

1. Agenda 9/19/2018

Agenda:

Approve minutes from 7/18/2018  
Sustainability Updates  
Implementation of the Peninsula Parking Study  
Discuss Amendments to the Energy Benchmarking Ordinance  
Discussion of Single Use Plastics / Plastic Straws

Documents:

[AGENDA 9\\_19\\_2018.PDF](#)

2. Review And Approve Minutes

Documents:

[S\\_T MEETING MINUTES JULY 18, 2018.PDF](#)

3. Implementation Of The Peninsula Parking Study

Documents:

[MEMO FOR S\\_T COMMITTEE\\_PARKING\\_9\\_14\\_18.PDF](#)

4. Discuss Proposed Amendments To The Energy Benchmarking Ordinance

Documents:

[BENCHMARKING AMENDMENTS MEMO.PDF](#)  
[AYDEN EICKHOFF POSTER FINAL 1.PDF](#)  
[BENCHMARKING AMENDMENT RECOMMENDED AMENDMENTS \(JLT REDLINE \).PDF](#)

5. Discuss Single Use Plastics / Plastic Straws

Documents:

[SINGLE USE PLASTICS POLICIES.1 \(1\).PDF](#)

# CITY OF PORTLAND, MAINE

Standing Committee on Sustainability and Transportation

Councilor Spencer Thibodeau (D2), Chair

Councilor Belinda Ray (D1)

Councilor Brian Batson (D3)

## Agenda

September 19, 2018

5:30 PM

Council Chambers

1. Review and approve minutes from July 18
2. Sustainability Program updates
3. Presentation and Discussion Around Implementation of the Peninsula Parking Study
4. Discuss Proposed Amendments to the Energy Benchmarking Ordinance  
Public comment may be taken
5. Discussion Regarding Single Use Plastics / Plastic Straws  
Public comment may be taken
6. Other business

## **CITY OF PORTLAND, MAINE**

Standing Committee on Sustainability and Transportation  
Councilor Spencer Thibodeau (D2), Chair  
Councilor Belinda Ray (D1)  
Councilor Brian Batson (D3)

Draft Minutes  
July 18, 2018

**Members Present:** Councilor Thibodeau, Councilor Ray, Councilor Batson

**Staff Present:** City Manager Jon Jennings, Mayor Ethan Strimling, Assistant City Manager Mona Bector, Troy Moon, Melissa Graffam, Bruce Hyman, John Peverada, Jen Ladd, Jen Thompson

Meeting was called to order at 5:35 PM.

Councilor Ray made a motion to approve the minutes from the June 13, 2018 meeting.  
Seconded by Councilor Batson. All in favor, 3-0.

Councilor Batson made a motion to approve the minutes from the June 20, 2018 meeting.  
Seconded by Councilor Ray. All in favor, 3-0.

### **Sustainability Program Updates**

Solar Project at the Ocean Avenue Landfill - Currently waiting for the permit.

Street Lighting Project - On track to finish in August.

### **Communication of Bike Share Ordinance Rules**

Bruce Hyman went over the Draft Regulations of the Bike Share Ordinance with the committee.

Councilor Ray shared her concerns that 50% of the docks does not seem like enough.

Councilor Ray also mentioned possible higher fees to help build the infrastructure needed for the bikes.

Councilor Batson asked if the bike is "left" someplace is it city employees responsibility for cleaning/picking them up? Bruce responded that the bike company owners have two (2) hours to respond to retrieve their bike.

Councilor Thibodeau suggested a pilot program. City Manager Jon Jennings said that it is important for this program to go slow. We can expand as needed. City staff is overloaded as it is, we don't have time to pick up bikes. Need to keep companies accountable. He recommends the program to go slow.

Councilor Ray asked that we should also add to the ordinance that scooters and segways are not allowed.

This item will be brought back to the committee once the Final Draft is completed.

### **Discuss changes to times when Wharf Street is open to vehicle traffic**

City Manager Jon Jennings addressed the committee that the city is in support of the request of the Wharf Street Tenants Association to to adopt a new policy to close Wharf Street from Dana to Union, seasonally from Memorial Day to Columbus Day starting at 11 am to 1:30 am. This closure will make it more pedestrian friendly and allow more visitors to safely go the the Wharf Street businesses.

The City will be replacing the wooden gates with bollards.

Councilor Batson asked, although supportive of this change, if there has been issues, accidents on Wharf Street? Jon Jennings replied not that he know of, but this is a preventative issues.

Councilor Ray said that she knew that there was wide support from the tenants, were there any opposition? Mark Barnett, Wharf St. Tenant Association, said that they talked to all the businesses and they made sure that their business will have access for deliveries in the morning/early hours. They did not have anyone who was against this change.

Councillor Ray asked what was the timeline for the change? Jon Jennings believed that he could do this administratively, he just would like to have the committee's blessing.

Councilor Ray moved to endorse this change with collaboration with the business owners. Councilor Batson seconded. All in favor, 3-0.

### **Follow-up Report on Park Avenue Bike Lane**

Jen Ladd gave the committee an update from the June 14, 2018 neighborhood meeting. Twelve people attended, four people reached out outside the meeting.

They have continued to review and refine the parking plan. This has resulted in a gain back of three (3) spaces. They will be putting down green paint and installing 200 bollards. Targeting to have this installed by the end of August.

Councilor Ray asked if there is bike detection at the intersections. Jen replied that there is at State Street at Park Avenue. She would need to check at the others.

**Presentation by Phoebe MacDonald regarding single use plastics**

Third grader from Ocean Avenue Elementary School, Phoebe MacDonald gave a presentation to the committee on how bad the use of single-use plastics are in the ocean, especially straws. City Manager Jon Jennings told Phoebe that here at City Hall he will be implementing Phoebe's Rule to ban plastic straws from the Clock Tower Cafe, and is urging other businesses to follow.

