

**City of Portland, Maine – Building or Use Permit Application** 389 Congress Street, 04101, Tel: (207) 874-8703, FAX: 874-8716

|  |  |  |  |   |  |  |  |
|--|--|--|--|---|--|--|--|
| Location of Construction:<br>20 Custom House Wharf |  | Owner:<br>Ken MacGown                        |  | Phone:<br>831-1001  |  | Permit No:<br><b>000598</b>                |  |
| Owner Address:<br>Custom House Wharf Proprietor    |  | Lessee/Buyer's Name:<br>Port Hole Restaurant |  | Phone:<br>N/A   |  | BusinessName:                              |  |
| Contractor Name:<br>N/A                            |  | Address:<br>N/A                              |  | Phone:<br>N/A   |  | Permit Issued:<br><b>JUN 5 2000</b>        |  |
| Past Use:<br>Outside Dining                        |  | Proposed Use:<br>Outside Dining              |  | COST OF WORK:<br>\$   |  | PERMIT FEE:<br>\$ 35.00                    |  |
|  |  |  |  | FIRE DEPT. <input checked="" type="checkbox"/> Approved<br><input type="checkbox"/> Denied  |  | INSPECTION:<br>Use Group: Type:            |  |
| Proposed Project Description:<br>Outside Dining    |  |  |  | Signature: <i>[Signature]</i>   |  | Signature: <i>[Signature]</i>              |  |
|  |  |  |  | PEDESTRIAN ACTIVITIES DISTRICT (P.A.D.)   |  | Zone: <b>WCZ</b> CBL: 030-A-001            |  |
|  |  |  |  | Action: <input type="checkbox"/> Approved<br><input type="checkbox"/> Approved with Conditions<br><input type="checkbox"/> Denied |  | Zoning Approval: <i>[Signature]</i> 6/2/00 |  |
| Permit Taken By:<br>K                              |  |  |  | Date Applied For:<br>June 1, 2000 G   |  |  |  |

**PERMIT ISSUED**  
**JUN 5 2000**  
**CITY OF PORTLAND**

1. This permit application does not preclude the Applicant(s) from meeting applicable State and Federal rules.
2. Building permits do not include plumbing, septic or electrical work.
3. Building permits are void if work is not started within six (6) months of the date of issuance. False information may invalidate a building permit and stop all work..

\*Oliver 831-3521

- Special Zone or Reviews:
- Shoreland
  - Wetland
  - Flood Zone
  - Subdivision
  - Site Plan maj  minor  mm

- Zoning Appeal**
- Variance
  - Miscellaneous
  - Conditional Use
  - Interpretation
  - Approved
  - Denied

- Historic Preservation**
- Not in District or Landmark
  - Does Not Require Review
  - Requires Review

- Action:**
- Approved
  - Approved with Conditions
  - Denied

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

**CERTIFICATION**

I hereby certify that I am the owner of record of the named property, or that the proposed work is authorized by the owner of record and that I have been authorized by the owner to make this application as his authorized agent and I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in the application is issued, I certify that the code official's authorized representative shall have the authority to enter all areas covered by such permit at any reasonable hour to enforce the provisions of the code(s) applicable to such permit

**PERMIT ISSUED WITH REQUIREMENTS**

SIGNATURE OF APPLICANT \_\_\_\_\_ ADDRESS: \_\_\_\_\_ DATE: June 1, 2000 PHONE: \_\_\_\_\_

RESPONSIBLE PERSON IN CHARGE OF WORK, TITLE \_\_\_\_\_ PHONE: \_\_\_\_\_

**PERMIT ISSUED WITH REQUIREMENTS** 1

BUILDING PERMIT REPORT

DATE: 2 June 2008 ADDRESS: 20 Custom House Wharf CBL: 030-7-001

REASON FOR PERMIT: Outside Dining

BUILDING OWNER: Ken MacGown

PERMIT APPLICANT: \_\_\_\_\_ /CONTRACTOR W/A

USE GROUP: A-3 CONSTRUCTION TYPE: \_\_\_\_\_ CONSTRUCTION COST: \_\_\_\_\_ PERMIT FEES: \$3500

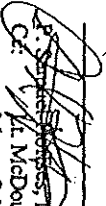
The City's Adopted Building Code (The BOCA National Building Code/1999 with City Amendments)  
The City's Adopted Mechanical Code (The BOCA National Mechanical Code/1993)

CONDITION(S) OF APPROVAL

This permit is being issued with the understanding that the following conditions are met: \*1. \*30. 37.

1. This permit does not excuse the applicant from meeting applicable State and Federal rules and laws.
2. Before concrete for foundation is placed, approvals from the Development Review Coordinator and Inspection Services must be obtained. (A 24 hour notice is required prior to inspection) **"ALL LOT LINES SHALL BE CLEARLY MARKED BEFORE CALLING."**
3. Foundation drain shall be placed around the perimeter of a foundation that consists of gravel or crushed stone containing not more than 10 percent material that passes through a No. 4 sieve. The drain shall extend a minimum of 12 inches beyond the outside edge of the footing. The thickness shall be such that the bottom of the drain is not higher than the bottom of the base under the floor, and that the top of the drain is not less than 6 inches above the top of the footing. The top of the drain shall be covered with an approved filter membrane material. Where a drain tile or perforated pipe is used, the invert of the pipe or tile shall not be higher than the floor elevation. The top of joints or top of perforations shall be protected with an approved filter membrane material. The pipe or tile shall be placed on not less than 2" of gravel or crushed stone, and shall be covered with not less than 6" of the same material. Section 1813.5.2
4. Foundations anchors shall be a minimum of 1/2" in diameter, 7" into the foundation wall, minimum of 12" from corners of foundation and a maximum 6" O.C. between bolts. Section 2303.17
5. Waterproofing and dampproofing shall be done in accordance with Section 1813.0 of the building code.
6. Precaution must be taken to protect concrete from freezing. Section 1908.0
7. It is strongly recommended that a registered land surveyor check all foundation forms before concrete is placed. This is done to verify that the proper setbacks are maintained.
8. Private garages located beneath habitable rooms in occupancies in Use Group R-1, R-2, R-3 or L-1 shall be separated from adjacent interior spaces by fire partitions and floor/ceiling assembly which are constructed with not less than 1-hour fire resisting rating. Private garages attached side-by-side to rooms in the above occupancies shall be completely separated from the interior spaces and the attic area by means of 1/2 inch gypsum board or the equivalent applied to the garage side. (Chapter 4, Section 407.0 of the BOCA/1999)
9. All chimneys and vents shall be installed and maintained as per Chapter 12 of the City's Mechanical Code. (The BOCA National Mechanical Code/1993). Chapter 12 & NFPA 211
10. Sound transmission control in residential building shall be done in accordance with Chapter 12, Section 1214.0 of the City's Building Code.
11. Guardrails & Handrails: A guardrail system is a system of building components located near the open sides of elevated walking surfaces for the purpose of minimizing the possibility of an accidental fall from the walking surface to the lower level. Minimum height all Use Groups 42". In occupancies in Use Group A, B, H-4, L-1, L-2, M and R and public garages and open parking structures, open guards shall have balusters or be of solid material such that a sphere with a diameter of 4" cannot pass through any opening. Guards shall not have an ornamental pattern that would provide a ladder effect. (Handrails shall be a minimum of 34" but not more than 38". Exception: Handrails that form part of a guard shall have a height not less than 36" and not more than 42". Handrail grip size shall have a circular cross section with an outside diameter of at least 1 1/4" and not greater than 2". (Sections 1021 & 1022.0). Handrails shall be on both sides of stairway. (Section 1014.7)
12. Headroom in habitable space is a minimum of 7'6". (Section 1204.0)
13. Stair construction in Use Group R-3 & R-4 is a minimum of 10" tread and 7 1/2" maximum rise. All other Use Group minimum 11" tread, 7" maximum rise. (Section 1014.0)
14. The minimum headroom in all parts of a stairway shall not be less than 80 inches. (6'8") 1014.4
15. Every sleeping room below the fourth story in buildings of Use Groups R and L-1 shall have at least one operable window or exterior door approved for emergency egress or rescue. The units must be operable from the inside without the use of special knowledge or separate tools. Where windows are provided as means of egress or rescue they shall have a sill height not more than 44 inches (1113mm) above the floor. All egress or rescue windows from sleeping rooms shall have a minimum net clear opening height dimension of 24 inches (610mm). The minimum net clear opening width dimension shall be 20 inches (508mm), and a minimum net clear opening of 5.7 sq. ft. (Section 1010.4)
16. Each apartment shall have access to two (2) separate, remote and approved means of egress. A single exit is acceptable when it exits directly from the apartment to the building exterior with no communications to other apartment units. (Section 1010.1)
17. All vertical openings shall be enclosed with construction having a fire rating of at least one (1) hour, including fire doors with self-closers. (Over 3 stories in height requirements for fire rating is two (2) hours. (Section 710.0)
18. The boiler shall be protected by enclosing with (1) hour fire rated construction including fire doors and ceiling or by providing automatic extinguishment. (Table 302.1.1)

