:

GERARD T. PITTARD:

Print: _____

WITNESS:

CAROLEE S. PITTARD:

Print: _____

**CITY OF ROCKLAND, MAINE
ORDINANCE AMENDMENT # 7
IN CITY COUNCIL**

April 11, 2016

ORDINANCE AMENDMENT Eliminating Redundant Text Street Opening Permits

THE CITY OF ROCKLAND HEREBY ORDAINS THAT CHAPTER 20, Sanitary and Storm Water Sewers and Facilities, ARTICLE II, Sewers; Construction and Assessment, BE AMENDED AS FOLLOWS:

~~Sec. 14-316 Highways Not To Be Opened Without Consent~~

~~As provided by the Revised Statutes of Maine, whoever digs up the ground in a highway or street to lay or repair any drain or common sewer without the written consent of the City Council forfeits for each offense four dollars (\$4) to the City.~~

[Re-Number Remainder of Article III Appropriately]

Sponsor: Councilor Pritchett
Originator: City Manager

CITY OF ROCKLAND, MAINE
ORDINANCE AMENDMENT # 8
IN CITY COUNCIL

April 11, 2016

ORDINANCE AMENDMENT Strengthening Street Opening Permit Requirements and Enforcement

THE CITY OF ROCKLAND HEREBY ORDAINS THAT CHAPTER 15, Streets, ARTICLE I, Use of Streets, and ARTICLE IV, Street Construction And Excavations, BE AMENDED AS FOLLOWS:

CHAPTER 15 STREETS
ARTICLE I Use of Streets

Sec. 15-101 Statement of Purpose

The provisions in this Chapter are intended to assure the public's safe and unhindered use of and passage through the City's streets, and to preserve the same from unauthorized encroachment, or damage or destruction. The following sections are enacted to preserve the individual rights of citizens in the use of streets, to protect them in their public use and enjoyment thereof, and to preserve public ownership and public use of streets without private encroachments, not only for citizens of today but also for posterity.

Sec. 15-102 Definitions

For the purposes of this Chapter, certain words and phrases shall have the following meanings.

1. Emergency. "Emergency" shall mean any event which may threaten public health or safety including, without limitation, damaged or leaking water or gas conduit systems; damaged, plugged, or leaking sanitary or storm sewers; damaged underground electrical or communications facilities; or downed or seriously damaged utility poles.

2. Person. The term "person" shall refer to, in addition to any human being, any corporation, limited liability company, sole proprietorship, partnership, trust, association, organization, or other entity or combination of human beings other than the State of Maine or the City of Rockland or any department, division, or agency of the same.

3. Public Place. "Public Place," as used in this Chapter, shall include any State- or City-owned or controlled parking area, park, recreational area, playground, or public landing, including those parks established in Chapter 13, Article I. Articles I and II shall be understood as including City of Rockland owned or controlled parking lots, recreational areas, playgrounds, the Public Landing, and parks: Ulmer Park, Gay Park, Merritt Park, Walter Butler Square, Sandy Park, General Berry Square and Schofield White Park.

41. Street. The words "street" or "streets" as used in this Chapter~~Articles I and II~~ shall mean the entire right-of-way of any~~be understood as including~~ highways, road, ways, avenues, courts, lanes, alleys, sidewalk, bridge, parks, squares, other Public Places, and any non-public property owned or controlled by the City~~sidewalks and bridges.~~

5. Undefined Words and Phrases. Words and phrases not herein defined shall have the meaning assigned to them in Chapters 17 or 19, as may be applicable or, in the absence of such definitions, their common and ordinary meanings. ~~The definitions of words and phrases as contained in Chapter 17 are hereby made applicable to this and to every other ordinance of this City.~~

* * *

~~Sec. 15-118 Excavation Near Street~~

~~No person shall make any excavation near any street or public place in this City, so as to endanger any portion thereof, without first having obtained a permit from the Director of Public Works. Any person violating this Section shall be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100) for each offense.~~

~~State Law Reference: 23 M.R.S. §§ 3351-3360 A.~~

~~Cross Reference: Ch. 15, Art. IV.~~

* * *

~~Sec. 15-132 Openings in Street or Sidewalk; Construction~~

~~No person shall make or cause to be made an aperture in or under any street or sidewalk for the purpose of constructing coal holes or receptacles for any other articles, or for light or air, or for any other purpose, with first obtaining a permit therefore from the City Clerk bearing the approval of the City Manager, and no person shall leave such coal hole or other aperture open or unsafe, except while actually in use and then only when properly protected against endangering passers by. A five hundred dollars (\$500) bond shall be required for such a permit, conditioned as required in Chapter 11, for all such openings hereafter made.~~

~~State Law Reference: 23 MRSA §§ 3351-3360 A.~~

~~Cross Reference: Chapter 15, Article IV.~~

~~Sec. 15-133 Openings in Street or Sidewalk~~

~~1.—Cellar Doors.—When a cellar door, vault, coal hole, or other structure or aperture is maintained in, upon or under any street, sidewalk, or public place, the occupants or owners of the estate of which such cellar door, vault, coal hole or other structure or aperture belongs, shall keep the same in good repair; and if at any time such cellar door, vault, coal hole or other structure or aperture is out of repair or if, in the opinion of the Director of Public Works, public safety is thereby endangered, he shall notify the owners or occupants of the fact, and if they neglect or refuse for the period of twenty four (24) hours to repair such cellar door, vault, coal hole or other structure or aperture, the Director shall forthwith cause such repairs to be made at the expense of such owners or occupants, which expense may be collected from them in an action of debt, for the use of the City, and they shall be liable to a further penalty of not exceeding twenty dollars (\$20) for each twenty four (24) hours that such cellar door, vault, coal hole or other structure or aperture~~

~~continues to be out of repair after notice from the said Director, as aforesaid. Every person who hereafter maintains a cellar door, vault, coal hole or other structure or aperture in or under any street or public place, shall do so only by continuing in full force and effect the permit bond required in the previous section, conditioned that such maintenance shall bind him to keep the same and the covers thereof in good condition and repair at all times during his ownership or control of the same, and to indemnify and save harmless the City against all damages caused and expenses incurred in consequence of the same being out of repair or left open.~~

~~2.—Culverts. Whenever it is deemed necessary by an abutter on an improved City street that a culvert be installed to provide an entrance to his property, he shall petition the City for such an installation and the City may install the same, provided that the abutter, at his own expense, furnish a culvert satisfactory to the City. Such culvert shall thereafter be maintained by the City.~~

~~3.—Penalty. Whoever violates any of the provisions of this Section or the rules and regulations made under the authority thereof shall be punished by a fine of not more than five hundred dollars (\$500).~~

State Law Reference: ~~23 MRSA §§ 704, 3151-3255, 3351-3360-A.~~

* * *

DELETE ARTICLE IV, AND REPLACE WITH:

ARTICLE IV Street Construction and Excavations

Sec. 15-401 Street Excavations - Statement of Policy

The City of Rockland requires compliance with the provisions of Article IV of this Chapter in order to minimize, to the extent possible, the safety and road maintenance problems that have been associated with excavations and paving operations in the past. The protection of the City's streets and sidewalks and infrastructure on and under the streets in the City is vital for assuring safe and passable ways, protecting the public health, safety, and welfare, and for fostering economic activity and development. To that end, it is the policy of the City to require all repair and excavation work performed on City streets and sidewalks to be done promptly, with due regard to the safety of the public, and in a skillful and workmanlike manner.

Sec. 15-402 Definitions

For the purposes of this Article, certain words and phrases shall have the following meanings. Words and phrases not defined herein or elsewhere in Chapter 15 shall have their common and ordinary meanings.

1. Contractor. "Contractor" shall mean a person or entity retained to conduct the excavation(s) and other work authorized by a street opening permit and/or otherwise required under this Article or applicable law.

2. Excavation. "Excavation" shall mean any operation in which earth, rock, or other material below the surface is moved or otherwise displaced, by hand or by means of power tools, power equipment, or explosives, and including grading, trenching, digging, ditching, drilling, augering, tunneling, scraping, and cable or pipe driving, except tilling of soil and gardening or displacement of earth, rock, or other material for agricultural purposes.

3. Installation. "Installation" shall mean any pipe, equipment, vault, entrance, coal hole or other receptacle for goods, or other structure placed in a street.

4. Permittee. "Permittee" shall mean a person authorized to conduct an excavation in a street or sidewalk pursuant to Section 15-405.

5. Sidewalk. "Sidewalk" shall mean that portion of a street between the curb lines or, in the absence of curbs, the lateral lines of a roadway, and the adjacent property lines intended or available for the use of pedestrians.

6. Utilities in Good Standing. "Utilities in Good Standing" shall mean a public utility as defined in 35-A M.R.S. § 102, as amended, that is not – either at the time of application or anytime within the past year – in violation of any provision of this Chapter.

Sec. 15-403 Administration

The Public Services Director (the "Director"), under the supervision of the City Manager, shall be responsible for administering the provisions of this Article, and for securing compliance with the City's street opening, excavation, connection, and restoration requirements.

Where the owner or operator of land retains a contractor to perform work regulated under this Article, such owner or operator and the contractor shall be jointly and severally responsible for complying with this Article; provided, however, that only one permit shall be granted and one performance guarantee required for each excavation.

Sec. 15-404 Street Paving; Notice; Moratorium

1. Notice of Street Paving. Prior to paving or substantially repairing any City street, or of any state or state-aid highway within the Urban Compact area, the Director shall duly serve upon owners of property abutting on such street and upon all persons occupying such street, including public utilities that may have utility facilities in the street, directing such owners and persons to make sewer, water, and conduit connections or other work as may be designated by the Director or planned or reasonably foreseeable by the owner, within 60 days from the date of the notice. The Director shall maintain a current list of newly constructed, reconstructed, and repaved streets, and portions thereof, and make such list available to the public upon request at both the City Clerk's office and the Department of Public Services, and on the City's website.

2. Moratorium On Street Openings. At the expiration of the time fixed pursuant to the preceding paragraph and after the street has been paved or repaired, no permit may be granted to

open that street for a period of 5 years, except as otherwise provided herein.

3. Exceptions. Notwithstanding the foregoing, the Director may issue a street opening permit to open a street within 5 years after that street was paved or substantially repaired if the Director requires such Permittee to either:

A. Utilize trenchless construction techniques that obviate the need for disturbing the paved surface, or

B. Upon disturbing the paved surface, to relay the full width of the road surface on both sides of the cut for a distance of at least 20 feet from the furthest outside edges of the cut. If that repair overlaps the edge of a repair from a previous opening, the Director may require the Permittee to relay the full width of the road to the furthest edge of that previous repair. The Director shall prescribe the depth and method of restoring the pavement based upon the class of the street, except that in no case may the depth of the restored pavement be less than 3 ½ inches.

State Law Reference: 23 M.R.S. §§ 3351-3352.

Sec. 15-405 Street Opening Permit

1. Permit Required. No person may excavate, place any installation within, or fill an excavation in any street or sidewalk without having first obtained a Street Opening Permit therefor from the Director or his designee. The Director is permitted to apply reasonable conditions to any permit to mitigate the unique circumstances of an application, as long as it doesn't have the effect of reducing the effect of the ordinance or limiting the adopted standards. The Director shall not issue such Street Opening Permit except upon receipt of:

A. A completed application therefor, on a form prepared and provided by or on behalf of the Director;

B. The permit or other applicable fee(s) established by Order of the City Council;

C. A certificate of Public Liability Insurance evidencing liability coverage in conformance with Sec. 15-406(1); and

D. The performance guarantee required under Sec. 15-406(2).

2. Exceptions. No street opening permit shall be required for:

A. Curb cuts for which a curb cut permit is granted pursuant to Chapter 19, Article III, Section 19-307(9);

B. Driveways for which a driveway permit is granted pursuant to Chapter 19, Article III, Section 19-307(9), where the work does not include the placement of a culvert or other subsurface disturbance that, in the discretion of the Code Enforcement Officer, may affect the stability of the right of way.

3. Permit Application. The written application for Street Opening Permit shall provide

the following information:

- A. Name, physical, postal, and e-mail or other internet address, and phone number of the applicant and applicant's contractor, if any;
- B. Name(s), address(es), and license number and issuing state of the project manager and/or foreman for the excavation, and of every person who may operate excavating equipment in conducting the excavation, backfilling, compaction, and/or site restoration, and a statement as to whether each such manager, foreman, or operator has been denied an excavator license by any governmental entity or caused any damage to property or person while operating equipment at a worksite in the preceding 5 years. The Director may establish conditions to the permit that require that excavation work be performed, or not performed, by specified personnel.
- C. Purpose(s) for which the permit is sought;
- D. Street address and the type(s) and nature of the occupancy of building(s) to be served by the proposed excavation;
- E. Start date for the proposed excavation and the estimated time needed to complete the excavation;
- F. Detailed narrative description of the proposed excavation, including its purpose, the total area of street and/or sidewalk to be disturbed, volume of excavated material, trench width and length, and purpose and type of utility connections to be made in the excavated area;
- G. Diagram of the proposed excavation showing the location of proposed utility installations / connections, and the size of street or sidewalk excavation;
- H. Accurate estimate of the total cost for the excavation, including inspections, testing, and repaving;
- I. Evidence of Applicant's notification of, and where applicable permission from, the owner or operator of underground facilities in the proposed excavation area. Evidence of notification may be satisfied by providing the Applicant's Dig-Safe number;
- J. Signature of the City Engineer, when determined by the City Manager;
- K. Signature of Police Chief when the flow of traffic will be restricted or detoured;
- L. Signature of the City Clerk demonstrating that Applicant is current on all financial obligations to the City; and
- M. Signature of the Applicant. Applicant's signature shall be deemed to be Applicant's acknowledgement of, and agreement to comply with, the requirements of this Article. Applicant and, when different, the owner of the property to be served or benefitted by the street opening shall be jointly and severally responsible for compliance with this Article.

The Director shall grant, grant with conditions, or deny each application for a street opening permit within five (5) working days of submission of a complete application. All such permits shall be subject to the conditions stated therein, and to the requirements set forth in this Article, including those in Sec. 15-407 – General Requirements.

4. Permit Fee. Except as otherwise provided herein, each applicant shall pay to the City a

permit fee in an amount reasonably calculated to reimburse the City for the direct cost(s) in labor and equipment typically expended by the City in administering permits issued pursuant to this Article.

The Director shall waive payment of all but \$50 of the permit fee for driveway repairs and repaving for which a driveway permit has been issued and that also require a street opening permit.

The Director shall waive payment of all the permit fees for excavations to be performed by or on behalf of the City or MaineDOT.

The City Manager may waive payment of the permit fee in the event s/he determines that special conditions exist relating to the protection of public health, safety, and welfare, and/or significant financial hardship to a home owner that, in the absence of such waiver, would delay or make impossible needed repairs of such owner's residence or utility facilities serving the residence.

Utilities in good standing may opt to be billed for permit fees, so long as such utility remains current on the resulting permit fee invoices.

5. Permit Valid for 30 Days. Excavation work must be started no later than thirty (30) days from the date of issuance of the Street Opening Permit. At the expiration of this thirty (30) day period, such permit shall become null and void and must be renewed before any work may begin. The permit fee must be paid for each issuance and renewal.

6. Winter Moratorium; Emergency Excavations. Except in the event of an emergency, the Director may not issue a permit for, and no person may commence, an excavation in a City street, sidewalk, or other public place between December 1 in any one year and March 15 in the following year.

7. Emergency Action. Nothing in this Article shall be construed to prevent the making of such excavations as may be deemed necessary for the preservation of life or property, or for the identification of blockages, leaks, or other failures, and the repair thereof, of gas, water, or other utility facilities in the street; provided, however, that the person making such excavation shall apply to the City for a permit therefor on the first municipal working day after such work is commenced. Before any emergency excavation is commenced, the responsible party must take all reasonable steps to notify Dig-Safe pursuant to 23 M.R.S. § 3360-A, and to ascertain the location of underground utility facilities that may be affected by the excavation. In no event may blasting be conducted in an unpermitted emergency excavation.

8. City of Rockland. No permit shall be required for an excavation to be performed by or on behalf of the City of Rockland, provided that the Director first issues a work order that sets forth the pertinent information otherwise required under paragraph (2) of this section. In the event of an emergency excavation by or on behalf of the City, the Director shall be notified and shall issue such work order documenting the emergency and the work as soon as practicable.

Sec. 15-406 Liability Insurance; Performance Guarantee; Non-Waiver of Immunity

1. Liability Insurance. All applicants for street opening permits shall provide with their applications a certificate of liability insurance naming the City as an additional insured for liability arising from the Permittee's excavation, in coverage amounts acceptable to the City Attorney.

2. Performance Guarantee.

A. Form. All applicants for a street opening permit, other than utilities in good standing, shall provide a performance bond or other bond, letter of credit, cash security deposit, or other guaranty of a type and in a form acceptable to the City to guarantee Permittee's performance in properly excavating, connecting to utilities, and restoring the excavated area (the "Performance Guarantee") in conformance with the applicable standards, rules, and regulations. In the event the Director determines that there has been a partial or complete failure of the trench or other portion of a right of way as a result of the street opening within two years of the Permittee's final completion of the street excavation and restoration, such failure shall be deemed to be the result of Permittee's failure to perform the excavation or restoration in conformance with the applicable standards, rules, and regulations.

Regardless of any other terms and conditions of said bond or other instrument, payment thereunder by said surety, guarantor, or other issuer to the City must be due immediately on demand upon Applicant's failure to restore the condition of the excavated way, sidewalk, or other public property to the satisfaction of the Director.

Letters of credit or other performance guarantees provided for permits issued prior to the effective date of this ordinance shall be retained and must remain valid for the entire term for which they were accepted by the City.

B. Exceptions.

(1) City Contract. No street opening permit shall be required of persons who are under contract with the City to perform the excavation if such persons provide a performance bond or other guarantee in an amount equal to or greater than that otherwise required hereunder.

(2) Waiver by City Manager. The City Manager may, upon written request by an Applicant, waive the requirement for a performance guarantee if the City Manager finds that the Applicant has insufficient financial resources to provide the guarantee and that the proposed excavation does not pose a significant risk of impairment to a street, sidewalk, or other City or utility infrastructure.

C. Amount. Licensed excavators or their employers may annually post a Performance Guarantee in the amount of \$25,000 to guarantee their performance under street opening permits for that calendar year. Alternatively, Permittees shall provide the City with a Performance Guarantee for each permitted excavation in the amount of the product of two times the project estimate stated in the application and accepted by the Director (Estimate x 2 = Performance Guarantee Amount). Bonds and other non-cash performance guarantees shall be in a form and issued by a surety, guarantor, or other issuer acceptable to the City, in its sole discretion, and shall remain effective and subject to negotiation and collection by the City for at least two years

from the date of completion of the excavation and street restoration. Cash security deposits made in lieu of providing a bond or similar instrument of performance guarantee shall be refunded upon approved completion of all conditions and requirements of the permit, this Article, and applicable rules and regulations.