Phoebe passed out aluminum straws out to the committee and audience members.

The committee discussed the idea of banning plastic straws, but preferred to have business owners switch voluntary before mandating. This item will be further discussed at the September meeting.

Motion was made by Councilor Ray to adjourn the meeting at 7:00 pm. Motion was seconded by Councilor Batson. All in favor. 3-0.



# MEMORANDUM

## PLANNING AND URBAN DEVELOPMENT DEPARTMENT

### PLANNING DIVISION

---

**To:** Sustainability and Transportation Committee  
**From:** Jeff Levine, Director, Department of Planning & Urban Development  
**Date:** September 14, 2018  
**Re:** Parking update  
**Meeting Date:** September 19, 2018

---

On June 13, 2018, the S&T Committee met to discuss the *Parking Study for Downtown, the Old Port, and the Eastern Waterfront*, as well as parking issues in the city more broadly. In response to questions and comments received during that meeting, staff has prepared the following responses.

**1. Provide update on prioritization of recommendations from the *Parking Study*.**

The attached table lists recommendations from the *Parking Study* and indicates which of the five major parking challenges identified in the *Parking Study* – island visitor parking, island resident parking, employee monthly parking, low-wage earner parking, and high on-street occupancy - each recommendation addresses (*Attachment 1*). The table also notes our current state of implementation and work to date for each recommendation, and identifies recommendations for which there has been formal demonstration of support from community groups.

**2. Identify new garages that are coming on line and how many parking spaces they will add.**

See attached map, generated from data in both the *Parking Study* and recent rezoning and site plan applications (*Attachment 2*).

**3. Provide update on time limited parking in residential zones.**

The *Parking Study* recommends further analysis to determine whether unrestricted parking in neighborhoods within walking distance of Downtown/the Old Port/Eastern Waterfront is over capacity (i.e. being used to accommodate daytime parking demand from the study area). If so, the study suggests that these areas could be converted to time limit or metered spaces as a means of creating capacity for neighborhood residents (and potentially islanders). The study recommends gradual implementation to allow for monitoring to determine if significant additional demand is driven into Downtown/the Old Port/Eastern Waterfront.

Recently, the Parking Division has considered the possibility of converting unrestricted parking in the western part of Parking Zone 4, which covers the Eastern Waterfront and the southern part of Munjoy Hill. Given the lack of public consensus surrounding this potential change, there is no plan to convert this parking as of now.

**4. Some of the parking restriction signs are confusing. Can we simplify them?**

The Parking Division is actively working on efforts to simplify parking signs.

**5. Are there ways for Casco Bay Lines or METRO to work with Lyft/Uber to augment their service?**

As of now, Casco Bay Lines is not actively promoting partnerships with TNCs. However, the Planning Division anticipates a site plan review for improvements to the Casco Bay Lines terminal building in the coming months. As a product of that review, circulation changes on the Maine State Pier will be considered. Improving accessibility for both transit and TNC users will be a major consideration in the review.

METRO is currently reaching out to TNCs to see if there is potential for better partnerships with transit.

**6. Provide update on remote parking/shuttle to alleviate traffic and parking issues, especially on Commercial St. / Thames St.**

The city is pursuing the concept of piloting a Commercial Street shuttle, and there will be some consideration of parking and shuttle operations on Commercial Street as part of the scope for the *Commercial Street Operations Master Plan*. In addition, METRO is planning to reassess the configuration of both their Route 8 and Route 1 service in the short-term, and there could be opportunity for synergy with these efforts. There could also be a role for a TMA in any transit service on Commercial Street.