19. All single and multiple station smoke detectors shall be of an approved type and shall be installed in accordance with the provisions of the City's Building Code Chapter 9, Section 920.3.2 (BOCA National Building Code/1999), and NFPA 101 Chapter 18 & 19. (Smoke detectors shall be installed and maintained at the following locations):
  - In the immediate vicinity of bedrooms
  - In all bedrooms
  - In each story within a dwelling unit, including basements
20. A portable fire extinguisher shall be located as per NFPA #10. They shall bear the label of an approved agency and be of an approved type. (Section 921.0)
21. The Fire Alarm System shall be installed and maintained to NFPA #72 Standard
22. The Sprinkler System shall be installed and maintained to NFPA #13 Standard
23. All exit signs, lights and means of egress lighting shall be done in accordance with Chapter 10 Section & Subsections 1023.0 & 1024.0 of the City's Building Code. (The BOCA National Building Code/1999)
24. Section 25 - 135 of the Municipal Code for the City of Portland states, "No person or utility shall be granted a permit to excavate or open any street or sidewalk from the time of November 15 of each year to April 15 of the following year"
25. The builder of a facility to which Section 4594-C of the Maine State Human Rights Act Title 5 MRSA refers, shall obtain a certification from a design professional that the plans commencing construction of the facility, the builder shall submit the certification the Division of Inspection Services.
26. Ventilation and access shall meet the requirements of Chapter 12 Sections 1210.0 and 1211.0 of the City's Building Code. (Crawl spaces & attics).
27. All electrical, plumbing and HVAC permits must be obtained by a Master Licensed holders of their trade. No closing in of walls in any all electrical (min. 72 hours notice) and plumbing inspections have been done.
28. All requirements must be met before a final Certificate of Occupancy is issued.
29. All building elements shall meet the fastening schedule as per Table 2305.2 of the City's Building Code (The BOCA National Building Code/1999).
30. Ventilation of spaces within a building shall be done in accordance with the City's Mechanical code (The BOCA National Mechanical Code/1993). (Chapter M-16)
31. Please read and implement the attached Land Use Zoning report requirements.
32. Boring, cutting and notching shall be done in accordance with Sections 2305.3, 2305.3.1, 2305.4.4 and 2305.5.1 of the City's Building Code.
33. Bridging shall comply with Section 2305.16.
34. Glass and glazing shall meet the requirements of Chapter 24 of the building code. (Safety Glazing Section 2406.0)
35. All signage, shall be done in accordance with Section 3102.0 signs of the City's Building Code. (The BOCA National Building Code/1999).
36. *All Requirements For Outside Dining shall be comply with*
37. *Capacity limit to 250 outside seating*

  
 M. McDougall, PFD  
 Building Inspector  
 Marge Schmuekel, Zoning Administrator  
 PSH 12630

\*\*On the basis of plans submitted and conditions placed on these plans any deviations shall require a separate approval.

\*\*THIS PERMIT HAS BEEN ISSUED WITH THE UNDERSTANDING THAT ALL THE CONDITIONS OF THE APPROVAL SHALL BE COMPLETED. THEREFORE, BEFORE THE WORK IS COMPLETED A REVISED PLAN OR STATEMENT FROM THE PERMIT HOLDER SHALL BE SUBMITTED TO THIS OFFICE SHOWING OR EXPLAINING THAT THE CONDITIONS HAVE BEEN MET. IF THIS REQUIREMENT IS NOT RECEIVED YOUR CERTIFICATE OF OCCUPANCY SHALL BE WITHHELD.

\*\*\*\*CERTIFICATE OF OCCUPANCY FEE \$50.00

\*\*\*\* ALL PLANS THAT REQUIRE A PROFESSIONAL DESIGNER'S SEAL, (AS PER SECTION 114.0 OF THE BUILDING CODE) SHALL ALSO BE PRESENTED TO THIS DIVISION ON AUTO CAD LT.2000, OR EQUIVALENT.

**THIS IS NOT A PERMIT/CONSTRUCTION CANNOT COMMENCE UNTIL THE PERMIT IS ISSUED**

**Building or Use Permit Pre-Application  
Attached Single Family Dwellings/Two-Family Dwelling  
Multi-Family or Commercial Structures and Additions Thereto**

In the interest of processing your application in the quickest possible manner, please complete the information below for a Building or Use Permit.

**NOTE\*\*** If you or the property owner owes real estate or personal property taxes or user charges on ANY PROPERTY within the City, payment arrangements must be made before permits of any kind are accepted.

|   |                              |                                     |                       |               |          |
|---|------------------------------|-------------------------------------|-----------------------|---------------|----------|
| Location/Address of Construction (include Portion of Building): |                              |                                     | 20 Custom House Wharf |               |          |
| Total Square Footage of Proposed Structure                      | 3500 Sq                      | Square Footage of Lot               |                       |               |          |
| Tax Assessor's Chart, Block & Lot Number                        | Chart# 030 Block# A Lot# 001 | Owner:                              | Ken Mc Gowan          | Telephone#:   | 831-1001 |
| Owner's Address:  | Custom House Wharf Puyders   | Lessee/Buyer's Name (If Applicable) | Paul White Ross       | Cost of Work: | \$ 3500  |

Proposed Project Description: (Please be as specific as possible)  
*Outside Dining*

Contractor's Name, Address & Telephone

Rec'd By *[Signature]*

|             |                       |              |                       |
|-------------|-----------------------|--------------|-----------------------|
| Current Use | <i>Outside Dining</i> | Proposed Use | <i>Outside Dining</i> |
|-------------|-----------------------|--------------|-----------------------|

Separate permits are required for Internal & External Plumbing, HVAC and Electrical installation.

