

City of Biddeford
Policy Committee
September 25, 2023 6:00 PM Council Chambers & Zoom

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Status:

- 1. Roll Call**
- 2. Pledge of Allegiance**
- 3. Adjustments to the Agenda**
- 4. Approval of Minutes**
- 5. Discussion/Review**
 - 5.1. Flag Policy
[20230815 Policy Committee Memo](#)
[20230828 Flag Policy for Policy Committee - STRIKETHROUGH](#)
[20230828 Flag Policy for Policy Committee - CLEAN](#)
 - 5.2. Use of City Seal
[09252023 City Seal Policy Memo](#)
[09252023 Proposed Policy for Use of City Seal](#)
 - 5.3. Affordable Housing Trust Fund
[20230925 Affordable Housing Trust Fund Policy - BRIEF](#)
[20230925 Affordable Housing Trust Fund Proposal - DRAFT ORDINANCE](#)
 - 5.4. Rezoning Map Amendment
[Policy Brief Rezoning to MSRD2 9-20-23](#)
[Rezoning Map Proposal 9-20-2023](#)
 - 5.5. Marijuana Establishments
[Policy Brief Performace Standards sec 77](#)

Marijuana Establishments Article VI Section 77 - DRAFT 1 Ordinance Amendments
9-18-2023

Policy Brief Art. V Table of Landuses

Marijuana Land Use Table A 9-2023

5.6. Clifford Park Conservation Easements

20230925 Clifford Park - BRIEF

20230925 2020 Proposed Land Conveyances-MAP

20220922 Planning Board Letter-Clifford Park Conservation Easements - REFERENCE

1894 Clifford Park Deed - REFERENCE

20230925 Ordinance Chapter 46 - Parks - REFERENCE

6. Adjourn



Policy Committee

Meeting Date: August 28, 2023

Meeting Time: 5:30 p.m.

Agenda Item No: 5.1

Item Description: Flag Policy

Submitted by: Danica Lamontagne, Assistant to the City Manager

Supporting Information/Documentation:

Flag Policy with Changes Recommended by the Diversity, Equity and Inclusion Committee
(Strikethrough version)

Flag Policy with Changes Recommended by the Diversity, Equity and Inclusion Committee
(Clean version)

Executive Summary:

The Diversity, Equity and Inclusion Committee carefully reviewed the City's Flag Display Policy and the challenges that staff has faced with enforcing it. At their August 14 meeting, they unanimously recommended a number of proposed changes to the Policy Committee that they believe resolved the major concerns that have been identified with the policy as it stands today.

Detailed Review:

Key Changes to the Policy

The most substantial revisions to the draft policy compared to the existing version are:

1. Limiting all requests to the flagpole outside the Mayor's office. The previous policy was ambiguous and allowed requests for any available flagpole.
2. Allowing up to three flags to fly at once to limit capacity conflicts as well as to prevent situations of a group or individual attempting to "reserve" the flag.
3. Requiring a time-bound element to be tied to the request (such as a holiday or current event).
4. Changing the language surrounding the criteria of what can or cannot be flown (Section 4.b.4).

5. Including a mechanism to allow the City to deny a request for a particular set of dates if there is a potential perception of intimidation towards another group.
6. Establishing a multi-tiered process for review that keeps flag requests from being sent directly to the City Council for consideration. Requests will continue to go to the City Manager's Office first. If denied, they can be appealed to the DEI Coordinator for a second review and to the DEI Committee for a final and binding review.
7. Allowing flags to fly for up to 30 days (if appropriate for the time-bound element, such as during a Heritage Month).
8. Specifying that only Biddeford citizens or Biddeford-based organizations can request flags.

Staff Recommendation:

Adopt the recommended updates to the Flag Policy.

City of Biddeford Flag Display Policy

1. PURPOSE

It is the intent of the City of Biddeford to establish a citywide policy, which follows the United States and State of Maine provisions governing the display of flags, including the United States flag, the State flag, the City flag, and the POW/MIA flag. Any additions must be approved ~~by the Biddeford City Council~~ as per Section 4.

2. REFERENCE

United States and State of Maine provisions governing the display of flags. These can be found in the United States Code, Title 4, Chapter 1 and the Maine Statutes Annotated, Title 1, Chapter 9 (hereinafter “Flag Code and Protocol”).

3. APPLICATION

This Policy applies to all buildings owned or controlled by the City of Biddeford and all individuals employed by or who volunteer with the City of Biddeford, unless a provision of the policy conflicts with a contract or statute (e.g., Collective Bargaining Agreement, Civil Service Rule, or Memorandum of Understanding, etc.).

4. GUIDANCE

a. Display and Care of Flags:

The City of Biddeford follows the Federal and State of Maine Flag Code and Protocol governing the display and care of flags. This policy will be reviewed for possible amendments should the Federal and State of Maine Flag Code be amended.

b. Display of Additional Flags Indoors or Outdoors:

- i. In addition to the above flags, other “Special Flags or Banners” may be displayed on ~~either~~ the flagpole located on the left side of City Hall directly outside of the Mayor’s office ~~or other available flagpoles~~. Such Special Flags or Banners may only be displayed upon administrative approval from ~~the City staff within the City Manager’s Office based on the criteria outlined below. Biddeford City Council.~~

—Examples of Special Flags or Banners include, but are not limited to, sister city flags, Heritage Month flags (e.g., Black History Month, Pride Month, Asian/Pacific American History, National Hispanic Heritage, and Indigenous peoples’ heritage), flags received in recognition of awards, flags received from visiting groups, flags representing an organization dedicated to the public good for the Citizens of Biddeford, or ~~or~~ flags designating an local event or accomplishment. ~~Flags representing or implying specific political party affiliations or candidates are not permitted, but flags encouraging civic engagement or service (such as "vote" flags) are permitted so long as all other criteria are met.~~

1.

2. Up to three (3) Special Flags may be flown at any given time on

a dedicated flagpole and will be flown in the order requests are received unless otherwise determined by City Staff or ~~City Council~~the Diversity, Equity and Inclusion Committee.

1.3. Special Flag requests must have a time-bound element, meaning tied to a specific date or current event related to the dates being requested for the flag to fly. For example, a local or national current event, a specific holiday and/or a national day of remembrance. Flags without a time-bound element will be denied even if all other criteria are met.

4. The City Manager's Office, in consultation with the DEI Coordinator, will approve or deny each special flag request in accordance with the policy as described below: ~~When selecting or approving a request for flying a Special Flag, the City Council shall consider and make a determination that the Special Flag meets at least one or more of the following criteria~~

- a. The flag must represent a positive interest or value worthy of public recognition.
- b. Flags representing or implying specific political-party affiliations or candidates are not permitted, but flags encouraging civic engagement or service (such as "vote" flags) are permitted so long as all other criteria are met.
- c. If the flag requested to fly is an historic American flag, it must be a flag that continues to have a primary positive message of unity.
- d. At no time will the City of Biddeford display flags deemed to be inappropriate or offensive in nature or those supporting discrimination, prejudice, or the oppression of others.

~~Whether the United States or State of Maine has recognized the flag through statute or proclamation;~~

~~Whether the flag represents an organization dedicated to the public good for the Citizens of Biddeford;~~

~~Whether the flag represents a National, State, or City interest;~~

~~Whether the flag is an historic American flag that has or continues to have a primary positive message of American history and unity;~~

~~Whether the flag promotes unity and community with another city, state, country, or other jurisdiction; or~~

~~Whether the flag represents a positive interest or value worthy of public recognition.~~

e. Flags representative of specific special events noted on the City's established Diversity Calendar shall be considered pre-approved but will still need to be requested via the City of Biddeford Flag Request Form.

f. ~~From time to time, a~~ A flag request that otherwise would be approved may be denied ~~for a particular set of dates~~ due to the potential perception of intimidation and/or being antagonizing toward another group ~~(f. For example, flags representing one group with a documented historical background of intimidation and/or mental or physical abuse of another group that is going to fly a flag~~

at the same time). In these cases, the requestor will be asked to choose a different date for their flag to fly. Examples may include but are not limited to flying the British flag on Saint Patrick's Day or the Ancient Roman Flag on Good Friday. If a citizen feels a flag has been approved for a time that may be perceived as intimidation or antagonizing toward another group, this can be reported to the Diversity, Equity and Inclusion Coordinator. Historical backup of the claim will then be requested and evaluated by the City of Biddeford Diversity, Equity and Inclusion Coordinator. If the historical backup shows the concern to be founded, the flag may be removed and requestor will be asked to choose a different time for it to fly so long as it meets all other criteria. Similarly, in the case of multiple flag requests that present conflicting messaging that harms one or all groups, the requestors may be asked to adjust their request dates in order to ensure that the flags fly separately.