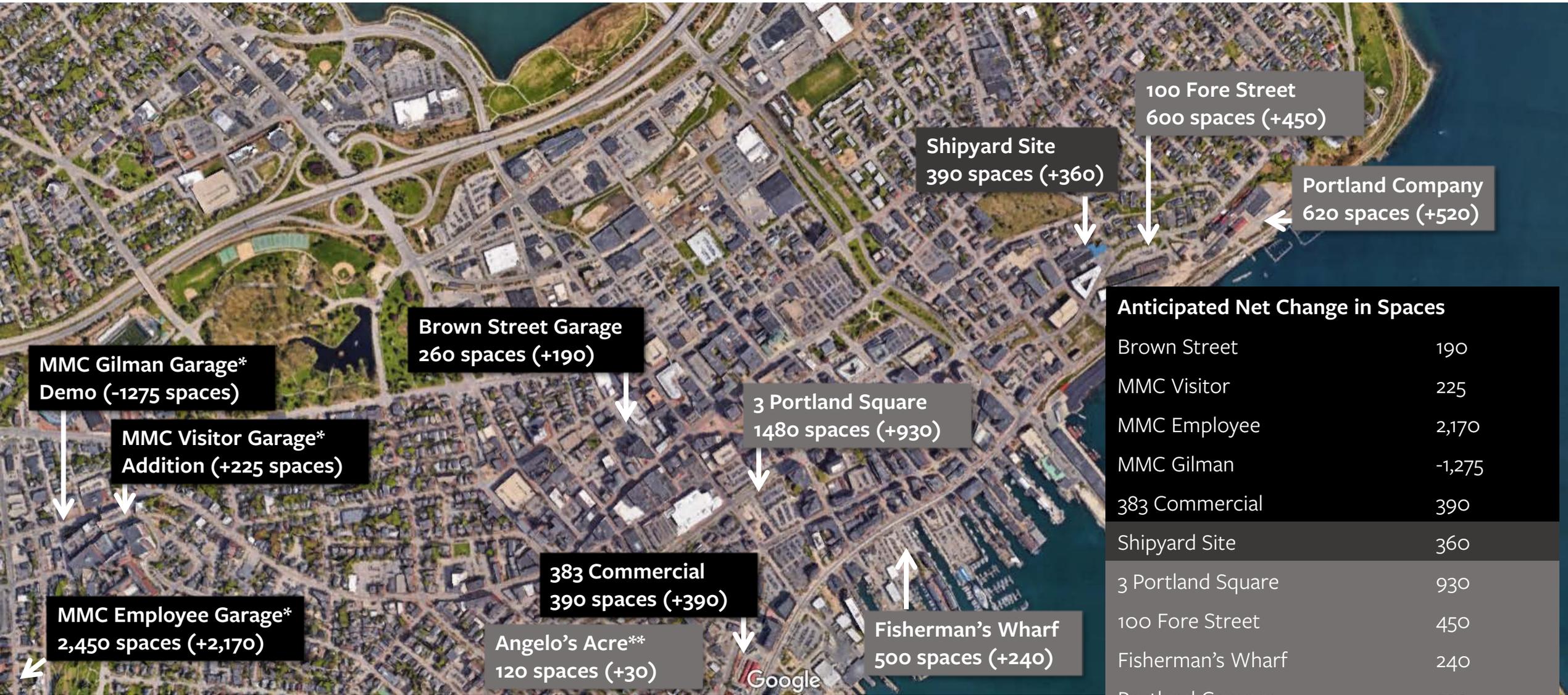
**Attachments**

1. Status of Recommendations from the Parking Study for Downtown, the Old Port, and the Eastern Waterfront
2. Approved or Anticipated Structured Parking Map

**STATUS OF RECOMMENDATIONS FROM THE PARKING STUDY FOR DOWNTOWN, the OLD PORT, and the EASTERN WATERFRONT (9/14/18)**

Recommendation	Implementation stage	Level of support	Potential partners	Potential Funding	Parking challenge addressed					Work to date	Future work in pipeline
					Island visitor parking	Island resident parking	Employee monthly parking	Low-wage earner parking	On-street occupancy		
Explore the formation of a transportation management association (TMA)	Actively pursuing	Supported by private & public partners, including PDD, Chamber, GPCOG, METRO	PDD, Chamber, GPCOG, METRO, MMC	PACTS/Federal CMAQ City Non-profit and quasi-public partners Private sector	●	●	●	●	●	Developed proposal for Smart Access Pilot, to be housed at the city Holding meetings with major stakeholders Generating startup funding through private sector	
Partner with TNCs/taxis to address specific parking challenges for constituents	Actively pursuing	Remote parking suggested by PIC as city-wide strategy	TNCs, taxis	City Users	●	●	●	●	●	Offering and actively pursuing additional remote parking options Reviewing circulation on Maine State Pier to enhance potential for TNC operations	
Expand specific island resident parking programs	Actively pursuing	Generally supported by PIC	Casco Bay Lines, PIC, TNCs, private sector parking owners/operators	City	●	●				Modified regulations to expand on-street options in the IR parking zone Relaxed street maintenance in summer Conducting marketing campaign to promote TNCs and Ucarshare Offering remote parking options for CB lines patrons Exploring options with private sector suppliers to provide overnight (and/or special event) parking near CB lines	
Pilot test higher and/or lower cost on-street parking in high and lower demand areas				City				●	●		
Extend on-street meter hours to 8 pm city wide		Supported by BPAC		City					●		
Improve parking management and technology	Actively pursuing	Supported by PDD Supported by BPAC	Private sector	City Private sector		●	●	●	●	Installed mobile payment system summer 2018 Considering public parking app to augment private sector (Parkopedia & ParkMe) platforms	
Change parking requirements and regulations	Actively pursuing			City			●	●	●	Reviewing parking requirements through ReCode Reviewing fee in-lieu provisions through ReCode	
Improve parking policies in the context of land use permits	Actively pursuing	Supported by PDD Land use concepts suggested by BPAC		City			●	●	●	Stepping up efforts to monitor efficacy of TDM plans, gather data Reviewing parking requirements through ReCode	
Increase car sharing use			Private sector			●					
Continue implementation of Peninsula Transit Study TDM recommendations (including additional TDM requirements for development and transit service enhancements/improved headways)	Actively pursuing	Supported by PDD	METRO, private sector	METRO/Federal STBG, Section 5307 City		●	●	●	●	Advancing TDM program through site plan review, TMA discussions Beginning work on Commercial Street Operations Master Plan	
Pursue additional transit recommendations (including circulator route/revisions to Rt 8)	Actively pursuing	Supported by PDD Supported by METRO	METRO	PACTS/State/Federal			●	●	●	Pursuing plans to pilot Commercial Street shuttle Completed Hub-Link Study in 2017 to connect Jetport-PTC-PULSE/Downtown-CBITD/Ocean Gateway	METRO to assess/redesign Route 8 METRO to expand employer e-pass programs
Invest in bicycle infrastructure (including additional bikeways, bike parking and bikeshare)	Actively pursuing		Private sector	PACTS/Federal STBG, TA City		●	●	●	●	Planning Bayside to PTC Pathway and West Commercial Street Pathway Developing bikeshare ordinance & regulations Installing bike lanes when opportunities arise (e.g. Park Ave, State St, Wash Ave, Allen Ave)	
Convert unrestricted parking to time limited or metered									●	Recently considered conversion of unrestricted parking in western portion of Zone 4. Not pursuing given lack of public consensus.	
Invest in multi-modal marketing and advertising	Actively pursuing	Supported and advanced by PDD Supported by BPAC	PDD, METRO, GPCOG	City, PDD		●	●	●	●	Conducting Multi-Modal Marketing Study with PDD	
Conduct additional data collection on parking supply and demand	Actively pursuing		Private sector (through site plan)	City	●	●	●	●	●		
Construct new structured parking with repurposable design						●	●	●	●		