- All construction must be conducted in compliance with the 1996 B.O.C.A. Building Code as amended by Section 6-Art II.
- All plumbing must be conducted in compliance with the 1996 National Electrical Code as amended by Section 6-Art III.
- HVAC (Heating, Ventilation and Air Conditioning) installation must comply with the 1993 B.O.C.A. Mechanical Code.

You must include the following with you application:

- 1) A Copy of Your Deed or Purchase and Sale Agreement
- 2) A Copy of your Construction Contract, if available
- 3) A Plot Plan/Site Plan

Minor or Major site plan review will be required for the above proposed projects. The attached checklist outlines the minimum standards for a site plan.

**4) Building Plans**

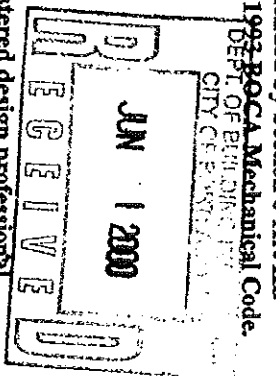
- Unless exempted by State Law, construction documents must be designed by a registered design professional.
- A complete set of construction drawings showing all of the following elements of construction:
  - Cross Sections w/Framing details (including porches, decks w/ railings, and accessory structures)
  - Floor Plans & Elevations
  - Window and door schedules
  - Foundation plans with required drainage and dampproofing
  - Electrical and plumbing layout. Mechanical drawings for any specialized equipment such as furnaces, chimneys, gas equipment, HVAC equipment (air handling) or other types of work that may require special review must be included.

**Certification**

I hereby certify that I am the Owner of record of the named property, or that the proposed work is authorized by the owner of record and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in this application is issued, I certify that the Code Official's authorized representative shall have the authority to enter all areas covered by this permit at any reasonable hour to enforce the provisions of the codes applicable to this permit.

|                         |                    |       |                 |
|-------------------------|--------------------|-------|-----------------|
| Signature of applicant: | <i>[Signature]</i> | Date: | <i>6-1-2000</i> |
|-------------------------|--------------------|-------|-----------------|

Building Permit Fee: \$30.00 for the 1st \$1000 cost plus \$6.00 per \$1,000.00 construction cost thereafter.  
Additional Site review and related fees are attached on a separate addendum



*831-3521*

# Porthole Restaurant

Out Door Seating  
Plan

2

WASTE

WATER

Railing

Railing

Service BAR

Service BAR

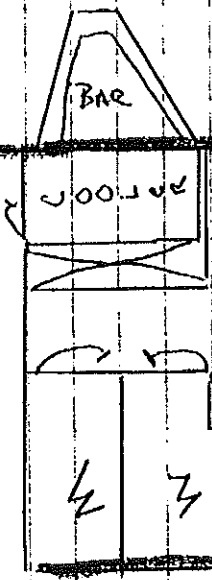
Comedy / Function  
Room



MAIN DINING  
ROOM

Kitchen  
AREA

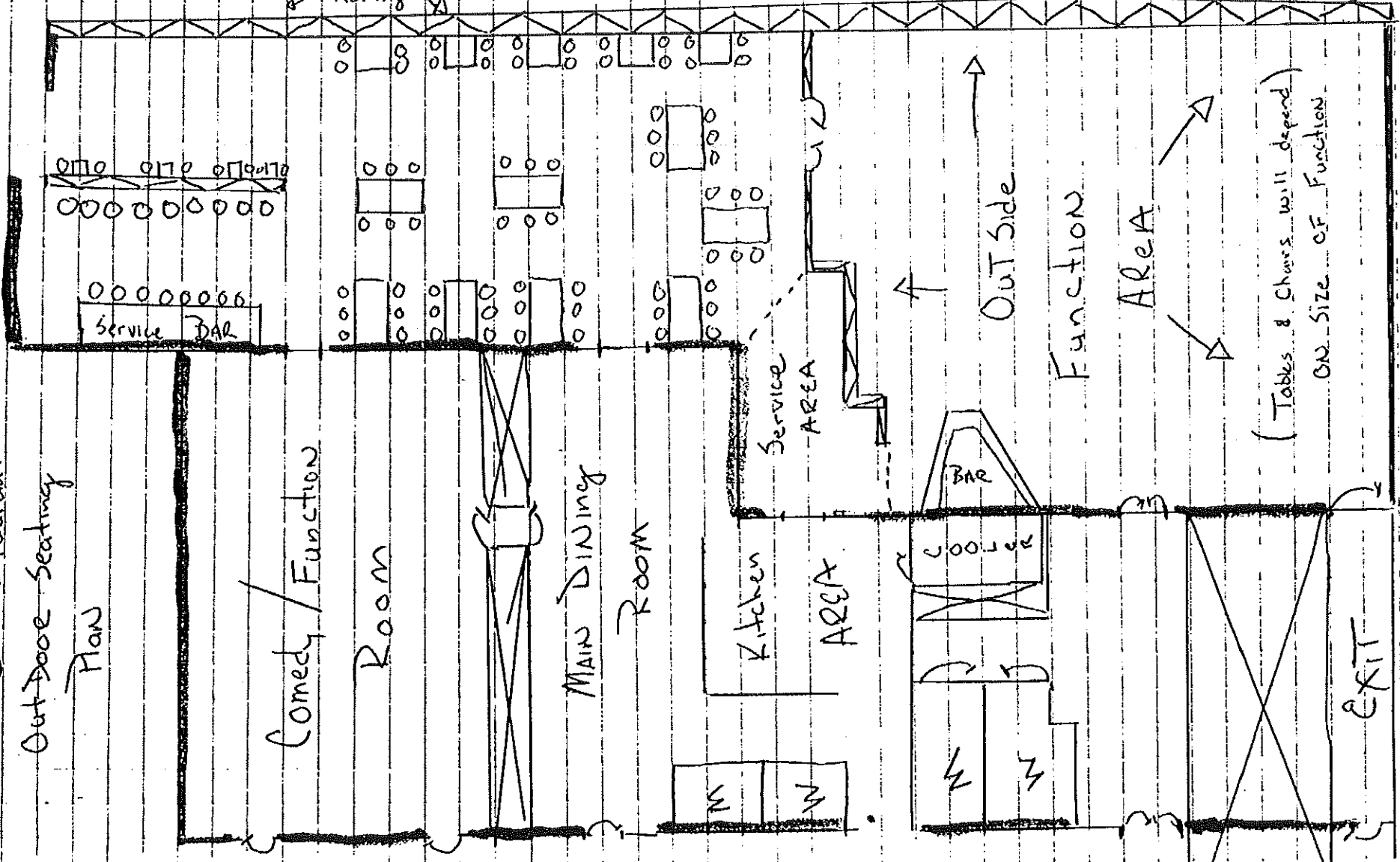
Service  
AREA



OUTSIDE  
FUNCTION  
AREA

(Tables & Chairs will depend  
ON SIZE OF FUNCTION)