5. Individuals or groups may appeal the City Manager's Office Staff decisions on Special Flags by contacting the DEI Coordinator for review. Appeals to the DEI Coordinator's decision will be reviewed by the DEI Committee and are considered binding.

ii. Unless otherwise stated or determined through the appeal process as outlined in Section 4.b.i.5 by the City Council, all Special Flags or Banners shall be flown or displayed for a limit of ~~seven~~ the the time-bound date or thirty (30) contiguous calendar days after a defined start date, whichever is less, except as identified in 4.b.v. Requests may be adjusted at the discretion of City staff in order to begin and/or end on a business day so that City staff will be available to raise and lower the flag.

iii. Requests must be submitted no more than ninety (90) days prior to the defined start date and no less than fourteen (14) days before the start date.

iv. The flag that is being requested to fly must be provided by the requestor and retrieved from the City Manager's office after the raising. The flag must be a clean and serviceable flag.

ii.—

v. The same Special Flag or Banner may not be flown more than twice every calendar year. Special Flags or Banners will be considered to be the same if they have the same design and/or represent the same organization or interest.

vi. In the interest of allowing as many citizens as possible to request Special

Flags, Special Flag requests have the following limits:

1. Only Biddeford Citizens or Biddeford-based organizations are eligible to submit special flag requests and appeals.
2. Biddeford Citizens are limited to two approved Special Flag request per calendar year
- 1-3. Biddeford-based organizations, representing multiple Biddeford Citizens, may make multiple approved requests per calendar year for different Special Flags.

vii. The Mayor has the discretion to fly an appropriate flag, ~~as per the criteria listed in 4.b.i.2. above,~~ for up to one a single day month if ~~he or she~~ they determines that a public purpose is served by flying the flag.

~~iii.—~~

~~iv.—~~

viii. Any Special Flag or Banner flown from a flagpole at City Hall must not be larger than the flag of the United States of America.
~~and must be located beneath the flag of the United States of America when flown on the same staff.~~

c. Display of the Flags at Half-Staff

1. ~~All~~ flags shall be flown at half-staff as prescribed or consistent with this policy or as directed by the proper federal or state officials. Adjustments to time and height of special flags may be adjusted when circumstances require the American Flag to be flown at half-staff.
2. In addition to any federal or state protocols or directions, the Mayor (or designee) or council president in the absence of the mayor, may order the City of Biddeford flag to be flown at half-staff for one week under the following circumstances:
 - a. On the death of any of the following individuals:
 - i. Biddeford Mayor, ex-Mayor, or Mayor-elect;
 - ii. Current member of Biddeford City Council;
 - iii. Current head of any City Department or current employee;
 - iv. Any other local official, citizen, or other individual deemed by the Mayor to have made significant contributions to the benefit and welfare of the City and citizens of Biddeford.
 - b. Any instance where a City of Biddeford employee has been killed in the line of duty or has died as a direct result of injuries incurred while in the performance of official duties.
3. The Mayor shall state the reason or name of the individual in whose honor the flag or flags have been or are to be lowered to half-staff at the first available public meeting of the Biddeford City

Council.

City of Biddeford Flag Display Policy

1. PURPOSE

It is the intent of the City of Biddeford to establish a citywide policy, which follows the United States and State of Maine provisions governing the display of flags, including the United States flag, the State flag, the City flag, and the POW/MIA flag. Any additions must be approved as per Section 4.

2. REFERENCE

United States and State of Maine provisions governing the display of flags. These can be found in the United States Code, Title 4, Chapter 1 and the Maine Statutes Annotated, Title 1, Chapter 9 (hereinafter “Flag Code and Protocol”).

3. APPLICATION

This Policy applies to all buildings owned or controlled by the City of Biddeford and all individuals employed by or who volunteer with the City of Biddeford, unless a provision of the policy conflicts with a contract or statute (e.g., Collective Bargaining Agreement, Civil Service Rule, or Memorandum of Understanding, etc.).

4. GUIDANCE

a. Display and Care of Flags:

The City of Biddeford follows the Federal and State of Maine Flag Code and Protocol governing the display and care of flags. This policy will be reviewed for possible amendments should the Federal and State of Maine Flag Code be amended.

b. Display of Additional Flags Indoors or Outdoors:

- i. In addition to the above flags, other “Special Flags or Banners” may be displayed on the flagpole located on the left side of City Hall directly outside of the Mayor’s office. Such Special Flags or Banners may only be displayed upon administrative approval from City staff within the City Manager’s Office based on the criteria outlined below.

1. Examples of Special Flags or Banners include, but are not limited to, sister city flags, Heritage Month flags (e.g., Black History Month, Pride Month, Asian/Pacific American History, National Hispanic Heritage, and Indigenous peoples’ heritage), flags received in recognition of awards, flags received from visiting groups, flags representing an organization dedicated to the public good for the Citizens of Biddeford, or flags designating a local event or accomplishment.
2. Up to three (3) Special Flags may be flown at any given time on a dedicated flagpole and will be flown in the order requests are received unless otherwise determined by City Staff or the Diversity, Equity and Inclusion Committee.
3. Special Flag requests must have a time-bound element, meaning tied to a specific date or current event related to the dates being

requested for the flag to fly. For example, a local or national current event, a specific holiday and/or a national day of remembrance. Flags without a time-bound element will be denied even if all other criteria are met.

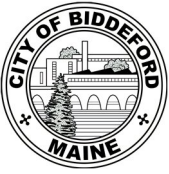
4. The City Manager's Office, in consultation with the DEI Coordinator, will approve or deny each special flag request in accordance with the policy as described below:
 - a. The flag must represent a positive interest or value worthy of public recognition.
 - b. Flags representing or implying specific political-party affiliations or candidates are not permitted, but flags encouraging civic engagement or service (such as "vote" flags) are permitted so long as all other criteria are met.
 - c. If the flag requested to fly is an historic American flag, it must be a flag that continues to have a primary positive message of unity.
 - d. At no time will the City of Biddeford display flags deemed to be inappropriate or offensive in nature or those supporting discrimination, prejudice, or the oppression of others.
 - e. Flags representative of specific special events noted on the City's established Diversity Calendar shall be considered pre-approved but will still need to be requested via the City of Biddeford Flag Request Form.
 - f. A flag request that otherwise would be approved may be denied for a particular set of dates due to the potential perception of intimidation and/or being antagonizing toward another group (for example, flags representing one group with a documented historical background of intimidation and/or mental or physical abuse of another group that is going to fly a flag at the same time). In these cases, the requestor will be asked to choose a different date for their flag to fly. Examples may include but are not limited to flying the British flag on Saint Patrick's Day or the Ancient Roman Flag on Good Friday. If a citizen feels a flag has been approved for a time that may be perceived as intimidation or antagonizing toward another group, this can be reported to the Diversity, Equity and Inclusion Coordinator. Historical backup of the claim will then be requested and evaluated by the City of Biddeford Diversity, Equity and Inclusion Coordinator. If the historical backup shows the concern to be founded, the flag may be removed and requestor will be asked to choose a different time for it to fly so long as it meets all other criteria. Similarly, in the case of multiple flag requests that present conflicting messaging that harms one or all groups, the requestors may be asked

to adjust their request dates in order to ensure that the flags fly separately.

5. Individuals or groups may appeal the City Manager's Office Staff decisions on Special Flags by contacting the DEI Coordinator for review. Appeals to the DEI Coordinator's decision will be reviewed by the DEI Committee and are considered binding.
 - ii. Unless otherwise stated or determined through the appeal process as outlined in Section 4.b.i.5, all Special Flags or Banners shall be flown or displayed for a limit of the time-bound date or thirty (30) contiguous calendar days after a defined start date, whichever is less, except as identified in 4.b.v. Requests may be adjusted at the discretion of City staff in order to begin and/or end on a business day so that City staff will be available to raise and lower the flag.
 - iii. Requests must be submitted no more than ninety (90) days prior to the defined start date and no less than fourteen (14) days before the start date.
 - iv. The flag that is being requested to fly must be provided by the requestor and retrieved from the City Manager's office after the raising. The flag must be a clean and serviceable flag.
 - v. The same Special Flag or Banner may not be flown more than twice every calendar year. Special Flags or Banners will be considered to be the same if they have the same design and/or represent the same organization or interest.
 - vi. In the interest of allowing as many citizens as possible to request Special Flags, Special Flag requests have the following limits:
 1. Only Biddeford Citizens or Biddeford-based organizations are eligible to submit special flag requests and appeals.
 2. Biddeford Citizens are limited to two approved Special Flag request per calendar year
 3. Biddeford-based organizations, representing multiple Biddeford Citizens, may make multiple approved requests per calendar year for different Special Flags.
 - vii. The Mayor has the discretion to fly an appropriate flag for up to one month if they determine that a public purpose is served by flying the flag.
 - viii. Any Special Flag or Banner flown from a flagpole at City Hall must not be larger than the flag of the United States of America.
- c. Display of the Flags at Half-Staff
1. Flags shall be flown at half-staff as prescribed or consistent with this policy or as directed by the proper federal or state

officials. Adjustments to time and height of special flags may be adjusted when circumstances require the American Flag to be flown at half-staff.

