

**REGULAR MEETING**

**AGENDA**

**June 13, 2016**

1. Roll Call
2. Pledge of Allegiance to the Flag
3. Public Forum of not more than 30 minutes (5 minute 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 & Entertainment Licenses – Myrtle Street Tavern
  - b. Liquor & Lodging House Licenses – Berry Manor Inn
  - c. Lodging House License – The Talbot House
  - d. Liquor License – Claws
  - e. Liquor & Entertainment Licenses – In Good Company
  - f. Liquor License – Sammy’s Deluxe
  - g. Liquor & Entertainment Licenses – American Legion Post #1
  - h. Special Event Liquor License – Lobster Festival Corporation
8. Resolves:
  - #24 Appointments – Boards, Commissions & Committees Mayor MacLellan-Ruf
  - #25 Supporting Multi-Town Street Light Project Councilor Pritchett
  - #26 Accepting Donation – EMS City Council
  - #27 Accepting Donations – Library City Council
  - #28 Commendation – Peta vanVuuren City Council
9. Ordinances in Final Reading & Public Hearing:
  - # 7 Chapter 14, Section 14-316 Redundant Text (Postponed after PH) Councilor Pritchett
  - # 8 Chapter 15, Articles I & IV Street Openings (Postponed after PH) Councilor Pritchett
  - # 9 Chapter 19, Section 19-307 Off-Street Parking (Postponed after PH) Councilor Pritchett
  - #10 Chapter 19, Article III Power Gen Facilities (Postponed after PH) Councilor Pritchett
  - #11 Chapter 16, Article II Power Gen Facilities (Postponed after PH) Councilor Pritchett
  - #14 Discontinuance – Portion of Union Lane Councilor Clayton
10. Ordinances in First Reading:
  - #15 Chapter 19, Section 19-304 TB-1 Regs. – Restaurants Councilor Clayton
  - #16 Chapter 17, Section 17-809 Handicapped Parking Space – Elm St. Mayor MacLellan-Ruf
11. Orders:
  - #32 Public Hearing/CDBG Grant – Safe Neighborhoods Program City Manager
  - #33 Authorizing Street Closure – CMCA Grant Opening City Manager
  - #34 Authorizing Street Closure – Farnsworth Summer Gala Councilor Pritchett
  - #35 Authorizing Funding – Downtown Street Light Project City Manager
  - #36 Authorizing Funding – Multi-Town Street Light Project City Manager
12. Adjournment.

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

Name of Applicant Leslie A. Spiers Phone 207-975-9019

Address of Applicant 13 South St.  
Rockland, ME 04841

Name of Business Myrtle Street Tavern, Inc. Phone 207-975-9019

Address of Business P.O. Box 416, 12 Myrtle Street  
Rockland, ME 04841

Name of Property Owner (if different) Myrtle Street Properties, LLC/Leslie A. Spiers

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

Type of Business Tavern serving alcoholic beverages, food and having live entertainment.

Expiration of Current License 6/28/16

Fee(s) Paid \$ 300 Date 5/2/16

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 Leslie A. Spiers Date 5/2/16

Approved By: Wm Butler License # \_\_\_\_\_

Approved  Inspected; See Report Code Officer 5/31/16 Date

Wm Butler for fire Fire Inspector 5/31/16 Date  
 Approved  Inspected; See Report

Steve Smith Police Chief 5/19/16 Date

Shirley G. Gault City Clerk 5/31/16 Date

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

Name of Applicant MICHAEL LAPOSTA & CHERYL MICHAELSEN Phone 596-7696

Address of Applicant 81 TALBOT AVENUE  
ROCKLAND, MAINE 04841

Name of Business BERRY MANOR INN Phone 596-7696

Address of Business 81 TALBOT AVENUE (PO BOX 1117)  
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 BED & BREAKFAST

Expiration of Current License 06/30/2016

Fee(s) Paid \$100.00 Date 6/2/16

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 CHERYL MICHAELSEN Date 6/2/16

Approved By: \_\_\_\_\_ License # \_\_\_\_\_

Wm Butler Code Officer 6/10/16 Date  
 Approved  Inspected; See Report

Wm Butler for Fire Fire Inspector 6/10/16 Date  
 Approved  Inspected; See Report

[Signature] Police Chief 6/8/16 Date

[Signature] City Clerk 6/10/16 Date

APPLICATION FOR CITY LICENSE  
CITY OF ROCKLAND, MAINE

270 Pleasant Street  
Rockland, Maine 04841

Name of Applicant CHERYL MICHAELSEN / MICHAEL LAPISIA Phone 207 596 7696

Address of Applicant PO BOX 1117  
81 TALBOT AVE ROCKLAND ME 04841

Name of Business ROCKLAND TALBOT HOUSE Phone 207 596 7696

Address of Business 73 TALBOT AVE  
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 B Vacation Rental B+B Inn

Expiration of Current License N/A

Fee(s) Paid 100 Date 6/2/16

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 C Cheryl Michaelson Date 6/2/16

Approved By: \_\_\_\_\_ License # \_\_\_\_\_

Wm Butler Code Officer 6/10/16 Date  
 Approved \_\_\_\_\_ Inspected; See Report

Wm Butler son line Fire Inspector 6/10/16 Date  
 Approved \_\_\_\_\_ Inspected; See Report