D. Corrective Actions; Payment.

The Director shall serve written notice upon any person or utility that fails to comply with or that violates any provision of this Article (a "Violator"), stating the nature of the failure or violation and providing a reasonable, specific time limit for the Violator to perform corrective actions; provided, however, that where such failure or violation may trigger tort or other liability for a street defect, the corrective action shall be commenced within 24 hours of the Director's notice. If the Violator fails to perform the corrective action within the specified time period, the City shall cause the necessary repairs, keeping an account of the expense thereof. Upon the completion of the corrective action by or on behalf of the City, the Director shall cause an invoice to be served upon the Violator for payment, in the amount of 200% of the whole of the expense incurred by the City, which invoice shall be due and payable immediately upon receipt. The Director shall issue no additional street opening permits to the Violator until such invoice is paid in full. Upon the Violator's failure to perform the corrective action or to pay the City's invoice therefor, the City shall reimburse itself from the Permittee's performance guarantee in an amount equal to 200% of the whole of the expense incurred by the City.

3. Non-Waiver. This Article shall not be construed as imposing upon the City or any official or employee of the City any liability or responsibility for damages to any person injured by the performance of excavation work for which an excavation permit is required under this Article, nor shall the City or any official or employee thereof be deemed to have assumed any such liability or responsibility by reason of inspections authorized hereunder, the issuance of any permit, or the approval of any excavation work. In the case of a dedicated-but-unaccepted street or way, this Article shall not be construed as authorizing any action which is inconsistent with any private rights in said street or way, nor shall the issuance of any permit hereunder be construed as an acceptance of said street or way by the City for highway or other purposes.

Sec. 15-407 General Requirements

1. Excavation Standards. All street excavations and restorations and other work that cause a disturbance of any street must be conducted in compliance with applicable statutes, ordinances, technical standards, and rules and regulations relating to opening, excavating, working in, and occupying a street or other public way, including the Excavation Standards set forth in Section 15-409, Special Conditions set forth in Section 15-410, and the City's Technical Standards Manual adopted pursuant to Chapter 2, Article XIV, Section 2-1402.

2. Non-Interference. Contractors shall not interfere with any existing facility, structure or substructure without the written consent of the City or owner of the facility, structure or substructure. Contractors will assume all liability for all damaged facilities, structures or substructures regardless of ownership, and for any damage or injury sustained as a result of such facility, structure or substructure damage. All excavations shall be conducted so as not to interfere

with access to fire hydrants, fire escapes, fire stations, police stations, underground vaults, and all other vital equipment identified by the City and/or Dig-Safe.

3. Inconvenience Minimized. Work shall be carried out in such a manner as to avoid unnecessary inconvenience and annoyance to the general public and abutting property owners to the greatest extent possible; excavation work, noise, dust and unsightly debris shall be minimized. The work area must be cleaned up and all debris removed when construction is completed.

4. Blasting. If blasting is required as part of a project, the Contractor shall conduct a survey, prior to blasting, of the condition of all foundations and other structures and facilities standing at such distance from the proposed blast that they may, in the judgment of the Contractor, be affected by the blast. All property owners and lessees, if any, of buildings, structures and facilities within five hundred (500) feet of the site of the blast, or within the area likely to be affected, whichever is greater, shall be given adequate notice of the planned blasting by the Contractor as soon as possible after the need to blast becomes obvious. In addition, the Contractor shall cause "doorknob-hanger" notices of the blasting to be hand-distributed to these properties between 48 hours and 24 hours before the blasting is scheduled. Eff: 10/13/93

4. Seasonal Night Work. Excavations in Routes 1, 1A, 17, and 73 between June 1 and September 30, except in emergencies or with the prior consent of the Director, shall be performed after 6:00 PM and prior to 7:00 AM.

5. Monuments. Monuments designating property, street lines, or permanent survey markers shall not be disturbed, removed, or concealed without the prior, written consent of the Director, in which instance the Director shall direct the replacement or restoration of the monument by the Permittee or Contractor.

6. Manholes and/or Catch Basins. No person or utility shall remove, damage, haul away, or otherwise disturb any manhole and/or catch basin castings, frames, and/or covers owned by the City without first receiving written permission from the City. Any manhole and/or catch basin castings, frames, and/or covers missing, damaged, or disturbed shall be repaired and/or replaced by the Contractor in accordance with the specifications set forth by the Public Services Department.

7 Sewers, Sewer Connections. No person may uncover, make any connection with or opening into, use, alter, or disturb any public sanitary or storm sewer without first obtaining a written permit therefor from the Water Pollution Control Director pursuant to Chapter 20, Article III, Section 20-304, and paying all applicable sewer connection or other fees and charges.

8. Prompt Completion of Work. After an excavation is commenced, the Contractor shall proceed with diligence and expedite all excavation work covered by the excavation permit and shall promptly complete such work and restore the street as specified in this Article. The Contractor shall daily perform such restoration work as may be reasonably necessary so as not to obstruct, impede, or create a hazard to public travel by foot or vehicle. If the City determines that the safety of the public is not being protected, then the City may intervene and perform corrective actions after providing 24 hours' notice to the Permittee or Contractor. If the work is not done in accordance with the time frame outlined in the permit application, then the permit must be renewed

or the City will consider the work incomplete and will take action accordingly.

9. Record of Installation. Drawings denoting installation of utility lines or service lines within the right-of-way of streets shall be filed with the Director of Public Works within sixty (60) days of completion of construction.

10. Unauthorized Excavations. Any person conducting an excavation in a street or sidewalk who is not authorized to do so under this Article is not excused from compliance with these general requirements, and a violation of the same shall be subject to penalties and/or fines in the amount of three times the applicable penalties and/or fines applicable to violations committed in conducting permitted excavations, in addition to and not as a substitute for any penalties, fines, and remedies imposed on the violator for conducting an unauthorized excavation.

Sec. 15-408 Protective Measures and Routing of Traffic

1. Safe Crossings. Contractors shall, in general, maintain safe crossing for two (2) lanes of vehicle traffic at all street intersections where possible and safe crossing for pedestrians. If any excavation is made across any public street or sidewalk, adequate crossings shall be maintained for vehicles and pedestrians. If the street is not wide enough to hold the excavated material, without using part of the adjacent sidewalk, a passageway at least one-half of the sidewalk width shall be maintained along such sidewalk line.

2. Barriers and Warning Devices. It shall be the duty of every Contractor cutting or making an excavation in or upon any public place, to place and maintain barriers and warning devices, and to post flaggers to guide traffic, as may be necessary for the safety of the general public. Traffic control in the vicinity of all excavations affecting vehicular, pedestrian, and bicycle traffic shall be subject to final review and approval of the Police Department. Barriers, warning signs, lights, etc., shall conform to the latest edition of the "Manual on Uniform Traffic Control Devices." Warning lights shall be electrical markers or flashers used to indicate a hazard to traffic from sunset on each day to sunrise of the next day. Electrical markers or flashers shall emit light at sufficient intensity and frequency to be visible at a reasonable distance for safety. Reflectors or reflecting material may be used to supplement, but not to replace, light sources.

3. Normalization of Traffic Conditions. Contractors shall take appropriate measures to assure that, during the performance of the excavation work traffic conditions shall minimize inconvenience to the occupants of the adjoining property and to the general public.

4. Closing of Streets. When traffic conditions permit, the City may authorize the closing of streets to all traffic for a stated period of time. In an emergency, a street can be temporarily closed to prevent danger to the public. In such cases, a utility company or contractor responding to the emergency shall contact the Police and Fire Departments by phone before closing a street to traffic.

Closing of streets to all traffic for a limited period of time may also be approved by the Director of Public Services in conjunction with the City Manager, should an unforeseen risk to public safety arise during the completion of a non-emergency project.

5. Interference With Arterial Streets. Unless an emergency exists, construction activities shall not interfere with the normal flow of traffic on arterial streets of the City. The full inbound roadway lane width shall be maintained between the hours of 6:45 A.M. and 8:30 A.M. and the full outbound lane width shall be maintained between the hours of 4:00 P.M. and 5:45 P.M.

6. Shifting Traffic To Opposite Side. Contractors may shift traffic to the opposite side of the roadway to maintain required lane width. The Contractor may only make such shift with the approval of the Police Department following the proper review of detour plans to ensure adequate safe two-way traffic flow and proper number and placement of Police Officers or traffic safety flag persons.

Sec. 15-409 Excavation Standards

1. Clearance for Vital Structures. The excavation work shall be performed and conducted so as not to interfere with access to fire hydrants, fire stations, fire escapes, water gates, underground vaults, valve housing structures, traffic signal cables and loops, and all other vital equipment as designated by the City.

2. Breaking Through Pavement in Streets and Sidewalks.

a. All excavations on paved surfaces shall be precut in a neat straight line with pavement breakers, saws, or asphalt cutters.

b. Heavy duty pavement breakers may be prohibited by the City when the use endangers existing substructures or other property.

c. Pavement edges shall be trimmed to a vertical face and neatly aligned with the center line of the trench.

d. Unstable pavement shall be removed over cave-outs and overbreaks and the subgrade shall be treated as the main trench.

e. When three (3) or more street openings are made in sequence fifteen (15) feet or less, center to center (between each adjacent opening), the CONTRACTOR shall neatly cut and remove the area of pavement between these adjacent openings and shall patch as one trench.

f. On concrete sidewalks, all cuts shall be made from the nearest joint or score line on one side of the excavation to the nearest joint or score line on the other side of the excavation.

g. When an opening is made in a street, where the surface is Portland Cement Concrete, the concrete shall be cut back at least twelve (12) inches beyond the edges of the trench before the new concrete patch is replaced. Sufficient reinforcing shall be furnished to provide the equivalent of one-half (½) inch steel rods on twelve (12) inch centers both ways, top and bottom in the new concrete patch. The thickness of the concrete in the new patch shall be at least four (4) inches thicker than the existing concrete and the top surface shall be finished to conform to the surface of the old concrete.

h. When an opening is made in a street where the surface is bituminous concrete, the edges of the pavement shall be cut back an additional eight (8) inches beyond the edges of the patch before the new and permanent surface is replaced.

3. Trenches. Contractors shall minimize the lengths of open, excavated trenches, to better protect public safety and minimize the impact of the excavation on vehicular and pedestrian

circulation and access to adjacent properties. The maximum length of open trenches parallel to the travel lanes in a street shall be two hundred (200) feet, except on Routes 1, 1A, 17, and 73, where parallel trenches may not exceed one hundred (100) feet in length without the Director's prior consent. Open trenches that are not parallel with the travel lanes may not exceed the bounds of one travel lane. No greater length shall be opened at any one time for pavement removal, excavation, construction, backfilling, patching or any other operation without the written permission of the City. Trench sides shall be shored so as to prevent the undermining of undisturbed pavement. Contractors shall meet all applicable OSHA Safety Requirements.

4. Care of Excavated Material.

a. All materials excavated from trenches and piled adjacent to the trench or in any street shall be piled and maintained in such a manner as not to endanger those working in the trench, pedestrians or users of the streets, and so that as little inconvenience as possible is caused to those using the streets and adjoining property. Materials that are not suitable under this Ordinance or other applicable regulations for reuse for backfilling shall, as soon as practicable, be removed from the site by the City for reuse by the City or, with the Director's prior approval, removed for other reuse or disposed by the Contractor. Whenever necessary, in order to expedite the flow of traffic or to abate the dirt or dust nuisance, boards or bins may be required by the City to prevent the spread of dirt into the traffic lanes.

b. Where the confines of the area being excavated are too narrow to permit the piling of excavated material beside the trench, the City shall have the authority to require that the Contractor haul the excavated material to a storage site and then rehaul it to the trench site at the time of backfilling. It shall be the Contractor's responsibility to secure the necessary permission and make all necessary arrangements for all required storage and disposal sites.

5. Backfilling of Excavation. Backfilling shall conform with the specifications therefor in the Technical Standards Manual or, in the absence of the same, with regulations adopted by the Water Pollution Control Director for sewer connections, as may be from time to time amended. The Contractor shall conduct compaction testing of the backfill for conformance with such specifications. The City may require soil tests to be furnished by a recognized soil testing laboratory or registered professional engineer specializing in soil mechanics when, in its opinion, backfill for any excavation is not being adequately compacted. In order for the resurfacing to be permitted, such tests must show that the backfill has been compacted to 95% of its maximum density as determined by the modified Proctor test. All expense of such tests shall be borne by the Contractor. Authorization to resurface does not release the contractor from being responsible for the future condition of the excavated area as required by this Ordinance.

6. Resurfacing of Streets and Sidewalks

A. The Contractor may backfill the excavation from the bottom of the adjacent pavement to the surface of the pavement with base aggregate meeting the Maine Department of Transportation Specification 703.06(a) for Type B or C base. The Contractor shall maintain this temporary surface level with the surface of surrounding pavement for at least two (2) weeks but no longer than thirty (30) days. The backfill shall be compacted so that it is hard enough and smooth enough to be safe for pedestrian travel over it, as well as for vehicular traffic to pass safely over it at a legal rate of speed. The Contractor shall maintain the temporary backfill and shall keep same

safe for pedestrian and vehicular traffic until the excavation has been resurfaced with permanent paving, except if it is not possible to maintain the surface of the temporary paving in a safe condition for pedestrian and vehicular traffic, then the Contractor shall maintain barriers and lights where required herein.

B. No later than thirty (30) days after the excavation has been backfilled, the Contractor shall install permanent paving equal to or exceeding the character, thickness and quality of the adjoining undisturbed surface. If hot bituminous asphalt is unavailable due to the season, the excavation shall be surfaced with cold bituminous pavement until such time as permanent pavement is available.

Permittees shall, for a period of two (2) years thereafter, be fully liable for all defects in materials, compaction, and workmanship relating to such backfilling and resurfacing, and shall promptly and satisfactorily repair or replace the same upon notice by the Director of Public Services. If the work is not corrected within thirty (30) days of such notice, the City in its sole discretion, may declare the work to be in non-compliance, and Section 15-412(1) will apply.

7. Inspections.

The City shall make such inspections as may reasonably necessary to secure Permittees' and Contractors' compliance with the requirements of this Article. Such inspections may be performed by the Director, his designee, the Water Pollution Control Facility Director or his designee, or other authorized personnel. The Director may order such actions and corrections as may be reasonably necessary to obtain compliance and/or protect the streets and public places in the City, or any underground utility facilities in a street or public place. The decisions and instructions of the Director with respect to any matter relating to a Permittee or its Contractor's performance and compliance shall be final and binding upon such Permittee and its Contractor, until and unless appealed to a court of competent jurisdiction and therein stayed or overturned.

Sec. 15-410 Special Conditions

1. Where three (3) or more street openings are made in sequence fifteen (15) feet or less, center-to-center, between each adjacent opening, the estimated cost for such excavations shall be calculated on the basis of one opening measured from the outer perimeter of the first opening to the outer perimeter of the last opening.

2. The City, when the Director deems it to be reasonably necessary, shall retain, at the Permittee's expense, an on-site inspector to inspect, monitor, and/or supervise all excavation, backfilling, resurfacing, and/or other temporary or permanent repairs. The Permittee shall be charged at the appropriate hourly rate of the inspector, plus thirty-five (35%) overhead for the services of such inspector.

3. If the Director, in its sole discretion, determines that settlement, heaving, or other failure or defect of the backfilled excavation has occurred during the two (2) years immediately following the final surfacing of such excavation, the Permittee may, at its option, either repair the opening or remit to the City a sum equal to 200% of the cost to repair the excavation. Permits

issued prior to the effective date of the initial adoption of this performance guarantee requirement shall remain subject to the prior, three-year contractor liability for the condition of the opened street or sidewalk.

If a Permittee does not remit payment on any invoice for repairs to defective excavations by or on behalf of the City within thirty (30) days of the date of such invoice, the City may decline to issue further permits to the Permittee or its Contractor until it receives payment of such outstanding bill and may take other appropriate legal action.

Sec. 15-412 Fees, Penalties and Enforcement

1. Violations. The Owner and Contractor shall each be in violation of this Article if a street opening is commenced without a permit therefor, or if work relating to a permitted street opening, excavation, installation, connection, backfilling, street repair, or any other work or thing authorized or required thereunder is not in conformance with such permit, applicable law, ordinance, technical standard, or instruction of the Director.

2. Notice of Violations; Corrections.

The Director shall provide written notice of all such violations to the responsible party(ies), stating the nature of the violation(s), the corrective action(s) required, and a reasonable time in which to perform such corrective actions. To assure public safety, the Director may provide oral notification and require immediate corrective action to avoid or mitigate a safety hazard.

A. Corrective Action By Contractor.

The Permittee shall perform the corrective actions required by and to the satisfaction of the Director, within the period identified in the written or oral notice of violation. Permittee's failure so to do shall constitute a separate violation for each day Permittee remains out of compliance with such notice.

B. Corrective Action By the City.

Upon Permittee's failure to perform corrective measures required by and to the satisfaction of the Director, the City may perform or cause to be performed the corrective measures, at Permittee's expense, in which event the Permittee shall be required to pay to the City an amount equal to one and one half times the whole of the expense incurred by the City. When the work is completed and the costs have been determined, the City shall issue no further permits to that Permittee until it has received full payment of the amount thus assessed to Permittee. Notwithstanding the City's performance of any work reasonably required to abate a violation of this Article, the Contractor shall remain fully responsible for performing the work in accordance with this Article and the Contractor's permit, and shall be subject to any applicable fine, penalty, or other remedy in addition to the payment imposed pursuant to this paragraph.

3. Fines and Penalties.

Irrespective of the Owner, Contractor, or City's correction of any violation, the Owner and Contractor shall be subject to one or more of the following fines and penalties, as may be applicable:

A. Commencing work without a permit (except emergencies):

\$500 per day until permit issued or opening repaired;

B. Violation of any General Requirement (Sec. 15-407), Excavation Standard (Sec. 15-409), or Technical Standard:

\$100 per day until corrected;

C. Failure to provide protective measure in violation of Sec. 15-408:

\$250 per day;

D. Failure to comply with written or oral notice of violation:

\$500 per day.

The violation of any requirement or standard under this Article shall constitute a separate offense and shall be subject to a separate fine or penalty as set forth herein.

The City Attorney is hereby authorized to commence legal action on behalf of the City in the Maine District Court for the imposition by the Court of such fines and penalties, and any other remedy available at law or in equity, and to enforce and collect the same.

4. Permit Invalidated; Additional Permits Prohibited.

A violation of any provision of this Article, of a permit issued pursuant to this Article, or of a standard or requirement imposed by this Article, if uncorrected by the Contractor as provided under paragraph 2(A) of this section, shall be deemed to invalidate all other permissions previously granted to Contractor, except the requirement that the work be corrected. No street opening permit shall be issued to any such Contractor until the Director is satisfied that the Contractor has abated its violation and fully complied with all the requirements of this Article.

Sec. 14-413 Annual Utility Work Plans.

Prior to March 31 of each year, all utilities having existing or proposed underground utility facilities in any street or other public place in the City shall file with the Director such utility's proposed work program for the ensuing construction season. Such annual work plan need not include provisions for emergency excavations or private service line excavations. The City may deny applications for street opening permits for excavations required to be, but not included in such utility's annual work plan.

State Law Reference: 14 M.R.S. § 871; 35-A M.R.S. §§ 2301-2522;
23 M.R.S. §§ 3301 – 3360-A.

Cross Reference: Ch. 15, Art. I, §§ 15-118, 15-123, 15-132, 15-133, and 15-145.