EXIT



CONDITIONS FOR SIDEWALK OCCUPANCY PERMIT

Written consent and agreement relating to occupancy of the City of Portland sidewalk in the front, side, and/or rear of the building at:

20 Custom House Wharf

in Portland, Maine, by the owner of the establishment being:

Oliver Keithly

doing business as: Bethole Restaurant

hereby, to the fullest extent permitted by law, shall defend, indemnify and hold harmless the City, its officers and employees, from and against all claims, damages, losses and expenses, just or unjust, including, but not limited to costs of defense and attorney's fees, arising out of the establishment's occupancy of the sidewalk, provided that any such claims, damage, loss or expense (1) is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property, including the loss of use therefrom, and (2) is caused in whole or in part by any negligent act or omission of the establishment, anyone directly or indirectly employed by it, or anyone for whose act it may be liable.

Signed and Acknowledged:

  
Establishment Owner

Dated:

6-1-2000

F 2a  
Zoning Division  
Marge Schmuckel  
Zoning Administrator



Department of Urban Development  
Joseph E. Gray, Jr.  
Director

## CITY OF PORTLAND

June 26, 2000

Oliver Keithly  
c/o The Porthole Restaurant  
20 Custom House Wharf  
Portland, ME 04101

RE: 20 Custom House Wharf - 30-A-001 - WCC zone

Dear Oliver,

This letter is in response to a recent inspection that I made of your establishment on Friday, June 16, 2000. I observed the alterations that were done at this location, some which had not been permitted by our office. I have since researched our present and past files for further documentation of the past use of this property.

Originally, back on Thursday April 13, 2000 we had our first meeting at City Hall per your request. You were asking a lot of questions at that time and wanted to know what the Zoning Ordinances allowed. I explained that you were located in a very restrictive zone for your type of business. Your inside restaurant and bar business is a legal nonconforming use within the WCC zone. You, for example, wanted to expand to the second floor, which I again told you would not be allowed because it would be considered an expansion. You also asked about the outside deck area. You had mentioned to me that during the winter the fishermen always stored their nets and traps out there. I told you that you could not displace a marine use or restrict the fishermen from using that area. You told me that traditionally the Porthole restaurant always had outdoor seating in that area during the summer. You further stated that during the summer the fishermen did not normally store anything there because they were more actively fishing. You went on to say that they would always have a place to store their gear in that area during the months that they needed to do so.

Recently on Monday June 19, 2000 we again met along with Mr. Don Hunnewell, the previous owner of the Porthole. We went over some of these same issues. You were showing me photographs of picnic tables that were allegedly "always" put out in the area of the dock which was of concern to me.

After our meeting on June 19th, I started a more intense research into our microfiche files. I discovered that there had been an appeal on April 6, 1989 at which the Zoning Board of Appeals granted an appeal for the Porthole to expand their use into the old Casco Bay Lines so that they could use the restroom facilities and upgrade the kitchen and preparation facilities. This approval was based upon an approved plan which we still have on file. The outlined area does not include an expansion on to the exterior deck which was a boat access and waiting area for the Casco Bay Lines. That area did not traditionally have picnic tables for the Porthole takeout.

Oliver, I realize that you are a recent owner of this establishment and may not have been aware of some of these past issues. However, I used the information that you had related to me in order to make my determination in issuing a permit for seasonal outside dining. It was not a permit to allow the construction of an approximate 15

foot outside bar, nor an exterior platform for musical entertainment. It was not a permit to allow the expansion of your restaurant out into the deck area. The bar area and the entertainment platform also shall be removed within 10 days of the date of this letter.

At this time I am revoking the seasonal outside dining permit for the expanded deck use. I have attached section 108.6 of the City's adopted 1999 BOCA National Building Code for your reference. If you can provide independently verifiable evidence, particularly in the form of documents or pictures that such a use did take place on a seasonal basis in this outside area, then I will be glad to reconsider your application.

As I mentioned to you at our June 19th meeting that there is new signage for the Comedy Connection on the second floor along the street side of this building. No permits have been applied for nor issued for this signage. It shall be removed within 10 days of the date of this letter. Any new signage requires permit approval prior to installation.

You have the right to appeal my decision. You have 30 days from the date of this letter in which to file for an appeal. You may either apply for an interpretation appeal or for a use variance appeal. I believe that either appeal would be very difficult to obtain from the Zoning Board of Appeals. I have included the appropriate appeal information that you would need. If you have any questions regarding this matter, please do not hesitate to contact me at 874-8695.

Very truly yours,



Marge Schmickal

Zoning Administrator

cc: Robert Ganley, Portland City Manager  
Cheryl Leeman, Portland City Mayor  
Portland City Councilors  
Joseph Gray, Jr., Dir. Planning & Urban Development  
Mark Adelson, Housing & Neighborhood Services  
Mike Nugent, Housing & Neighborhood Services  
Gary Wood, Corporation Counsel  
Penny Littell, Corporation Counsel  
David Lourie, 189 Spurwink Avenue, Cape Elizabeth, Maine 04107  
File



Adopted  
19 January 2000

Eff. date  
19 Feb. 2000

IN CITY COUNCIL ASSEMBLED AS FOLLOWS:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND,  
MAINE

1. That *Section 6-16 of the Portland City Code* is hereby amended to read as follows:

Sec. 6-16. Adoption of BOCA National Building Code.

There is hereby adopted for the purpose of regulating the construction, alteration, addition, repair, removal, demolition, use, location, occupancy and maintenance of all buildings and structures, the following certain code recommended by the Building Officials and Code Administrators International, Inc., the BOCA National Building Code 1996 1999 edition, and the whole thereof, except for such portions as are deleted, modified or amended in this article.

2. That *Section 6-18 of the Portland City Code* is hereby repealed in its entirety and new Section 6-18 is hereby enacted, said new section to read as follows:

Sec. 6-18. Amendments.

The BOCA National Building Code is amended as follows:

Section 108.6, Revocation of permits, is amended by adding the following sentence at the end thereof:

"In addition, such permit or approval may be revoked by the building official if the issuance thereof was based on a mistake of law"

Section 110, Demolition of structures, is hereby amended by adding the following subsections:

110.4 Dust prevention: The person to whom a permit is issued shall dampen or cause to be dampened all debris resulting from the demolition operation to the extent necessary to prevent dust therefrom circulating in the surrounding area.

110.5 Expiration of permit: A permit to demolish or remove a structure shall expire thirty (30) days after the date of its issuance, provided that for good cause the building official may extend the permit for periods of not more than fifteen (15) days.

110.6 Removal and disposal of asbestos: Before a permit to demolish or remove a structure is issued, the health officer shall inspect the premises for the presence of friable asbestos material. For the purposes of this subsection, friable asbestos material means any material that contains more than one (1) percent asbestos by weight and that can be crumbled, pulverized, or reduced to powder when dry, by hand pressure. No permit shall be issued until the applicant has removed and disposed of all such material as may be present in

**108.4 Signature to permit:** The code official's signature shall be attached to every permit, or the code official shall authorize a subordinate to affix such signature thereto.