# APPROVED OR ANTICIPATED OFF-STREET PARKING | September 2018



Anticipated Net Change in Spaces	
Brown Street	190
MMC Visitor	225
MMC Employee	2,170
MMC Gilman	-1,275
383 Commercial	390
Shipyard Site	360
3 Portland Square	930
100 Fore Street	450
Fisherman's Wharf	240
Portland Company	520
Angelo's Acre	30
<b>Total</b>	<b>4,230</b>

\*MMC parking structures are located outside the study area for the 2017 *Parking Study for Downtown, the Old Port, and the Eastern Waterfront*.  
 \*\*The Angelo's Acre figures are for restriping of the existing surface lot, based on estimates from the Parking Division.

- Approved
- In Review
- In Concept



Executive Department  
Jon P. Jennings, City Manager

To: Councilor Thibodeau and members of the Sustainability and Transportation Committee  
From: Troy Moon, Sustainability Coordinator  
RE: Recommended amendments to the Energy Benchmarking Ordinance  
Date: September 14, 2018

---

### **Background:**

In November, 2016 the City Council adopted an energy benchmarking and disclosure ordinance that requires all commercial properties with a footprint greater than 20,000 square feet to calculate their annual energy and water consumption and to report it to the Sustainability Office using the US Environmental Protection Agency's energy reporting platform, Portfolio Manager. The ordinance also requires the Sustainability Office to disclose the reported information on the City website. Over 800 buildings in the city are subject to the reporting requirements.

The ordinance established a hard deadline for businesses to report their data to the Sustainability Office but a softer deadline for the Sustainability Office to disclose this data on the City website.

- Reporting deadline for affected properties: December, 2018. (Two years after the effective date of the ordinance)
- Disclosure deadline: Two years after the effective date of the ordinance **or** one year after the Sustainability Office determines that the utility has made energy data available in a convenient electronic format, **whichever is later**.

The softer deadline for disclosure was the result of stakeholder input that gathering the data necessary to report would be cumbersome and that whole building data for properties with multiple tenants would be challenging to acquire.

### **Discussion:**

This summer the City had the benefit of a Sustainability Fellow from the University of New Hampshire Sustainability Institute. This allowed us to “test drive” the benchmarking process. Her project was to gather the data necessary to benchmark City buildings and to develop resources that would guide property owners through the process of benchmarking their affected properties. During the course of the fellowship we encountered a number of obstacles that supported stakeholder input

389 Congress Street/www.portlandmaiane.gov/tel.207-874-8689/fax.207-874-8669

about the difficulties associated with collecting the energy data for commercial buildings. We believe these obstacles will make it difficult for Portland property owners to comply with the ordinance by the December deadline:

1. Data about electrical consumption is not readily available to property owners in an easy to use electronic format.

Central Maine Power offers a section on their website called “Energy Manager” but our effort to use it proved frustrating. The interface is not intuitive and users with multiple accounts find it difficult to load data from specific accounts. If a user is successful in selecting the account he or she wishes to examine the website will not download a report in a useable format. The CMP website indicates that reports are available in PDF or Excel formats but clicking the link associated with these formats does not generate a file that can be opened by those programs.

We also learned that commercial property owners may not be presented with the same Energy Manager interface for all of their properties. During a working session with a representative from the Portland 2030 District we logged into the website using account information from several accounts belonging to a single property owner. For some buildings we were offered an interface similar to what the owner of a small residential property owner might see but for other properties we were offered a more complicated interface. This makes it difficult to describe the process for collecting data to the affected property owners. The more complicated interface offers a “Green Button” that, theoretically, allows the account owner to download energy data in an easy to use electronic format. (This option doesn’t appear on the residential interface that some commercial buildings are offered.) However, the data that downloads is raw 15 minute interval data from the smart meter. Over the course of a month, this creates a very large file of data that is not useful unless the user has access to specialized software for analyzing such data and the skills to use it. Large and sophisticated property managers use such tools or hire a consultant who does but most property owners do not.

2. Owners of buildings with tenants do not have access to whole building energy data.

A significant portion of the buildings subject to the benchmarking ordinance have multiple tenants. Many have dozens of individual units. In most cases, each tenant has an electric meter and pays their own electric bill. Regulations established by the Public Utilities Commission prohibit the utility from disclosing such information to a third party without their written consent. This means a building owner needs to gather monthly energy data from each tenant in a building and compile it into a report showing the whole building data. The alternative would be for the property owner to obtain account information from each tenant along with a release that could be provided to the utility in order to access each tenants energy data. In either case, the property owner would be required to compile the data into a whole building profile before they could report energy consumption in the building. This process presents considerable administrative burden on the property owner and makes compliance difficult.

During the summer we learned that Efficiency Maine had partnered with the Portland 2030 District in an attempt to access whole building data. (By statute, Efficiency Maine can access utility data that is otherwise protected by PUC rules but must still protect confidentiality.) As a pilot, 2030 District members provided Efficiency Maine with the addresses of several buildings and asked them to request that Central Maine Power provide the electrical usage from all accounts associated with those

properties. In response, Efficiency Maine received a huge volume of raw 15 minute interval data from each of the meters associated with the properties. Unfortunately, they lack the ability to process and interpret that volume of data. Our staff discussed this process with Efficiency Maine who remains willing to support efforts to obtain whole building data but, at present, we haven't figured out how to make this work efficiently. Both the City and Efficiency Maine lack the resources to facilitate a cumbersome process at this time.