Sponsor: Councilor Pritchett
Originator: City Manager

CITY OF ROCKLAND, MAINE
ORDINANCE AMENDMENT #9
IN CITY COUNCIL

April 11, 2016

ORDINANCE AMENDMENT Off-Street Parking – Driveways, Curb Cuts & Culverts

THE CITY OF ROCKLAND HEREBY ORDAINS THAT CHAPTER 19, Zoning and Planning, SECTION 19-307 Off-Street Parking, Design Standards, BE AMENDED AS FOLLOWS:

Sec. 19-307 Off-Street Parking

* * *

5. Design Standards for Off-Street Parking.

* * *

B. Access to Off-Street Parking.

* * *

(7) Curb and Sidewalk Construction. When driveways are cut into existing curbing and sidewalks, curbing must be cut back at least four (4) feet on each side of the driveway opening. Replacement curbing, in kind, must be re-laid with ends tapered from seven (7) inches high (or from the height of the existing curbing) to no more than one and one half (1½) inches high at the driveway. When driveways are constructed to slope toward the gutter line of the street, the grade shall be no less than ¼ inch per foot and no more than ½ inch per foot across the complete width of the sidewalk. All work shall be done at the expense of the applicant, shall meet the applicable standards in the Technical Standards Manual, and shall be performed to the satisfaction of the Director of Public Works.

(8) Culverts. Whenever the installation of a culvert underneath a new driveway is deemed necessary to maintain street side drainage, the property owner shall obtain a street opening permit from the City pursuant to Chapter 15, Article IV and shall cause the installation of the culvert in conformance therewith. Alternatively, the property owner may petition the City for such an installation and the City may install the same, provided that the property owner, at the property owner's expense, upon the property owner's submittal of the requisite street opening permit fee and performance his own expense, furnish a culvert satisfactory to the City. Such culvert shall thereafter be maintained by the City, except that the failure of the original installation may be charged to such performance guarantee.

* * *

9. Driveway and Curb Cut Permits.

- A. Permits. No person, corporation or other legal entity shall construct or maintain a driveway entrance or approach or cut any curb within the right-of-way of any City street within the Urban Compact District without approval of the Planning Board or a written permit from the Code Enforcement Officer. A permit or Planning Board approval shall also be required for any change in location or grade, or any change in degree or kind of use of an existing driveway, entrance or approach. The permit application form, provided by the Code Enforcement Office, shall be completed and submitted for approval along with the appropriate fee listed in Section 11-402, Land Use Fee Schedule. The Director of Public Works and the Chief of Police or their authorized agents shall make recommendations and countersign each permit application. In the event the establishment of the curb cut or driveway is determined, in the sole discretion of the Code Enforcement Officer or Director of Public Services, to require the installation of a culvert or other disturbance that may affect the stability of any sidewalk or paved road, the property owner shall obtain a street opening permit pursuant to Chapter 15, Article IV, and perform the installation and work in conformance with the requirements of that Article and applicable provisions in the Technical Standards Manual.
- B. Review Criteria. The permit-issuing authority shall ensure compliance with the standards in Subsection 19-307.5.B and other applicable standards in Section 19-307 when reviewing applications for new and changed driveways. Safe access with respect to grades, intersections, vehicular and pedestrian traffic volume, schools, housing for the elderly and handicapped, other traffic generators, and any other elements to adequately protect and promote the safety of the traveling public shall be considered. In no case shall reasonable ingress and egress to property abutting a City street be denied.
- C. Penalty. Whoever violates any of the provisions of this Section or the rules and regulations made under the authority thereof shall be punished by a fine of not more than one hundred (\$100) to twenty-five hundred (\$2,500) per day as provided in 30-A, M.R.S. §4452.

Sponsor: Councilor Pritchett
Originator: City Manager

CITY OF ROCKLAND, MAINE
ORDINANCE AMENDMENT #10
IN CITY COUNCIL

April 11, 2016

**ORDINANCE AMENDMENT: Defining, Zoning, and Regulating “Grid-Scale”
and “Distributed” Power Generation Facilities**

**THE CITY OF ROCKLAND HEREBY ORDAINS THAT CHAPTER 19, Zoning And
Planning, ARTICLE III, Zoning Ordinance, BE AMENDED AS FOLLOWS:**

Sec. 19-302 Words And Phrases Defined

* * *

Community-Based Renewable Energy Project. An electricity generating facility that generates electricity from an eligible renewable resource as defined in 35-A M.R.S. § 3210 at least 51% of which is owned by one or more qualifying local owners.

* * *

Distributed Power Generation Facility. Power generation equipment which is designed and will be operated to provide or to offset the base or peak power consumed at the site where the power generation equipment is located, or the base or peak power consumed at other sites either in Rockland or in an adjacent municipality that are under the same or affiliated ownership as the site where the power generation equipment is located.

* * *

Grid-Scale Power Generation Facility. Any electrical power generation facility that is designed or will be operated to sell either base load or the peak demand electricity generated under one or more power purchase agreement(s) or other contractual arrangements for consumption by others via the local utility and/or the ISO New England, Inc.-managed transmission and distribution systems, not including a Distributed Power Generation Facility.

* * *

Quasi-Public Uses. Those essential public services, such as, but not limited to, water, electricity, telephone, natural gas, and transportation, whether publicly or privately owned, which are regulated by the Maine Public Utilities Board, the Maine Department of Transportation, or Federal Communications Board, except Grid-Scale and Distributed Power Generation Facilities.

* * *

Sec. 19-304 Zone Regulations

* * *

17. Industrial Zone "I" Regulations

A. Purpose.

The purpose of the Industrial Zone is to permit a variety of industrial developments that are compatible with other residential and non-residential uses in neighboring areas of the City and to permit more than principal use or structure on any lot in the Industrial Zone, notwithstanding the definition of a lot as set forth in Section 19-302.

B. Use Regulations.

In an Industrial Zone "I" no building or land shall be used, and no buildings shall hereafter be erected or structurally altered, unless otherwise provided for in this Article.

(1) Permitted Uses

- (a) Automobile body shops;
- (b) Banks;
- (c) Community and civic buildings and uses for philanthropic reasons;
- (d) Construction services;
- (e) Distribution businesses;
- (f) Living quarters used by watchmen or custodians for protection within the zone;
- (g) Manufacturing, compounding, processing, packing, treatment, or warehousing of goods and products provided such manufacture, compounding, processing, packing, treatment, or warehousing of goods and products, meet the standards of performance herein stated, except as prohibited by Section 19-304-16(B)(2) and 19-304-17(B)(2) hereof;
- (h) Offices accessory to an allowed industrial use or directly or indirectly connected with the manufacture or marketing of products which are created or traded in the zone;
- (i) Quasi-public uses;
- (j) Restaurants, accessory to and located in a structure housing an allowed use, provided that there shall be no drive-up windows or drive-throughs;
- (k) Restaurant, take out only, provided that there shall be no drive-up windows or drive throughs;
- (l) Research and development facilities;
- (m) Retail trade accessory to an allowed industrial use and restricted to those products

manufactured on-site;

(n) Storage of boats in the traditional "winter cover" manner in ground cradles and structures for the storage of incidentals such as riggings, masts, stays, spars, rope, line and sails;

(o) Storage buildings, compartmentalized with individual cubicles less than four thousand (4,000) cubic feet per cubicle;

(p) Transportation facilities;

(q) Wholesale business, any generally recognized;

(r) Accessory uses; and more than one permitted principal use or structure on any lot in the Industrial Zone, notwithstanding the definition of a lot as set forth in Section 19-302. The provisions of Chapter 19, § 19-308, subparagraph 5B(2) allowing the separate sale of principal structures without each lot conforming to frontage or dimension requirements are not applicable under this subsection.

(2) Conditional Uses.

The following uses are permissible with the approval of the Planning Board under the provisions of the Site Plan Review Ordinance (Chapter 16, Article II), regardless of whether or not a structure is used. In granting, denying, and/or imposing conditions, the Planning Board shall undertake a review, applying the process and standards outlined in Chapter 16, Sections 16-201 through 16-206 for site plan review and shall take into consideration the following factors: location, character and natural features of the site and adjoining property; fencing and screening; landscaping, topography and natural drainage; traffic hazards, vehicular access, circulation and parking; pedestrian circulation; signage, and lighting; availability of necessary public services; and compliance with applicable requirements of all City Ordinances, including the Performance Standards of Section 19-316.

(a) Grid-Scale Power Generation Facilities, fueled other than by uranium, enriched uranium, plutonium, solid waste, construction and demolition debris, or treated or engineered wood products, and having a setback of at least 200 feet from any property line shared with a lot on which a residential or mixed-use structure is located.

(32) Prohibited Uses.

The following uses shall be prohibited:

(a) Any use which is annoying, dangerous, detrimental, injurious, obnoxious, or unsightly to the comfort, health, or property of individuals, or of the public, be reason of dust, fumes, gas, noise, odor, smoke, vapor, or vibration;

(b) Any use prohibited in Section 19-304-16-B-(2).

* * *

Sec. 19-309 Special Use Classes~~Exceptions and Exemptions.~~

1. Special Classes. No building may be erected, altered, or used, and no land may be used, for any of the following special use classes in the Residential A and AA zones. In other zones, the Planning Board, applying the procedures and standards set forth in Chapter 16, Article II, may approve such use in any zone other than Residential A or AA zones, upon application, notice, and public hearing, and upon a determination that the use will not be detrimental or injurious to the neighborhood, and that there will be provided fencing and screening adequate to provide visual and auditory barriers from other properties and public rights of way, and that the applicant has demonstrated compliance with all other applicable City ordinances. All owners of property located within 300 feet of the lot lines of the subject parcel shall be notified of the Special Class application, in writing and at least seven days prior to the public hearing, and shall be provided an opportunity to be heard at such hearing.

- A. Cemetery;
- B. Municipal use (not otherwise provided for);
- C. Public utility use (other than as provided by Section 19-304(3)(B));
- D. Stables, public; saddle horses for hire;
- E. Transformer stations;
- F. Wind power generation equipment;
- G. Temporary Buildings that house a use incidental to and reasonably required by an occupant of residential property on the same parcel for a non-commercial purpose (other than the storage or repair of a recreational or fishing vessel, or fishing equipment). Such temporary buildings shall be removed within one (1) year at the owner's expense, unless the permit therefor shall have been extended by the Board for not more than one year. Applications for temporary building permits must be accompanied by a bond, bill of sale, or other instrument acceptable to the City Manager to guaranty the removal and disposal of the building.
- H. Distributed Power Generation Facilities having a capacity to generate electricity at the rate of 500 or more kilowatts AC. Distributed Power Generation Facilities having a capacity of less than 500 kilowatts also may be sited in any zone other than the Residential A or AA zones, but shall not require Planning Board approval. No Distributed Power Generation Facility may be fueled by uranium, enriched uranium, plutonium, solid waste, construction and demolition debris, or treated or engineered wood products. When sited in a residential, rural residential, or transitional business zone or in the Downtown Zone, a Distributed Power Generation Facility that is not a Community-Based Renewable Energy Project must be located either on the same lot as the use to be served by the electricity and/or thermal energy supplied by the Facility, or on an adjacent lot.

* * *

Sec. 19-316 Performance Standards

A. Dust, Fumes, Vapor, and Gases.

(1) General Provisions. Emission of dust, fly ash, fumes, vapors, smoke, or other particulate matter or gases and chemicals which could damage human health, animals, vegetation, or property, or which could soil or stain persons or property, at any point beyond the lot line shall be prohibited. All such activities shall also comply with applicable Federal and State regulations.

(2) Air Pollution From Power Generation Facilities. The Planning Board or other applicable permitting authority shall condition the establishment of any new power generation facility that requires either a state or federal air emissions license or permit upon (A) the applicant's receipt of such license(s) or permit(s), and (B) the applicant's demonstration that the facility shall comply with the applicable emissions limitation:

- (i) A Distributed Power Generation Facility or system that will serve one or more existing commercial, industrial, institutional, municipal, and/or residential facilities shall demonstrate no net increase in the discharge of regulated air pollutants as compared to the annual emissions currently generated to provide electricity and thermal energy for the facility or facilities to be served by the Distributed Power Generation Facility or system, whether such electricity and thermal energy is currently generated on-site or purchased over the grid;
- (ii) Distributed Power Generation Facilities serving one or more new or substantially expanded commercial, industrial, institutional, municipal, and/or residential facilities: a net reduction of total point source discharges of regulated air pollutants by at least 10% of the air pollutants that would be discharged to provide such facility(ies) with electricity from the grid and on-site thermal energy in the absence of the Distributed Power Generation Facility;
- (iii) Grid-Scale Power Generation Facilities: a net reduction of total point source discharges of regulated air pollutants shall be achieved. The excess thermal energy produced in the power generation process must be utilized to replace the thermal energy currently being produced at existing commercial, industrial, institutional, municipal and/or residential facilities in Rockland. The total air emissions from the grid scale power generation facility must be 25% less than the total current permitted or modeled emissions for the facilities to which the grid scale power generation facility would provide thermal energy. If this provision cannot be directly met by utilization of the excess thermal energy, the developer of the grid-scale power generation facility can meet this provision by funding energy efficiency upgrades at buildings and commercial facilities in Rockland that would provide sufficient additional reductions to meet this requirement. Emissions reductions under this provision must be contractual.

For the purposes of measuring emissions for compliance with this subparagraph 2,

emissions shall be calculated and modeled as the sum of all annual emissions for all regulated parameters currently emitted by existing sources as described above, compared to the sum of the annual emissions projected for the proposed power generation system or facility. Emissions calculations for power purchased over the grid shall be based on the current emissions profile for Standard Offer power, as approved by the Maine Public Utilities Commission and in effect at the time the application is found to be complete.

Values for NO_x, SO_x, CO, CO₂, and PM and any other air emissions parameters regulated in air emissions licenses for the existing facility(ies) being offset, or of the proposed new power generation system or facility, shall be included in the analysis. The applicant shall submit data for three years under existing conditions, and the municipal review authority may designate the reference year for permitting purposes. Where air emissions data is not available for existing systems either of two methodologies may be used separately or in combination to model existing emissions. One option is to model emissions based on fuel consumption and characteristics (higher heating values (“HHV”), ash content, etc.) data acceptable to the Planning Board, assuming a system efficiency of not less than 80% for the existing system. The second option is to use EPA-accepted benchmark and reference values for the types of air emissions sources modeled. The applicant shall submit existing conditions and post-construction models to the local permitting authority.

The Code Enforcement Officer shall conduct periodic inspections after issuing a certificate of occupancy or otherwise require the facility’s operator to demonstrate that the applicable air pollutants discharge limitation is achieved and maintained, and may revoke said certificate of occupancy following notice and the operator’s failure to cure and/or seek the imposition of penalties and other remedies available under applicable law. The facility’s operator shall, within three days, report to the Code Enforcement Officer the occurrence of any air emissions license exceedance, and of any notice of violation issued regarding the operation of the Grid-Scale Power Generation Facility.

(3) Cooling Process Water Vapor. The Planning Board or other applicable permitting authority shall condition the site plan approval and/or building permit, as may be applicable, for the operation of any cooling tower or other mechanism utilized to cool water utilized in any power generation or other production facility by exposing such water to the ambient air or by another open cooling process that causes the emission of water vapor upon the applicant’s demonstration that:

- (a) Such cooling process employs best-available control technologies to eliminate or reduce such water vapor emissions. Such technologies must, at a minimum, preclude the emission of water vapor and precipitation beyond the facility’s boundary line in a manner or amount that constitutes a public or private nuisance;
- (b) The cooling tower is equipped with efficient drift eliminators that achieve drift reduction to a maximum of 0.002% of the recirculated water volume for counterflow towers and 0.005% of the recirculated water flow for cross-flow towers;
- (c) The cooling tower is equipped with conductivity probe(s) to automatically determine

the blow-down frequency, and flow meter to measure and totalize flow;

- (d) The cooling tower shall contain a side stream filtration system or other technologies to remove solids while minimizing tower water loss;
- (e) The cooling tower shall incorporate biological and pH control measures that automatically treat the tower water when the tower is in operation;
- (f) The facility has adopted an inspection and maintenance program for the cooling process facility, including periodic disinfection of areas where pooling may occur; and
- (g) Open-system cooling towers having a capacity of under 500 tons shall be set back at least 75 feet from the property line; cooling towers having a capacity of 500 or more tons shall be set back 200 feet from the property line;

Applicant shall submit with its application a dispersion model of the anticipated water vapor plume.

(4) Fugitive Emissions; Gas Piping Safety. The Planning Board or other applicable permitting authority shall require the applicant for site plan approval and/or building permit, as may be applicable, for a power generation facility that is proposed to be fueled by natural gas, propane, or other gaseous fuel source, to demonstrate that the facility has made provisions for minimizing, to the greatest extent that is reasonably practicable, the risk that any structure, infrastructure, storage tank, equipment, or process at the facility will leak, emit, discharge, or otherwise allow to escape any natural gas, propane, or other gaseous fuel into the air, whether internally or externally to the facility. Such facility shall comply with the following codes and standards in effect as of April 11, 2016, or as thereafter amended:

- (a) National Fire Protection Association (“NFPA”) 54 (National Fuel Gas Code);
- (b) NFPA 52 (Vehicular Gaseous Fuel Systems Code);
- (c) NFPA 56 (Standard for Fire and Explosion Prevention);
- (d) NFPA 56PS (Standard for Fire and Explosion Prevention During Cleaning and Purging of Flammable Gas Piping Systems);;
- (e) NFPA 85 (Boiler and Combustion Systems Hazards Code);
- (f) NFPA 86 (Standards for Ovens and Furnaces)
- (g) American National Standards Institute (“ANSI”) Z223.1 (National Fuel Gas Code);
- (h) ANSI 380.1 (Guide for Gas Transmission and Distribution Piping Systems);
- (i) Advanced Systems Management Interface (“AMSE”) B31.3 (Process Piping Standards);
- (j) ASME B31.8 (Gas Transmission and Distribution Piping Systems Code);

(k) Title 32, Maine Revised Statutes ("M.R.S.") Ch. 130 (Propane and Natural Gas Act);

(l) 32 M.R.S. Ch. 139 (Maine Fuel Board);

(m) 02-658 Code of Maine Regulations (Maine Fuel Board Rules);

(n) 35-A M.R.S. Ch. 45 (Natural Gas Pipeline Utilities); and

(o) 35-A M.R.S. Ch. 47 (Gas Utilities).

The facility's operator shall hire a Professional Engineer to inspect and approve the contractors installation and ensure code compliance. Fuel gas supply systems shall be monitored with combustible gas monitors with remoting alarming back to the facility. The combustible gas monitors must be inspected and tested on a monthly basis as part of a preventive maintenance schedule and program.

The facility operator shall strictly adhere to the above codes and standards pertaining to operations, maintenance, and testing on an annual basis. Such maintenance procedures, inspections, and testing shall be properly documented with formal procedures, test sheets with sign-offs, and inspections by the local authority. The annual testing shall include the following tests at a minimum:

- (i) Verification of the operation of the combustible gas monitoring system;
- (ii) Pressure-testing of all natural gas or propane supply piping downstream of the gas utility demarcation point to the facility. Pressure tests shall comply with NFPA 54 or 56, based on system pressure. The pressure test shall be witnessed by the local authority and signed off. The test report shall be submitted to the City within 5 days of completing the test.

The Code Enforcement Officer and/or the Fire Chief or his designee shall conduct periodic inspections after issuing a certificate of occupancy or otherwise require the facility's operator to demonstrate that the applicable gas piping safety provisions are complied with, and may revoke said certificate of occupancy following notice and the operator's failure to cure and/or seek the imposition of penalties and other remedies available under applicable law. The facility's operator shall, within three days, report to the Code Enforcement Officer any fugitive emissions discharge.