[Signature] Police Chief 6/15/16 Date

[Signature] City Clerk 6/10/16 Date

APPLICATION FOR CITY LICENSE

CITY OF ROCKLAND, MAINE

270 Pleasant Street

Rockland, Maine 04841

Name of Applicant Steve + Luanne Stinson Phone 975-1230

Address of Applicant 111 Old Rockland St.  
Rockport, ME 04856

Name of Business Claws Phone 596-5600

Address of Business 743 Main St.  
Rockland

Name of Property Owner (if different) \_\_\_\_\_

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 July 1, 2016

Fee(s) Paid \$ 150 Date 5/4/16

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 5/4/16

Approved By: [Signature] License # \_\_\_\_\_

Approved  Inspected; See Report Code Officer May 13, 2016 Date

[Signature] Fire Inspector May 13, 2016 Date  
 Approved  Inspected; See Report

[Signature] Police Chief 5/9/16 Date

[Signature] City Clerk 5/13/16 Date

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

Name of Applicant MELODY WOLFERTZ/ANGUS ENTERPRISES Phone 596-9378

Address of Applicant PO BOX 233  
ROCKLAND, MAINE 04841

Name of Business ANGUS ENTERPRISES DBA IN GOOD COMPANY Phone 593-9110

Address of Business 415 MAIN STREET (PO BOX 233)  
ROCKLAND, MAINE 04841

Name of Property Owner (if different) PETER SANDIFUR

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 07/14/2016

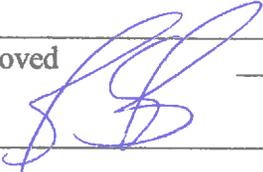
Fee(s) Paid \$300.00 Date \_\_\_\_\_

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 MELODY WOLFERTZ Date 06/02/16

Approved By: \_\_\_\_\_ License # \_\_\_\_\_

\_\_\_\_\_  
Approved \_\_\_\_\_ Inspected; See Report \_\_\_\_\_ Code Officer \_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_\_  
Approved  \_\_\_\_\_ Inspected; See Report \_\_\_\_\_ Fire Inspector \_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_\_  
Police Chief  \_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_\_  
City Clerk \_\_\_\_\_ Date \_\_\_\_\_

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

Name of Applicant SAM RICHMAN Phone (917) 856-4187

Address of Applicant 155 WILEY NECK ROAD  
LINCOLNVILLE, ME 04849

Name of Business SAMMY'S DELUXE (S. RICHMAN ENTERPRISES, LLC) Phone (917) 856-4187

Address of Business 488 MAIN STREET, ROCKLAND, ME 04841

Name of Property Owner (if different) John & Vincent Ferraiolo

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

Type of Business Restaurant, Full Service, LUNCH/DINNER

Expiration of Current License NEW LICENSE - SUNFIRE PREVIOUS RESTAURANT

Fee(s) Paid \$ 150 Date 5/27/16

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 5/27/16

Approved By: \_\_\_\_\_ License # \_\_\_\_\_

Wm Butcher Code Officer 6/10/16 Date  
 Approved  Inspected; See Report

Wm Butcher for Fire Fire Inspector 6/10/16 Date  
 Approved  Inspected; See Report

[Signature] Police Chief 5/31/16 Date

[Signature] City Clerk 6/10/16 Date

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

Name of Applicant AMERICAN LEGION POST 1 Phone 594-4844

Address of Applicant 335 Limerock Street (PO BOX 582)  
Rockland, Me 04841

Name of Business same Phone \_\_\_\_\_

Address of Business same

Name of Property Owner (if different) \_\_\_\_\_

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

Type of Business Veteran Services (Canteen)

Expiration of Current License 8/29/16

Fee(s) Paid \$300.00 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 Harry Mank C.F.O. Date 5-28-16

Approved By: \_\_\_\_\_ License # \_\_\_\_\_

\_\_\_\_\_  
Approved \_\_\_\_\_ Inspected; See Report \_\_\_\_\_ Code Officer \_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_\_  
Approved \_\_\_\_\_ Inspected; See Report \_\_\_\_\_ Fire Inspector \_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_\_  
Approved \_\_\_\_\_ Inspected; See Report \_\_\_\_\_ Police Chief 5/31/16 Date \_\_\_\_\_

\_\_\_\_\_  
Approved \_\_\_\_\_ Inspected; See Report \_\_\_\_\_ City Clerk \_\_\_\_\_ Date \_\_\_\_\_



Bureau of Alcoholic Beverages  
 Division of Liquor Licensing & Enforcement  
 164 State House Station  
 Augusta, ME 04330-0164  
 Tel: (207) 624-7220 Fax: (207) 387-3424

**APPLICATION FOR LICENSE FOR  
 INCORPORATED CIVIC ORGANIZATION**  
 \$50.00 Fee / \$10.00 Filing Fee  
 Check Payable: Treasurer State of Maine

1. (a) Full Name of Applicant: Rockland Festival Corporation  
 (Corporate Name)
- (b) Corporate Address: PO Box 552 Rockland ME 04841  
 Street Address City/Town State Zip Code
- (c) Authorized Corporate Office: \_\_\_\_\_
- (d) Address: 1 Park Dr Rockland ME 04841  
 Street Address Town/City State Zip Code
- (e) Telephone Number: 207-596-7126 Fax: \_\_\_\_\_

**INFORMATION PERTAINING TO SPECIAL EVENTS OR GATHERINGS**

2. (a) Title and Purpose of Event: Steins & Vines - Promoting Maine  
 Brewers - Distillers - Vintners
- (b) Date of Event: August 4, 2016 Time - From: 4:00 AM/PM To: 7:30 AM/PM
- (c)  Inside  Outside Event (If **Outside**, attach diagram of area)
- (d) Location of Event: Rockland Public Landing - Park Dr. Rockland
- (e) Number of Persons Attending: Approx. 500
- (f) Name and Address of Sponsor: \_\_\_\_\_  
 Address: \_\_\_\_\_ Town/City: \_\_\_\_\_ State: \_\_\_\_\_
- (g) Name and Address of Caterer: N/A  
 Address: \_\_\_\_\_ Town/City: \_\_\_\_\_ State: \_\_\_\_\_
- (If other than licensee): \_\_\_\_\_
- (If food is to be served): \_\_\_\_\_
- (h) Type of building to be occupied: \_\_\_\_\_

(i) Area to be licensed: North Entertainment Tent on Festival Ground @ Rockland Public Landing

Dated at: Rockland Maine on 6/4, 2016  
Town/City, State Month/Day

**NOTE:**

This application must be signed by a duly authorized officer of the corporation executing the application and approved by the Municipal Officer/Country Commissioners and filed with the Division.