In other cities with successful benchmarking ordinances the local utilities provide a streamlined way to provide whole building data to property owners. A regional example is Eversource, which serves the Boston metro region. They have established an easy to use web portal that allows building owners to provide any necessary documentation to verify ownership and to request data that is then supplied in whole building formats. This streamlined process resulted from the close collaboration between the local governments, the utility, regulators, and affected property owners. Our experience working with these entities in Maine indicates that all are willing to work to make energy data available in a streamlined fashion but more needs to be done to make this a reality.

**Recommendation:**

As things currently stand, building owners and property managers face significant obstacles that will make it difficult if not impossible to comply with the December reporting deadline to disclose energy and water usage to the City. Staff recommends that the benchmarking ordinance be amended to align the reporting deadline with the deadline for disclosure. This will allow staff to continue working with all parties to provide a usable way to acquire energy data, including whole building energy data.



When the Council passed the ordinance it is clear that they recognized that data was not available to stakeholders because the deadline for disclosing building energy use was undefined. We also suggest that the City continue to work with Efficiency Maine, the Portland 2030 District, energy utilities, and the PUC to revise rules and procedures that make whole building data available to property owners while taking necessary steps to protect the privacy of tenants.

# Implementation of Energy Benchmarking Ordinance

Ayden Eickhoff, UNH Sustainability Fellow, Summer 2018

Mentor: Troy Moon, City of Portland

## Benchmarking Basics

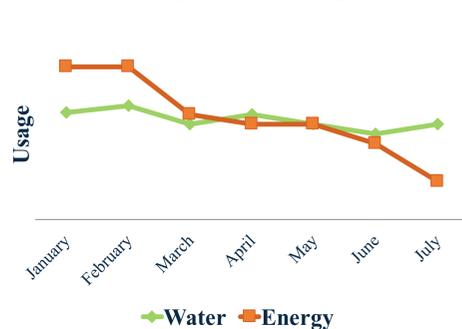
Energy Benchmarking policies initiate virtuous cycles of resource usage awareness and consumption reduction. They create and allow for:

- A rating system similar to “Mpg” but for buildings
- An "apples to apples" comparison
- Measures of ongoing progress

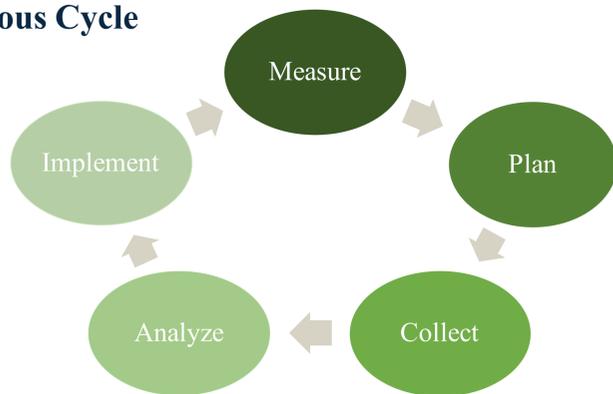
## Apples to Apples Comparison



## Progress Tracking



## Virtuous Cycle



## Covered Properties



Municipal buildings over 5,000 Sq. ft.

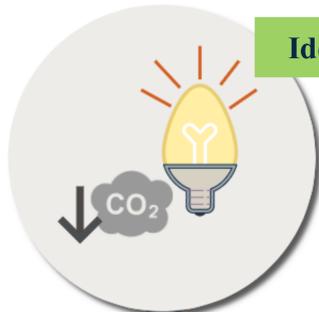


Non-residential properties over 20,000 Sq. ft.



Residential properties with over 50 units.

## Idea



Portland committed to reducing greenhouse gas emissions 80% by 2050. To reach this goal, a baseline has to be established.

## Action



On November 7<sup>th</sup>, 2016 the City of Portland passed the Building Energy Use Disclosure ordinance requiring all covered properties to report monthly water and energy usage.

## Adoption



Before the general reporting date (December 8<sup>th</sup>, 2018), all municipal covered properties are required to report their energy and water usage.

## Assistance



The municipal reporting process allows for a “best practices” guide to be created to facilitate the reporting process for all covered properties.

## Compliance



All covered properties are notified of their benchmarking obligation and will begin the reporting process. Online and staff support will be provided.

## Municipal Building Compliance

Complete Partial Insufficient



## Discussion



**Walk a mile in their shoes.**

- The “trial” process for the municipal buildings provides a good indicator of what property owners will have to go through.



**Don't turn setbacks into stopping points.**

- Instead, come up with a creative solution or an alternative timeline.



**Timing is important.**

- Sometimes the systems aren't in place to make the project manageable. Be patient, do what you can with what you have.