B. Odors.

A. No land use or establishment shall be permitted to produce offensive or harmful odors perceptible beyond their lot lines, measured either at ground level of habitable elevation. For purposes of this section, an "offensive odor" is defined as the minimum concentration in air of a gas, vapor, or particulate matter that can be detected by the olfactory systems of the Odor Committee per the Rockland City Code, Chapter 10, Article III.

B. Any proposed use which may emit odoriferous substances must include detailed plans to mitigate such to the Planning Board before the appropriate permit is granted

C. Lighting.

Statement of Purpose: Ensure appropriate outdoor lighting by addressing the issues of safety, efficiency, the environment and aesthetics.

- (1) Definitions: For the purposes of this Section, terms used shall be defined as follows:
 - (a) Authority having jurisdiction – The Planning Board or Code Enforcement Officer.
 - (b) Direct Light – Light emitted directly from the lamp, off the reflector or reflector diffuser, through the refractor or diffuser lens, or from a luminaire.
 - (c) Fixture – The assembly that houses the lamp(s), including but not limited to housing, mounting bracket or pole socket, lamp holder, ballast, reflector or mirror, and/or a refractor or lens.
 - (d) Flood or Spot Luminaire – Any luminaire that incorporates a reflector or a refractor to concentrate the light output into a directed beam.
 - (e) Indirect Lighting – Direct light that has been reflected or scattered off other surfaces.
 - (f) Luminaire Height – The vertical distance from the ground directly below the centerline of the luminaire to the lowest direct-light-emitting part of the luminaire.
 - (g) Lamp – The component of a luminaire that produces light.
 - (h) Lumen – A unit of luminous flux. One foot-candle is equal to one lumen per square foot. For the purposes of this section, the lumen-output values shall be the initial lumen output ratings of a lamp.
 - (i) Luminaire – A complete lighting system, including lamp(s) and/or fixture(s).
 - (j) Outdoor Lighting – Nighttime illumination of an outside area or object by any man-made device located outdoors that produces light by any means.
 - (k) Temporary Outdoor Lighting – Outdoor lighting in place for less than fourteen (14) days, with at least eighty (80) days passing before being used again.

(2) Regulations: Unless determined to be a safety hazard or in violation of any state or federal law, all outdoor lighting installed in the City of Rockland shall comply with this section, except for the following: lighting installed and maintained for public safety by Municipal, State or Federal government; approved signs; external illumination of flags; approved lighting for athletic fields; temporary outdoor lighting; holiday lighting; luminaires with a lamp or lamps rated at a total of 2,000 lumens or less.

- (a) No luminaire shall produce a stray, dazzling light or reflection onto neighboring

residential properties, or onto any public road so as to impair the vision of any driver.

- (b) Luminaires shall be shielded or hooded so that the lighting elements are not exposed to normal view by motorists, pedestrians, or from adjacent buildings. No luminaire shall emit any direct light above a its horizontal plane. The Planning Board may grant exceptions for lights that are aesthetically consistent with decorative streetlights and located on parcels adjacent to such streetlights.
- (c) No flood or spot luminaire of any lumen output rating shall be aimed, directed or focused toward any adjacent or nearby residential parcel.
- (d) Rather than leaving security lights on, the use of motion sensors is encouraged.
- (e) Direct or indirect illumination shall not exceed one-half (1/2) foot-candles upon abutting residential properties.
- (f) Unless otherwise approved by the authority having jurisdiction, luminaire height, including the base, shall not exceed twenty-five (25) feet in non-residential areas and fourteen (14) feet when adjacent to residential zones or neighborhoods. Exceptions may be granted only when it can be demonstrated that the intent of this section will still be substantially met.

(3) Existing Non-Conforming Luminaires:

- (a) The continued use of non-conforming luminaires legally existing as of the effective date of this section shall be permitted unless determined to be a safety hazard or in violation of any State or Federal laws.
- (b) Non-conforming luminaires replaced or moved after the effective date of this section shall comply with the provisions of this section. Eff: 8/9/06

D. Noise and Vibration.

(1) Excessive noise and/or vibration at unreasonable hours shall be muffled so as not to be objectionable due to intermittence, beat frequency, shrillness, or volume.

(2) No use in any zone may generate any ground transmitted vibration that is perceptible to the human sense of touch measured at the lot line of the complainant.

(3) The maximum permissible sound pressure level of any continuous, regular, or frequent source of sound produced by an activity shall be as established by the time period and type of zone listed below for all uses except Grid-Scale Power Generation Facilities:

Zone	7 a.m. - 9 p.m.	9 p.m. – 7 a.m.
Industrial, Business Park and WF1 thru WF5	<u>75</u> <u>dB</u> <u>decibels</u>	60 <u>dB</u> <u>decibels</u>

Rural Residential <u>1 and 2</u> , Commercial 1, Commercial 2, Commercial 3, Plaza Commercial, Downtown	75 <u>dB</u> <u>A</u> <u>dec</u> <u>ibels</u> 55 <u>dB</u> <u>A</u> <u>dec</u> <u>ibels</u>
Transitional Business 1, Transitional Business 2	65 <u>dB</u> <u>A</u> <u>dec</u> <u>ibels</u> 50 <u>dB</u> <u>A</u> <u>dec</u> <u>ibels</u>
Transitional Business 3, Transitional Business 4, Neighborhood Commercial, Resort, Residential <u>AA</u> , <u>A</u> , and <u>B</u> Zones	55 <u>dB</u> <u>A</u> <u>dec</u> <u>ibels</u> 45 <u>dB</u> <u>A</u> <u>dec</u> <u>ibels</u>

Noise from Grid-Scale Power Generation Facilities shall be measured utilizing the Octave Band Center Frequency of Measurement, as follows:

<u>Octave Band Center Frequency of Measurement</u>	<u>Grid-Scale Power Generation Facilities</u>	
	<u>Property Line</u>	<u>Residential Zone Line</u> ¹
<u>31.5</u>	<u>83 dBA</u>	<u>72 dBA</u>
<u>63</u>	<u>82 dBA</u>	<u>71 dBA</u>
<u>125</u>	<u>77 dBA</u>	<u>65 dBA</u>
<u>250</u>	<u>73 dBA</u>	<u>57 dBA</u>
<u>500</u>	<u>67 dBA</u>	<u>51 dBA</u>
<u>1000</u>	<u>61 dBA</u>	<u>45 dBA</u>
<u>2000</u>	<u>57 dBA</u>	<u>39 dBA</u>
<u>4000</u>	<u>53 dBA</u>	<u>34 dBA</u>
<u>8000</u>	<u>50 dBA</u>	<u>32 dBA</u>
<u>Single Number Equivalent</u>	<u>70 dBA</u>	<u>55 dBA</u>

¹ “Residential Zone Line” means the nearest point on the property line of the nearest parcel of land that is in a residential zone, in every direction.

_____ Sound pressure levels shall be measured on a sound level meter at all lot lines of the site, at a height of at least four (4) feet above the ground surface. Noise shall be measured with a

sound level meter and frequency weighing network meeting the standards prescribed by the American National Standards Institute. The levels specified may be exceeded by the (10) decibels (dBs) for a single period, no longer than fifteen (15) minutes, in any one (1) day.

(4) Where the emitting and receiving premises are in different zones, the limits governing the stricter zone shall apply to any regulated noise or vibration entering that zone.

(5) Noise or vibration created by construction and maintenance activities between 7 a.m. and 9 p.m. are exempt from the requirements of paragraphs (2) and (3) above. Construction activities on a site abutting any residential use between the hours of 9 p.m. of one day and 7 a.m. of the following day are prohibited, unless exempted pursuant to Subparagraph (7) shall abide by the maximum sound levels allowed for the Commercial 1 Zone.

(6) These noise and vibration regulations are enforceable by law enforcement officers and by the Code Enforcement Officer, who may measure noise or vibration levels and who shall report documented violations to the police. For the purposes of enforcement, sounds exceeding the limits established in this section shall be deemed to constitute "loud and unreasonable noise" under Title 17-A M.R.S. § 501-A.

(7) The following uses and activities shall also be exempt from paragraphs (2) and (3) above:

- (a) the noise or vibration of safety signals, warning devices, emergency pressure relief valves, and any other emergency device;
- (b) normal traffic noise or vibration on public streets or noise or vibration created by airplanes, railroads, and farm or timber harvesting machinery;
- (c) noise or vibration created by refuse or solid waste collection, provided that the activity is conducted between 6 a.m. and 7 p.m.;
- (d) emergency construction or repair work by public utilities, at any hour;
- (e) noise or vibration created by any recreational activities which are permitted by law and for which a license or permit has been granted by the City including, but not limited to, parades, sporting events, concerts and firework displays;
- (f) vehicle and/or equipment involving municipal services at any hour;
- (g) road construction, reconstruction, and/or paving activities by or on behalf of the City of Rockland or the State of Maine, or as part of road restoration work following emergency construction or repair work by or on behalf of a public utility;
- (hg) noise and vibration created by ordinary residential maintenance activities such as lawn mowing or snow throwing between the hours of 6 a.m. and 9 p.m.

E. Refuse Disposal.

All solid and liquid wastes shall be disposed of on a timely basis and in a manner provided for by Federal, State, and local regulation. All materials stored outdoors shall be stored in such a manner as to prevent the breeding and harboring of insects, rats, animals, or other vermin. All such wastes shall be stored so as to prevent access to or disposal by stray animals. This shall be accomplished by enclosures in containers, raising material above ground, separation of material, prevention of stagnant water, extermination procedures, or other means. Outdoor storage containers and areas shall be screened from public view. Walls, fencing, screening dense plant material, or a combination of material can be used to achieve this intent.

F. Water Quantity, Quality, and Discharge-Impacts.

(1) Water Quantity: New power generation and other industrial land uses, and new processes serving existing industrial uses, that are permitted or commenced on or after April 11, 2016, shall comply with the following standards affecting the quantity of water consumed at such power generation or other industrial facility:

- (a) Cooling, steam generation, hot water distribution, and other processes or systems that utilize unprocessed water for heat transfer or other mechanical, industrial, or production purposes shall be designed and engineered to recycle or reuse at least 80% of the unprocessed source water drawn from the water company, well, aquifer, or other potable water supply source serving the facility. No such minimum reuse or recycling requirement shall be imposed where the source water is processed municipal or other wastewater;
- (b) No single facility may draw or consume more than two hundred, fifty thousand (250,000) gallons of unprocessed source water per day; and
- (c) To assure the maintenance of sufficient flows for fire suppression and other uses throughout the year, including during periods of drought or reduced water supply, the operator of a facility located in or adjacent to the Rockland Industrial Park shall either (i) have demonstrated to the satisfaction of the permitting authority that there will be no reduction in the available supply and flows for such other uses, or (ii) provided for sufficient on-site water storage to meet the facility's requirements without reducing the water supply available for such other uses.

Operators of such facilities shall monitor, measure, and record their water usage, recycling, and discharge levels and, at least monthly, report the same to the Code Enforcement Officer.

(2) Water Quality – Materials Storage:

(a) No activity shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quality, obnoxiousness, toxicity, or temperature that runoff, seep, percolate, or wash into surface or ground waters so as to contaminate, pollute, or harm such waters or use nuisances, such as

objectionable shore deposits, floating or submerged debris, oil, scum, color, odor, taste, or unsightliness, or be harmful to human, animal, plant, or aquatic life.

(b2) All above ground storage facilities fuel, chemical or industrial wastes, and biodegradable raw materials (excluding non-commercial compost heaps), shall be completely enclosed by an impervious dike, which shall be high enough to contain the total volume of liquid kept within the storage area, plus the rain falling into this storage area during a twenty-five (25) year storm, so that such liquid shall not be able to spill or seep onto the ground surrounding the paved storage area. Storage tanks for home heating oil, and diesel fuel, not exceeding two hundred and seventy-five (275) gallons in size, are exempt from this requirement in situations where neither a high seasonal water table (within fifteen (15) inches of the surface) nor rapidly permeable sandy soils are involved.

(c3) All below ground tanks must meet the standards of the Maine Department of Environmental Protection.

(3) Water Discharge: Water and wastewater discharges into any sanitary sewer must comply with the applicable national and state pretreatment standards, local discharge restrictions, and other limitations set forth in Chapter 14, Article IV. No person or entity may discharge any pollutant to any storm sewer without first obtaining a valid National Pollutant Discharge Elimination System ("NPDES") permit from the Environmental Protection Agency or Department of Environmental Protection for such discharge, and no such discharges may exceed the applicable limit(s) imposed by such NPDES permit.

G. Landscaping.

(1) General Landscape Standards

(a) Purpose. The purpose of the following landscape standards is to protect the public welfare by assuring that:

i. the landscape shall be preserved in its natural state insofar as practical, by minimizing tree removal and grade changes;

ii. landscaping shall be designed to soften, screen, or enhance the physical design of structures and parking areas to avoid the encroachment of the proposed use on abutting land uses;

iii. plant materials are appropriate to Maine climatic conditions and the functions of the areas in which they are used;

iv. plant materials are of a size and condition that will allow them to establish themselves, mature, and survive in a healthy and attractive manner;

v. landscaping elements and the areas in which they are established are maintained in a clean, healthy, and attractive condition; and

vi. landscaping is not placed in such a way as to pose a safety hazard and plantings are designed so as not to interfere with sight distance along a right-of-way and traffic safety.

(2) Types and Uses of Landscape Elements

For the purpose of this ordinance:

(a) a canopy tree is a deciduous tree that reaches at least thirty-five (35) feet or more in height at maturity. Canopy trees are used to help create identity and establish the character of an area, to help define large spaces, and to provide shade in the hotter months of the year;

(b) an evergreen tree is a tree that reaches at least thirty-five (35) feet or more in height at maturity. Evergreen trees are used to create year-round interest with their dominant forms and color, to screen or direct views, act as windbreaks, and to provide a backdrop for other elements of a site. Where evergreen trees are installed in buffers, the installed heights should vary at a minimum from four (4) to twelve (12) feet to add greater variety and landscape interest;

(c) an understory tree reaches ten (10) feet to thirty-five (35) feet at maturity. Understory trees are used to provide eye-level landscaping features that help to scale down larger architectural and landscape elements, to define minor spaces, and to provide a variety of form, color, and accents to a site;

(d) shrubs have mature heights of two (2) to ten (10) feet. They are used to form physical and visual barriers, add seasonal interest and color, and help define the scale and location of buildings;

(e) miscellaneous plantings include ground covers, vines, perennials, annuals, bulbs, and other herbaceous material. They are used to add seasonal color, form patterns on the ground plane, and add to the humanizing of the site.

(3) Minimum Size Standards. The plant materials defined in paragraph (2) shall meeting the following minimum size standards at time of installation, with calipers measured at diameter at four (4) feet above ground.

Canopy trees	1½" caliper
Evergreen trees	4' height
Understory trees	1½" caliper
Shrubs	18" - 24" height
Ground covers	2 year old plants

(4) Plant Selection. Plant materials shall be selected for appearance, durability, and tolerance to air pollution; native trees and shrubs shall be planted whenever possible. All plantings required under this section shall be of a type and species appropriate for soil types and climatic conditions in Rockland.

(5) Amenities and Stone Walls. Pools, sculptures, benches, and walkways may be used to complement plant materials. In cases where a traditional stone wall exists, it should be conserved or rebuilt in another location.

(6) Disturbed areas. Where buffers are not required, all disturbed areas not to be used as parking or building footprint shall be planted to lawn or left in their natural vegetated state as a minimum requirement.

(7) Maximum Slope. A maximum maintainable slope of three horizontal to one (3:1) vertical should be established for both the front and back of berms. Where room permits, a flat top area, four (4) feet in width should be provided.

(8) Fencing. Fencing materials should complement the architectural style of the buildings of the lot upon which they are erected. Fences shall not be used in locations that will obscure views of the water from public streets.

(9) Maintenance.

(a) All plantings and buffer yards shall be maintained in a good and healthy condition. The Maine Erosion and Sedimentation Control Handbook for Construction – Vegetative Measures, developed by the Maine Department of Environmental Protection shall be used as a guide. Fencing and berms shall be durable and properly maintained at all times by the owner. All landscaping elements shall be so located with respect to property boundaries to allow access for maintenance on both sides without intruding upon abutting properties.

(b) Plants required or recommended by this subsection or plants that are part of an approved Plan that die shall be replaced within one (1) growing season.

(10) Parking Areas. Landscaping shall be designed to accommodate attractive and safe pedestrian circulation patterns, and allow good visibility of oncoming pedestrians and vehicles throughout the parking area.

(a) Landscaping Within the Parking Areas.

Landscaping areas shall be provided within parking areas to provide shade and visual relief from broad expanses of pavement and to channelize and separate areas for pedestrian and vehicular circulation.

i. In addition to required perimeter landscaping, at least five (5) percent of the gross area of all parking lots with twelve (12) or more parking spaces shall be landscaped. Existing parking lots shall be exempt from this requirement although landscaping should be provided to the greatest extent possible.

ii. The recommended landscaping within the parking area should include a minimum of two (2) canopy trees, one (1) understory tree, and five (5) shrubs for every twelve (12) parking spaces or fraction thereof. For every mature canopy tree that exists on the proposed site of a

parking lot prior to the parking lot's development and that is retained and integrated into the parking lot's design, the number of new canopy or understory trees may be reduced by two (2). If any such retained tree dies within five (5) years of the date of the building use permit issued for the development, it shall be replaced with two (2) similar trees meeting the standards of this ordinance.

iii. The landscaping shall be:

(i) in planting areas at least ten (10) feet wide to accommodate canopy and/or understory trees. Planting areas should be located to demarcate the ends of parking rows, avoiding long rows of parked cars, and to channel pedestrian circulation. Planting areas should be edged with a six (6) inch continuous vertical curb or wheel stops to prevent vehicles from overhanging into planting areas and designed to allow efficient snow removal. Planting areas shall be oriented to maximize pedestrian safety and convenience;

(ii) located to break up parking areas into smaller areas of no more than fifty (50) spaces each;

(iii) designed to accommodate snow plowing and storage without damage to the plants and trees.

iv. Landscaping shall be provided except in the case of automobile drop-off loading area, or a vehicular entry in to a building, in order to enhance the appearance of the site and avoid impact to occupants from exhaust fumes and noise. The landscaped area should be no less than fifteen (15) feet deep from all buildings, except in commercial and industrial zones where the depth need be no more than four (4) feet, provided that the building footprint is less than twenty-five hundred (2,500) square feet. The area shall be landscaped with shrubs, groundcover, and trees where appropriate, and may include a walkway if the area is fifteen (15) feet deep or more.

v. To accommodate circumstances where the recommended landscaping may not fit site conditions, an applicant may submit an alternative plan for the siting of landscaped areas provided that an equal or greater amount of landscaped area is provided than would be otherwise required.

(b) Perimeter Landscaping.