Rockland Festival Corporation  
NAME OF CORPORATION

BY: Laurie M Smith Secretary  
CORPORATE/OFFICER'S SIGNATURE - TITLE

Laurie M Smith Secretary  
PRINTED NAME & TITLE

STATE OF MAINE

Dated at: \_\_\_\_\_, Maine \_\_\_\_\_ ss  
City/Town (County)

On: \_\_\_\_\_  
Date

The undersigned being:  Municipal Offices  County Commissioners of the  
 City  Town  Plantation  Unincorporated Place of: \_\_\_\_\_, Maine

Hereby certify that we have given public notice on this application and held public hearing thereon as required by Section 653 Title 28A, Maine Revised Statutes and herby approve said application.

Signature	Print

**72 Hours in Advance of Said Event or Gathering  
REQUESTED**

Note: If said event or gathering is located in an unincorporated place, the application must be approved by the County Commissioners of the County wherein the event or gathering is to take place and the above approval form may be changed in accordance with the fact.

This event will be held in the North Entertainment Tent on the grounds during the Maine Lobster Festival. The tent is located in close proximity to the City of Rockland Police Department.

Patrons will receive bracelets designating that they purchased tickets and that they provided identification indicating that they are of legal age to participate in the event.

No one under 21 will be admitted into the event, all entrances & exits will be monitored as per City policy.

Participants in the event are expected to be:

Rock Harbor Brewing

Andrews Brewing

Peak Organic Brewing

Allagash Brewing

Gritty's Brewing

Monhegan Brewing

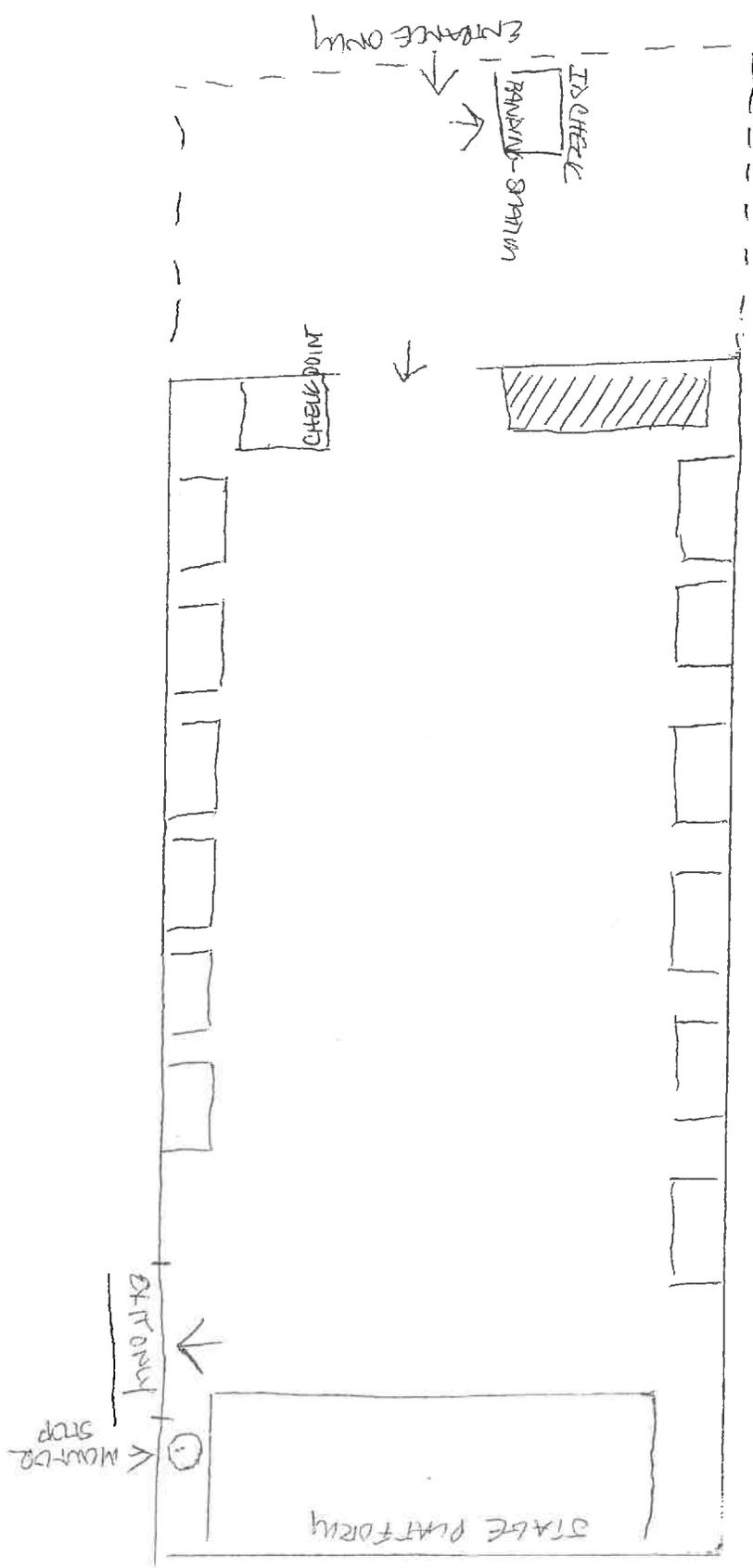
Cellardoor Winery

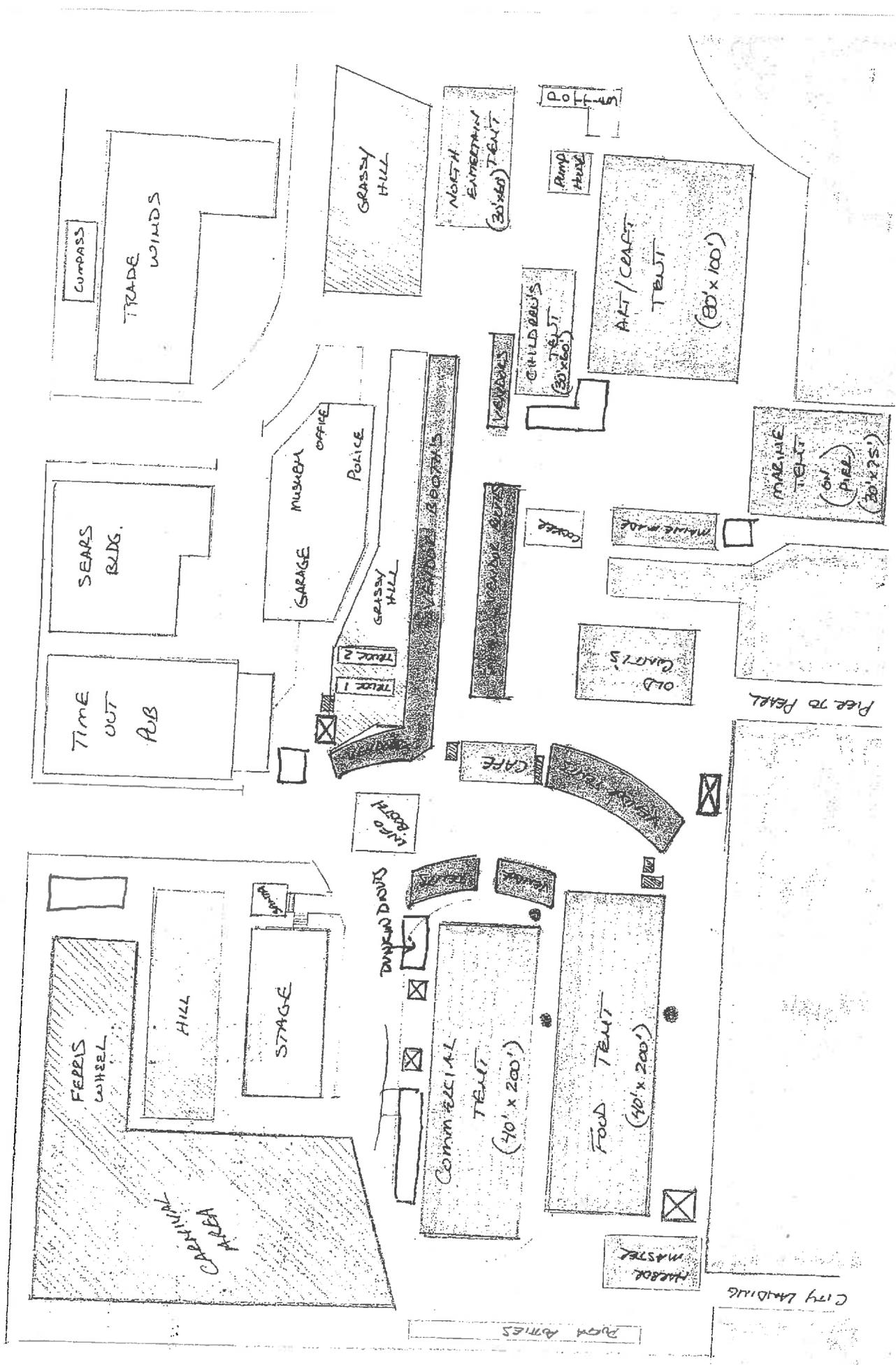
Savage Oakes Winery

Sweetgrass Winery & Distilling

Breakwater Winery

We have space for up to 12 Brewers/Distillers/Vintners so that would be the maximum.





**CITY OF ROCKLAND, MAINE**

**RESOLVE #24**

**IN CITY COUNCIL**

February 8, 2016

**RESOLVE** Appointments to Boards, Commission & Committees

**BE IT HEREBY RESOLVED BY THE CITY COUNCIL AS FOLLOWS:**

**THAT** the appointment by the Mayor of the following persons to the following Boards, Commissions and/or Committees for the terms listed, are hereby confirmed:

- Matthew Ondra, 65 Pleasant Street, is hereby appointed to the Harbor Management Commission to fill a vacancy on the Commission. Mr. Ondra shall serve until that term expires in 2017.
- Peter Smith, 10 Lisle Street, is hereby appointed to the Coast Guard City Committee to fill a vacancy on the Committee. Mr. Smith shall serve until that term expires in 2017.

