

AMENDED CONSENT AGREEMENT

RE: Porthole Restaurant & Pub LLC

This document constitutes an agreement between Mr. Kenneth Macgowan and Porthole Restaurant & Pub LLC, (hereinafter collectively referred to as "Porthole") of 20 Custom House Wharf, Portland, Maine (hereinafter referred to as the "Property"), and the City of Portland (hereinafter referred to as the "City") for the purposes of enforcing and resolving violations of the City of Portland's Code of Ordinances (the "Code") (hereinafter referred to as the "Agreement").

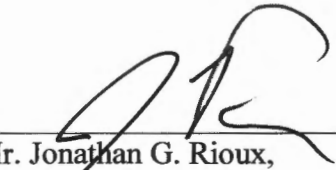
Both Porthole and the City agree as follows:

1. The Porthole Restaurant & Pub is a restaurant located on the waterfront in the City of Portland, Maine.
2. Porthole has been repeatedly notified orally and in writing that the Property is in violation of Portland City Code. See attached Violation Notice attached hereto as Exhibit A. Porthole admits these violations.
3. In consideration for the release by the City of the causes of action which the City has against Porthole resulting from the violations enumerated in this Agreement, and the attachments hereto, the Porthole hereby agrees that it will do the following:
 - a. Bring the Property into compliance with the City Code by completing the proposed work under Permit(s): # 201402882, 201402727, 201402658, 201401273, and 201400676; approved by the City by and through those permits on or before **March 17, 2015**.
 - b. Only use the portion of the Property formerly known as the "Comedy Connection"/currently known as the "Porthole Pub" in compliance with the approved permit application number 201401273 and the certificate of occupancy issued pursuant to the permit; and specifically with only fixed seating (as specified in the approved permit and certificate of occupancy) and with no live entertainment; and
 - c. Complete the installation of Permit # 201402882, the approved automatic sprinkler system, in compliance with the City's applicable life safety codes, ready for final inspection by the City, and the approved licensed sprinkler system Contractor by **March 17, 2015**.
4. As part of this Agreement, Porthole also hereby agrees to permit agents of the City to enter the Property to verify compliance with the terms of this Agreement.

5. If the Porthole has not submitted the necessary plans, permit requests and/or installed the functioning sprinkler system on or before the deadlines specified herein, Porthole understands and agrees that the City will immediately commence a legal action enforcing the terms of this agreement and/or a land use enforcement action in court. Furthermore, Porthole agrees that it will be responsible for a civil penalty in the amount of One Hundred Dollars (\$100.00) per day retroactively from the date of this Agreement; and an additional One Hundred Dollars (\$100.00) per day each day thereafter that such violations continue to exist, and the City's reasonable attorney's fees and costs to prosecute any such action required to be filed as a result of their non-compliance with this Agreement or the City Code.

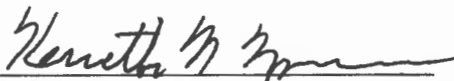
IN WITNESS WHEREOF, and thereunto duly authorized, the said City of Portland has caused this Agreement to be signed by Jonathan Rioux, its Inspections Division Deputy Director, and Mr. Kenneth Macgowan and the Porthole Restaurant & Pub LLC has caused this Agreement to be signed by Mr. Kenneth Macgowan.

Dated: March 11, 2015.




Mr. Jonathan G. Rioux,
City of Portland,
Deputy Director of Inspections

Dated: March 11, 2015.



Mr. Kenneth Macgowan on behalf of
himself individually and for the
Porthole Restaurant & Pub LLC

Witness to Both of the Signatures Above:



Mr. Keith Gautreau,
City of Portland
Acting Assistant Chief of Fire Prevention and Community Outreach



Planning & Urban Development Department

May 14, 2014

COPY

Porthole Restaurant & Pub LLC
Attn: Ken MacGowan
20 Custom House Wharf
Portland, ME 04101

Hand Delivered

CBL: 030 A001001
Re: Second Notice of Violation (Stop Work Order)
Located At: 86 Commercial St.

Dear Mr. MacGowan:

On April 15, 2014 an evaluation of 86 Commercial St. revealed that building (including electrical and plumbing) work was being conducted without benefit of a valid building permit and in violation of a Stop Work Order for un-permitted work on 11/18/2013. As a result, your property is in violation of 105.1 of the IBC, 2009 (MUBEC), and Section 6-21 of the City of Portland Building and Building Regulations.

This notice shall also serve as a Stop Work Order pursuant to § 115 of the 2009 IBC (MUBEC) (incorporated by the Portland City Code), and so all construction activity at your property must stop immediately. You may resume construction activity only after the following building conditions are met:

1. Immediately submit an after-the-fact building permit application for any construction, and or alterations including but not limited to: the kitchen area near Boones, the bar area adjoining the kitchen, the stairwell area abutting Boones, and the wall opening(s) to the kitchen;
2. Electronic media documents are required for submittal; the construction documents shall be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that it will conform to the provisions of City Building Code (available at: <http://www.portlandmaine.gov/planning/applicantsubmittalelectronicplanreview.pdf>);
3. All building permit construction documents also shall be prepared by a Design Professional and bear their seal;
4. Pay a \$75.00 assessed fee;
5. Immediately submit an after-the-fact plumbing permit for all work that was conducted without benefit of a plumbing permit;



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6. Complete work permitted under electrical permit # 2014-00676 by May 23, 2014; and
7. A re-inspection is scheduled for May 23, 2014 at which time compliance with all of the above terms is required.

Please note that the aforementioned building violations were similar to previous notices sent to the Proprietors of Custom House. In fact, City staff met with you on April 11, 2014 (See City Clerk letter dated 04/11/2014), and held a plan review meeting on May 6th, 2014 to help streamline the permitting process.

In addition, based on the above inspection, the following Fire Department conditions that must also be met:

1. Apply for a Building Permit which will need to include an NFPA 101 Code (adopted pursuant to City Code Chapter 10) analysis and life safety/key plan created by a registered design professional. More specifically, your design professional will need to address the following NFPA 1 and 101 (adopted pursuant to City Code Chapter 10) requirements:
 - a. The need for a supervised automatic sprinkler system if live entertainment is proposed to occur an assembly occupancy;
 - b. Proper fire separation between other occupancies and use groups;
 - c. Means of egress on the second floor; and
 - d. Any separation issues that are present as a result of vertical openings between the first and second floors.
2. Provide a copy of the State Fire Marshal Office (SFMO) Construction Permit.

Failure to comply with the conditions listed above by May 23, 2014 will result in this office referring the matter to the City of Portland Corporation Counsel for legal action and possible civil penalties, as provided for in § 1-15 of the Code and in Title 30-A of M.R.S.A. § 4452. This constitutes an appealable decision pursuant to § 6-127 of the City of Portland Building Code.

Portland, Maine



Yes. Life's good here.

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Sincerely,

A handwritten signature in black ink, appearing to read "JR", written over the printed name.

Jonathan Rioux,
Deputy Director of Inspections

cc: Sheila Hill-Christian, Deputy City Manager
Katherine Jones, City Clerk
Trish McAllister, Neighborhood Prosecutor
Chris Pirone, Captain/ Fire Prevention Officer