Parking lots shall be landscaped adjacent to other uses and rights-of-way with trees, shrubs, fencing, and earth berming to avoid the impact of glare, headlights, parking lot lights, noise, and dust and to protect and enhance visual character as follows:

i. Abutting a public right-of-way:

(i) Where a parking area that includes six (6) or more parking spaces abuts a public right-of-way, a continuous landscaped strip shall be established between the right-of-way boundary line and the parking area and shall be maintained in good condition. It may be interrupted only by a driveway meeting the standards of this ordinance. In areas other than the

Downtown, Commercial 3, Plaza Commercial, Business Park, and Rural Residential 1 zones, when the parking area abuts an arterial or collector street, the perimeter planting shall be at least ten (10) feet wide and should be planted with at least three (3) canopy trees, four (4) understory trees, thirty (30) shrubs, and six (6) evergreen trees per one hundred (100) linear feet of street frontage or fraction thereof exclusive of the width of the driveway. When it abuts any other right-of-way, it shall be at least six (6) feet wide and should be planted with at least two (2) canopy trees, two (2) understory trees, twenty (20) shrubs, and four (4) evergreen trees per one hundred (100) linear feet of street frontage exclusive of the width of the driveway. The number of trees for frontages less than one hundred (100) feet shall be in proportion to the above specifications. In the Plaza Commercial, Business Park, and Rural Residential 1 zones the landscaped strip shall be at least ten (10) feet wide and should be planted with at least three (3) canopy trees, six (6) evergreen trees, four (4) understory trees, and thirty (30) shrubs per one hundred (100) linear feet of length exclusive of the width of the driveway. The number of trees for frontages of less than one hundred (100) feet shall be in proportion to the above specifications. The plantings shall be designed and located so as not to interfere with sight distance along the right-of-way and traffic safety.

(ii) In the Downtown Zone, the landscaped strip shall be at least six (6) feet wide and should be planted with at least three (3) canopy or evergreen trees, four (4) understory trees, and twenty (20) shrubs per one hundred (100) linear feet of street frontage exclusive of the width of the driveway. The number of trees for frontages of less than one hundred (100) feet shall be in proportion to the above specifications.

ii. Where a commercial parking facility or a parking area serving a nonresidential use abuts a residential zone or a lot wholly or partially in residential use, a continuous landscaped strip shall be established between the adjoining zone or use and the parking area at least ten (10) feet wide and shall be maintained in good condition. It may be interrupted only by a single pedestrian pathway at each abutting property line no more than five (5) feet wide. The landscape strip shall be planted with at least three (3) canopy trees, four (4) understory trees, thirty (30) shrubs and six (6) evergreen trees per one hundred (100) linear feet of frontage. The number of trees for frontage less than one hundred (100) feet shall be in proportion to the above specifications. For every mature canopy or evergreen tree existing in the area prior to construction of the parking lot and preserved within the buffer area, the required number of new trees may be reduced by two (2). If any such retained tree dies within five (5) years of the date of the building permit issued for the development, it shall be replaced with two (2) similar trees meeting the standard of this ordinance. As an alternative, a dense hedge or screen composed of at least 2/3 evergreen plantings four (4) feet or more in height at the time of planting of a type which will reach six (6) feet or more in height within five (5) years may be substituted. If the land is bermed to a height of two (2) feet or more, the height of the plantings may be adjusted.

H. Buffering and Screening

(1) Purpose. The following buffer standards are intended to protect the public welfare. Buffers of plantings, berms, and/or walls, fences or natural features should:

(a) separate conflicting land uses, zones or activities from one another;

- (b) create visual barriers which obscure buildings, signs, headlights, glare, vehicles or other modifications of the landscape;
- (c) reduce the impact of noise;
- (d) reduce air pollution, wind, dust, dirt, and litter and contribute to healthy air and water quality;
- (e) help prevent undesirable access to dangerous areas; and
- (f) direct the eye to more attractive views in keeping with the planned character of the City.

(2) General Standards.

(a) Unless otherwise stated, buffer requirements shall apply to perimeter property lines of projects and along arterial and collector streets in the Commercial 1, Commercial 2, Commercial 3, Plaza Commercial, Industrial, Business Park, and Rural Residential 1 zones, and in master planned developments. The perimeter property lines of projects shall be considered to be the perimeter lines of:

- i. business or industrial parks;
- ii. master planned residential, commercial, or mixed use developments;
- iii. single commercial, business, or industrial developments not associated with a subdivision or park or master planned development.

(b) Natural features shall be maintained whenever possible to meet buffer requirements. When natural features such as topography, gullies, stands of trees, shrubbery, rock outcrops, do not exist or are insufficient to provide an effective buffer, landscaped buffers shall be created. Indigenous plantings shall be used whenever possible.

(c) Although this ordinance does not prohibit landscaping within a street or street right-of-way, no part of the right-of-way shall be used to satisfy buffer requirements.

(d) Landscaping and Maintenance

See Section G, above.

(3) Multifamily and Nonresidential Uses Abutting a Residential Zone.

(a) The required side and back yards of nonresidential uses that abut properties in residential zones, or of multifamily uses that abut properties in single family residential use, shall be retained in their natural vegetated state to the maximum extent possible to provide a visual

screen between uses. The buffer may be part of the setback.

(b) Where natural buffering does not exist, or is not possible to be retained, or is not sufficient to achieve an effective, complete visual screen, the required side and back yards shall be landscaped to provide a visual screen between uses. It may be interrupted only by a single pedestrian pathway at each abutting property line no more than five (5) feet wide. In areas other than the Industrial, Downtown, Transitional Business 3, Commercial 3, Plaza Commercial, Business Park, and Rural Residential zones, the landscaped strip shall be at least ten (10) feet wide and shall be planted with at least three (3) canopy trees and twelve (12) evergreen trees, four (4) understory trees, and thirty (30) shrubs per one hundred (100) linear feet of length exclusive of the width of the pathway. The number of trees for frontages less than one hundred (100) feet shall be in proportion to the above specifications.

For uses that are subject to site plan review in the Industrial Park, the landscaped strip at sites approved or substantially reconstructed after April 11, 2016, shall be at least ten feet wide and shall be planted with at least one evergreen tree such as Norway Spruce every ten feet to create a continuous, dense screen and maintained and not pruned so as to retain such screen from the ground to the peaks of the trees.

In the Downtown Zone, the landscaped strip shall be at least six (6) feet wide and shall be planted with at least three (3) canopy evergreen trees, four (4) understory trees and fifteen (15) shrubs per one hundred (100) linear feet of length exclusive of the width of the pathway. The number of trees for frontages less than one hundred (100) feet shall be in proportion to the above specifications.

In the Transitional Business 3, Commercial 3, Plaza Commercial, Business Park, and Rural Residential zones, the landscaped strip shall be at least thirty (30) feet wide and shall be planted with at least three (3) canopy trees, twelve (12) evergreen trees, four (4) understory trees, and thirty (30) shrubs per one hundred (100) linear feet of length exclusive of the width of the pathway. The number of trees for frontages of less than one hundred (100) feet shall be in proportion with the above specifications.

For every mature canopy or evergreen tree existing prior to development and retained within the buffer area, the required number of new trees may be reduced by two (2). If any such retained tree dies within five (5) years of the date of the building permit issued for the development, it shall be replaced by two (2) similar trees meeting the standard of this ordinance.

(4) Front Yards of Multifamily and Nonresidential Uses. The required front yards of multifamily and nonresidential uses shall be maintained in a landscaped condition.

(5) Exposed Areas and Areas for Commercial Outdoor Storage. Exposed machinery installation, sand and gravel extraction operations, and areas for the storage and collection of discarded or uninspected vehicles, auto parts, metal or any other articles of salvage or refuse, shall have sufficient setbacks and screening to provide a visual buffer sufficient to minimize their adverse impact on surrounding properties. At a minimum, the screening shall include dense evergreen hedges, four (4) feet or more in height at the time of planting, of a type that shall reach

six (6) feet or more in height within five (5) years. If the land is bermed to a height of two (2) feet or more, the height of plantings may be adjusted. All such plantings shall be maintained as an effective, complete visual screen. Where a potential safety hazard to children would be likely to arise, physical barriers sufficient to prevent small children from entering the premises shall be provided and be provided and be maintained in good condition.

(6) Areas for Outdoor Sales and Automobile Repair in the Rural Residential 1 Zone. Areas for outdoor sales and automobile repair in the Rural Residential 1 Zone shall have sufficient setbacks and screening to provide a visual buffer sufficient to minimize their adverse impact on surrounding properties. At a minimum, the screening shall include a dense evergreen hedge, four (4) feet or more in height at the time of planting, of a type that will reach six (6) feet or more in height within five (5) years. If the land is bermed to a height of two (2) feet or more the height of plantings may be adjusted. All such plantings shall be maintained as an effective, complete, visual screen. Where a potential safety hazard to children would be likely to arise, physical barriers sufficient to prevent small children from entering the premises shall be provided and be maintained in good condition.

I. Storage of Materials and Machinery.

(1) Bulk Storage; Junkyards. All outside storage areas, areas used for the storage or collection of discarded automobiles, auto parts, metals, and any other articles of salvage or refuse shall have sufficient setbacks and screening to provide a visual buffer sufficient to minimize their impact on other land uses and properties in the area. All materials stored outdoors shall be screened from public view. Walls, fencing, screening dense plant material, or a combination of material can be used to achieve this intent.

(2) Attractive Nuisances. Where a potential safety hazard to children would likely arise, physical barriers sufficient to prevent small children from entering the premises shall be provided and maintained in good condition.

(3) Fuels And Hazardous Materials. Above-ground fuel (including, without limitation, propane, liquefied natural gas, compressed gas, oil or other petroleum product, and biomass feedstock or products) storage, chemical storage (including without limitation ammonia, urea, or other compounds utilized for air emissions treatment, process water treatment, or cooling water treatment), hazardous materials storage areas, tanks, or other facilities serving any commercial or industrial use, and processes utilizing any hazardous materials shall be (a) adequately screened so as to prohibit public access and provide visual and safety barriers, (b) included in an emergency response plan for the facility that is reviewed and approved by the Fire Chief or his designee, and (c) subject to periodic inspection by the Fire Chief or his designee pursuant to Chapter 7, Article II or other applicable provision of law.

J. Preservation of Water Views.

Development in Transitional Business 2 and Transitional Business 3 zones shall preserve water views to the maximum extent feasible. In the Transitional Business 3 zone, a fifty (50) foot wide space between buildings at least every one hundred fifty (150) feet shall be provided to

afford views of the waterfront from public rights-of-way.

K. Transportation, Traffic, and Curb Cuts.

In the Commercial 1, Commercial 2, Commercial 3, Plaza Commercial, Transitional Business 1, Transitional Business 2, Transitional Business 3, Neighborhood Commercial, Business Park, and Industrial zones:

(1) development proposals shall include a program identifying all proposed traffic controls, parking areas, interior traffic circulation and traffic interface with public highways and pedestrian and bicycle safety.

The Program shall demonstrate that additional traffic generated by the project itself can be accommodated on existing public highways or that satisfactory improvements, if necessary, will be made at the developer's cost. The Planning Board may require a Traffic Impact Study also at the developer's expense. Where traffic studies indicate, deceleration lanes and/or turning lanes will be provided.

Development proposals shall discourage conventional strip development by the use of centers or clusters of development, shared accessways, and buffer zones.

(2) Whenever possible, development proposals shall use access from existing side streets where they abut the premises on secondary street frontage in cases where they will not create a hazardous nuisance to those sending streets. Where this access is not available, a single accessway or curb-cut should provide access to the entire parcel. All lots from the same original parcel should be accessed from this central point.

(3) On or after April 11, 2016, prior to permitting new land uses that are to utilize as fuel or for other purposes compressed natural gas ("CNG"), biomass (e.g., wood chips, wood pellets, sawdust, straw, or other bulk organic matter), or municipal or other solid waste transported to the site by ten or more trucks each having a gross vehicle weight rating ("GVWR") of 60,000 lbs. or more per day, the review authority shall require the applicant to prepare and submit a traffic study acceptable to such review authority that provides for the mandatory routing of such delivery trucks via routes and at times of day that minimize their impact on neighborhoods and roads.

L. Proposals of Exceptional Merit.

~~The above alternative Performance Standards shall be adhered to, however, proposals of exceptional merit that meet the spirit of these standards may be accepted by the Planning Board.~~

L. Inspection & Maintenance Programs. Developers or Operators of Grid-Scale or Distributed Power Generation Facilities shall prepare, obtain City Rockland approval of, and comply with an Inspection & Maintenance Program for the facility. Each such program shall include, at minimum:

- (1) Annual inspections, and documentation of needed and completed repairs;
- (2) A maintenance schedule, identifying elements requiring routine maintenance, the maintenance to be performed, and the frequency of such maintenance activities;
- (3) Noise testing prior to and at least annually after obtaining a Certificate of Occupancy for the facility, and upon request by the Code Enforcement Officer;
- (4) Annual testing to assure continued compliance with federal or state air emissions license(s) or permit(s) and any air emissions reductions required under Subsection 19-316(A)(2), when applicable;
- (5) Cooling tower and chemical tower treatment maintenance practices;
- (6) Annual pressure testing and inspections of natural gas or propane supply piping, in the presence of the Fire Chief or his designee; and
- (7) All other testing and inspections required under Chapter 19 or applicable law or regulation.

In the event of non-compliance with any required component of the Inspection & Maintenance Program, the Code Enforcement Officer shall give notice of such default and, no sooner than ten days following such notice, may revoke the operator's certificate of occupancy upon the operator's failure to cure said non-compliance and/or seek the imposition of penalties and other remedies available under applicable law.

Sponsor: Councilor Pritchett
Originator: Planning Board

**CITY OF ROCKLAND, MAINE
ORDINANCE AMENDMENT #11
IN CITY COUNCIL**

April 11, 2016

ORDINANCE AMENDMENT: Authorizing Site Plan Review of Power Generation Facilities, And Establishing Specific Bases for Waiving Landscaping and Buffering Standards

THE CITY OF ROCKLAND HEREBY ORDAINS THAT CHAPTER 16, Site Plan And Subdivision Review, ARTICLE II, Site Plan Review Ordinance, BE AMENDED AS FOLLOWS:

Sec. 16-201 Projects Reviewed; Effect on Action by Code Enforcement Officer and Board of Appeals

* * *

Notice Required. All property owners within three hundred (300) feet of the lot lines of any proposed change of use under this section shall be notified in writing at least ten (10) days prior to consideration of the change of use by the Planning Board. When the use of the lot that is the subject of a site plan application is a grid-scale power generation facility, notice of the application shall be provided to the Knox County Emergency Management Agency for distribution to municipalities and, when the lot abuts a town line, to the Selectmen and/or Manager of such adjacent town, whether or not such use constitutes a change of use. Submission deadlines shall be the same as for any Site Plan Review.

Sec. 16-201.1 Exceptions to Review Requirements

1. New Structures or additions or changes in use will not be reviewed under the Site Plan Review Ordinance if in any five year period the new structure or new addition or the structure within which a change of use is to be located is:

A. Under 600 square feet in gross floor area and does not exceed 20 feet in height, or

B. Located in the City of Rockland Industrial Park, except grid-scale and distributed power generation facilities.

* * *

Sec. 16-203 Elements of the Site Plan

* * *

18. Technical Review Fee. The Planning Board, in the review of any application, may refer said application presented to it to such engineer, traffic professional, environmental expert, financial expert, facilities safety expert, attorney or other professional that the Board shall deem reasonably necessary to enable it to review said application as required by law. Such review shall not be a substitution for any technical submissions as required by Ordinance or requested by the Board, but rather shall constitute a third party review of any of the applicant's submissions. The Board may waive such third party review if it is determined that the scale or nature of the project does not warrant it. Fees charged by such professionals shall be in accord with fees usually charged for such services in the region and pursuant to a contractual agreement between the City and such professional. All such charges shall be paid by the City through an escrow account established in accordance with Section (19) below.

* * *

Sec. 16-204 Standards

A site plan shall be approved unless in the judgment of the Planning Board one or more of the following conditions are found to exist:

1. Traffic. The provisions for vehicular loading, unloading, and parking, and for vehicular and pedestrian circulation on the site and onto adjacent public and private streets and ways will create hazards to safety, or will impose a significant burden upon public facilities. There shall be a presumption that sidewalks are required. However, in those cases where the Planning Board makes a specific finding that, due to the inadequacy or lack of connecting sidewalks adjacent to the proposed project, together with circumstances within the proposed project which render the immediate construction of sidewalks inappropriate, the Planning Board may substitute one of the following conditions:

- A. It may require a reasonable payment from the applicant to be used to link the proposed project to the City's sidewalk system when the system reaches the proximity of the project.
- B. It may waive the requirement either partially or entirely.
- C. It may make reasonable provision for the construction by the developer of sidewalks serving the project, whether or not the sidewalks are actually within the project.

2. Compatibility with Other Uses; Burden on Public Facilities. The size and location of proposed building and structures and the proposed uses thereof will be detrimental or injurious to other private or public development in the neighborhood or will impose significant burdens upon public facilities.

3. Landscaping. The provisions of on-site landscaping and screening do not provide adequate protection to neighboring properties from detrimental features of the development. The Planning Board may modify or waive the landscaping, screening, and/or buffering requirements set forth in Ch. 19, Art. III, Sec. 19-316 – Performance Standards where the Board finds that part or all of the landscaping or buffering required thereunder either (A) is impracticable due to site constraints not caused by the proposed development other than its utilization of or compliance with setback requirements; (B) is unnecessary due to the compatibility of abutting existing or proposed uses; or (C) would impede or detract from the programmatic, aesthetic, or community benefit components of a proposed development of exceptional merit. Financial burden or capacity shall not alone justify a waiver of a landscaping, screening, or buffering requirement.

4. Drainage. The site-plan fails to solve the soil and drainage problems that the development will create.

Projects within the Chickawaukie lake watershed, as defined in Section 19-304-13, shall be required to improve existing man-made drainageways flowing directly or indirectly to Chickawaukie Lake which will receive storm water from the proposed development, if such storm water is calculated to increase in volume above existing conditions. The volume of sediment or dissolved nutrients reaching Chickawaukie Lake shall not be increased.

5. Lighting. The provisions of exterior lighting create a hazard for vehicular or pedestrian traffic or safety or will unreasonably diminish the value or create a hardship to the reasonable enjoyment of adjacent property.

6. Fire Hazard. The proposed development will create fire hazard.

7. Sewer; Water; Solid Waste. The proposed development will impose an undue burden on on-site and off-site sewer and water or solid waste disposal.

8. Compatibility With Area. The proposed use and layout will be of such size or character that it will not be consistent with the appropriate and orderly development of the surrounding area.

9. Signs. If a sign is part of the application, the Planning Board does not have jurisdiction over review of this element. Standards and procedures relating to signs or other advertising devices are contained in Chapter 19 of the Rockland Code, Section 19-315, Signs.

10. Compliance With Other Ordinances. The proposed use, building, design or layout will not meet the provisions of the Zoning Ordinance or other regulations and ordinances of the City of Rockland or statutes of the State of Maine.

11. Financial Capacity. The applicant has not demonstrated that it has sufficient financial capacity to fund and complete (1) any improvements directly affecting any disturbed right-of-way or utilities or other infrastructure therein.

12. Decommissioning. The Board may require that an applicant proposing to erect a

windmill or construct any other form of power generation equipment or facility submit a Decommissioning Plan for the Board's review and approval. For these purposes, "decommissioning" may include, at the Planning Board's discretion, the physical removal of all components of the project, including, as may be applicable, wind turbines, cabling, electrical equipment, structures, and associated facilities. The Board may accept a decommissioning plan that provides for decommissioning no later than five years following the cessation of power generation on the site so long as the operator is, during such five year period, actively seeking to achieve a repurposing of the site and facilities to be decommissioned. The decommissioning plan must include a detailed estimate of the costs of decommissioning, and a financial plan acceptable to the Board for funding such decommissioning costs. To the extent any structures or components are proposed to be omitted from the decommissioning, the plan shall provide evidence of alternative, beneficial use of such structures and components following the cessation of power generation on the site.