Sponsor: Mayor MacLellan-Ruf  
Originator: Mayor MacLellan-Ruf

**CITY OF ROCKLAND, MAINE**

**RESOLVE #25**

**IN CITY COUNCIL**

June 13, 2016

**RESOLVE** Exploring Four Municipality Approach To Transitioning To City Owned LED Street Lighting

**WHEREAS**, prior to 2013 the only option commonly available to municipalities for most types of lighting along municipal streets and roads was to lease lighting from the local electrical power transmission and delivery utility;

**WHEREAS**, in 1999 Massachusetts became the first state in New England to develop a competitive market for street lighting services by allowing municipalities to own street lights attached to shared use utility poles located along public rights of way; and

**WHEREAS**, in 2005, 2011, and 2013 towns and cities sought law changes that would transition Maine from a monopoly utility service for street lighting to a market based system where municipalities could own street lighting competitively sourced from a variety of vendors; and

**WHEREAS**, Rockland, through Council Resolves 2011-18 and 2013-06, along with South Portland, Falmouth, the Maine Municipal Association and other towns supported legislation to allow municipal ownership of street lighting on shared use utility poles; and

**WHEREAS**, the 2013 legislative effort was successful and the Public Utilities Commission has been developing regulations to allow for the transition to municipal ownership of street lighting when requested; and

**WHEREAS**, Rockland currently leases 704 street lights on shared use utility poles from CMP throughout the City; and

**WHEREAS**, in 2013 financial models used in Massachusetts and other states indicate the City should be able to lower its annual costs for street lighting by at least \$41,000 by transitioning to city owned LED lighting; and

**WHEREAS**, City Council in Orders 2014-91 And 2016-07 has direct staff and the Energy Committee to explore options for transitioning to City owned LED street lighting city wide; and

**WHEREAS**, data out of Ontario, Massachusetts, Pennsylvania, and other states suggest that Rockland could potential acquire new street lighting at a lower costs if the lighting is purchased in larger quantities than just Rockland purchasing own its own; and

**WHEREAS** the Managers on Falmouth, South Portland, Biddeford and Rockland have discussed jointly pursuing a transition to LED street lighting;

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

**THAT** the City Manager, or designee, with support from the Energy Committee, is encouraged to explore a multi town approach to transitioning to City owned LED street lighting throughout Rockland and report possible benefits, risks, options and costs back to Council.

Sponsor: Councilor Pritchett  
Originator: Energy Committee

**CITY OF ROCKLAND, MAINE**

**RESOLVE #26**

**IN CITY COUNCIL**

June 13, 2016

**RESOLVE** Accepting Donations – Emergency Medical Service

**WHEREAS**, Ralph Field, Rockland, Maine, donated \$100.00 to the City's Emergency Medical Service, to be receipted into the Fire Department's Fire House Supplies Account;

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

**THAT** the City gratefully accepts the donation and directs that a letter of thanks be sent to Mr. Field in recognition of his generous donation.

Sponsor: City Council

Originator: City Council

**CITY OF ROCKLAND, MAINE**

**RESOLVE # 27**

**IN CITY COUNCIL**

June 13, 2016

**RESOLVE** Accepting Donations - Library

**WHEREAS**, the Friends of the Rockland Public Library donated \$593.04 to the Rockland Public Library for 54 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

**WHEREAS**, the Rockland Public Library Endowment Association donated \$960.60 to the Rockland Public Library for the purchase of magazines from Ebsco subscription service, 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

**WHEREAS**, Clare Zall of Rockland, Maine, donated the book *A Girl Called Vincent* to the Rockland Public Library, to be added to the Library's collection; and

**WHEREAS**, Mercedes Reiner, Westport, CT, donated the book *Killing Maine* to the Rockland Public Library to be added to the Library's collection; and

**WHEREAS**, 183 CD's were anonymously donated to the Rockland Public Library, most of which will be added to the Library's collection;

**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 #28**

**IN CITY COUNCIL**

June 13, 2016

**RESOLVE** Commendation – Peta vanVuuren

**BE IT HEREBY RESOLVED BY THE CITY COUNCIL AS FOLLOWS:**

**THAT** Peta vanVuuren is hereby commended and congratulated for more than 17 years of service to the City of Rockland as a member of the Rockland Planning Board.

**AND**, be it further Resolved that a Plaque and a Certificate of Commendation be presented to Ms. vanVuuren as a token of the City's appreciation for her years of service to the Community.

Sponsor: City Council

Originator: City Council

**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 14, Sewers, Drains & Solid Waste, SECTION 14-316 Highways Not To Be Opened Without Consent, 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

Postponed 5/9/16 to 6/13/16

First Reading 4/11/16  
First Publication 4/21/16  
Public Hearing 5/9/16  
Final Passage \_\_\_\_\_  
Second Publication \_\_\_\_\_  
Effective Date \_\_\_\_\_

CITY OF ROCKLAND, MAINE

ORDINANCE AMENDMENT # 8  
(As Amended 04/11/16)

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.

32. 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 ChapterArticles I and II shall mean the entire right-of-way of anybe understood as including highways, road, ways, avenues, courts, lanes, alleys, sidewalk, bridge, parks, squares, other Public Pplaces, and any non-public property owned or controlled by the Citysidewalks 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.~~

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## **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 (1/2) 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~~ two 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

Postponed 5/9/16 to 6/13/16

First Reading 4/11/16  
First Publication 4/21/16  
Public Hearing 5/9/16  
Final Passage \_\_\_\_\_  
Second Publication \_\_\_\_\_  
Effective Date \_\_\_\_\_

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

Postponed 5/9/16 to 6/13/16

First Reading 4/11/16  
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Public Hearing 5/9/16  
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Second Publication \_\_\_\_\_  
Effective Date \_\_\_\_\_

CITY OF ROCKLAND, MAINE

ORDINANCE AMENDMENT #10  
(AS AMENDED ON 05/09/16)

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, including power generation equipment with thermal energy recovery, 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. At least 50% of the thermal energy must be consumed at the site where the power generation equipment is located or at other sites that are under the same or affiliated ownership as the site where the power generation equipment is located. The remainder of the thermal energy may be distributed to third parties under contract.