2. In addition to any federal or state protocols or directions, the Mayor (or designee) or council president in the absence of the mayor, may order the City of Biddeford flag to be flown at half-staff for one week under the following circumstances:
 - a. On the death of any of the following individuals:
 - i. Biddeford Mayor, ex-Mayor, or Mayor-elect;
 - ii. Current member of Biddeford City Council;
 - iii. Current head of any City Department or current employee;
 - iv. Any other local official, citizen, or other individual deemed by the Mayor to have made significant contributions to the benefit and welfare of the City and citizens of Biddeford.
 - b. Any instance where a City of Biddeford employee has been killed in the line of duty or has died as a direct result of injuries incurred while in the performance of official duties.
3. The Mayor shall state the reason or name of the individual in whose honor the flag or flags have been or are to be lowered to half-staff at the first available public meeting of the Biddeford City Council.



Policy Committee

Meeting Date: September 25, 2023

Meeting Time: 6:00 p.m.

Agenda Item No: 4.2

Item Description: Use of City Seal

Submitted by: Danica Lamontagne, Assistant to the City Manager

Supporting Information/Documentation:

Proposed Policy for Use of City Seal

Executive Summary:

Staff recommends that the City adopt a policy outlining the appropriate use of the City Seal.

Detailed Review:

It recently came to staff's attention that the City does not have guidelines outlining the appropriate use of the City Seal. City Seals are intended to be used to identify official sources of municipal information. Policies governing their use are common in many communities around the country to prevent or provide recourse for situations where the seal is used to misrepresent information as being endorsed or distributed by the City.

Upon further research while crafting language for a new proposed policy, it was discovered that there is an existing State law that prohibits unauthorized use of municipal seals. Title 30-A, C. 101 §2006 reads: *A person may not use or display an imitation, likeness, imprint, representation, facsimile or copy of a seal of a municipality except by written permission of the municipality from the municipal clerk. A municipality may file an action in Superior Court applying for an order to enjoin a person from using or displaying the municipal seal in violation of this section. A violation of this section is a Class E crime.*

Regardless of whether the proposed language is adopted, the City will still be covered by this statute. However, including a reference to the State statute in our Code of Ordinances affirms our commitment to preventing the Seal's unauthorized use.

Additionally, in the review process, it was found that the City Seal in the Code of Ordinances was never updated when the current Seal was put into use in 2015. These changes would officially adopt the design that we currently use on our documents and in our branding.

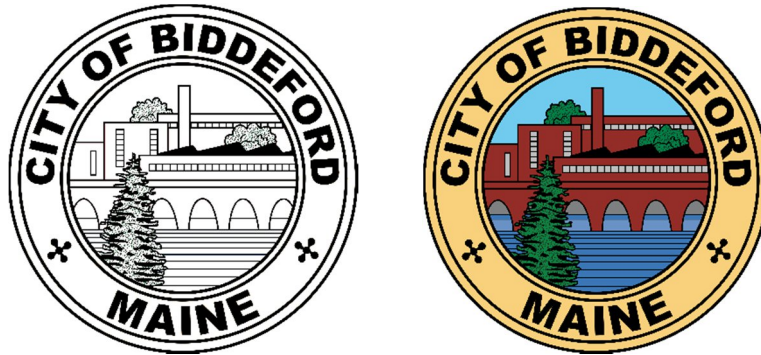
Staff Recommendation:

Add the proposed language clarifying the use of the City Seal to the Code of Ordinances.

[Sec. 2-1 Seal.](#)

[Code 1975, § 2-1]

The design shown in this section shall be the device of the Seal of the City of Biddeford, and the inscription in the margin without the inner circle shall be "City of Biddeford, Maine."



CITY SEAL – BLACK AND WHITE (LEFT), COLOR (RIGHT)

The City Seal is the property of the City of Biddeford and has been established and designated to identify official city facilities, events, sponsorships and publications.

Per State of Maine Title 30-A, C. 101 §2006, "*A person may not use or display an imitation, likeness, imprint, representation, facsimile or copy of a seal of a municipality except by written permission of the municipality from the municipal clerk.*" Under this statute, the City Seal may not be used for purposes of supporting or opposing the nomination or election of a candidate to any City or other public office, or for purposes of supporting or opposing any ballot measure, or for use on any writing distributed for purposes of influencing the action of the electorate or any part thereof, in any election.

If used by an outside organization upon the approval of the municipal clerk or designee, the Seal must remain in entirety with no alternations. Elements may not be isolated and/or used alone or in combination with any other art. The colors of the seal may not be altered without permission from the City.



Policy Committee

Meeting Date: September 25, 2023

Meeting Time: 6:00 PM

Agenda Item No:

Item Description: Housing Trust Fund Ordinance (New)

Submitted by: David C.M. Galbraith, City Planner

Supporting Information/Documentation:

Proposed Ordinance: Code of Ordinances, Part II: Chapter 38 - Housing Trust Fund (currently reserved)

Key Terms:

N/A

Executive Summary:

The purpose of the proposed Housing Trust Fund Ordinance is:

- A. To establish a City of Biddeford Housing Trust Fund for the promotion, retention, and creation of an adequate supply of housing, particularly affordable housing, for all economic groups and to limit the net loss of housing units in the city.
- B. To serve as a vehicle for addressing very low, low, and median income housing needs through a combination of funds as set out in this article.

Detailed Review:

The proposed Ordinance includes a purpose statement, rules for establishing the Trust Fund, regulations for the management of the Trust Fund, standards for annual reporting and rules for the distribution of the Fund's assets.

Funding Source:

N/A

Staff Recommendation:

The proposed Housing Trust Fund Ordinance is another tool Staff is recommending for adoption as it seeks to increase the City's supply of housing, particularly affordable housing, for all economic groups and to limit the net loss of housing units in the city. Staff recommends the forwarding of this Ordinance to the City Council with a recommendation for passage. The proposed creating of a Housing Trust Fund is one of a series of land use amendments (text / map) toward compliance with "LD 2003" and focused upon the creation of additional housing units within the City.

** NOTE: The Housing Trust Fund does not require Planning Board review and approval and may be forwarded directly to the City Council for consideration

Sec. 38-1 Purpose

The purpose of enacting this section is:

- a) To establish a City of Biddeford Housing Trust Fund for the promotion, retention, and creation of an adequate supply of housing, particularly affordable housing, for all economic groups and to limit the net loss of housing units in the city.
- b) To serve as a vehicle for addressing very low, low, and median income housing needs through a combination of funds as set out in this article.

Sec. 38-2 Establishment of the Housing Trust Fund

The City Council shall establish a special revenue account under the name “City of Biddeford Housing Trust Fund” (Housing Trust Fund). Deposits into the fund shall include:

- a) In-lieu fees collected as defined under Article VI (Performance Standards), Section 40 – (Inclusionary Zoning) Subsection 6a.
- b) Funds appropriated to be deposited into the fund by vote of the City Council.
- c) Voluntary contributions of money or other liquid assets to the fund.
- d) Any federal, state, or private grant or loan funds provided to the fund.
- e) Interest from fund deposits and investments.
- f) Repayments of loans made from the fund.

Sec. 38-3 Management of the Trust Fund

The City Manager, or his or her designee, shall serve as the manager of the Housing Trust Fund. The responsibilities of the manager, subject to the orders of the City Council, shall include:

- a) Maintaining the financial and other records of the Housing Trust Fund.
- b) Disbursing and collecting Housing Trust Fund monies in accordance with the Housing Trust Fund Annual Plan.
- c) Monitoring the use of monies distributed to successful applicants for Housing Trust Fund support to assure on-going compliance with the purposes of the fund and the conditions under which these monies were granted or loaned.

Sec. 38-4 Housing Trust Fund Annual Plan

Each fiscal year, the City Council shall adopt a Housing Trust Fund Annual Plan. The City Manager shall submit to the City Council a recommended Housing Trust Fund Annual Plan, utilizing the revenues of the Housing Trust Fund as well as any other funds the City Manager may propose as appropriate.

Sec. 38-1 The Housing Trust Fund Annual Plan shall include:

- 1. A description of all programs to be funded in part or in full by the Housing Trust Fund.
- 2. A description of how funds from the Housing Trust Fund will be distributed among very low-income, low-income and moderate-income households.
- 3. The amount of funds budgeted for programs funded in part or in full from the Housing Trust Fund.

4. Priority for the expenditure of funds collected pursuant to Subsection 6a shall be given to the creation of new housing stock, through either new construction or conversion of nonresidential buildings to residential use.

Sec. 38-5 Distribution and use of the Housing Trust Fund's Assets

1. All distribution of principal, interest, or other assets of the Housing Trust Fund shall be made in furtherance of the public purposes set out in Section 6a.
2. During each year, the Housing Trust Fund shall disburse as grants or loans so much of the Housing Trust Fund's assets as the City Council in its discretion has approved in the Housing Trust Fund Annual Plan.
3. Funds shall not be used for City administrative expenses.
4. Funds shall not be used for property operating expenses or supporting services.
5. No grants or loans shall be awarded by the Housing Trust Fund to corporations, partnerships, or individuals who are delinquent at the time of application in the payment of property taxes or other fees to the City of Biddeford, who have been convicted of arson, who have been convicted of discrimination in the sale or lease of housing under the fair housing laws of the State of Maine, or who have pending violations of current City electrical, plumbing, building, or housing codes or zoning ordinances.