## Moving Forward



Present information to city council



Consider adjusting deadline



Work with stakeholders to create optimal data collection mechanisms



Expand the impact and usage of the data



UNH Sustainability Institute

Order 67-16/17

Postponed to 11/7/2016: 7-0 (Ray, Thibodeau absent) on 10/17/2016

Amended with regard to standardized data: 9-0 on 11/7/2016

Amended to change the definition of covered property: 9-0 on 11/7/2016

Passage as amended: 6-3 (Mavodones, Brenerman, Suslovic) on 11/7/2016

Effective 12/7/2016

ETHAN K. STRIMLING (MAYOR)  
BELINDA S. RAY (1)  
SPENCER R. THIBODEAU (2)  
EDWARD J. SUSLOVIC (3)  
JUSTIN COSTA (4)

**CITY OF PORTLAND**  
IN THE CITY COUNCIL

DAVID H. BRENERMAN (5)  
JILL C. DUSON (A/L)  
JON HINCK (A/L)  
NICHOLAS M. MAVODONES, JR (A/L)

**AMENDMENT TO PORTLAND CITY CODE**  
**CHAPTER 6 BUILDINGS AND BUILDING REGULATIONS**  
**RE: BUILDING ENERGY USE DISCLOSURE ORDINANCE**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND,  
MAINE IN CITY COUNCIL ASSEMBLED AS FOLLOWS:**

**WHEREAS,** the City seeks to embed sustainability best practices into City operations, the City Code and across the community; and

**WHEREAS,** the City has an interest in reducing energy consumption citywide by increasing the energy efficiency of existing buildings located within its city limits and wishes to lead area economic development and environmental protection; and

**WHEREAS,** the City finds it to be in the interest of the public to adopt a standard policy regarding the efficient use of energy and water in buildings that supports economic development, improves the economic standing of the community, produces better public health outcomes and reduces emissions of greenhouse gases; and

**WHEREAS,** the use of fossil fuels to heat and cool buildings is a significant cause of CO2 emissions that cause global climate change; and

**WHEREAS,** the City is vulnerable to sea level rise and other effects of global climate change that may threaten public safety and property; and,

**WHEREAS,** the City wishes take action via among other things the energy efficiency best practices contained in

this ordinance to mitigate the negative impacts of global climate change by reducing emissions of CO2;

**NOW, THEREFORE, BE IT ORDERED,** that, pursuant to 30-A M.R.S. §3001, the Code of Ordinances, City of Portland, Maine, is hereby amended by adding the following section, to be numbered City of Portland General Provisions Code of Ordinances Chapter 6 Article X, which said section shall read as follows:

**ARTICLE X.**

**6-205. General.**

The energy and water use of municipal and covered buildings shall be benchmarked in accordance with this article.

**6-206. Purpose.**

To encourage efficient use of energy and water and to reduce the emission of greenhouse gases, this ordinance requires owners of Covered Properties and Municipal Properties to annually measure and disclose energy usage to the Department. Furthermore, this Ordinance will authorize the Department to collect energy and water usage data to enable more effective energy and climate protection planning by the City and others and to provide information to the real estate marketplace to enable its members to make decisions that foster better energy performance.

**6-207. Applicability.**

This Ordinance shall be applicable to all Municipal and Covered Properties as defined in this Ordinance.

**6-208. Definitions.**

Benchmarking information shall mean information generated by the Benchmarking Tool, as herein defined including descriptive information about physical property and its operational characteristics. The information shall include, but need not be limited to:

(a) Property address;

(b) Primary use type;

(c) Gross floor area;

(d) Site Energy Use Intensity (EUI) as defined in this section;

(e) Weather normalized source EUI;

(f) Annual greenhouse gas emissions;

(g) Water use;

(h) The energy performance score that compares the energy use of the building to that of similar buildings, where available; and

(i) Compliance or noncompliance with this Ordinance.

Benchmarking Tool shall mean the Internet-based tool developed and maintained by the United States Environmental Protection Agency to track and assess the relative energy performance and water usage of buildings nationwide.

Covered Property shall mean a parcel, as described in public records or as determined by the Department, containing any of the following:

(a) One or more non-residential building(s) where such building(s) singly or together contain more than 20,000 square feet ("Non-Residential Covered Property"); and

(b) One or more residential building(s) that singly or together contain 50 or more residential Dwelling Units whether they are rental Dwelling Units or Dwelling Units owned as condominiums, cooperatives or otherwise ("Residential Covered Property"). Residential covered property shall not include separate free-standing single family or two-family dwelling units, or single free-standing structures or buildings which by themselves contain ten (10) units or fewer.

Department means the City of Portland Energy and Sustainability Coordinator and his or her department or office.

Dwelling Unit shall mean a single residential unit consisting of one or more habitable rooms, occupied or arranged to be occupied as a residential unit separate from all other residential units within a building, and used primarily for residential purposes and not primarily for professional or commercial purposes.

Energy shall mean electricity, natural gas, steam, hot or chilled water, heating oil, or other product for use in a building, or renewable on-site electricity generation, for purposes of providing heating, cooling, lighting, water heating, or for powering or fueling other end-uses in the building and related facilities.

Energy Performance Score shall mean the numeric rating generated by the ENERGY STAR Portfolio Manager tool or equivalent tool adopted by the department that compares the energy usage of the building to that of similar buildings.

ENERGY STAR shall mean the U.S. Environmental Protection Agency program related to improving energy efficiency in buildings and products.

ENERGY STAR Portfolio Manager shall mean the tool developed and maintained by the U.S. Environmental Protection Agency to track and assess the relative energy performance of buildings nationwide.

Energy Use Intensity (EUI) shall mean the kBtUs (1,000 British Thermal Units) used per square foot of gross floor area.

Gross Square Feet shall mean the gross floor area of the property.

Municipal Property shall mean a property with one or more buildings that is 5,000 gross square feet or more that is owned by the City of Portland.

Owner shall mean:

(a) An individual or entity having title to a Covered Property;

(b) An agent authorized to act on behalf of the owner of a Covered Property;

(c) The net lessee in the case of a property subject to a net lease with a term of at least forty-nine years, inclusive of all renewal options;

(d) The board of managers or trustees in the case of a condominium; and/or

(e) The board of directors or trustees in the case of a cooperative apartment corporation.

Qualified Benchmarker is an entity that meets the Department's qualifications for inputting Benchmarking Information into the Benchmarking Tool.

Residential Property shall mean a property containing one or more Dwelling Units.