\* \* \*

**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. For this purpose, "solid waste" shall have the same meaning as under the Resource Conservation and Recovery Act, 42 U.S.C. § 6903, as amended.

## (3) 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. For this purpose, "solid waste" shall have the same meaning as under the Resource Conservation and Recovery Act, 42 U.S.C. § 6903, as amended.

\* \* \*

## 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, including tractor trailer emissions generated within Rockland from the transport of fuel or feedstock to the facility and idling at the facility, 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, including tractor trailer emissions generated within Rockland from the transport of fuel or feedstock to the facility and idling at the

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<sub>x</sub>, SO<sub>x</sub>, CO, CO<sub>2</sub>, 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, methane, 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 remote 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:

(a) For all uses other than Grid-Scale Power Generation Facilities:

<b>Zone</b>	<b>7 a.m. - 9 p.m.</b>	<b>9 p.m. – 7 a.m.</b>
Industrial, Business Park and WF1 thru WF5	75 dBAdecibels	60 dBAdecibels
Rural Residential <u>1 and 2</u> , Commercial 1, Commercial 2, Commercial 3, Plaza Commercial, Downtown	75 dBAdecibels	55 dBAdecibels
Transitional Business 1, Transitional Business 2	65 dBAdecibels	50 dBAdecibels
Transitional Business 3, Transitional Business 4, Neighborhood Commercial, Resort, <u>Residential AA, A, and B Zones</u>	55 dBAdecibels	45 dBAdecibels

(b) 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<sup>1</sup></u>
<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>

<sup>1</sup> “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 DischargeImpaets.**

(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 Community-Based Renewable Energy Project, Distributed Power Generation Facility, or Grid-Scale Power Generation 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:

(a1) 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 if fifteen (15) feet deep of 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. 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 of 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

Postponed 05/09/16 to 06/13/16

First Reading 4/11/16  
First Publication 4/21/16  
Public Hearing 5/9/16  
Final Passage \_\_\_\_\_  
Second Publication \_\_\_\_\_  
Effective Date \_\_\_\_\_

**PROPOSED AMENDMENTS TO ORDINANCE AMENDMENT #10**  
**(Proposed amendments are in RED and highlighted in YELLOW)**

**Sec. 19-302 Words And Phrases Defined**

**Distributed Power Generation Facility.** Electric power generation equipment, including power generation equipment with thermal energy recovery, 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. At least 50% of the thermal energy must be consumed at the site where the power generation equipment is located or at other sites that are under the same or affiliated ownership as the site where the power generation equipment is located. The remainder of the thermal energy may be distributed to third parties under contract.

**Sec. 19-316 Performance Standards**

**A. Dust, Fumes, Vapor, and Gases.**

(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 emissions 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 emissions discharges of regulated air pollutants by at least 10% of the air pollutants that would be emitted discharged, including tractor trailer emissions generated within Rockland from the transport of fuel or feedstock to the facility and idling at the facility, to provide such facility(ies) with electricity from the grid and on-site thermal energy in the absence of the Distributed Power Generation Facility. Such net emissions reduction shall be maintained so long as the facility remains in operation;
- (iii) Grid-Scale Power Generation Facilities: a net reduction of total point source emissions 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, including tractor trailer emissions generated within Rockland from the transport of fuel or feedstock to the facility and idling at the 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. Such net emissions reduction shall be maintained so long as the facility remains in operation.

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 emissions 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.

## **Sec. 19-316 Performance Standards**

### **A. Dust, Fumes, Vapor, and Gases.**

#### (4) Fugitive Emissions; Gas Piping Safety

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 release of fugitive emissions discharge.

## **Sec. 19-316 Performance Standards**

### **D. Noise and Vibration.**

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

## **Sec. 19-316 Performance Standards**

### **F. Water Quantity, Quality, and Discharge**

(1) Water Quantity: New electric power generation facilities and new processes serving existing facilities requiring a new or amended permit from the City 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 in Grid-Scale Power Generation Facilities, Distributed Power Generation Facilities, or Community-Based Renewable Energy projects 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 Community-Based Renewable Energy Project, Distributed Power Generation Facility, or Grid-Scale Power Generation Facility may draw or consume more than two hundred, fifty thousand (250,000) gallons of unprocessed source water per day for make-up water for electrical power generation; and

## **Sec. 19-316 Performance Standards**

### **L. Inspection and Maintenance Programs.**

- (4) Annual submittal to the Code Enforcement Officer of proof of Annual testing to assure continued compliance with federal or state air emissions license(s) or permit(s) and annual submittal of a report of the continuance of any air emissions reductions required under Subsection 19-316(A)(2), when applicable;

**CITY OF ROCKLAND, MAINE**

**ORDINANCE AMENDMENT #11  
(AS AMENDED ON 05/09/16)**

**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 wind

turbine mill 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, and all materials and chemicals. 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.

24. 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.

\* \* \*

First Reading 4/11/16  
First Publication 4/21/16  
Public Hearing 5/9/16  
Final Passage \_\_\_\_\_  
Second Publication \_\_\_\_\_  
Effective Date \_\_\_\_\_

Sponsor: Councilor Pritchett  
Originator: Planning Board

Postponed 05/09/16 to 06/13/16

**PROPOSED AMENDMENTS TO ORDINANCE AMENDMENT #11**  
**(Proposed amendments are in RED and highlighted in YELLOW)**

**Sec. 16-204 Standards**

12. Decommissioning. The Board may require that an applicant proposing to erect a wind turbine~~mill~~ or construct a **Grid-Scale Power Generation Facility or Community-Based Renewable Energy Project** ~~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, and all materials and chemicals. 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.