Sec. 38-6 Term of Affordability

1. Whenever funds from the Housing Trust Fund are used for the acquisition, construction, or substantial rehabilitation of an affordable rental or cooperative unit, the City of Biddeford shall impose enforceable requirements on the owner of the housing unit that the unit remain affordable for the remaining life of the housing unit, assuming good faith efforts by the owner to maintain the housing unit and rehabilitate it as necessary. The remaining life of the housing unit shall be presumed to be a minimum of 30 years.
2. Whenever funds from the Housing Trust Fund are used for the acquisition, construction, or substantial rehabilitation of ownership housing, the City of Biddeford shall impose enforceable resale restrictions on the owner to keep the housing unit affordable for the longest feasible time, while maintaining and equitable balance between the interests of the owner and the interests of the City of Biddeford.
3. The affordability restriction requirements described in this subsection shall run with the land and the City of Biddeford shall develop appropriate procedures and documentation to enforce these requirements and shall record such documentation in the York County Registry of Deeds.



Policy Committee

Meeting Date: September 25, 2023

Meeting Time: 6:00 PM

Agenda Item No:

Item Description: Zoning Map Amendment – Additional Housing Units

Submitted by: Roby Fecteau, Director of Code Enforcement
David C.M. Galbraith, City Planner

Supporting Information/Documentation:

Attached is a map of the proposed rezoning area from R2 and R1A zones to MSRD2.

Key Terms:

N/A

Executive Summary:

Staff is recommending a Zoning Map Amendment to portions of the R2 and R1A zones, as illustrated on the proposed Zoning map amendment, to MSRD2 so that they may also benefit from the affordable housing incentives

Detailed Review:

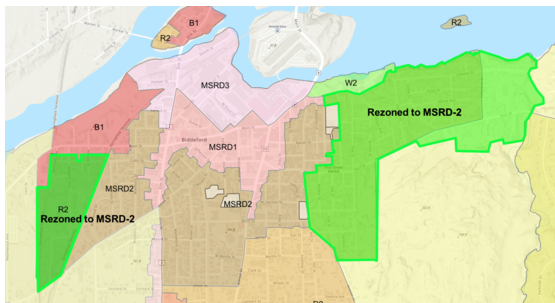
As previously discussed at the Policy Committee (June 22, 2023) the City has been reviewing our land use policies / zoning to create additional housing opportunities within the downtown. The easiest way to accomplish this goal, is to convert a portion of the R2 and R1A zones, as illustrated on the proposed Zoning map amendment, to MSRD2 so that they may also benefit from the affordable housing incentives. The proposed rezoning areas are within the downtown and currently adjacent to the MSRD2 zone. The proposed map amendment is one of a series of land use amendments (text / map) toward compliance with "LD 2003".

Funding Source:

N/A

Staff Recommendation:

Staff is proposing that the Policy Committee forward this rezoning request to the City Council for their input and a recommendation to forward the proposed map amendment to the Planning Board for discussion and a formal Council recommendation towards adoption.





Policy Committee

Meeting Date: September 25, 2023

Meeting Time: 6:00 PM

Agenda Item No:

Item Description: Performance Standards Sec. 77 Marijuana Establishments

Submitted by: Roby Fecteau, Director of Code Enforcement/ David Galbraith, City Planner

Supporting Information/Documentation:

Key Terms:

N/A

Executive Summary:

Staff is recommending a section be added to the Performance Standards section 77 Marijuana. This added language deals with the number of odor complaints and what steps needed to review ongoing complaints.

Detailed Review:

All marijuana uses require a conditional permit from the planning board. Many of the Notices of decisions included language about the number of odor complaints and the need to additional review from planning board. That language is not supported in the ordinance. This amendment defines the process.

This amendment will require Planning Board approval prior to council action

Funding Source:

N/A

Staff Recommendation:

Article VI. Performance Standards

Section 77. Marijuana establishments.

DRAFT ORDINANCE AMENDMENTS

Planning Board Review / Workshop #1: September 20, 2023

Article VI. Performance Standards

Section 77. Marijuana establishments.

[Added 1-17-2017 by Ord. No. 2016.88; amended 1-19-2021 by Ord. No. 2021.1]

- A. All marijuana establishments shall be located indoors. Any common areas, including, but not limited to, storage areas and building facilities, shared with another marijuana establishment shall be clearly identified as such on the site plan or conditional use application.
- B. Odor management. For all marijuana establishments, the odor of marijuana shall not be detectable off-premises, meaning not detectable on any property that is not under the control of the establishment. To prevent and control marijuana odors, an odor control plan shall be submitted as part of the site plan application describing the odor(s) originating or anticipated to originate at the premises and the control technologies to be used to prevent such odor(s) from leaving the premises. The odor control plan shall, at a minimum, include the following:
1. A facility floor plan that identifies the locations of all odor-emitting activities and sources. The plan shall also identify the location of doors, windows, vents, HVAC systems, odor control systems and other relevant information.
 2. A list of specific odor-emitting activities and sources, and a description of the processes that will take place at the facility, including, but not limited to, vegetative flowering, processing and storage.
 3. For each odor-emitting activity or source, a description of the administrative procedures as well as the engineering processes, technologies, and equipment the facility will use.
 - a. Administrative controls shall include, at a minimum: management practices to isolate odor activities and sources, use of standard operating procedures, employee training, regular equipment inspections and maintenance of inspection logs.
 - b. Engineering controls shall include, at a minimum, building design features; use of equipment and technology to address each specific odor-emitting activity or source; a systems and equipment maintenance and replacement schedule; and evidence that proposed equipment and technology are sufficiently capable and appropriately sized consistent with marijuana industry best practices for control technologies designed to effectively mitigate odors.

Marijuana establishments shall implement appropriate ventilation and filtration systems to satisfy the odor standard contained herein. While the City does not mandate any particular equipment specifications with regard to filtration, all marijuana establishments are strongly encouraged to adopt best management practices with regard to implementing state-of-the-art technologies in mitigating marijuana odor, such as air scrubbers and charcoal filtration systems.

Article VI. Performance Standards

Section 77. Marijuana establishments.

DRAFT ORDINANCE AMENDMENTS

Planning Board Review / Workshop #1: September 20, 2023

- c. Noxious gases and fumes. Marijuana establishments shall have appropriate ventilation systems to mitigate noxious gases or other fumes used or created as part of the establishment. Gases or fumes shall not extend beyond the premises of any establishment, meaning not detectable on any property that is not under the control of the establishment.
 - d. Sufficient measures and means of preventing smoke, debris, dust, fluids and other substances from exiting a marijuana establishment shall be provided at all times.
 - e. All marijuana and marijuana by-products intended for disposal shall be stored indoors in a self-contained room that is intended solely for this purpose and in accordance with all applicable federal, state and local laws and regulations. When moving material from the self-contained storage room for disposal, marijuana and marijuana by-products shall be moved only in receptacles with a cover or lid. Security cameras shall be installed to record activities in the area of the storage room as well the areas between the storage room and where said material is loaded onto vehicle(s) for disposal.
- C. Separation of marijuana establishments. No new marijuana establishment may be located within any building that is located within 500 feet of any other building containing a marijuana establishment.
- D. Odor Disobedience Process. Any licensed operator who receives multiple, legitimate complaints for the cannabis odor emitted by their business, may be unable to renew their business license, and therefore also may become unable to operate within the City of Biddeford.
- a) First complaint - The office of code enforcement will review the complaint, and current odor abatement plan. The Operator will have 30 days to address the problem and come up with a solution. After which they will have another 60 days to fix the issue(s).
 - b) After these initial 90 days the business should stay complaint free. If another complaint is made they will have another 90 days to address and fix the issue.
 - c) If three complaints are made throughout the licensed year, the operator will need to update their odor abatement plan, go through the site plan review process, and may not be granted a renewed license.
 - d) If the operator's license is up for renewal within the 90 days of a complaint the city may offer an extension or temporary license to allow for proper reconditioning of the odor abatement system.



Policy Committee

Meeting Date: September 25, 2023

Meeting Time: 6:00 PM

Agenda Item No:

Item Description: Article V Establishment of Zones; Table A: Table of Land uses

Submitted by: Roby Fecteau, Director of Code Enforcement/ David Galbraith, City Planner

Supporting Information/Documentation:

Key Terms:

N/A

Executive Summary:

Staff is recommending adult use marijuana sales be added to the table of land uses as a conditional use permit in the following zones, I1, I2 and I3 zones

Detailed Review:

Maine law allows the delivery of adult use marijuana in Biddeford. This amendment would allow adult use stores in in zones where medical use stores are currently allowed. Biddeford does have a 500' setback for new establishments. Existing establishments may transition to adult use and this setback would not apply.