Site Energy shall mean the amount of heat and electricity consumed by a Covered Property or Municipal Property as reflected in utility bills or other documentation of actual energy use.

Source Energy shall mean all the energy used in delivering energy to a Covered Property, including power generation and transmission and distribution losses, to perform a specific function, such as but not limited to space conditioning, lighting, or water heating.

Tenant shall mean a person or entity leasing, occupying or holding possession of a Covered Property or Municipal Property.

Utility shall mean an entity that distributes and/or sells energy, including, but not limited to, natural gas, propane, electric or thermal energy for Covered Properties or Municipal Properties.

**6-209. Benchmarking for Municipal and Covered Properties.**

(a) No later than one (1) year after the effective date of this Ordinance, and no later than May 1 every year thereafter, the total Energy and Water consumed by each Municipal Property, along with all other descriptive information required by the Benchmarking Tool, shall be entered into the Benchmarking Tool for the previous calendar year.

(b) Owners of Covered Property shall annually input the total Energy and Water consumed by each Covered Property, along with all other descriptive information required by the Benchmarking Tool, into the Benchmarking Tool for the previous calendar year. The Owner shall input this information according to the following schedule:

- (1) A Residential Covered Property no later than one year after the Department has certified that utility service providers have made utility use data readily available in a standardized and secure manner through "green button" or similar programs or standards that offer easy access to usage data as needed to use Energy Star Portfolio Manager, ~~whichever date comes later no later than two (2) years after the effective date of this Ordinance~~ and by every May 1 every year thereafter;
- (2) A Non-residential Covered Property no later than one year after the Department has certified that utility service providers have made utility use data readily available in a standardized and secure manner through "green button" or similar programs or standards that offer easy access to usage data as needed to use Energy Star Portfolio Manager, ~~whichever date comes later by no later than two (2) years after the effective date of this Ordinance~~ and by every May 1 every year thereafter; and
- (3) A new Covered Property that has not accumulated twelve (12) months of energy and water use data by the first applicable date following occupancy for inputting Energy and Water use into the Benchmarking Tool shall comply with this Ordinance ~~in~~by May 1 the following year.

#### 6-210. Notification Of Covered Properties.

Between September 1 and December 1 of each year that Benchmarking is required under Section 6-209 above, the City shall notify Owners of Covered Properties of their obligation to input Energy and Water use into the Benchmarking Tool. By January 15 of each year, the City shall post the list of the addresses of Covered Properties on a public website.

**6-211. Qualifications of Benchmarkers.**

The City Manager or his or her designee, including but not limited to the Department, may establish certification and/or licensing requirements for the users of Benchmarking Tools.

**6-212. Disclosure And Publication Of Benchmarking Information.**

(a) Owners shall annually provide Benchmarking information to the Department, in such form as established by the Department, by the date provided by the schedule in Section V.

(b) An exemption from this reporting requirement for any current reporting period may be granted if:

(1). The Owner demonstrates to the Department that he or she has been unable to obtain tenant authorization to obtain tenant utility data, despite a good faith effort to obtain such consent; or

(2). The Owner or Tenant demonstrates to the Department that such disclosure may result in the release of proprietary information which can be characterized as a trade secret.

(c) The Department shall make available to the public on the internet Benchmarking Information for the previous calendar year:

(1) No later than a year and a half after the effective date of this Ordinance and by September 1 of each year thereafter for Municipal Properties; and

(2) ~~No later than two and a half years after the effective date of this Ordinance or n~~ No later than one year after Benchmarking Information is provided under Section 6-209the Department has certified that utility service providers have made utility use data readily available in a standardized and secure manner through "green button" or similar programs or standards that

offer easy access to usage data as needed to use Energy Star Portfolio Manager, whichever date comes later, and by September 1 of each year thereafter for Covered Properties. Benchmarking Information received by the Department for the first year a Covered Property is required to input the total Energy and Water consumed and other descriptive information as required by the Benchmarking Tool into the Benchmarking Tool will be not be published except to disclose whether or not the Covered Property is in compliance with this Ordinance.

(d) The Department shall make available to the public and update at least annually, the following information:

(1) Summary statistics on energy and water consumption for Municipal Properties and Covered Properties derived from aggregation of Benchmarking information for both;

(2) Summary statistics on overall compliance with this Ordinance including an assessment of accuracy;

(3) For each Municipal Property and Covered Property:

(i) The status of compliance with the requirements of this Ordinance;

(ii) Annual summary statistics for the Municipal Property or Covered Property, including EUI, annual greenhouse gas emissions, and an energy performance score where available; and

(iii) A comparison of Benchmarking Information across calendar years for any years such Municipal Property or Covered Property has input the total Energy consumed and other descriptive information for such Properties as required by the Benchmarking Tool into the Benchmarking Tool.

**6-213. Provision of Benchmarking Information by Tenants.**

(a) Each Tenant located in a Covered Property shall, within thirty (30) days of a request by the Owner and in a

form to be determined by the Department, provide all information that cannot otherwise be acquired by the Owner and that is needed to comply with the requirements of this Ordinance. Failure to provide information to an Owner may result in penalties as provided in the City Code and this Ordinance.

(b) Where the Owner is unable to input the total energy consumed by the Covered Property as well as all other descriptive information for such Covered Property as required by the Benchmarking Tool into the Benchmarking Tool due to the failure of any or all Tenants to report the information required by this Ordinance, the Owner shall input alternate values as established by the Department prior to the implementation of this Ordinance, into the Benchmarking Tool.