**CITY OF ROCKLAND, MAINE**

**ORDINANCE AMENDMENT #14  
IN CITY COUNCIL**

May 9, 2016

**ORDINANCE AMENDMENT** Discontinuance of a portion of Union Lane

**THE CITY OF ROCKLAND HEREBY ORDAINS AS FOLLOWS:**

**THAT**, pursuant to 23 M.R.S. § 3026, the Order of Discontinuance set forth below be filed with the City Clerk. It is further ordered that the City Clerk notify the owners of the abutting parcels of land of the discontinuance and of the time and place for a public hearing on that discontinuance. Such notice shall be mailed by United States Postal Service, postage prepaid, first class, to the owners of the abutting parcels at the addresses which appear in the City's assessment records.

Pursuant to 23 M.R.S. § 3026, the City of Rockland hereby discontinues the public way of the portion of Union Lane more particularly described as follows:

Beginning on the southerly sideline of Union Lane at the northwesterly corner of land now or formerly of Penquis C.A.P., Inc. (Tax Map 20-C-2); thence northerly at right angles across Union Lane to the northerly sideline of Union Lane; thence easterly by the northerly sideline of Union Lane and the southerly boundary of other land now or formerly of Penquis C.A.P., Inc., and the southerly boundary of land now or formerly of Spencer Properties, LLC, to an iron post which is 65 feet, more or less, from the westerly sideline of Union Street; thence southerly by the westerly boundary of the portion of Union Lane which was discontinued by the order dated August 8, 2005, to the southerly sideline of Union Lane; thence westerly by the southerly sideline of Union Lane and the northerly boundary of land now or formerly of the unit owners of Narragansett Condominiums and the northerly boundary of land now or formerly of Penquis C.A.P., Inc., to the point of beginning.

The names of the owners of the abutting properties are as follows:

Tax Map #	Location	Owner
20-B-6	34 Union Street	Spencer Properties, LLC
20-B-10	7 High Street	Penquis C.A.P., Inc.
20-C-2	47 Park Street	Penquis C.A.P., Inc.
20-C-3	43 Park Street	Penquis C.A.P., Inc.
20-C-5-101	33 Park Street	Narragansett, LLC
20-C-5-102	33 Park Street	Narragansett, LLC
20-C-5-201	33 Park Street	Narragansett, LLC
20-C-5-202	33 Park Street	Narragansett, LLC
20-C-5-301	33 Park Street	Narragansett, LLC
20-C-5-302	33 Park Street	Jean J. Hewitt

20-C-5-401 33 Park Street Narragansett, LLC  
20-C-5-402 33 Park Street Narragansett, LLC

No public easement shall be retained in the said portion of Union Lane being discontinued. The City of Rockland determines that no damages are to be paid to the abutting property owners because of the discontinuance of the said portion of Union Lane.

Sponsor: Councilor Clayton  
Originator: Penquis C.A.P.

First Reading 5/9/16  
First Publication 5/19/16  
Public Hearing 6/13/16  
Final Passage \_\_\_\_\_  
Second Publication \_\_\_\_\_  
Effective Date \_\_\_\_\_

**CITY OF ROCKLAND, MAINE  
ORDINANCE AMENDMENT #15  
IN CITY COUNCIL**

June 13, 2016

**ORDINANCE AMENDMENT** Authorizing Zoning Map Amendment

**THE CITY OF ROCKLAND HEREBY ORDAINS THAT CHAPTER 19, Zoning and Planning, SECTION 19-304 Zoning Ordinance, (6) Transitional Business 1 Zone, BE AMENDED AS FOLLOWS:**

**Sec. 19-304 Zoning Ordinance**

**6. TRANSITIONAL BUSINESS 1 ZONE "TB1"**

**A. Permitted Uses**

<b>TRANSITIONAL BUSINESS 1 ZONE "TB1" PERMITTED USES</b>	
(1)	Single, two family and multifamily residential uses
(2)	Accessory Apartments
(3)	Assisted Living Facilities Eff: 04/11/12
(4)	Home occupations, all levels
(5)	Accessory uses
(6)	Art galleries
(7)	Bed and Breakfast Establishments
(8)	Business services
(9)	Churches
(10)	Community and civic buildings and uses
(11)	Financial services
(12)	Funeral homes
(13)	Health and fitness
(14)	Human health services
(15)	Museums
(16)	Nursing homes
(17)	Office buildings
(18)	Parks and playgrounds
(19)	Personal services
(20)	Professional service
(21)	Private Non-Medical Institutes and Residential Care Facilities, Small Eff: 04/11/12
(22)	Private Non-Medical Institutes and Residential Care Facilities, Large Eff: 04/11/12
(23)	Publishing of newspapers, magazines, and books (excluding printing plants)
(24)	<u>Restaurants of not more than 1,500 square feet, with hours of operation limited to between the hours of 7:00 a.m. and 10:00 p.m. Drive-Throughs shall not be allowed.</u>
(24 25)	Quasi-public uses
(25 26)	Retail sales in space under 1,200 square feet; (The collective floor area of showroom, office, sales floor, storage, etc., used to conduct the sale of goods directly to the consumer)
(26 27)	Schools and day care center
(27 28)	Social Services
(28 29)	Tradesmen's offices, shops and showrooms

Sponsor: Councilor Clayton  
Originator: Councilor Clayton

**CITY OF ROCKLAND, MAINE  
ORDINANCE AMENDMENT #16  
IN CITY COUNCIL**

June 13, 2016

**ORDINANCE AMENDMENT Handicapped Parking Space – Elm Street**

**THE CITY OF ROCKLAND HEREBY ORDAINS THAT CHAPTER 17, Traffic & Vehicles, SECTION 17-809, Handicapped Parking Spaces, BE AMENDED AS FOLLOWS:**

**Sec. 17-809 Schedule IX. Handicapped Parking Spaces**

Handicapped parking spaces shall be established and clearly designated and maintained as such in the following areas:

13. Elm Street - One (1) handicapped parking space (north side, ~~first~~ fourth space west of intersection of Elm and Main Streets).