Permitting adult use storefronts in these zones made sense to staff because we have had zero issues with medical marijuana sales and existing marijuana businesses have not expressed concerns with the locations.

Expanding the sale of adult use sales to other zones, may create economical differences in the price per square foot for rental space or the sale of property. In the very beginning of Marijuana operations in Maine, many communities saw a spike in the rental price for space because, operators were paying over the average price to set up locations. Permitting adult use to existing zones where medical marijuana is currently allowed, would not reintroduce the economic differences in other zoning districts.

This amendment will require Planning Board approval prior to council action

Funding Source:

N/A

Staff Recommendation:

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X
1	MARIJUANA USE CLASSIFICATIONS	Table A - Table of Land Uses																						
2		Article 5 Section	SR-1	CR	R-1-A	R-1-B	R-2	R-3	B-1	B-2	I-1	I-2	I-3	W-1	W-2	W-3	R-F	LR-F	M	IN	OR	MSRD-1	MSRD-2	MSRD-3
3	Marijuana Caregiver Retail Store	77									C	C	C											
4	Marijuana Store, Adult Use	77									C	C	C											
5	Marijuana Cultivation Facility	77									C	C	C											
6	Marijuana Testing Facility	77									C	C	C											
7	Marijuana Products Manufacturing Facility	77									C	C	C											



Policy Committee

Meeting Date: September 25, 2023

Meeting Time: 6:00 PM

Agenda Item No: 4.5.

Item Description: Clifford Park Conservation Easement

Submitted by: Brian S. Phinney, COO

Supporting Information/Documentation:

Clifford Park Deed – Original Parcel

2020 Map of Proposed Land Conveyances

20220922 Planning Board Letter Recommending Designation of Conservation & Access Easements

Code of Ordinances Chapter 46 – Parks (with highlights)

Key Terms:

N/A

Executive Summary:

This item is a follow-up from prior actions of the Policy Committee, City Council, and Planning Board specific to Clifford Park. At the conclusion of the Winding Creek review process the Planning Board submitted a letter to the City Council requesting consideration of conservation and access easements specific to the newly acquired park property. The City Council added the new parcels to the park list by ordinance. This action made the new parcels subject to the same rules, limitations, and policies of all the other parks. The question before the Policy Committee is, should there be additional formal easements specific to Clifford Park to ensure the park is preserved in its current form for public use?

Detailed Review:

The original Clifford Park parcel was purchased by the City of Biddeford from the Clifford family circa 1894 and has subsequently expanded to ±184 acres through 2019. The area of Clifford Park recently expanded by an additional ±100 acres as a result of a land gift and land swap coinciding with the Gervais Dube/E&R Development Winding Creek Project from 2020.

In 2022, at the conclusion of the Planning Board review process for the associated Winding Creek Project, the Planning Board submitted a letter to Mayor Casavant and the City Council recommending designation of conservation and access easements for the newly acquired property. Although there were no prescriptive recommendations, the Planning Board letter contained a general request that, "...the City guarantee public access for low-impact recreational activity, consistent with what is currently permitted within Clifford Park proper...", and "...The Board is aware that the approximately 42.7 acres being conveyed by

Mr. Dube is restricted to recreational uses, but that there are no such restrictions on the remaining approximately 60 acres being conveyed by E&R Development Corp.” The Planning Board recommended, “...extending this same level of land-use restriction to all property being acquired.”

The original Clifford Park deed contained the following restriction:

..., and said land is conveyed upon the following conditions, that it shall be forever kept & held as a public park and shall be named and known as “Clifford Park”, that it shall be forever inalienable by said City – a breach of any of these conditions shall revoke and annul this deed and said City shall thereby forfeit all right and claim under the same.

At the April 25, 2023 regular Policy Committee meeting the Committee reviewed a proposal to amend Chapter 46-Parks, Sec. 46-5. The proposal recommended adding the parcel numbers of the newly acquired land to the codified list of parks. Once added, the various park rules and limitations would apply to the new parcels. The Committee supported the amendment. The parcels were added to Chapter 46 at the July 18th council meeting with the second reading on August 1, 2023. As a result the parcels are now designated as Clifford Park and subject to all codified park rules and restrictions.

The codified sections of Chapter 46-Parks, are included with this packet for reference with relevant section highlights. As a summary, the codified rules include:

- Authority of the Recreation Director, under the guidance and guidance the Recreation Commission, to establish rules and regulations for parks not in conflict with the ordinances.
- Prohibition on damaging park property.
- Prohibition on pollution of waters.
- Prohibition on depositing trash or refuse.
- Requirement to remove pet waste.
- Requirements for vehicle traffic, parking, bicycles.
- Rules and restrictions on bathing/swimming, hunting and firearms, camping, alcoholic beverages, tobacco and smoking.
- Limits on hours of access.
- Limits on merchandising and signs.
- General park operating policies including closed areas, entry prohibitions, access and use by dogs and horses.

Considering the existence of rules and prohibitions that extend across all parks and the recreation director's ability to establish new rules and regulation with certain limitations, the only covenant that applies to the original Clifford Park parcel that does not apply to the newly acquired parcels is the original covenant that the property be forever kept and held as a public park.

In keeping with the request of the Planning Board, the Policy Committee may consider whether it is desirable to:

- Consider a designation as a permanent conservation area by deed; or
- consider restrictions on subdivision or land swaps with or without conditions by deed; or
- a combination of these and other restrictions intended to preserve the land as a park such as within a land trust.

The Policy Committee may also wish to evaluate whether there is a need to encumber the Clifford Park parcels beyond the codified restrictions and policies applicable to other parks and green space. Additionally, if additional restrictions are desired consideration should be given to the practical and symbolic nature of such encumbrances give the generally accepted premise that Clifford Park is a gem and should be preserved. It should also be recognized that the majority of options are subject to the will of future councils. There are ways to encumber the land so as to make future changes burdensome but a true permanent change may prove difficult. For example, the City may rewrite the deed with restrictions but such restrictions are generally subject to the will of future councils and public sentiment. Although subject to the will of future councils, deed restrictions would require a multi-step process to amend. This affords the public opportunities to be engaged in the decision-making process.

Similarly there can be deed restrictions on the ability to subdivide or swap property. Such restrictions would require the same multi-step to process to undo but would also limit the City's ability to make policy decisions deemed to be in the best interest of the City – such as swapping a small parcel for a much larger parcel or the ability to acquire an environmentally or aesthetically significant parcel.

The most restrictive option would be to designate the land for permanent conservation as a park and place the land into a trust. The City's ability to make short- and long-term decisions about the park would be limited to the authority established in the trust.

The City could also maintain the status quo. The land is formally designated as a park and subject to the current – and future – park rules and policies. Changes to these rules and policies codified by ordinance require council approval and by extension opportunities for public involvement and as noted above the park is subject to the same restrictions, use, and policies applicable to other parks.

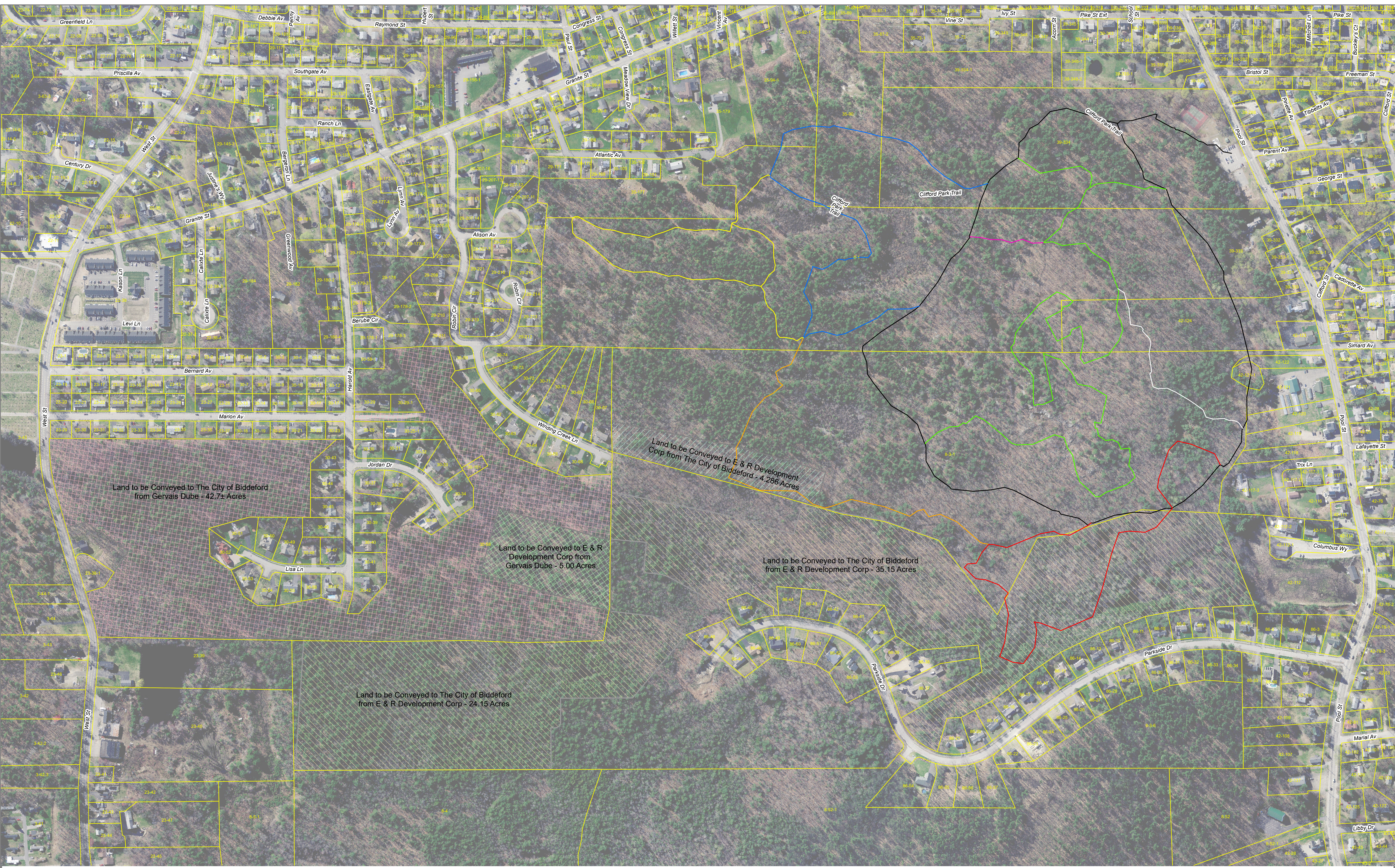
Funding Source:

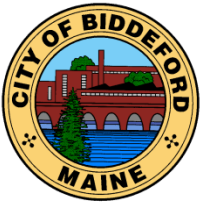
N/A

Staff Recommendation:

This is a policy discussion based on prior review by the City Council, Policy Committee, and recommendations from the Planning Board. The underlying premise of the Planning Board

recommendation is to consider whether there should be restrictions specific to Clifford Park to ensure the park is preserved as a park for public use.





CITY OF BIDDEFORD

Planning Board

TO: Mayor Casavant and the Biddeford City Council

FROM: Chair Southwick and the Biddeford Planning Board

PREPARED BY: Matthew Grooms, AICP, City Planner

RE: Designation of Conservation and Access Easements on City Acquired Property from E&R Development and Gervais Dube

September 22, 2022

Dear Mayor Casavant and City Council,

The City of Biddeford Planning Board, in its advisory capacity to the City Council regarding matters of land use, respectfully requests that the City establish conservation easements to encompass all of the approximately 102.7 acres of soon to be acquired City property in the vicinity of Clifford Park, being conveyed to the City by E&R Development Corp. and Gervais Dube. Further, the Board would request that the City guarantee public access for low-impact recreational activity, consistent with what is currently permitted within Clifford Park proper.

As the Council is likely aware, on Wednesday, September 21, 2022, the Planning Board took final action on a proposed 19-lot single-family subdivision at the terminus of Winding Creek Lane. This project is contingent upon the land exchange between the City of Biddeford, E&R Development Corp. and Gervais Dube, as approximately 4.2 acres of City property is being provided to E&R Development Corp. to complete this subdivision. While the Board understands that the land exchange and subdivision approval are two separate and distinct items, the fact that the project is contingent upon this land exchange occurring, resulted in this exchange being discussed in detail as part of the project review.

In evaluating this proposal against Biddeford's subdivision regulations, the Planning Board carefully considered the potential for environmental impacts associated with this particular project, while simultaneously acknowledging the tremendous public benefit of having the City acquire significant (in terms of both size and quality) new property directly adjacent to Clifford Park for conservation and recreational use. The Board is aware that the approximately 42.7 acres being conveyed by Mr. Dube is restricted to recreational uses, but that there are no such restrictions on the remaining approximately 60 acres being conveyed by E&R Development Corp. In light of this, and in support of creating a larger contiguous Clifford Park, the Planning Board kindly asks that the Council consider extending this same level of land-use restriction to all property being acquired.

Regards,

William Southwick

Chair, Biddeford Planning Board

Know all Men by these Presents, That

the Mary Ann Clifford and Achsah S. Clifford both of Biddeford in the County of York and State of Maine

In consideration of fifteen hundred dollars, paid by The City of Biddeford in said County of York

the receipt whereof we do hereby acknowledge, do hereby give, grant, bargain, sell and convey unto the said City of Biddeford ———— ~~Heirs and Assigns~~ forever,

a certain lot or parcel of, land situated on the South West side of Pool Street in said City of Biddeford bounded as follows, viz: on the South East by land of Charles W. Woodruff and Alfred Woodruff and land of William P. Freeman; — on the South-west by land of Charles W. Bragdon and Son; on the North West by land of Margaret J. Kilpatrick and on the North East by said Pool Street — and said land is conveyed upon the following conditions, that it shall be forever kept & held as a public Park and shall be named and known as "Clifford Park"; that it shall be forever inalienable by said City — a breach of any of these conditions shall revoke and annul this deed and said City shall thereby forfeit all right and claim under the same.

To Have and to Hold the above granted and hereinafter premises with all the privileges and appurtenances thereof to the said City of Biddeford for the purpose ^{specified to} ~~Heirs and Assigns~~ to their use and behoof forever. And we do covenant with the said Grantee, ~~Heirs and Assigns~~, that we are lawfully seised in fee of the premises; that they are free of all incumbrances;

that we have good right to sell and convey the same to the said Grantee to hold as aforesaid; and that we and our Heirs shall and will WARRANT AND DEFEND the same to the said Grantee for the above named purpose ~~Heirs and Assigns~~ forever, against the lawful claims and demands of all persons.

In Witness Whereof, we the said Grantors,

have hereunto set our hand and seal this first day of September in the year of our Lord one thousand eight hundred and ninety four.

Signed, Sealed and Delivered
in presence of

S. W. Louques

Mary A. Clifford (Seal)

Achsah S. Clifford (Seal)

State of Maine, York, ss. September 1st 1894. Personally appeared the above named Mary Ann Clifford & Achsah S. Clifford and acknowledged the above instrument to be their free act and deed.

Before me, Samuel W. Louques

JURAT OF THE PEACE.

Recorded according to the original received January 8, 1895 at 12 h. 50 m. P. M.

Attest:

Martin M. Learitt REGISTER.

Chapter 46

PARKS

Sec. 46-1.	Word usage and definitions.	Sec. 46-9.	Vehicles and traffic.
Sec. 46-2.	Recreation Director appointment; hiring of personnel; oversight.	Sec. 46-10.	Recreational activities.
Sec. 46-3.	Powers and duties.	Sec. 46-11.	Alcoholic beverages; camping and erection of structures; fires; use of closed areas.
Sec. 46-4.	Annual budget; reports; other duties.	Sec. 46-12.	Merchandising, advertising and signs.
Sec. 46-5.	City parks, beaches and athletic fields.	Sec. 46-13.	Park operating policy.
Sec. 46-6.	Day-to-day operational rule making authority.	Sec. 46-14.	Safe zones.
Sec. 46-7.	Damage to park property.	Sec. 46-15.	Enforcement.
Sec. 46-8.	Sanitation.	Sec. 46-16.	Violations and penalties.

Sec. 46-1. Word usage and definitions.

- (a) When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.
- (b) For the purpose of this chapter, the following terms, phrases, words and their derivatives shall have the meanings given herein:

ATHLETIC FIELD — An area of land usually enclosed by a fence or other barrier that includes the playing field, where sports or other events take place. **[Added 8-20-2019 by Ord. No. 2019.77]**

CITY — The City of Biddeford.

DIRECTOR — The Parks and Recreation Director appointed pursuant to § 46-2 of the Code of the City of Biddeford.

DOG PARK — An area that has been fenced in and designated for exclusive use by dogs. Dog parks shall have clearly established rules for their use, which shall be posted at all entrances.

PARK — Shall be limited to the areas within the boundaries, as described in the records of the City of Biddeford Assessor, of the following City-owned recreational properties and facilities.¹

TOBACCO — Includes but is not limited to cigarettes, cigars, snuff, pipes, spit tobacco, and vaping.

TOBACCO-FREE ZONE — Includes City-owned playgrounds, athletic fields, sports fields, parks and beaches. **[Amended 8-20-2019 by Ord. No. 2019.77]**

VEHICLE — Any wheeled conveyance, whether motor-powered, animal-drawn or self-propelled. The term shall include but not be limited to any trailer in tow, automobile, truck, wagon, snowmobile, motor bike, skateboard, motorcycle or trail bike of any size, kind or description. Exception is made for baby carriages, bicycles used at the Clifford Park and Rotary Park, and vehicles used in the maintenance and operation of City parks.