**108.5 Approved construction documents:** The code official shall stamp or endorse in *writing* both sets of *construction documents* "Approved," and one set of the approved *construction documents* shall be retained by the code official and the other set shall be kept at the building site, open to inspection of the code official or an authorized representative at all reasonable times.

**108.6 Revocation of permit:** The code official shall revoke a permit or approval issued under the provisions of this code in case of any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based.

**108.7 Approval of part:** The code official is authorized to issue a permit for the construction of foundations or any other part of a building or structure before the *construction documents* for the whole building or structure have been submitted, provided that adequate information and detailed statements have been filed complying with all of the pertinent requirements of this code. The holder of such permit for the foundation or other parts of a building or structure shall proceed at the holder's own risk with the building operation and without assurance that a permit for the entire structure will be granted.

**108.8 Posting of permit:** A true copy of the building permit shall be kept on the site of operations, open to public inspection during the entire time of prosecution of the work and until the completion of the same.

**108.9 Notice of start:** At least 24-hour notice of start of work under a building permit shall be given to the code official.

#### SECTION 109.0 TEMPORARY STRUCTURES

**109.1 General:** Pursuant to a variance granted by the board of appeals under the provisions of Section 121.0, the code official shall issue a permit for temporary construction as approved by the board of appeals. Such permits shall be limited as to time of service, but such temporary construction shall not be permitted for more than one year.

**109.2 Special approval:** All temporary construction shall conform to the structural strength, fire safety, *means of egress*, light, *ventilation* and sanitary requirements of this code as necessary to ensure the public health, safety and general welfare.

**109.3 Termination of approval:** The code official is hereby authorized to terminate such special approval and to order the demolition of any such construction at his discretion, or as directed by a decision of the board of appeals.

#### SECTION 110.0 DEMOLITION OF STRUCTURES

**110.1 Service connections:** Before a structure is demolished or removed, the *owner* or agent shall notify all utilities having service connections within the structure such as water, electric, gas, sewer and other connections. A permit to demolish or remove a structure shall not be issued until a release is obtained from the utilities, stating that their respective service connections

and appurtenant equipment, such as meters and regulators, have been removed or sealed and plugged in a safe manner.

**110.2 Notice to adjoining owners:** Only when *written* notice has been given by the applicant to the *owners* of adjoining lots and to the *owners* of wired or other facilities, of which the temporary removal is necessitated by the proposed work, shall a permit be granted for the removal of a building or structure.

**110.3 Lot regulation:** Whenever a structure is demolished or removed, the premises shall be maintained free from all unsafe or hazardous conditions by the proper regulation of the lot, restoration of established grades and the erection of the necessary retaining walls and fences in accordance with the provisions of Chapter 33.

#### SECTION 111.0 CONDITIONS OF PERMIT

**111.1 Payment of fees:** A permit shall not be issued until the fees prescribed in Section 112.0 have been paid.

**111.2 Compliance with code:** The permit shall be a license to proceed with the work and shall not be construed as authority to violate, cancel or set aside any of the provisions of this code, except as specifically stipulated by modification or legally granted variation as described in the application.

**111.3 Compliance with permit:** All work shall conform to the approved application and the approved *construction documents* for which the permit has been issued and any approved amendments to the approved application or the approved *construction documents*.

**111.4 Compliance with site plan:** All new work shall be located strictly in accordance with the approved site plan.

#### SECTION 112.0 FEES

**112.1 General:** A permit to begin work for new construction, *alteration*, removal, demolition or other building operation shall not be issued until the fees prescribed in this section shall have been paid to the department of building inspection or other authorized agency of the jurisdiction, nor shall an amendment to a permit necessitating an additional fee be approved until the additional fee has been paid.

**112.2 Special fees:** The payment of the fee for the construction, *alteration*, removal or demolition for all work done in connection with or concurrently with the work contemplated by a building permit shall not relieve the applicant or holder of the permit from the payment of other fees that are prescribed by law or ordinance for water taps, sewer connections, electrical permits, erection of *signs* and display structures, marquees or other *appurtenant structures*, or fees of inspections, certificates of occupancy or other privileges or requirements, both within and without the jurisdiction of the department of building inspection.

**112.3 New construction and alterations:** The fees for plan examination, building permit and inspections shall be as prescribed in Section 112.3.1 and the code official is authorized to establish by *approved rules* a schedule of unit rates for buildings and structures of all use groups and types of construction as classified and defined in Chapters 1, 3 and 6.

Inspection Services  
Michael J. Nugent  
Manager

Department of Urban Development  
Joseph E. Gray, Jr.  
Director



**CITY OF PORTLAND**  
**STOP WORK NOTICE**

April 4, 2000

RE: Port Hole Restaurant – Custom House Wharf  
CBL: 030-A-001

**HAND DELIVER**

Dear Oliver Keithly,

An evaluation of the property at Custom House Wharf revealed that the structure fails to comply with Section 107.1 of the Building Code of the City of Portland.

Expansion of Outside Seating Area (without permit)

This is a **STOP WORK ORDER** pursuant to Section 117.1 of the Building Code (1999 BOCA). All construction activity must Stop immediately.

Submit complete building/use permit application for review and approval.

Failure to comply 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 Section 1-15 of the Code and in Title 30-A.M.R.S.A. Ss 4452. This constitutes an appealable decision pursuant to Section 121.5 of the Code. Please feel free to contact me at 874-8697, if you wish to discuss the matter or have any questions.

Sincerely,

David Caddell  
Code Enforcement Officer

Cc: Central File

dc/

City Of Portland  
Inspection Services  
RETURN OF SERVICE

On the 4 day of April, 2000, I made service of the Stop Work Order  
upon the Oliver Kitching, Post Hole Rest, at Post Hole Restaurant

\_\_\_\_\_,  
By delivering a copy in hand.

\_\_\_\_\_  
By leaving copies at the individual's dwelling house or usual place of abode  
with a person of suitable age or discretion who resides therein and whose  
name is \_\_\_\_\_.

✓ \_\_\_\_\_  
By delivering a copy to an agent authorized to receive service of process,  
and whose name is Blayne Gray at Post Hole Restaurant

\_\_\_\_\_  
By (describe other manner of service) \_\_\_\_\_.