Sponsor: Mayor MacLellan-Ruf  
Originator: Police Department

## Stuart

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**From:** Troy Peasley <tpeasley@ci.rockland.me.us>  
**Sent:** Friday, June 03, 2016 10:39 AM  
**To:** ssylvester@ci.rockland.me.us  
**Subject:** Change in charter and code: handicapped space location

Stuart,

Can you please submit this one word change in the city charter and code to the City Council for a handicapped space that has been moved on Elm Street.

You can put me as the person requesting this. Rockland Public Works moved the space due to curb cut on both sides of the space making it easier for people to access the space as it stands alone; and ease of placing sign in the lawn instead of granite curbing.

Thank you-  
Troy Peasley

Current wording:

**Sec. 17-809 Schedule IX. Handicapped Parking Spaces**

13. Elm Street - One (1) handicapped parking space (north side. first space west of intersection of Elm and Main Streets).

Please change to:

**Sec. 17-809 Schedule IX. Handicapped Parking Spaces**

13. Elm Street - One (1) handicapped parking space (north side. **fourth** space west of intersection of Elm and Main Streets).

**CITY OF ROCKLAND, MAINE**

**ORDER #32**

**IN CITY COUNCIL**

June 13, 2016

**PUBLIC HEARING/ORDER** CDBG Application – Safe Neighborhoods Grant

**WHEREAS**, the City of Rockland wishes to apply for a Community Development Block Grant for participation in the Safe Neighborhoods Program; and

**NOW THEREFORE**, it is hereby Ordered by the Rockland City Council that the City Manager or his designee:

- 1) Is authorized and directed to submit an application for the Safe Neighborhoods Program within the State of Maine’s CDBG Program, to the Department of Economic and Community Development on behalf of the City of Rockland, substantially in the form presented to this council;
- 2) Is authorized to make assurances on behalf of the City of Rockland required as part of such applications, and
- 3) Is authorized and directed, upon acceptance of said funds to carry out the duties and responsibilities for implementing and said program(s), consistent with the Charter of the City of Rockland and the laws and regulations governing planning and implementation of community development programs in the State of Maine.

Sponsor: City Manager

Originator: Community Development Director

**CITY OF ROCKLAND, MAINE**

**ORDER #33**

**IN CITY COUNCIL**

June 13, 2016

**ORDER** Authorizing Temporary Street Closure – Winter Street

**IT IS HEREBY ORDERED BY THE CITY COUNCIL AS FOLLOWS:**

**THAT** the Center for Maine Contemporary Art (CMCA) is hereby authorized to close Winter Street from 10:00 a.m. to 5:00 p.m. on Sunday, June 26, 2016 to celebrate the Center's Grand Opening. The organizers shall be responsible for setting up for and cleaning up after the event, shall coordinate with the Police and Fire Departments for any necessary traffic control and/or public safety measures, shall provide proof of liability insurance to the City prior to holding the event.

Sponsor: City Manager

Originator: CMCA

**CITY OF ROCKLAND, MAINE**

**ORDER #34**

**IN CITY COUNCIL**

June 13, 2016

**ORDER** Authorizing Temporary Street Closure – Farnsworth Museum Summer Gala

**IT IS HEREBY ORDERED BY THE CITY COUNCIL AS FOLLOWS:**

**THAT** the Farnsworth Art Museum is hereby authorized to close Museum Street on Friday, July 15, 2016 to hold its annual Summer Gala substantially in conformance with the attached Special Events Application and any additional requirements deemed advisable by City staff. The Farnsworth Art Museum shall be responsible for setting up for and cleaning up after this event, shall coordinate with the Rockland Police and Fire Departments for any necessary traffic control and/or public safety measures, and shall provide proof of liability insurance to the City prior to holding the event.

Sponsor: Councilor Pritchett

Originator: Farnsworth Art Museum

**CITY OF ROCKLAND, MAINE**

**ORDER #35**

**IN CITY COUNCIL**

June 13, 2016

**ORDER** Appropriation of Funds – Downtown Lighting Project

**IT IS HEREBY ORDERED BY THE CITY COUNCIL AS FOLLOWS:**

**THAT** the City Manager is hereby authorized to appropriate \$165,000 from the Undesignated Fund Balance Account (#10000-02970) to the Downtown Street Lighting Account (#10000-01815) and use those funds in completion of the previously approved project.

Sponsor: City Manager  
Originator: City Manager

**CITY OF ROCKLAND, MAINE**

**ORDER #36**

**IN CITY COUNCIL**

June 13, 2016

**ORDER** Appropriation of Funds – Multi-Town Street Light Project

**IT IS HEREBY ORDERED BY THE CITY COUNCIL AS FOLLOWS:**

**THAT** the City Manager is hereby authorized to appropriate \$25,000 from the Undesignated Reserve Account (#10000-02970) to the Multi-Town Street Light Account (#40143-03700) and use those funds in continuation of the project.

Sponsor: City Manager  
Originator: City Manager