1. Editor's Note: See Section 46-5 for a list of City parks.

Sec. 46-1

Sec. 46-2

Sec. 46-2. Recreation Director appointment; hiring of personnel; oversight.

- (a) The Recreation Director shall be appointed by the City Manager and confirmed by the City Council.
- (b) All personnel hired by the Recreation Director shall be approved by the City Manager.

Sec. 46-2

Sec. 46-3

Sec. 46-3. Powers and duties.

- (a) The Recreation Director shall formulate and carry out recreation programs, in consultation with the Recreation Commission, for the benefit of the City's citizens and cooperate with other departments and/or agencies.
- (b) The Recreation Director shall recommend the improvement of recreational lands and facilities within the City and make periodic reports, as requested by the Recreation Commission or by the City Manager, on the operation of the Department.

Sec. 46-3

Sec. 46-4

Sec. 46-4. Annual budget; reports; other duties.

The Recreation Director shall, with the consent and review of the Recreation Commission, submit annually a budget for the ensuing year and submit reports as requested by the Commission to the City Manager. The Director shall also carry out such duties, provided that they fall within the scope of the Recreation Department, as the Recreation Commission may from time to time recommend.

Sec. 46-4

Sec. 46-5. City parks, beaches and athletic fields.

Sec. 46-5

Name	Assessor's Map and Lot Numbers
Biddeford Pool Bath House/Gilbert Boucher Park Gilbert Place	GIS
Biddeford Pool Mini-Park 0 Lest B. Orcutt Blvd.	GIS 59-117
Cannon Plaza 59 South Street	GIS 39-201
Canopy Park 65 Bacon Street	GIS 39-129
City Square Park 58 Lincoln Street	GIS 38-132
Clifford Park 130 Pool Street	GIS 39-334, Parcels 8-1 and 8-3-1
Doran Field 314 South Street	GIS 32-4
F.O.A.V. Court Park 2 FOAV Court	GIS 39-137
Fortunes Rocks Beach	
J. Richard Martin Community Center Playground 189 Alfred Street	GIS 34-228
Liberty Park 2 Water Street	GIS 41-129
Pierson's Lane Community Park 40 Pierson's Lane	GIS 39-116 GIS 30-117
Mechanics Park 3 Main Street	GIS 41-1
Memorial Park 130 May Street	GIS 27-34
Middle Beach	
Park in the Pines 194 Hills Beach Road	GIS 55-51
River Walk Plaza/River Walk Phase 2 2 Main Street	GIS 71-11
Rotary Park 550 Main Street	GIS 32-2
St. Louis Field	GIS 28-270
Shevenell Park 149 Main Street	GIS 38-372
Veteran's Memorial Park 2 Pool Street	GIS 38-419
Vines Landing End of Lester B. Orcutt Boulevard	GIS 59-117
Washington Street School Park 75 Washington Street	GIS 38-312-1
Williams Court Park South Street and Green Street	GIS 183, 182 169-1

Sec. 46-5

Sec. 46-6

Sec. 46-6. Day-to-day operational rule making authority.

Under the direction and guidance of the Recreation Commission, the Director shall have the authority to establish and promulgate rules and regulations that are not otherwise in conflict with this chapter for the day-to-day operation of the recreational facilities and Parks identified herein.

Sec. 46-7. Damage to park property.

Except as may be necessitated by reason of construction or maintenance activities under the supervision and control of the Director, **no person in a park shall:**

(1) Buildings and other property.

- a. **Disfiguration and removal:** willfully mark, deface, disfigure, injure, tamper with or displace or remove any building, bridges, tables, benches, fireplaces, railings, paving or paving material, waterlines or other public utilities or parts or appurtenances thereof, signs, notices or placards, whether temporary or permanent, monuments, stakes, posts or other boundary markers or other structures or equipment, playground equipment, facilities or park property or appurtenances whatsoever, either real or personal.
- b. **Removal of natural resources:** dig or remove any sand, soil, rock, stones, trees, shrubs or plants, timber or other wood or materials or make any excavation by tool, equipment, blasting or other means or agency.
- c. **Erection of structures:** construct or erect any building or structure of whatever kind, whether permanent or temporary in character, or run or string any public service utility into, upon or across such lands, except on special written permit issued by the Director.

(2) Trees, shrubbery and lawns.

- a. **Injury and removal:** damage, cut, carve, transplant or remove any tree or plant or injure the bark or pick the flowers or seeds of any tree or plant, nor shall any person attach a rope, wire or other contrivance to any tree or plant. A person shall not dig in or otherwise disturb grass areas or in any other way injure or impair the natural beauty or usefulness of any area.
- b. **Climbing trees:** climb a tree or walk, stand or sit upon monuments, vases, fountains, railings, fences or upon any other property not designated or customarily used for such purposes.

Sec. 46-7

Sec. 46-8. Sanitation.

Sec. 46-8

No person in a park shall:

- (1) **Pollution of waters:** throw, discharge or otherwise place or caused to be placed in the waters of any fountain, pool, pond, stream or other body of water in or adjacent to any park or any tributary, stream, storm sewer or drain flowing into such waters any substance, manner or thing, liquid or solid, which will or may result in the pollution of said waters.
- (2) **Refuse and trash:** have brought in or shall dump, deposit or leave any bottles, broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage or refuse or other trash. No such refuse or trash shall be placed in any waters in or contiguous to any park or be left anywhere on the grounds thereof, but it shall be placed in the proper receptacles where these are provided. Where receptacles are not so provided, all such rubbish or waste shall be carried away from the park by the person responsible for such presence and properly disposed of elsewhere.
- (3) **Animal waste:** fail to immediately remove and lawfully dispose of any feces left in any park, beach or public space by an animal owned by such person or under his/her control. This regulation shall not apply to an animal accompanying any handicapped person who, by reason of his/her handicap, is physically unable to comply with the requirements of this subsection. **[Amended 7-20-2021 by Ord. No. 2021.58]**

Sec. 46-8

Sec. 46-9

Sec. 46-9. Vehicles and traffic.

- (a) **State motor vehicle laws apply.** No person in a park shall fail to comply with all applicable provisions of the state motor vehicle laws (NOTE: See M.R.S.A. Title 29-A.) with regard to equipment and operations of vehicles, together with such regulations as are contained in this chapter and other City of Biddeford ordinances. (NOTE: See Ch. 42, Motor Vehicles and Traffic.)
- (b) **Obey traffic signs.** No person in a park shall fail to observe carefully all traffic signs indicating speed, direction, caution, stopping or parking and all others posted for proper control and to safeguard life and the property.
- (c) **Speed of vehicles.** No person in a park shall ride or drive a vehicle at a rate of speed exceeding the posted speed for any park.
- (d) **Operation of vehicles.** No person in a park shall drive any vehicle, excepting bicycles, on or in any area except public ways and paved park roads or parking areas or such other areas as may, on occasion, be specifically designated as temporary parking areas by the Director. Snowmobiles may be allowed on certain trails in City parks where such trails serve to interconnect other snowmobile trails not in City parks and where the Director of Parks and Recreation has designated such trails for such purpose after finding that it is compatible with the use of such park trails by the public for other purposes. Excepting bicycles, only vehicles properly licensed and registered for operation on public ways and operated by persons properly licensed under the laws of the State of Maine shall be permitted in any parking area. Exception: Snowmobiles are permitted to be operated on trails within Clifford Park.
- (e) **Parking.**
 - (1) No person in a park shall:
 - a. Designated areas: park a vehicle in other than an established or designated parking area, and such use shall be in accordance with the posted directions thereat and with the instructions of any attendant who may be present.
 - b. Overnight parking: leave a vehicle standing or parked at night within any park after 10:00 p.m. Eastern time, except as specifically authorized under Chapter 42, Section 42-59, Snow emergency parking ban.
 - c. Lifeguards: park a vehicle in an area that has been designated by the Director as reserved for lifeguards.
 - (2) Exceptions. There shall be no parking between the hours of dusk and dawn in Gilbert Boucher Park, including park easement areas. Areas of the park affected by this prohibition shall be posted with signs that read: "No parking dusk to dawn." The time of dawn and dusk shall be as reported in the Maine Farmers Almanac.
 - (3) Enforcement.
 - a. The laws of the State of Maine shall, where applicable in parks, be enforced in the manner provided by law. City ordinances and rules and regulations of the park shall be enforced in the manner provided therein.
 - b. Violations of this subsection shall be a parking infraction.
 - c. The Parks and Recreation Director or his or her authorized representative, as specifically authorized by the Chief of Police, and the Biddeford Police Department are authorized to issue parking tickets for violations of this Subsection (e).
 - d. Removal of unauthorized vehicles. Any vehicle found in violation of this section may be removed

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in accordance with the procedures established under Chapter 42, Motor Vehicles and Traffic of this Code. Sec. 46-9

(f) **Bicycles. No person in a park shall:**

- (1) **Confined to roads:** ride a bicycle on other than a paved vehicle road or path designated for that purpose. A bicyclist shall be permitted to wheel or push a bicycle by hand over any grassy area or wooded trail or any paved area reserved for pedestrian use.
- (2) **Operation:** ride a bicycle other than on the right-hand side of the road paving as close as conditions permit, and bicycles shall be kept in a single file when two or more are operating as a group. Bicyclists shall at all times operate their machines with reasonable regard as to the safety of others, signal all turns, pass to the right of any vehicle they are overtaking and pass to the right of any vehicle they may be meeting.
- (3) **Designated racks:** leave a bicycle at a place other than a bicycle rack when such is provided and there is space available.
- (4) **Immobile bicycles:** leave a bicycle lying on the ground or paving or set against trees or in a place or position where other persons may trip over or be injured by it.