Sec. 16-205 Approval

1. Assignment. A successor to an applicant who has received site plan approval by the Planning Board pursuant to this Article, or other assignee of such approval, shall be bound by and must comply with the application, site plan and related materials, and representations of such applicant, and with all conditions of approval and other requirements imposed by or on behalf of the Planning Board, to the fullest extent permitted by law. Notwithstanding the foregoing, a site plan approval for a Grid-Scale Power Generation Facility may not be assigned without Planning Board approval, and shall be void in the absence thereof.

2+. Completion Deadline. If an applicant has not obtained a Certificate of Occupancy from the code enforcement officer within two (2) years from the date on which the Planning Board granted its approval under Sec. 16-202.4, then the applicant shall be subject to a penalty under Sec. 16-207. The Planning Board may permit an extension of up to one (1) additional year to obtain a Certificate of Occupancy for good cause shown.

32. Violation. Failure to comply with the order of the Planning Board shall constitute a violation of this Article and shall be subject to Section 16-207.

* * *

Sponsor: Councilor Pritchett
Originator: Planning Board

MEMORANDUM

To: Mayor MacLellan-Ruf and Fellow City Councilors

From: Chair Laustsen, Planning Board

Date: March 31, 2016

Re: Ordinance Amendments Nos. 10 and 11
Grid-Scale Power Generation Facilities

Attached please find the requested ordinance from the Planning Board approved as a final draft on Tuesday, March 29, 2016. Extensive time has been devoted to developing this ordinance, and we hope this satisfies your request.

You will see that we have more comprehensively addressed standards for a broader range of energy facilities. As we learned more from the engineers, it became clear that Rockland's existing ordinances were lacking. As you review the draft, we would recommend a closer look at the emissions standard for grid-scale power generation facilities [Section 19-316, A.(2)(iii)]. There are political judgments involved.

On behalf of the Planning Board, many thanks go to the Energy Committee, the consulting engineers Dan Kelley of Woodard & Curran and Mike Chonko of SMRT, John Root, and particularly City Attorney, Kevin Beal, who crafted the structure and much of the language.

Summary of Power Generation Facility Ordinance Amendments

Chapter 19

Sec. 19-302. Word and Phrases Defined

- Three categories of power generation facilities are defined: Community-Based Renewable Energy Projects, Distributed Power Generation Facilities, and Grid-Scale Power Generation Facilities. These are differentiated not by size but by use and ownership. Introducing these categories was necessary to achieve the flexibility and fine differentiation that the ordinance amendments required.
- Quasi-Public Uses are revised to exclude Grid-Scale and Distributed Power Generation Facilities so that Grid Scale Power Generation Facilities would not be permitted in residential zones as currently allowed in Residential B and so that Distributed Power Generation Facility are allowed in Residential B only when utilized to provide heat and power to facilities allowed in Residential B such as schools.

Sec. 19-304. Zone Regulations

- Grid-Scale Power Generation Facilities are allowed as a conditional use in the Industrial zone, except for those powered by fuels deemed problematic by the Planning Board such as uranium or solid waste. The net effect is that Grid-Scale Power Generation Facilities would be allowed *only* in the Industrial zone.

Sec. 19-309. Special Use Classes

- “Exceptions and Exemptions” are renamed “Special Use Classes”. Larger Distributed Power Generation Facilities ($\geq 500\text{kW}$) are introduced as a Special Class (and thus disallowed in Residential A and AA, and allowed in other zones with Planning Board approval.) Smaller Distributed Power Generation Facilities ($< 500\text{kW}$) shall not require Planning Board approval. In a residential, rural residential, or transitional business zone, or in the Downtown Zone, Distributed Power Generation Facilities that are not Community-Based Renewable Energy Projects must be located at or next to the consumer of the electricity. The intention here is to avoid – for example – someone placing a generator on an empty lot for the purpose of powering a facility across town while allowing this type of power generation equipment at locations where it is commonly utilized such as schools and health care facilities.

Sec. 19-316 A(2). Air Pollution From Power Generation Facilities

- Air pollution regulations are introduced to require – at minimum – no net increase in point source discharges of air pollution in Rockland.
- Distributed Power Generation Facilities serving new or expanded development must cause a 10% reduction in air emissions. The method of calculating allowable levels is explained in detail in **19-316 A(2)**.

- Grid-Scale Power Generation Facilities must cause a 25% reduction in air emissions. The method of calculating such a reduction is explained in detail in **19-316 A(2)**
- **Note: The Planning Board would encourage the Council to consider whether the target for air emissions for a Grid Scale Power Generation Facility should be no increase in local point source emissions, a 10% reduction, or a 25% reduction.**

Sec. 19-316 A(3). Cooling Process Water Vapor

- This section is concerned with the impacts of primarily open/direct contact cooling towers (i.e., towers where the water being cooled is directly exposed to the air). Broadly speaking, this provisions requires technology to prevent the drift of water vapor emissions off the property and prevent the growth of biological contaminants. It also addresses setbacks.

Sec. 19-316 A(4). Fugitive Emissions

- This section addresses fuel leaks and requires that a power generation facility minimize the risk of fuel leaks to the greatest extent reasonable practicable. It lists relevant codes and standards, introduces inspection and maintenance requirements, and enforcement provisions.

Sec. 19-316 D. Noise and Vibration

- Noise limits are proposed to be defined via dBA levels rather than raw decibels in order to better reflect human sound perception and common monitoring technology.
- Frequency-based standards for noise generated by Grid-Scale Power Generation Facilities are proposed to better reflect human sound perception.

Sec. 19-316 F. Water Quantity, Quality, and Discharge

- At least 80% of unprocessed source water (i.e., drinking water) for a variety of industrial processes (including power generation) must be recycled.
- No single facility shall use more than 250,000 gallons of unprocessed source water per day. This reflects the amount of water consumed by a 10 megawatt facility using an open cooling tower and not is not utilizing the waste heat for a beneficial purpose.
- The applicant must show that a proposed facility would not have a deleterious effect on water pressure or flow in the City.

Sec. 19-316 I. Storage of Materials and Machinery

- Fuel and hazardous materials storage and other facilities must prohibit public access, be included in an emergency response plan, and be subject to periodic review by the Fire Chief or his designee.

Sec. 19-316 K. Transportation, Traffic, and Curb Cuts

- For uses in which fuel will be trucked in by ten or more trucks of $\geq 60,000$ lbs. GVWR, the review authority shall require a traffic study.

Sec. 19-316 L. Proposals of Exceptional Merit

- This section has been removed. In its place, a provision to waive landscaping requirements only has been added to **Chapter 16, Sec. 16-204 3.**

Sec. 19-316 L. Inspection and Maintenance Programs

- Developers or operators of Grid-Scale or Distributed Power Generation Facilities must prepare and comply with an Inspection & Maintenance Program. In the event of non-compliance, the Code Enforcement Officer may revoke the facilities certificate of occupancy, effectively shutting down the facility.

Chapter 16

Sec. 16-201. Projects Reviewed; Effect on Action by Code Enforcement Officer and Board of Appeals

- Adjacent towns shall be notified of Grid-Scale Power Generation Facility applications when such a facility abuts town lines.

Sec. 16-201.1. Exceptions to Review Requirements

- Grid-Scale and Distributed Power Generation Facilities will not be exempt from review requirements, even in the Industrial Park.

Sec. 16-204 3. Standards – Landscaping

- The Planning Board may waive landscaping requirements (as it has done in the past). This replaces the broader ability to waive all requirements in **Chapter 19, Sec. 19-316.**

Sec. 16-204 11. Financial Capacity

- The applicant must demonstrate financial capacity to fund improvements affecting any disturbed right-of-way and utilities.

Sec. 16-204 12. Decommissioning

- The Planning Board may require an applicant proposing a power generation facility to submit a decommissioning plan. This plan must include detailed cost estimates and an acceptable financial plan.

Sec. 16-205 1. Approval – Assignment

- If a facility is sold, the new owner must comply with the approved application, site plan and related materials, and representations of the applicant. Permits are not transferable without Planning Board determining the new owner has the capacity to comply with the already issued permit's terms and conditions.

**CITY OF ROCKLAND, MAINE
ORDINANCE AMENDMENT #12
IN CITY COUNCIL**

April 11, 2016

ORDINANCE AMENDMENT Disposition of Lien-Acquired Property

THE CITY OF ROCKLAND HEREBY ORDAINS THAT CHAPTER 2, Administration, SECTION 2-509, Regulations Governing Purchase and Sale of Property, BE AMENDED AS FOLLOWS:

Sec. 2-509 Regulations Governing Purchase and Sale of Property

15. Disposition of Real Estate Acquired by Tax Lien or Sewer Lien Foreclosure. When real estate is acquired through the automatic, statutory foreclosure on municipal tax or sewer liens ("Lien-Acquired Property"), the following procedures shall apply:

A. The City Manager shall promptly inform the City's insurance carrier and secure property and liability insurance coverage for Lien-Acquired Property where appropriate;

B. The Rockland Code Enforcement Officer or his designee shall inspect Lien-Acquired Property as soon as possible after acquisition, and inform the City Council and City Manager of the physical condition of the property;

C. The City Manager shall notify the former owner or owners of Lien-Acquired Property who are eligible for reconveyance of the property pursuant to Subsection 2-509(15)(D)(3) and shall invite each such owner to make a written request that the City Council reconvey the acquired property to such former owner. Any such request for reconveyance must be served upon the City Manager within thirty (30) days of the City Manager's notice required by this paragraph;

D. The City Council may dispose of Lien-Acquired Property by one of the following methods:

~~(1) Sell the property either through the following methods: after seeking competitive bids as set forth in this Chapter; or~~

(a) Solicitation of public bids as set forth in this Chapter;

(b) Sale by solicitation of limited bids where the market of the property appears limited to a few potential purchasers;

(c) Sale to an abutter without bid process where the nature of the property is such that only an abutter would have any interest in acquiring the real estate;

(d) Gift the property with or without compensation to the City where it is deemed to be in the city's best interests (i.e. conveyance of property to a non-profit entity providing a service of benefit to the citizens of Rockland, or disposition of real estate to put the property back on the tax roles etc.)

Sponsor: Councilor Geiger
Originator: City Manager

CITY OF ROCKLAND, MAINE

ORDINANCE AMENDMENT #13

IN CITY COUNCIL

April 11, 2016

ORDINANCE AMENDMENT: Amending the Floodplain Management Ordinance

THE CITY OF ROCKLAND HEREBY ORDAINS THAT CHAPTER 19, Zoning and Planning, ARTICLE VI, Floodplain Management Ordinance, BE AMENDED AS FOLLOWS:

Amend the Floodplain Management Ordinance, which is maintained as a separate, uncodified document having the full force and effect of an Ordinance of the City of Rockland, as set forth in the attached Floodplain Management Ordinance which is herein incorporated by reference.

Sponsor: Mayor MacLellan-Ruf
Originator: Code Enforcement Officer

FLOODPLAIN MANAGEMENT ORDINANCE

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60.3 (e) –Rev. ~~11/98~~01/16

ARTICLE I—PURPOSE AND ESTABLISHMENT

Certain areas of the City of Rockland, Maine are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of ~~Federally subsidized flood~~ insurance as authorized by the National Flood Insurance Act of 1968.

Therefore, the City of Rockland, Maine has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in this Floodplain Management Ordinance.

It is the intent of the City of Rockland, Maine to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.

The City of Rockland has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A MRSA, Sections 3001-3007, 4352 ~~and~~, 4401-4407, and Title 38 MRSA, Section 440.

The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the City of Rockland having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This Ordinance establishes a Flood Hazard Development Permit system and review procedure for development activities in the designated flood hazard areas of the City of Rockland, Maine.

The areas of special flood hazard, Zones A, AE, and VE, ~~for the City of Rockland, Knox County, Maine,~~ identified by the Federal Emergency Management Agency in a report entitled “Flood Insurance Study — City of Rockland, Maine, — Knox County, —, Maine,” dated ~~January 5, 1989~~ July 6, 2016 with accompanying “Flood Insurance Rate Map” dated ~~January 5, 1989~~ is July 6, 2016 with panels: 170D, 188D, 335D, 351D, 352D, and 353D, derived from the county wide digital Flood Insurance Rate Map entitled “Digital Flood Insurance Rate Map, Knox County, Maine.” are hereby adopted by reference and declared to be a part of this Ordinance.

ARTICLE II - PERMIT REQUIRED

Before any construction or other development (as defined in Article XIV), including the placement of manufactured homes, begins within any areas of special flood hazard established in Article I, a Flood Hazard Development Permit shall be obtained from the Code Enforcement Officer except as provided in Article VII. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the City of Rockland, Maine.

ARTICLE III - APPLICATION FOR PERMIT

The application for a Flood Hazard Development Permit shall be submitted to the Code Enforcement Officer ~~—and shall include:~~

A. ~~A.~~—The name, address and phone number of the applicant, owner, and contractor;

B. ~~B.~~—An address and a map indicating the location of the construction site;

C. ~~C.~~—A site plan showing location of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;

D. ~~D.~~—A statement of the intended use of the structure and/or development;

E. ~~E.~~—A statement of the cost of the development including all materials and labor;

F. ~~F.~~—A statement as to the type of sewage system proposed;

G. ~~G.~~—Specification of dimensions of the proposed structure and/or development;

[Items H-K.3. apply only to new construction and substantial improvements.]

H. The elevation in relation to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD), or to a locally established datum in Zone A only, of the:

1. ~~1.~~—base flood at the proposed site of all new or substantially improved structures, which is determined:

— a. in Zones AE and VE from data contained in the "Flood Insurance Study - ~~City of Rockland~~ Knox County, Maine," as described in Article I; or,

— b. in Zone A, —;

(1) from any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265), including information obtained pursuant to Article VI.K. and IX.D.;

(2) from the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS Quadrangle Map or other topographic map prepared by a Professional Land Surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s); or, in the absence of all other data,

(3) to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building;

2. ~~2.~~—highest and lowest grades at the site adjacent to the walls of the proposed building;

3. ~~3.~~—lowest floor, including basement; and whether or not such structures contain a basement; and,

~~4. 4.~~ level, in the case of non-residential structures only, to which the structure will be floodproofed;

I. A description of an elevation reference point established on the site of all ~~new or substantially improved structures;~~ developments for which elevation standards apply as required in Article VI;

~~J. J. Either an Elevation Certificate (FEMA Form 81-31, 03/97, as amended) completed~~ A written certification by a Professional Land Surveyor, registered professional engineer or architect; ~~or, for non-residential structures to be floodproofed, a Floodproofing Certificate (FEMA Form 81-65, 05/93, that the base flood elevation and grade elevations shown on the application are accurate~~

~~K. The following certifications as amended) completed~~ required in Article VI by a registered professional engineer or architect. ~~These Certificates:~~

~~a Floodproofing Certificate (FEMA Form 81-65, as amended), to verify that the elevations shown on the application are accurate;~~

~~K. Certifications as required in Article VI by a registered professional engineer or architect that:~~

~~1. 1.~~ floodproofing methods for any non-residential structures will meet the floodproofing criteria of Article III.H.4.; Article VI.G.; and other applicable standards in Article VI;

~~2. 2.~~ a V-Zone Certificate to verify that the construction in coastal high hazard areas, Zone VE, will meet the criteria of Article VI.P.; and other applicable standards in Article VI;

~~3. 3.~~ a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Article VI.L.2.a.;

~~4. 4.~~ a certified statement that bridges will meet the standards of Article VI.M.;

~~5. 5.~~ a certified statement that containment walls will meet the standards of Article VI.N.;

~~L. L.~~ A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,

~~M. M.~~ A statement of construction plans describing in detail how each applicable development standard in Article VI will be met.

ARTICLE IV - APPLICATION FEE AND EXPERT'S FEE

A non-refundable application fee of \$50.00 for new structures or substantial improvements, or \$25.00 for a Minor Development Permit shall be paid to the City Clerk and a copy of a receipt for the same shall accompany the application. If a Building Permit is required for any Minor Development, as defined, the Building Permit fee shall be paid in lieu of the Minor Development Permit fee.

An additional fee may be charged if the Code Enforcement Officer and/or Board of Appeals needs the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within 10 days after the town submits a bill to the applicant. Failure to pay the bill shall constitute a violation of the ordinance and be grounds for the issuance of a stop work order. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision of the Code Enforcement Officer to hire expert assistance may appeal that decision to the Board of Appeals.

ARTICLE V - REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS

The Code Enforcement Officer shall:

- A. ~~A.~~—Review all applications for the Flood Hazard Development Permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of Article VI (Development Standards) have been, or will be met;
- B. ~~B.~~—Utilize, in the review of all Flood Hazard Development Permit applications, ~~—~~:
 - 1. ~~the base flood and floodway data contained in the "Flood Insurance Study - City of Rockland Knox County, Maine," as described in Article I. — In.;~~
 - 2. in special flood hazard areas where base flood elevation and floodway data are not provided, the Code Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to Article III.H.1.b.; Article VI.K.; and Article IX.D., in order to administer Article VI of this Ordinance; and,
 - 3. ~~C. — when the community establishes a base flood elevation in a Zone A by methods outlined in Article III.H.1.b., the community shall submit that data to the Maine Floodplain Management Program.~~
- C. ~~C.~~—Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Article I of this Ordinance;
- D. ~~D.~~—In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. ~~1334~~ 1344;
- E. ~~E.~~— Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program in the State Planning Office prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;

F.F.—~~Issue~~ If the application satisfies the requirements of this Ordinance, approve the issuance of one of the following Flood Hazard Development Permits, based on the type of development:

1. ~~Issue a~~ A two-part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with a ~~second~~ Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer or architect based on the Part I permit construction, “as built”, for verifying compliance with the elevation requirements of Article VI, paragraphs F, G, H, or P. Following review of the Elevation Certificate data, which shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or,
2. ~~Issue a~~ A Flood Hazard Development Permit for Floodproofing of Non-Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the floodproofing standards of Article VI.G.1.a., b., and c. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,
3. ~~Issue a~~ A Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. Minor development also includes, but is not limited to: accessory structures as provided for in Article VI.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

—For development that requires review and approval as a Conditional Use, as provided for in this Ordinance, the Flood Hazard Development Permit Application shall be acted upon by the Planning Board as required in Article VII.

G. G.—Maintain, as a permanent record, copies of all Flood Hazard Development Permit Applications, corresponding Permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Article X of this Ordinance, and copies of Elevation Certificates, Floodproofing Certificates, Certificates of Compliance and certifications of design standards required under the provisions of Articles III, VI, and VIII of this Ordinance.