DATED: 4/4/00

[Signature]  
Signature of Person Making Service

CEO


\_\_\_\_\_  
Title

**THIS IS NOT A PERMIT/CONSTRUCTION CANNOT COMMENCE UNTIL THE PERMIT IS ISSUED**

Building or Use Permit Pre-Application  
 Attached Single Family Dwellings/Two-Family Dwelling  
 Multi-Family or Commercial Structures and Additions Thereto

NOTE\*\*If you or the property owner owes real estate or personal property taxes or user charges on ANY PROPERTY within the City, payment arrangements must be made before permits of any kind are accepted.

|   |                                     |                       |                               |
|---|-------------------------------------|-----------------------|-------------------------------|
| Location/Address of Construction (Include Portion of Building):   |                                     | 20 Cushman House WOLF |                               |
| Total Square Footage of Proposed Structure                        |                                     | Square Footage of Lot |                               |
| Tax Assessor's Chart, Block & Lot Number                          | Owner:                              | Telephone#:           |                               |
| Chart# 630 Block# A Lot# 001                                      | Ken MacLewen                        | 871-1001              |                               |
| Owner's Address:  | Lessee/Buyer's Name (If Applicable) |                       | Cost Of Work:                 |
| 20 Cushman House WOLF   | DOLIVER KEITHY                      |                       | \$ 900 - \$ 30 <sup>Est</sup> |
| Proposed Project Description: (Please be as specific as possible) |                                     |                       |                               |
| Remove Bar And Build Sewer BAR                                    |                                     |                       |                               |
| Contractor's Name, Address & Telephone                            |                                     |                       |                               |
| Current User: Proposed Use:                                       |                                     |                       |                               |

Rec'd By: 

Separate permits are required for Internal & External Plumbing, HVAC and Electrical Installation.

- All construction must be conducted in compliance with the 1996 B.O.C.A. Building Code as amended by Section 6-ART II.
  - All plumbing must be conducted in compliance with the State of Maine Plumbing Code.
  - All Electrical Installation and Air Conditioning installation must comply with the 1993 BOCA Mechanical Code.
- You must include the following with your application:

- 1) A Copy of Your Deed or Purchase and Sale Agreement
- 2) A Copy of your Construction Contract, if available
- 3) A Plot Plan/Site Plan

Minor or Major site plan review will be required for the above proposed projects. The attached checklist outlines the minimum standards for a site plan.

**4) Building Plans**

- Unless exempted by State Law, construction documents must be designed by a registered design professional
- A complete set of construction drawings showing all of the following elements of construction:
  - Cross Sections w/Framing details (including porches, decks w/ railings, and accessory structures)
  - Floor Plans & Elevations
  - Window and door schedules
  - Foundation plans with required drainage and dampproofing
  - Electrical and plumbing layout. Mechanical drawings for any specialized equipment such as furnaces, chimneys, gas equipment, HVAC equipment (air handling) or other types of work that may require special review must be included.

**Certification**

I hereby certify that I am the Owner of record of the named property, or that the proposed work is authorized by the owner of record and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in this application is issued, I certify that the Code Official's authorized representative shall have the authority to enter all areas covered by this permit at any reasonable hour to enforce the provisions of the codes applicable to this permit.

|   |           |
|---|-----------|
| Signature of applicant:   | Date:     |
|  | 7-25-2000 |

Building Permit Fee: \$30.00 for the 1st \$1000.00 cost plus \$6.00 per \$1,000.00 construction cost thereafter.  
 Additional Site review and related fees are attached on a separate addendum

\* I.E. available  
 ALSO SUBMIT PLANS  
 M. AUBRE GR CAD  
 format

LAND USE - ZONING REPORT

ADDRESS: 20 Custom House Wharf DATE: 8/11/00

REASON FOR PERMIT: Amend permit # 000598 remove old bar & build a new bar

BUILDING OWNER: Ken McGoheen C.B.I.: 30-A-1

PERMIT APPLICANT: Oliver Keithly

APPROVED: with conditions DENIED: \_\_\_\_\_

#1, #11 CONDITION(S) OF APPROVAL

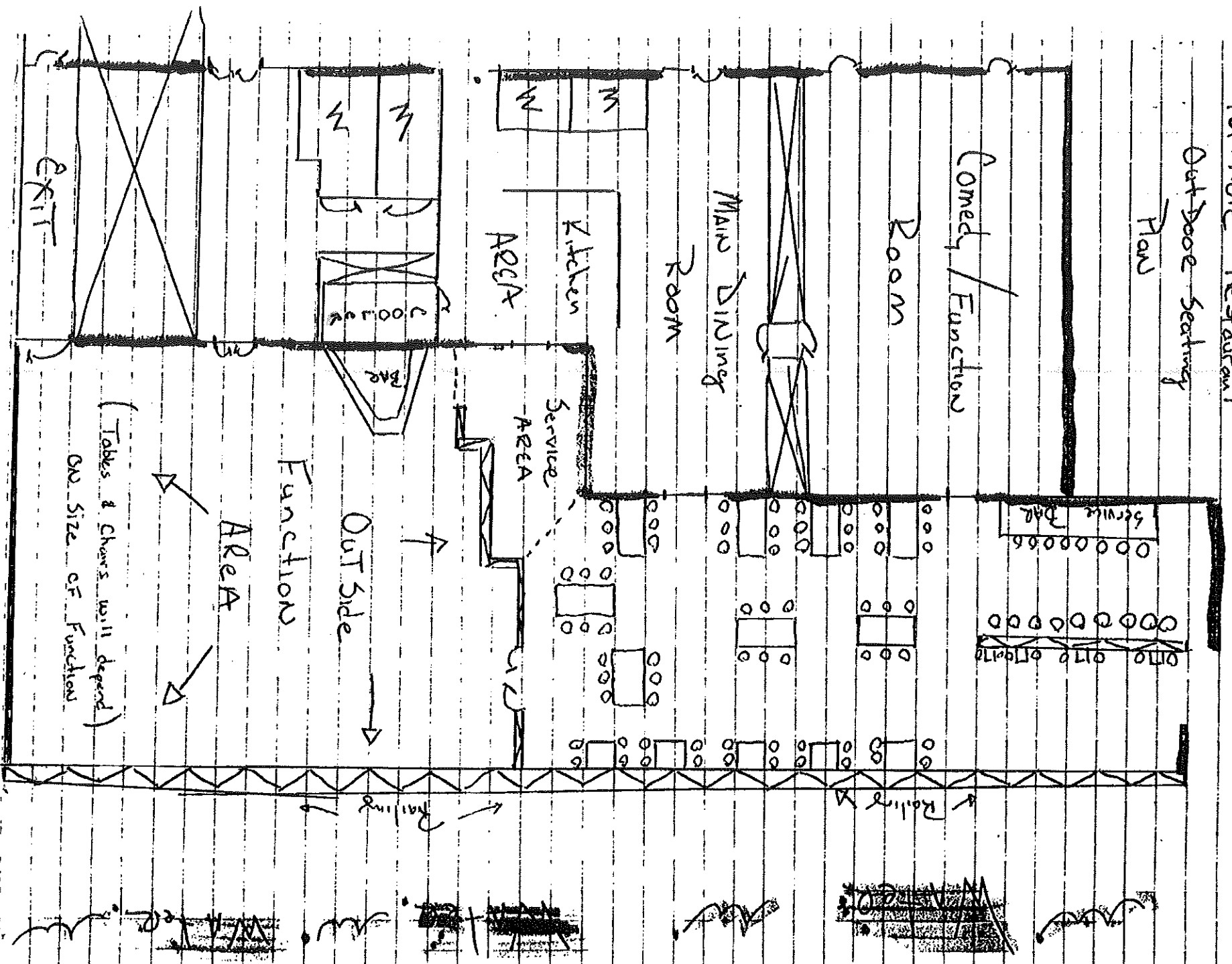
1. This permit is being approved on the basis of plans submitted. Any deviations shall require a separate approval before starting that work.
2. During its existence, all aspects of the Home Occupation criteria, Section 14-410, shall be maintained.
3. The footprint of the existing \_\_\_\_\_ shall not be increased during maintenance reconstruction.
4. All the conditions placed on the original, previously approved, permit issued on \_\_\_\_\_ are still in effect for this amendment.
5. Your present structure is legally nonconforming as to rear and side setbacks. If you were to demolish the building on your own volition, you will not be able to maintain these same setbacks. Instead you would need to meet the zoning setbacks set forth in today's ordinances. In order to preserve these legally non-conforming setbacks, you may only rebuild the \_\_\_\_\_ in place and in phases.
6. This property shall remain a single family dwelling. Any change of use shall require a separate permit application for review and approval.
7. Our records indicate that this property has a legal use of \_\_\_\_\_ units. Any change in this approved use shall require a separate permit application for review and approval.
8. Separate permits shall be required for any signage.
9. Separate permits shall be required for future decks, sheds, pool(s), and/or garage.
10. This is not an approval for an additional dwelling unit. You shall not add any additional kitchen equipment, such as stoves, microwaves, refrigerators, or kitchen sinks, etc. without special approvals.
11. Other requirements of condition This approval is based upon Gary Wood's Agreement with you. This is temporary only and does not constitute a final determination as to exterior use. This is not to be a fully enclosed area with high walls and a roof. It is not an addition, just 1/2 walls. The exterior area is not to be used for banquets, weddings, or other similar festivities. The approval is only good thru Sept. 4, 2001