Sec. 46-10. Recreational activities.

No person in a park listed in the chapter shall:

(1) **Bathing and swimming.**

- a. Designated areas: swim, bathe or wade in the waters of any fountain, pond, pool, stream or other body of water in or adjacent to any park or any tributary, stream, storm sewer or drain flowing into such waters, except in such waters and in such places as are specifically provided for swimming or bathing purposes and in compliance with such regulations as are herein set forth or may hereafter be adopted by the Director, nor shall any person frequent any waters or places customarily designated for the purposes of swimming or bathing or congregate thereat in such activities prohibited by the Director upon finding such use of the water would be dangerous or otherwise inadvisable.
- b. Certain hours: frequent any waters or places designated for the purposes of swimming or bathing or congregate thereat except between such hours of the day and on such conditions as shall be designated by the Director for such purposes for each individual park area.

(2) **Hunting and firearms:** hunt, trap or pursue wildlife at any time. No person shall use, carry or possess firearms of any description or air rifles, spring guns, bows and arrows, slings or other forms of weapons potentially inimical to wildlife and dangerous to human safety or any instrument that can be loaded with and fire a blank cartridge or any kind of trapping device. Shooting in park areas as defined herein is strictly forbidden.

(3) **Camping:** set up tents, shacks or any other temporary shelter for the purpose of overnight camping, nor shall any person leave in a park after closing hours any movable structures or special vehicle that could be used for such purposes as a house trailer, camp trailer, tent or the like.

(4) **Tobacco and smoking.** All forms of tobacco use, including vaping are prohibited.

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Sec. 46-11

Sec. 46-11. Alcoholic beverages; camping and erection of structures; fires; use of closed areas.

(a) **Intoxicating beverages.**

- (1) **Liquor defined.** For purposes of this subsection, "liquor" shall mean and include any alcoholic, spirituous, vinous, fermented or other alcoholic beverage, or combination of liquors and mixed liquors, intended for human consumption which contains more than 1/2 of 1% of alcohol by volume.
- (2) **Prohibition.** Except as specifically authorized, in writing, by the City Council, no person within a City park, public beach, or athletic field, identified under Section 46-5 of this chapter, or in any parking area contiguous thereto, may possess or consume liquor at any time. **[Amended 5-16-2017 by Ord. No. 2017.35]**

- (b) **Fires.** No person in a park shall build or attempt to build a fire, except at such areas and under such regulations as may be designated by the Director. No person shall drop, throw or otherwise scatter lighted matches, burning cigarettes or cigars, tobacco or other inflammable material within any park area or on any highway, road or street abutting or contiguous thereto.

- (c) **Closed areas.** No person in a park shall enter an area posted as "Closed to the Public," nor shall any person use or let the use of any area in violation of posted notices.

- (d) Except by permit issued by the Recreation Director, no person may erect, setup, or maintain any tent, shack, shelter or any other structure within or on any park as identified under Section 46-5 of this chapter. The Recreation Director may cause the removal of any such structure that has been erected without permission. **[Added 5-21-2019 by Ord. No. 2019.47]**

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Sec. 46-12

Sec. 46-12. Merchandising, advertising and signs.

Except in conjunction with supervised activities under the general control and supervision of the Director, no person in a park shall:

- (1) **Vending and peddling:** expose or offer for sale any article or thing, nor shall he or she station or place any stand, cart or vehicle for the transportation, sale or display of any such article or thing. Exception is here made as to any regularly licensed concessionaire acting by and under the authority and regulation of the Director.
- (2) **Advertising: pronounce,** advertise or call to the public attention in any way to any article or service for sale or hire.
- (3) **Signs:** paste, glue, tack or otherwise post any sign, placard, advertisement or inscription whatever, nor shall any person erect or cause to be erected any sign whatever on any City-owned lands or highways or roads adjacent to a park. Exception from the prohibitions of this subsection is made for the posting of such notices as may be required by this chapter.
- (4) **Sponsorship signs** erected by the City of Biddeford in accordance with guidelines established by the Recreation Commission shall not be deemed a violation of this section.

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Sec. 46-13

Sec. 46-13. Park operating policy.

- (a) **Hours.** All parks, as defined herein, shall be open to the public every day of the year from dawn to dusk. In the event that activities are conducted at either the St. Louis Field or Mechanics Park for which there is an admission fee charged or access is otherwise controlled, no member of the public shall have the right to enter said park areas without authorization and/or payment of such admission fee. The Director shall cause notices of the opening and closing hours to be posted in each individual park for public information and enforcement purposes.
- (b) **Closed areas.** Any section or part of any park may be declared closed to the public by the Director at any time for any interval of time, either temporarily or at regular stated intervals (daily or otherwise).
- (c) **Entry prohibited.** Except with the written permission of the Director, no person shall enter, pass through or remain in any park, or the closed area of any park, except during the hours and times when such park, or portion thereof, is open to the public as provided in this section.
- (d) **Dogs, horses and horse-drawn vehicles.** [Amended 5-16-2017 by Ord. No. 2017.38; 4-16-2019 by Ord. No. 2019.28; 8-20-2019 by Ord. No. 2019.78; 7-20-2021 by Ord. No. 2021.58]
 - (1) Dogs are prohibited from entering or remaining in any playground, schoolyard, athletic field, beach areas or any other area posted under authorization of the Recreation Director, except as follows:
 - a. City beaches. No unleashed dog is allowed on any of the City's public beaches from March 15 to September 15. Dogs are completely prohibited from May 25 to September 15 between the hours of 9:00 a.m. and 5:00 p.m. Unleashed dogs under voice command are allowed on the City's public beaches all day from September 16 to March 14. This subsection does not apply to the beach at Rotary Park.
 - b. Rotary Park. Dogs may not use any part of the Rotary Park beach between the hours of 9:00 a.m. and 8:00 p.m. from May 25 to September 15 of each year.
 - (2) Horses.
 - a. Horses and horse-drawn vehicles are prohibited from entering or remaining in any park or athletic field. They are restricted from beach areas between the hours of 9:00 a.m. and 5:00 p.m. from May 25 to September 15.
 - b. Horses using the public beaches must utilize a manure catch device.
 - (3) Nothing herein is intended to prohibit the Recreation Commission from creating and maintaining a dog park, as defined herein under Section 46-1(b), and for establishing rules and regulations governing the operation thereof.

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Sec. 46-14

Sec. 46-14. Safe zones.

- (a) Pursuant to its authority under 30-A M.R.S.A. § 3252, the City does hereby designated the following athletic fields, parks, playgrounds or recreational facilities as a "safe zone" under 17-A M.R.S.A. § 1101(23):
- (1) Rotary Park (includes entire parcel from Main Street to the Saco River).
 - (2) Doran Field.
 - (3) St. Louis Field (entire fenced-in area).
 - (4) Waterhouse Field.
 - (5) Mayfield (including all baseball and softball fields and tennis courts).
 - (6) Clifford Park (playground that abuts Pool Street, including tennis and basketball courts).
 - (7) Biddeford Pool Bathhouse/Gilbert Boucher Park.
 - (8) J. Richard Martin Community Center Playground.
 - (9) The Arena (Biddeford Ice Arena).
 - (10) Williams Court Park.
 - (11) Mechanics Park.
 - (12) Shevenell Park.
 - (13) Liberty Park.
 - (14) Pierson's Lane Community Park.
- (b) The Commissioner of Public Safety has approved the following wording to be used on a safe zone informational sign under the Maine Revised Statutes, Title 30-A § 3253:

**DRUG-FREE
SAFE ZONE**
INCREASED PENALTIES FOR DRUG CRIMES
COMMITTED WITHIN THIS ZONE
(17-A, M.R.S.A. CHAPTER 45)

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Sec. 46-15

Sec. 46-15. Enforcement.

The Director and his or her subordinate employees shall, in connection with their duties imposed by law, diligently enforce the provisions of this chapter. In addition, the Code Enforcement Officer and the members of the Biddeford Police Department shall also have the authority to enforce the provisions of this chapter.

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Sec. 46-16

Sec. 46-16. Violations and penalties.

Any person, firm or corporation violating any provisions of this chapter, upon conviction thereof, shall be fined in an amount not exceeding \$100. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.