ARTICLE VI - DEVELOPMENT STANDARDS

All developments in areas of special flood hazard shall meet the following applicable standards:

A. **All Development** - All development shall:

- 1. be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - 2. use construction materials that are resistant to flood damage;
 - 3. use construction methods and practices that will minimize flood damage; and
 - 4. use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located ~~so as~~ to prevent water from entering or accumulating within the components during flooding conditions.
- B. **Water Supply** — All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
- C. **Sanitary Sewage Systems** — All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.
- D. **On Site Waste Disposal Systems** — On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.
- E. **Watercourse Carrying Capacity** — All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.
- F. **Residential** — New construction or substantial improvement of any residential structure located within:
- 1. Zone AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.
 - 2. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B.; or Article IX.D.
 - 3. Zone VE shall meet the requirements of Article VI.P.
- G. **Non Residential** - New construction or substantial improvement of any non-residential structure located within:
- 1. Zone AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:

- a. be floodproofed to at least one foot above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;
 - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
 - c. be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K. and shall include a record of the elevation above mean sea level to which the structure is floodproofed.
- 2. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B.; or Article IX.D., or

_____ a. together with attendant utility and sanitary facilities meet the
 _____ floodproofing standards of Article VI.G.1.

— 3. Zone VE shall meet the requirements of Article VI.P.

H. Manufactured Homes — New or substantially improved manufactured homes located within:

— 1. Zone AE shall:

- a. be elevated ~~on a permanent foundation~~ such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation;
- b. be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and,
- ~~b~~ c. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
 - (1) over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,
 - (2) frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).
 - (3) all components of the anchoring system described in Article VI, ~~paragraph~~ H.1.b.c.(1) & (2) shall be capable of carrying a force of 4800 pounds.

- 2. Zone A shall:
 - a. be elevated on a permanent foundation, as described in Article VI.H.1.b., such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B.7; or Article IX.D.; and
 - b. meet the anchoring requirements of Article VI.H.1.b.—c.
- 3. Zone VE shall meet the requirements of Article VI.P.

I. Recreational Vehicles — Recreational Vehicles located within:

- 1. ~~zone~~Zones A and AE shall either:
 - a. be on the site for fewer than 180 consecutive days,
 - b. be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or,
 - c. be permitted in accordance with the elevation and anchoring requirements for "manufactured homes" in Article VI.H.1.a.—& b.
- 2. Zone VE shall meet the requirements of either Article VI.I.1.a. ~~or~~and b., or Article VI.P.

J. Accessory Structures — Accessory Structures, as defined in Article XIV, located within Zones ~~AE~~AE and ~~AE~~AE, shall be exempt from the elevation criteria required in Article VI.F. & G. above, if all other requirements of Article VI and all the following requirements are met. Accessory Structures shall:

- 1. ~~be 500 square feet or less and have a value less than \$3000;~~
- 1. have unfinished interiors and not be used for human habitation;
- 2. have hydraulic openings, as specified in Article VI.L.2., in at least two different walls of the accessory structure;
- 3. be located outside the floodway;
- 4. when possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and,
- 5. have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the Special Flood Hazard Area.

K. Floodways -

- 1. In Zone AE riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted ~~in riverine areas, for which~~ within a regulatory floodway which is designated on the ~~community's~~ community's Flood Insurance Rate Map, unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- 2. In ~~zone~~ Zones AEA and AE riverine areas, for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in Article VI.K.3. unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:
 - a. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,
 - b. is consistent with the technical criteria contained in ~~Chapter 5 entitled "Hydraulic Analyses," Flood Insurance Study Guidelines~~ FEMA's guidelines and Specifications standards for Study Contractors, (FEMA 37/ January 1995, as amended). flood risk analysis and mapping.
- 3. In Zones AE and A riverine areas, for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain. ~~Encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted unless a technical evaluation certified by a registered professional engineer is provided meeting the requirements of Article VI.K.2.a. & b.~~

-L. Enclosed Areas Below the Lowest Floor — — New construction or substantial improvement of any structure in Zones AEA and AAE that meets the development standards of Article VI, including the elevation requirements of Article VI, paragraphs F, G, or H and is elevated on posts, columns, piers, piles, "stilts," or crawl spaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:

- 1. Enclosed areas are not "basements" as defined in Article XIV;
- 2. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:

- a. be engineered and certified by a registered professional engineer or architect; or,
 - b. meet or exceed the following minimum criteria:
 - (1) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;
 - (2) the bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and,
 - (3) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;
3. The enclosed area shall not be used for human habitation; and,
4. The enclosed areas are usable solely for building access, parking of vehicles, or ~~storing of articles and equipment used for maintenance of the building.~~ storage.

M. **Bridges** — New construction or substantial improvement of any bridge in Zones A, AE, ~~A₁~~ and VE shall be designed such that:

- 1. when possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least one foot above the base flood elevation; and
- 2. a registered professional engineer shall certify that:
 - a. the structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Article VI.K.; and
 - b. the foundation and superstructure attached thereto ~~is anchored~~ are designed to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.

N. **Containment Walls** - New construction or substantial improvement of any containment —wall located within:

- 1. Zones A, AE, ~~A₁~~ and VE shall:
 - a. have the containment wall elevated to at least one foot above the base flood elevation;

- b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
 - c. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K.
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O. **Wharves, Piers and Docks** — New construction or substantial improvement of wharves, piers, and docks are permitted in Zones A, AE, and VE, in and over water and seaward of the mean high tide if the following requirements are met:

- 1. wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and
- 2. for commercial wharves, piers, and docks involving fill, a registered professional engineer shall adhere to develop or review the structural design, specifications, and plans for the construction standards contained in the U.S. Army Corps of Engineers' Shore Protection Manual.

P. **Coastal Floodplains** —

- 1. All new construction located within Zones AE_r, A_r, and VE shall be located landward of the reach of mean high tide except as provided in Article VI.P.6.
- 2. New construction or substantial improvement of any structure located within Zone VE shall:
 - a. be elevated on posts or columns such that:
 - (1) the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to one foot above the base flood elevation;
 - (2) the pile or column foundation and the elevated portion of the structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components; and,
 - (3) water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable state and local building standards.
 - b. have the space below the lowest floor:
 - (1) free of obstructions; or,

- (2) constructed with open wood lattice-work, or insect screening intended to collapse under wind and water without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting piles or columns; or,
- (3) constructed with non-supporting breakaway walls ~~which~~that have a design safe loading resistance of not less than 10 or more than 20 pounds per square foot. (The National Flood Insurance Program Program assesses a higher premium for breakaway walls that enclose 300 square feet or greater. The larger the square footage of the enclosure, the higher the cost of insurance. Developers are advised to inquire into flood insurance premiums rates before commencing construction.)
- c. require a ~~—~~registered professional engineer or architect to:
 - (1) develop or review the structural design, specifications, and plans for the construction, which must meet or exceed the technical criteria contained in the *Coastal Construction Manual*, (FEMA-55/~~February, 1986~~); and,
 - (2) certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the criteria of Article VI.P.2.
- 3. The use of fill for structural support in Zone VE is prohibited.
-
- 4. Human alteration of sand dunes within Zone VE is prohibited unless it can be demonstrated that such alterations will not increase potential flood damage.
- 5. ~~The enclosed areas may be~~ area below the lowest floor shall be used solely for parking vehicles, building access, and storage.
-
- 6. Conditional Use ~~—~~ Lobster sheds and fishing sheds may be located seaward of mean high tide and shall be exempt from the elevation requirement in Article VI.G. and are only if permitted as a Conditional Use ~~only upon~~ following review and approval by the Planning Board, as provided in Article VII, and if all the following requirements and those of Article VI.A., VI.K., and VI.L. are met:
 - a. The conditional use shall be limited to low value structures such as metal or wood sheds 200 square feet or less and shall not exceed more than one story.
 - b. The structure shall be securely anchored to the wharf or pier to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components.
 - c. The structure will not adversely increase wave or debris impact forces affecting nearby buildings.
 - d. The structure shall have unfinished interiors and shall not be used for human habitation.

- e. Any mechanical, utility equipment and fuel storage tanks must be anchored and either elevated or floodproofed to one foot above the base flood elevation.
- f. All electrical outlets shall be ground fault interrupt type. The electrical service disconnect shall be located on shore above the base flood elevation and when possible outside the Special Flood Hazard Area.

ARTICLE VII -- CONDITIONAL USE REVIEW

The Planning Board shall hear and decide upon applications for conditional uses provided for in this Ordinance. The Planning Board shall hear and approve, approve with conditions, or disapprove all applications for conditional uses. An applicant informed by the Code Enforcement Officer that a Conditional Use Permit is required shall file an application for the permit with the Planning Board.

1A. Review Procedure for a Conditional Use Flood Hazard Development Permit

- a1. The Flood Hazard Development Permit Application with additional information attached addressing how each of the conditional use criteria specified in the Ordinance will be satisfied, may serve as the permit application for the Conditional Use Permit.
- b2. Before deciding any application, the Planning Board shall hold a public hearing on the application within thirty days of their receipt of the application.
- e3. If the Planning Board finds that the application satisfies all relevant requirements of the ordinance, the Planning Board must approve the application or approve with conditions within 45 days of the date of the public hearing.
- e4. A Conditional Use Permit issued under the provisions of this Ordinance shall expire if the work or change involved is not commenced within 180 days of the issuance of the permit by the Planning Board.
- e5. The applicant shall be notified by the Planning Board in writing over the signature of the Chairman of the Planning Board that flood insurance is not available for structures located entirely over water or seaward of mean high tide.

2B. Expansion of Conditional Uses

- 1. ~~a.~~ No existing building or use of premises may be expanded or enlarged without a permit issued under this section if that building or use was established or constructed under a previously issued Conditional Use Permit or if it is a building or use which would require a Conditional Use Permit if being newly-established or constructed under this Ordinance.

ARTICLE -VIII --- CERTIFICATE OF COMPLIANCE

No land in a special flood hazard area shall be occupied or used and no structure which is constructed or substantially improved shall be occupied until a Certificate of Compliance is issued by the Code Enforcement Officer subject to the following provisions:

- A. For New Construction or Substantial Improvement of any elevated structure the applicant shall submit to the Code Enforcement Officer:
 - 1. an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer, or architect, for compliance with Article VI, paragraphs F, G, H, or P and,
 - 2. for structures in Zone VE, certification by a registered professional engineer or architect that the design and methods of construction ~~to be used~~ are in compliance with Article VI.P.2.
- B. The applicant shall submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this ordinance.
- C. Within 10 working days, the Code Enforcement Officer shall:
 - 1. review the ~~Elevation Certificate~~ required certificate(s) and the applicant's written notification; and,
 - 2. -2- upon determination that the development conforms ~~with~~ to the provisions of this ordinance, shall issue a Certificate of Compliance.

ARTICLE IX - REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS

The Planning Board shall, when reviewing subdivisions and other proposed developments that require review under other federal law, state law ~~or~~, local ordinances or regulations, and all projects on 5 or more disturbed acres, or in the case of manufactured home parks divided into two or more lots, assure that:

- A. All such proposals are consistent with the need to minimize flood damage.
- B. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.
- C. Adequate drainage is provided ~~so as~~ in order to reduce exposure to flood hazards.
- D. All proposals include base flood elevations, flood boundaries, and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.

- E. Any proposed development plan must include a condition of plan approval requiring that structures on ~~to~~any lot in the development having any portion of its land within a Special Flood Hazard Area, are to be constructed in accordance with Article VI of this ordinance~~and that such~~. Such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

ARTICLE X — APPEALS AND VARIANCES

The Board of Appeals of the City of Rockland may, upon written application of an aggrieved party, hear and decide appeals ~~from determinations of~~where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the administration or enforcement of the provisions of this Ordinance.

The Board of Appeals may grant a variance from the requirements of this Ordinance consistent with state law and the following criteria:

- A. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- B. Variances shall be granted only upon:
- 1. a showing of good and sufficient cause; and,
 - 2. a determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and,
 - 3. a showing that the issuance of the variance will not conflict with other state, federal or local laws or ordinances; and,
 - 4. a determination that failure to grant the variance would result in "undue hardship," which in this sub-section means:
 - a. that the land in question cannot yield a reasonable return unless a variance is granted; and,
 - b. that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and,
 - c. that the granting of a variance will not alter the essential character of the locality; and,

- d. that the hardship is not the result of action taken by the applicant or a prior owner.
- C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Board of Appeals may impose such conditions to a variance as is deemed necessary.
- D. Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:
 - 1. other criteria of Article X and Article VI.K. are met; and,
 - 2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- E. Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of Historic Structures upon the determination that:
 - 1. the development meets the criteria of Article X, paragraphs A. through D. above; and,
 - 2. the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- F. Any applicant who meets the criteria of Article X, paragraphs A. through E. shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:
 - 1. the issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage;
 - 2. such construction below the base flood level increases risks to life and property; and,
 - 3. the applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.

GG. Appeal Procedure for Administrative and Variance Appeals

- 1. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party within thirty days after receipt of a written decision of the Code Enforcement Officer or Planning Board.

2. Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
3. The Board of Appeals shall hold a public hearing on the appeal within thirty-five days of its receipt of an appeal request.
4. The person filing the appeal shall have the burden of proof.
5. The Board of Appeals shall decide all appeals within thirty-five days after the close of the hearing, and shall issue a written decision on all appeals.
6. The Board of Appeals shall submit to the Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the Code Enforcement Officer to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.
7. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five days from the date of any decision of the Board of Appeals.

ARTICLE XI - ENFORCEMENT AND PENALTIES

- A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance pursuant to Title 30-A MRSA § 4452.
- B. The penalties contained in Title 30-A MRSA § 4452 shall apply to any violation of this Ordinance.
- C. In addition to ~~any other~~ actions, the Code Enforcement Officer may, upon ~~determination that identifying a violation exists, shall~~ submit a declaration to the Administrator of the Federal Insurance Administration requesting a ~~denial of flood insurance.~~ denial. The valid declaration shall consist of;
 1. ~~1.~~ the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;
 2. a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;
 3. a clear statement that the public body making the declaration has authority to do so and a citation to that authority;

- 4. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,
- 5. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

ARTICLE XII —— VALIDITY AND SEVERABILITY

If any section or provision of this Ordinance is declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

ARTICLE XIII —— CONFLICT WITH OTHER ORDINANCES

This Ordinance shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw, permit, or provision of law. Where this Ordinance imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this Ordinance shall control.

ARTICLE XIV —— DEFINITIONS

Unless specifically defined below, words and phrases used in this Ordinance shall have the same meaning as they have at common law, and to give this Ordinance its most reasonable application. Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular. The word "may" is permissive; "shall" is mandatory and not discretionary.

Accessory Structure - ~~means~~ a small detached structure that is incidental and subordinate to the principal structure.

Adjacent Grade - ~~means~~ the natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Area of Special Flood Hazard ~~—means the~~ land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study cited in Article I of this Ordinance.

Base Flood ~~—means the~~ a flood having a one percent chance of being equaled or exceeded in any given year, commonly called the 100-year flood.

Basement - ~~means any area of the~~ building ~~having its~~ that includes a floor that is subgrade (below ground level) on all sides.

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

Building - see **Structure**.

Certificate of Compliance - A document signed by the Code Enforcement Officer stating that a structure is in compliance with all of the provisions of this Ordinance.

Code Enforcement Officer —~~any~~ a person or board responsible for performing the inspection, licensing, certified under Title 30-A MRSA, Section 4451 (including exceptions in Section 4451, paragraph 1) and enforcement duties required employed by a particular statute or ordinance municipality to enforce all applicable comprehensive planning and land use laws.

Conditional Use —means a use that, because of its potential impact on surrounding areas and structures, is permitted only upon review and approval by the Planning Board pursuant to Article VII.

Containment Wall – wall used to convey or direct storm water or sanitary water from the initial source to the final destination.

Development —~~means any~~ a manmade change caused by individuals or entities ~~to~~ to improved or unimproved real estate, ~~including.~~ This includes, but is not limited to the construction of buildings or other structures; the construction of additions or substantial improvements ~~to,~~ buildings or other structures; mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials; and the storage, deposition, or extraction of materials, ~~public or private sewage disposal systems or water supply facilities.~~

Digital Flood Insurance Rate Map (FIRM) – see **Flood Insurance Rate Map**

Elevated Building - ~~means~~ a non-basement building that is:

- a. built, in the case of a building in Zones ~~AEA~~ or ~~AAE~~, ~~to~~ have AE, so that the top of the elevated floor, or in the case of a building in Zone VE, to have the bottom of the lowest horizontal structural member of the elevated floor, elevated above the ground level by means of pilings, columns, post, piers, or "stilts;" and
- b. adequately anchored ~~so as to~~ not ~~to~~ impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

In the case of Zones ~~AEA~~ or ~~AAE~~, **Elevated Building** also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in Article VI.L. In the case of Zone VE, **Elevated Building** also includes a building otherwise meeting the definition of elevated building, even though the lower area is enclosed by means of breakaway walls, if the breakaway walls meet the standards of Article VI.P.2.b.(3).

Elevation Certificate - ~~An~~ official form (FEMA Form 81-31, ~~03/97~~, as amended) that:

a. is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and,

b. is required for purchasing flood insurance.

Flood or Flooding ~~—means:~~

a. A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters.
2. The unusual and rapid accumulation or runoff of surface waters from any source.

b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph a.1. of this definition.

Flood Elevation Study ~~—means~~ an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

Flood Insurance Rate Map (FIRM) ~~—means~~ an official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

Flood Insurance Study - see **Flood Elevation Study**.

Floodplain or ~~Flood-prone~~Floodprone Area ~~—means any~~ land area susceptible to being inundated by water from any source (see flooding).

Floodplain Management - means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

Floodplain Management Regulations ~~—means~~ zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofing ~~—means~~ any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and contents.

Floodway - see **Regulatory Floodway**.

Floodway Encroachment Lines - ~~mean~~—the lines marking the limits of floodways on federal, state, and local floodplain maps.

Freeboard —~~means~~ a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. —Freeboard tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed, ~~that~~which could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

Functionally Dependent Use - ~~means~~—a use ~~which~~that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Historic Structure - means any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 1. By an approved state program as determined by the Secretary of the Interior, or
 2. Directly by the Secretary of the Interior in states without approved programs.

Locally Established Datum - ~~means,~~—for purposes of this ordinance, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or any other established datum and is used in areas where Mean Sea Level data is too far from a specific site to be practically used.

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

Manufactured Home ~~—means~~ a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

Manufactured Home Park or Subdivision ~~- means~~ a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean Sea Level ~~—means, for purposes of—~~ when related to the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

Minor Development - means all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less ~~than~~ than 50% of the market value of the structure. It also includes, but is not limited to: accessory structures as provided for in Article VI.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

National Geodetic Vertical Datum (NGVD) ~~- means~~ the national vertical datum, ~~whose~~ a standard was established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD ~~was~~ is based upon mean sea level in 1929 and also has been called "1929 Mean Sea Level (MSL)".

New Construction ~~- means~~ structures for which the "start of construction" commenced on or after the effective date of the initial floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

North American Vertical Datum (NAVD)- means the national datum whose standard was established in 1988, which is the new vertical datum used by the National Flood Insurance Program (NFIP) for all new Flood Insurance Rate Maps. NAVD is based upon vertical datum used by other North American countries such as Canada and Mexico and was established to replace NGVD because of constant movement of the earths crust, glacial rebound, and subsidence and the increasing use of satellite technology.

100-year flood - see **Base Flood**.

Recreational Vehicle ~~- means~~ a vehicle ~~which~~ that is:

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

Regulatory Floodway —

- a. ~~means~~ the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, and
- b. when not designated on the community's Flood Insurance Rate Map, it is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

Riverine — ~~means~~ relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Special Flood Hazard Area - see **Area of Special Flood Hazard**.

Start of Construction - ~~means~~ the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. —The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, or modification of any construction element, whether or not that alteration affects the external dimensions of the building.