Marge Schmuckel Zoning Administrator  
AT That time All Tables and The Food Service Area shall be removed

# Pothole Restaurant

2

Out Door Seating  
Plan



(Tables & Chairs will depend on size of Function)

Function Area

OUTSIDE

EXIT

Comedy / Function Room

Room

Main Dining Room

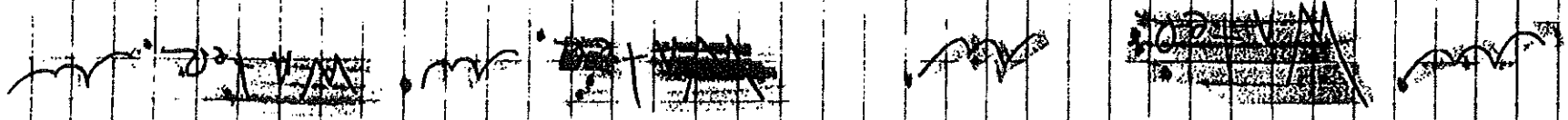
Kitchen Area

Service Area

Service Bar

Rolling M

Rolling



# PERMIT BY RULE NOTIFICATION FORM

(For use with DEP Regulation, Chapter 305)

PLEASE TYPE OR PRINT IN BLACK INK ONLY

|  |   |           |            |  |                                       |         |            |
|--|---|-----------|------------|--|---------------------------------------|---------|------------|
| Name of Applicant:                     | The Proprietors of Custom House Wharf   |           |            | Name of Owner:   | The Proprietors of Custom House Wharf |         |            |
| Mailing Address:                       | c/o F. Jay Meyer, Thompson, Bull, Furey, Bass & Maccoll, LLC PA, 120 Exchange St., P.O. Box 447 |           |            | Town/City:   | Portland                              |         |            |
| State:                                 | Maine   | Zip Code: | 04112-0447 | Daytime Telephone No:  | 207-774-7600<br>(include area code)   |         |            |
| Name of Wetland, Water Body or Stream: |   |           |            | Fore River/Portland Harbor   |                                       |         |            |
| Detailed Directions to Site:           |   |           |            | Site is at the southern (i.e., extreme outer) end of Custom House Wharf, which is across from the U.S. Customs Building, off of Commercial Street in Portland, Maine |                                       |         |            |
| Town/City:                             | Portland  | Map #:    | 30         | Lot #:   | Block A,<br>Lots 1-2                  | County: | Cumberland |
| Description of Project:                |   |           |            | Maintenance, renovation and reconstruction of pilings and decking. Replacement of deteriorated building.   |                                       |         |            |
| Part of a larger project?              |   |           |            | Yes  | X                                     | No      |            |

(CHECK ONE) This project: does  does not  involve work below mean low water.

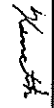
I am filing notice of my intent to carry out work which meets the requirements for Permit By Rule (PBR) under DEP Regulation, Chapter 305. I have a copy of PBR Sections checked below. I have read and will comply with all of the standards.

- |  |   |  |
|--|---|--|
| <input type="checkbox"/> Sec. (2) Soil Disturbance<br><input type="checkbox"/> Sec. (3) Intake Pipes<br><input checked="" type="checkbox"/> Sec. (4) Replacement of Structures<br><input type="checkbox"/> Sec. (5) REPEALED<br><input type="checkbox"/> Sec. (6) Movement of Rocks or Vegetation<br><input type="checkbox"/> Sec. (7) Outfall Pipes | <input type="checkbox"/> Sec. (8) Shoreline stabilization<br><input type="checkbox"/> Sec. (9) Utility Crossing<br><input type="checkbox"/> Sec. (10) Stream Crossing<br><input type="checkbox"/> Sec. (11) State Transportation Facilities<br><input type="checkbox"/> Sec. (12) Restoration of Natural Areas<br><input type="checkbox"/> Sec. (13) F&W Creation/Enhance/Water Quality Improvement | <input type="checkbox"/> Sec. (14) Piers, Wharves & Pilings<br><input type="checkbox"/> Sec. (15) Public Boat Ramps<br><input type="checkbox"/> Sec. (16) Coastal Sand Dune Projects<br><input type="checkbox"/> Sec. (17) Transfers/Permit Extension<br><input type="checkbox"/> Sec. (18) Maintenance Dredging |
|--|---|--|

I authorize staff of the Departments of Environmental Protection, Inland Fisheries & Wildlife, and Marine Resources to access the project site for the purpose of determining compliance with the rules. I also understand that **this permit is not valid until approved by the Department or 14 days after receipt by the Department, whichever is less.**

I have attached all of the following required submittals. NOTIFICATION FORMS CANNOT BE ACCEPTED WITHOUT THE NECESSARY ATTACHMENTS:

- Attach a check for \$50 (non-refundable) made payable to: "Treasurer, State of Maine".
- Attach a U.S.G.S. topo map or Maine Atlas & Gazetteer map with the project site clearly marked.
- Attach photographs showing existing site conditions (unless not required under standards).

|                                    |   |       |                |
|------------------------------------|---|-------|----------------|
| Signature of Applicant:            |  | Date: | April 14, 2000 |
| Kenneth Macgowan, Property Manager |   |       |                |

*Keep a copy as a record of permit.* Send two copies of the form with one set of attachments via certified mail to the Maine Dept. of Environmental Protection at the appropriate regional office listed below. The DEP will send a copy to the Town Office as evidence of the DEP's receipt of notification. No further authorization by DEP will be issued after receipt of notice. Permits are valid for two years. **Work carried out in violation of any standard is subject to enforcement action.** Do not alter MSWORD template form. Altered forms will not be accepted.

AUGUSTA DEP  
STATE HOUSE STATION 17  
AUGUSTA, ME 04333-0017  
(207)287-2111

PORTLAND DEP  
312 CANCO ROAD  
PORTLAND, ME 04103  
(207)822-6300

BANGOR DEP  
106 HOGAN ROAD  
BANGOR, ME 04401  
(207)941-4570

PRESQUE ISLE DEP  
1235 CENTRAL DRIVE  
PRESQUE ISLE, ME 04769  
(207)764-0477

|                 |    |      |      |           |           |              |
|-----------------|----|------|------|-----------|-----------|--------------|
| OFFICE USE ONLY |    | CK.# | Date | Staff     | Staff     | After Photos |
| PBR #           | FP |      |      | Acc. Date | Def. Date |              |



Planning & Urban Development



Joseph E. Gray Jr.  
Director

**CITY OF PORTLAND**

September 28, 2000

OCT 02 2000

Mr. F. Jay Meyer  
Thompson, Bull, Furey, Bass & MacColl  
120 Exchange Street  
Portland, Maine 04112

RE: 47 Custom House Wharf

Dear Mr. Meyer,

I am in receipt of your September 19, 2000 letter requesting an extension to the Portland Planning Board Site Plan Approval for the 47 Custom House Wharf Development.

Your request is based on the litigation which has prevented construction from beginning.

In my capacity as Director of Planning and Urban Development for the City of Portland, I am granting you a one year extension of your site plan approval through October 5, 2001.

Sincerely,

  
Joseph E. Gray, Jr., Director Planning and Urban Development

**THOMPSON, McNABOE, ASHLEY & BULL, LLC, P.A.**  
COUNSELORS AT LAW

EDWARD J. ASHLEY  
NICHOLAS BULL  
MARK C. FUREY  
JOHN R. BASS, II  
EDWARD S. MACCOLL  
F. JAY MEYER  
PAULA R. WATSON

120 EXCHANGE STREET  
P.O. BOX 447  
PORTLAND, MAINE 04112-0447  
TELEPHONE (207) 774-7600  
FACSIMILE (207) 772-1035

BENJAMIN THOMPSON  
THOMAS R. McNABOE  
OF COUNSEL  
BENJAMIN THOMPSON  
(1857-1919)  
NATHAN W. THOMPSON  
(1895-1980)

.. ALSO ADMITTED IN MA  
.. ALSO ADMITTED IN VT

February 5, 1999

Samuel Hoffses  
City of Portland  
389 Congress Street  
Portland, ME 04101

Re: Custom House Wharf - Building Replacement

Dear Mr. Hoffses:

Thank you for taking the time to speak with me today, regarding the building demolition and replacement project at Custom House Wharf. Your assistance and attention to this matter are greatly appreciated.

As you know, The Proprietors of Custom House Wharf, represented by Ken MacGowan, are engaged in dismantling portions of the existing building in preparation for its total demolition and replacement. We understand that issuance of a final demolition permit is tied to the site review process. Nevertheless, given the building's current condition, we want to avoid any condition that might become hazardous if allowed to continue for an extended period of time. Therefore, you have confirmed to me today that based upon your inspections of the premises, The Proprietors of Custom House Wharf may continue with the limited dismantling that is currently underway at the site, pending receipt of a final demolition permit.

If you have any questions or comments, please do not hesitate to contact me.

Sincerely,

F. Jay Meyer

cc: Kenneth MacGowan

# THOMPSON, BULL, FUREY, BASS & MACCOLL, LLC, P.A.

120 Exchange Street  
Portland, ME 04112-0447  
Tel: (207) 774-7600  
Fax: (207) 772-1039

## FAX TRANSMISSION COVER SHEET

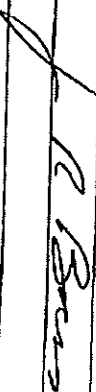
Date: May 24, 2001  
To: Mr. Caddell, City of Portland, Bldgs  
Fax: 874-8716  
Subject: Prop. Custom House wharf  
Sender: John R. Bass, II, Esq.

You should have received a total of 3 pages with this transmission, including this page.  
**MESSAGE**

Dear Sir,

enc (1) letter to Mr Hayes  
Feb 5, 1999 re  
2) letter from City Sept 28, 2000  
re demo authorization  
to give extension  
of site Plan App

Thank you for reconsultation.



ATTENTION: THIS FACSIMILE CONTAINS INFORMATION INTENDED ONLY FOR THE PERSON ABOVE-NAMED AND MAY BE PRIVILEGED UNDER ATTORNEY-CLIENT OR OTHER RULES. THE DISTRIBUTION, COPYING OR DISCLOSURE OF THE INFORMATION CONTAINED IN THIS FACSIMILE IS STRICTLY PROHIBITED. PLEASE NOTIFY US IMMEDIATELY IF YOU HAVE RECEIVED THIS FACSIMILE BY MISTAKE AND RETURN THE ORIGINAL FACSIMILE TO THIS OFFICE BY U.S. MAIL WITHOUT MAKING A COPY OF IT IN SUCH CASE.

- M DALEY @ WDEEC. COM -

City of Portland  
INSPECTION SERVICES

Room 315  
389 Congress Street  
Portland, Maine 04101

Phone: (207) 874-8703 or 874-8693  
Fax : (207) 874-8716

FAX TRANSMISSION COVER SHEET

Date: 5/24/01  
To: John R Bass  
Fax: 772-1039  
Re: Custom House Wharf  
Sender: David Caddell

YOU SHOULD RECEIVE 2 PAGE(S), INCLUDING THIS COVER SHEET.

IF YOU DO NOT RECEIVE ALL THE PAGES, PLEASE CALL 874-8693 or 874-8703.

Inspection Services  
Michael J. Nugent  
E. Gray, Jr.  
Manager  
Director

Department of Urban Development  
Joseph



**CITY OF PORTLAND**  
**STOP WORK NOTICE**

May 24, 2001

Ken MacGowen  
5 Milk St.  
Portland, Maine 04101

RE: Custom House Wharf  
CBL:30-A-1

**HAND DELIVER**

Dear Mr. Ken MacGowen:

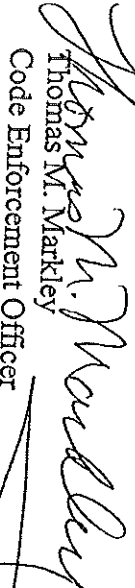
An evaluation of the property at Right End of Custom House Wharf (30-A-1) revealed that the structure fails to comply with Section 107.1 of the Building Code of the City of Portland.

**Filling and demolition of pier without an approved permit.**

This is a **STOP WORK ORDER** pursuant to Section 117.1 of the Building Code (1999 BOCA). All construction activity must Stop immediately.

Failure to comply 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 Section 1-15 of the Code and in Title 30-A M.R.S.A. Ss 4452. This constitutes an appealable decision pursuant to Section 121.5 of the Code. Please feel free to contact me at 874- 8705 if you wish to discuss the matter or have any questions.

Sincerely,

  
Thomas M. Markley  
Code Enforcement Officer

Cc: Central File  
Joseph Gray