Structure - means, for floodplain management purposes, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.

Substantial Damage - means, damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement - means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- b. Any alteration of a Historic Structure, provided that the alteration will not preclude the structure's continued designation as a historic structure, and a variance is obtained from the Board of Appeals.

Variance - means a grant of relief by a community from the terms of a floodplain management regulation.

Violation - means the failure of a structure or development to comply with a community's floodplain management regulations.

ARTICLE XV — ABROGATION

This ordinance repeals and replaces any municipal ordinance previously enacted to comply with the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).

60.3_(e) Rev. 01/16

CITY OF ROCKLAND, MAINE

ORDER # 5

IN CITY COUNCIL

January 11, 2016

ORDER Routine Data Reporting To Council On Short Term Rentals

WHEREAS, Rockland has for decades permitted a variety of home occupations in residential neighborhoods and many residents conduct some form of business from their homes; and

WHEREAS, renting a single room in a residence on a short term basis is currently allowed in Rockland's zoning ordinances and renting whole homes or cottages on a short term basis has been a traditional vacation use of houses in Maine for over a century; and

WHEREAS, renting a room, an apartment, a condominium, or a entire house through AirBnB, VRBO, Home Away and other online services has increased the options and opportunities for property owners to rent a room or a residential unit for short periods of time ; and

WHEREAS, the City Council seeks to allow short term rentals in a manner that enhances the tourism sector of the local economy and provides income for Rockland's homeowners but only in a manner that does not disrupt abutters or degrade the City's neighborhoods; and

WHEREAS, residents have expressed a variety of concerns about short term rentals and questioned whether significant numbers of housing units could be converted to short term rentals, and

WHEREAS, requests have been made for the Council to consider per neighborhood or per block limits on the number of short rentals as well as prohibit short term rentals by nonresidents; and

WHEREAS, Council desires to have local data by which to evaluate short term rentals and by which to provide the basis for directing the Comprehensive Planning Commission to potentially explore additional and/or different license standards for Short Term Rentals;

NOW, THEREFORE, IT IS HEREBY ORDERED BY CITY COUNCIL AS FOLLOWS

THAT, the City Manager is to report to the Council at least annually in November of each year for the next three years on short term rentals in the City; and

THAT, the report at a minimum shall include the locations of short term rentals, the type of short term rentals, ownership of short term rentals, properties converted to short term rentals, all complaints received related to short term rentals and the type of short term rental from which the complaints arose as well as any other local data that may inform the Council on this question.

Sponsor: Councilor Pritchett

Originator: Councilor Geiger

Postponed 1/11/16 to 3/14/16

Postponed 3/14/16 to 4/11/16

CITY OF ROCKLAND, MAINE

ORDER #16

IN CITY COUNCIL

April 11, 2016

ORDER Amending Solid Waste Disposal Fees

IT IS HEREBY ORDERED BY THE CITY COUNCIL AS FOLLOWS:

THAT pursuant to Order #18-15, passed by the City Council on April 6, 2015, the fees for Solid Waste Disposal licenses and permits are hereby amended as follows:

PERMIT AND LICENSE FEES

Resident Permit	\$95.00 \$125.00 per year
Commercial Permit	\$ no fee (Disposal Fee: \$115 per ton through 05/01/2015, then \$120 \$130 per ton from 05/01/2015 on).
Recycling Permit	\$0 per year (to be discontinued on 05/01/15)
Seasonal Permit	\$95.00 \$125 per year
Commercial Hauler License Fee	\$250.00 per year
Non-Resident Contractor Permit (each job)	\$20.00 per job
Non-Resident Landscape Contractor Permit	\$72.00 per year
Temporary General Permit	no fee

Sponsor: City Council
Originator: City Council

CITY OF ROCKLAND, MAINE

ORDER #17

IN CITY COUNCIL

April 11, 2016

ORDER Authorizing Use of Main Street & Fee Waiver - Lobster Festival Parade

IT IS HEREBY ORDERED BY THE CITY COUNCIL AS FOLLOWS:

THAT the Rockland Festival Corporation is hereby authorized to close Main Street on Saturday, August 6, 2016 to hold the Annual Maine Lobster Festival Parade. The Festival Corporation shall be responsible for setting up for and cleaning up after this event, coordinating with the Rockland Fire and Police Departments for any necessary public safety and/or traffic control measures, and shall provide proof of liability insurance to the City prior to holding this event. Any fees associated with this event are hereby waived.

Sponsor: City Council

Originator: Rockland Festival Corporation

CITY OF ROCKLAND, MAINE

ORDER #18

IN CITY COUNCIL

April 11, 2016

ORDER Authorizing Temporary Street Closure & Fee Waiver – Memorial Day Parade

IT IS HEREBY ORDERED BY THE CITY COUNCIL AS FOLLOWS:

THAT the organizers of the annual Memorial Day Parade are hereby authorized to close Main Street from Water Street to North Main Street, on Monday, May 30, 2016 beginning at 10:30 a.m. to hold the annual Memorial Day Parade. The organizers shall co-ordinate activities with the Rockland Police, Fire and Public Works Departments for any necessary traffic control and/or public safety measure. Any fees associated with this activity are hereby waived.

Sponsor: City Council
Originator: Gary Henry

CITY OF ROCKLAND, MAINE

ORDER #19

IN CITY COUNCIL

April 11, 2016

ORDER Authorizing Fee Waiver – Lobster Boat Race Participants

IT IS HEREBY ORDERED BY THE CITY COUNCIL AS FOLLOWS:

THAT the docking fees at the Public Landing are hereby waived for participants of the Annual Rockland Lobster Boat Races, scheduled for June 19, 2016, to dock overnight the night before the races.

Sponsor: Councilor Clayton

Originator: Dot Black

CITY OF ROCKLAND, MAINE

ORDER #20

IN CITY COUNCIL

April 11, 2016

ORDER Authorizing License Agreement – Brass Compass Tables

IT IS HEREBY ORDERED BY THE CITY COUNCIL AS FOLLOWS:

THAT the City Manager is authorized to sign a limited use license agreement with the owner of the Brass Compass Cafe to place public tables in a portion of Winslow-Holbrook Memorial Park and to provide food and beverage service to those tables for the 2016 Summer Season (May 15, 2016 through October 31, 2016) in substantial conformance with the terms and conditions specified in the license agreement attached hereto.

Sponsor: Councilor Clayton

Originator: Brass Compass Cafe

LICENSE AGREEMENT

THIS LICENSE AGREEMENT by and between the City of Rockland, Maine, a municipal corporation situated in the County of Knox and State of Maine (the "City" or "Licensor") and Lynn W. Archer, d/b/a The Brass Compass Cafe, of 305 Main Street, Rockland, Maine (the "Licensee"), is effective May 15, 2016, if duly executed by each party.

WHEREAS, Licensee operates a restaurant at 305 Main Street (Tax Map 1-H-9) (the "Brass Compass"), immediately adjacent to the northerly boundary of Rockland's Winslow-Holbrook Memorial Park (Tax Map 1-H-7) (the "Park"); and

WHEREAS, Licensee seeks to place and serve food at tables in the Park,

NOW, THEREFORE, in consideration of the promises and undertakings set forth herein, the parties hereto do agree as follows:

1. Grant of License. The City of Rockland grants to Licensee a non-exclusive license, between May 15, 2016, and October 31, 2016, temporarily to place tables and chairs for public and customer seating, and – from and by the Brass Compass – to serve food and refreshments at the same within the License Premises as hereinafter defined;

2. License Premises. The License Premises shall be the area of the Park that (A) falls within, and does not exceed, ten (10) linear feet measured southerly from and at right angles to the southerly foundation of the Brass Compass building; (B) lies easterly of the east side of the City's street light control panel in the Park; and (C) excludes the areas in the Park (1) between the north side of the control panel and the Brass Compass building, (2) between the south side of said control panel and Park Drive, and (3) between the west side of said control panel and Main Street (the "License Premises")

3. Fee. Licensee shall, prior to placing any table or chair in the Park, pay to the City a total fee of \$1,500.00 (the "Fee") for the permissions granted under this License; provided, however, that in the event the City suspends or terminates this License Agreement pursuant to subparagraph 8(A), the fee shall be pro-rated to exclude the period in which this License is suspended, and the excess payment, if any, shall be refunded to Licensee no later than November 30, 2016;

4. Conditions. Such license and use of the Park shall be subject to and limited by the following conditions:

- A. Licensee shall not place or allow any third party to place or move Licensee's tables or chairs or other property at or to any location outside the License Premises. Licensee has the sole obligation and burden of assuring that her patrons and property remain within the License Premises;
- B. Licensee shall neither conduct nor permit any food preparation; nor place or allow any greeting stand, bussing station, or storage facility; nor play, show, or operate any audio or visual device; nor use or store any cooling, refrigeration, or other equipment or devices, in the License Premises;
- C. Licensee may not serve and shall prohibit the consumption of alcoholic beverages in or around the License Premises;
- D. Licensee shall keep the License Premises, and tables and chairs placed therein, in a clean, neat, and orderly condition at all times;
- E. Licensee may not affix or attach any table, chair, or other item to the ground in the License Premises in any manner, nor cordon off or establish any barrier to the public's access to or use of such tables and chairs in the License Premises;
- F. Licensee may not place, and shall remove if placed by any third party, any commercial logos, promotional materials, or other advertising for Licensee's or any other business or enterprise (other than the existing awning attached to the Brass Compass building) within or over the License Premises or the Park;
- G. Licensee shall permit and welcome members of the public to use, within the License Premises, any or all of the tables and/or chairs placed by or for the Licensee within the License Premises. Licensee may in no way, explicitly or by implication, restrict the use of the License Premises or Licensee's tables and chairs therein to patrons of the Licensee's business(es). Notwithstanding the foregoing, Licensee may exclude from the License Premises any unruly, intoxicated, or disruptive persons, consistent with Licensee's policies or practices for removing such persons from the interior of Licensee's restaurant;
- H. Licensee shall be responsible for the repair of any damage that occurs within the License Premises during the term of this License Agreement;
- I. Licensee shall secure and maintain property insurance for the License Premises, and liability insurance covering occurrences within the License Premises in amounts not less than

\$1,000,000/occurrence and \$3,000,000/ aggregate, and shall cause the City to be named therein as an additional insured. Licensee shall cause an original certificate of such insurance to be submitted to the City prior to Licensee's use of the License Premises. Licensee shall keep current such liability insurance coverage throughout the term of this License Agreement;

- J. Nothing herein is intended nor shall be deemed to grant to Licensee or any other party any property or other right, title, or interest in the real and personal property subsumed within the License Premises. Nor does the grant of the permissions set forth in the License Agreement establish any precedent for or subsequent right to the renewal of such license and/or permissions in the future;
- K. License shall not make or permit any construction, reconstruction, demolition, or other activity affecting the condition of the License Premises. Any improvements to or in the License Premises by, on behalf of, or with the permission of the Licensee shall become the property of the City, without cost and free and clear of any lien or other encumbrance or claim;

5. Term. Except upon the occurrence of an Event of Default, the Term of this License Agreement shall be from May 15, 2016, to October 31, 2016;

6. Costs; Maintenance. Licensee shall be fully and solely responsible for the costs of the permanent or temporary improvement(s) and amenities authorized in this License Agreement, and the City shall have no responsibility or liability therefor. Licensee shall maintain the License Premises, and Licensee's property therein, in a safe and presentable condition throughout the Term of this License Agreement, to the satisfaction of the Code Enforcement Officer, and shall bear the full expense thereof;

7. Indemnification; Hold Harmless. Licensee hereby agrees and undertakes to indemnify Licensor, and shall protect and hold Licensor harmless from and against any and all liabilities, losses, claims, demands, judgments, costs, and expenses (including reasonable attorney's fees) of any nature arising from any event, act, or omission within the term of this Agreement in connection with any claim, loss, or damage arising from or connected with the permissions granted to Licensee herein, and/or from Licensee's acts or omissions in or relating to her use of the License Premises. Nothing herein shall be deemed a waiver of any limitation of liability or immunity afforded to the City by the doctrine of sovereign immunity, the Maine Tort Claims Act, and/or other applicable law or doctrine;

8. Termination. The City may terminate this License Agreement prior to the expiration of the Term as follows:

- A. if (1) the City Council shall have adopted a plan for the rehabilitation or improvement of the Park and/or the surrounding City sidewalk(s), and (2) work is to commence to implement such plan within the effective period of this License, which work – in the sole discretion of the City Manager – requires the suspension or termination of this License and the removal of the tables and chairs, Licensee shall cease her use of the Park for seating and service, and shall remove the tables and chairs from the Park until informed by the City that such use may resume; or
- B. without notice, if the City Manager, in consultation with the Code Enforcement Officer or other City staff member of competent jurisdiction, finds that Licensee is in violation of any condition, term, obligation, or requirement of this License Agreement or other applicable law, regulation, or rule (“cause”). Cause shall included, but not be limited to, Licensee’s service of alcohol or allowance of the consumption of alcohol within the License Premises at any time during Licensee’s business hours or while Licensee or any employee or other agent of Licensee shall be present at 305 Main Street. In the event of the termination of this License Agreement by the City Manager for cause, no part of the Fee shall be refunded to Licensee, notwithstanding anything to the contrary herein.

In the event of such suspension or termination prior to the expiration of the Term of this License Agreement, the permissions granted herein to the Licensee shall cease upon the effective date of such termination; Licensee shall, with or without order or other notice to that effect, and at Licensee’s sole expense, remove or cause to be removed all of Licensee’s property from the License Premises; and Licensee shall immediately cease any use of such License Premises;

9. Miscellaneous.

A. This License Agreement is not intended and shall not be construed as creating or conveying to Licensee, or any party, an interest in real property or right-of-way, and Licensee acknowledges for itself, its tenants, members, agents, successors, and assigns, that it or they shall have no right, title, or interest in any City property or right-of-way;

B. The limitations, obligations, and rights granted to or imposed upon Licensee in this License Agreement shall alike extend to and be binding upon Licensee and its successors and assigns;

C. This License Agreement and the rights and obligations of the parties thereto shall be governed by the laws of the State of Maine;

D. This License Agreement sets forth the entire agreement between the

parties relating to the subject matter hereof, and stands in the place of any previous agreement, whether oral or in writing. The parties hereto agree that no amendment to this License Agreement shall be effective or binding upon any party unless it is in a writing signed in due form by both parties.

IN WITNESS WHEREOF, this License Agreement has been duly executed by the parties hereto as of the date first above written.

WITNESS:

CITY OF ROCKLAND, MAINE:

by: Stuart H. Sylvester, City Clerk

by: James D. Chaousis II,
its: City Manager

As to Form:

Kevin J. Beal, City Attorney

WITNESS:

LYNN W. ARCHER:

Print: _____

CITY OF ROCKLAND, MAINE

ORDER #21

IN CITY COUNCIL

April 11, 2016

ORDER Authorizing Extension of Payment Deadline – Mooring Permits

IT IS HEREBY ORDERED BY THE CITY COUNCIL AS FOLLOWS:

THAT, due to changes in administration in the Harbor and Waterfront Department and the delay in sending out mooring permit renewal applications, the March 15, 2016 deadline for payment of mooring permits for 2016 is hereby extended to April 15, 2016.

Sponsor: City Manager
Originator: Harbor Master

CITY OF ROCKLAND, MAINE

ORDER #22

IN CITY COUNCIL

April 11, 2016

ORDER Authorizing Demolition of Structures – Rockland Street

IT IS HEREBY ORDERED BY THE CITY COUNCIL AS FOLLOWS:

THAT the City Manager is hereby authorized to demolish any and all structures located at 9 Rockland Street (Tax Map #13-E-8), 13 Rockland Street (Tax Map #13-E-9), and 15 Rockland Street (Tax Map #13-E-9), all acquired by the City through automatic foreclosure of Municipal Tax Liens on March 10, 2016.

Sponsor: City Manager

Originator: City Manager

CITY OF ROCKLAND, MAINE

ORDER #23

IN CITY COUNCIL

April 11, 2016

ORDER Authorizing the use of program income from Rockland's previous CDBG Spot Rehab Housing Program to be applied to an updated Housing Rehabilitation Program and for the Economic Development Advisory Committee to oversee the development and implementation of this program

THAT, WHEREAS, the City of Rockland has received over \$250,000 in program income from previous CDBG housing programs; and

WHEREAS, in order to implement a Housing Rehabilitation Program the program guidelines must be updated and adopted and a committee must oversee the distribution of these funds; and

WHEREAS, Rockland's Economic Development Advisory Committee has identified a key link between housing and economic development and have agreed to oversee the Housing Rehabilitation Program; and

NOW THEREFORE, it is hereby Ordered by the City Council of the City of Rockland, Maine, that:

(1) A Housing Rehabilitation Program will be established and funded with \$250,000 of program income from past CDBG housing programs.

(2) The Rockland Economic Development Advisory Committee is authorized and directed, to carry out the duties and responsibilities for implementing said program consistent with the City Charter and the laws and regulations governing the planning and implementation of community development programs in the State of Maine.

Sponsor: Councilor Geiger

Originator: Community Development Director

CITY OF ROCKLAND, MAINE

ORDER #24

IN CITY COUNCIL

April 11, 2016

ORDER Authorizing Grant Application and Acceptance – COPS Grant

IT IS HEREBY ORDERED BY THE CITY COUNCIL AS FOLLOWS:

THAT the City Manager is hereby authorized to submit a 2016 United States Department of Justice, COPS Program, Universal Hiring Program Grant, to fund up to 75% of the cost of a School Resource Officer/ Crime Prevention position in the Rockland Police Department; and

THAT the City Manager is further authorized to accept such grant funds, if awarded, and expend said fund for the stated purpose.

Sponsor: City Manager
Originator: Police Chief

CITY OF ROCKLAND, MAINE

ORDER #25

IN CITY COUNCIL

April 11, 2016

ORDER Main Street Lighting Project Conclusion- Energy Committee

BE IT HEREBY ORDERD BY THE CITY COUNCIL AS FOLLOWS:

Whereas, the Rockland City Council has instructed the Energy Committee to analyze and make recommendations regarding energy issues that has led to the Main Street Lighting Project.

Whereas, the City Council supports the project and has appropriately funded the project, and

Whereas, the residents and Main Street Merchants have expectations of expedited delivery of the project for aesthetic and economic factors, and

Whereas, further delay in implementing the project is complicating other city projects; and

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE CITY COUNCIL AS FOLLOWS:

That, the Energy Committee conclude all recommendations regarding the Main Street Lighting project within 30 days and turn all project materials in to the City Manager, and

That, the City Manager is directed to periodically report the status of the project to the City Council, after an implementation schedule is created, with the intention of completing the project before the end of the construction season 2016.

Sponsor: Mayor MacLellan-Ruf

Originator: Mayor MacLellan-Ruf

CITY OF ROCKLAND, MAINE

ORDER #26

IN CITY COUNCIL

April 11, 2016

ORDER Authorizing Banner – Coast Guard City Committee

IT IS HEREBY ORDERED BY THE CITY COUNCIL AS FOLLOWS:

THAT the Coast Guard City Committee is hereby authorized to hang a banner across Main Street near the intersection with Limerock Street from April 15, 2016 through May 9, 2016 to promote the 10th Annual Coast Guard Appreciation Dinner schedule for May 6, 2016.

Sponsor: City Council

Originator: Coast Guard City Committee