#### **6-214. Assessing Results and Annual Report to City Council.**

(a) By December 31, 2020, or two years after the Department has certified that utility service providers have made utility use data readily available in a standardized and secure manner through "green button" or similar programs or standards that offer easy access to usage data as needed to use Energy Star Portfolio Manager, whichever is later, the Department shall review the effect of this Ordinance on improving energy and water performance for Covered Buildings. If energy and water performance for Covered Buildings has not improved significantly, the Department shall make recommendations to the City Manager as to whether amendments to this Ordinance or other measures are necessary to improve building energy and water performance for Covered Buildings.

(b) In December of each calendar year, the Department shall prepare and submit an annual report to the City Council, which evaluates the administration and enforcement of the Ordinance and contains a summary of the benchmarking data provided to the City as required by this Ordinance, as well as any other necessary data or recommendations on the Ordinance could be improved.

#### **6-215. Maintenance of Records.**

(a) Owners shall preserve and maintain records as the Department determines is necessary for carrying out the

purposes of this Ordinance, including but not limited to energy and water bills and any and all other documents received from Tenants and/or Utilities. Such records shall be preserved by Owners for a period of three (3) years. At the request of the Department, such records shall be made available for inspection and audit by the Department.

(b) At the time any occupied Covered Building is transferred, the buyer and seller shall arrange for the seller to provide to the buyer all information necessary for the buyer to report Benchmarking information for the entire year in a timely manner. It shall be a violation of this Ordinance for any seller to fail to so provide any such information.

#### **6-216. Violations.**

It shall be unlawful for any entity or person including, but not limited to, Owners or Tenants to fail to comply with the requirements of this Ordinance or misrepresent any material fact in a document required to be prepared or disclosed by this Ordinance.

#### **6-217. Enforcement and Administration.**

(a) The City Manager, the Department or their designee shall enforce the provisions of this Ordinance.

(b) The City Manager, the Department or their designee may promulgate regulations relative to the administration of the requirements of this Ordinance, as necessary.

(c) If any person or entity including, but not limited to, Owners or Tenants violate any provision of this Ordinance, the following enforcement measures may be taken:

- (1) For the first violation, a written warning may be issued; and
- (2) Any subsequent or ongoing violation will be subject to a fine of up to \$20.00 per day pursuant to the provisions of Chapter 1, Section 1-15 herein.

#### **6-218. Severability.**

If any provision of this Ordinance shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

## Ordinances & Policies Regarding Single Use Plastics

### US Cities

Name	Ordinance/Policy Provisions	Fines	Effective Date:	Website:
Seattle, WA	<ul style="list-style-type: none"> <li>● Banned all plastic straws/eating utensils in restaurants</li> <li>● Urge the city's 5000 restaurants to get rid of straws completely or switch to paper</li> <li>● Business must comply or work with the city of a compliance schedule</li> <li>● Flexible plastic straws can still be provided to customers who require them for medical reasons.</li> <li>● Restaurants can also continue providing plastic straws so long as they are recyclable.</li> </ul>	\$250	July 1, 2018	<a href="http://www.seattle.gov">www.seattle.gov</a>
Monmouth County, NJ	<ul style="list-style-type: none"> <li>● Banned all plastic bags and straws from Monmouth Beach</li> </ul>	\$2,400	May 2018	<a href="http://www.ecode360.com">www.ecode360.com</a>
San Francisco, CA	<ul style="list-style-type: none"> <li>● Supervisor Katy Tang introduced legislation that would prevent merchants from providing customers with single-use plastic straws, stir sticks, toothpick, splash stick, and other non-biodegradable objects</li> <li>● Currently phasing out plastic straws and switching to paper straws</li> </ul>		Under consideration	<a href="http://curbed.com">curbed.com</a> <a href="http://www.huffingtonpost.com">www.huffingtonpost.com</a>
Malibu, CA	<ul style="list-style-type: none"> <li>● Banned plastic straws, stirrers, and utensils from restaurants and food vendors</li> </ul>		June 1, 2018	<a href="http://www.latimes.com">www.latimes.com</a> - <a href="#">Ordinance</a>
Fort Myers Beach, FL	<ul style="list-style-type: none"> <li>● Banned plastic straws</li> </ul>	\$100-\$500	November 6, 2017	- <a href="#">Ordinance</a>

## National/International

Name	Law	Fines	When it takes effect	Website
EU	<ul style="list-style-type: none"> <li>• Eliminate the use of non-recyclable plastics by 2030</li> <li>• Ban single-use plastic products, such as straws, cutlery, cotton buds, stirrers, balloon sticks and drinks containers, where alternatives are available and affordable.</li> <li>• Discourage the use of plastic food/drink containers</li> <li>• Manufacturers will be made to contribute to the cost of plastic waste management/cleanup, and making awareness</li> <li>• Incentives for finding cleaner alternatives</li> <li>• Collect 90% of single-use plastic drink bottles by 2025</li> </ul>		Proposal is being considered by European Parliament and Council	<a href="http://newatlas.com">newatlas.com</a>
India	<ul style="list-style-type: none"> <li>• Eliminate all single-use plastics by 2022</li> <li>• Ban on the manufacture, supply, storage and use of plastics that are already in place</li> <li>• Exemptions for retail packaging, trash can liners and takeaway packaging</li> </ul>	Up to 25,000 rupees (\$367) 3 months in jail for repeated offenders	June 5, 2018	<a href="http://www.huffingtonpost.com">www.huffingtonpost.com</a>
Penang Island, Malaysia	<ul style="list-style-type: none"> <li>• Bans use of plastic straws &amp; other single use plastics at restaurants, cafes, and hotels.</li> </ul>		January, 2019	<a href="http://www.malaymail.com">www.malaymail.com</a>
France	<ul style="list-style-type: none"> <li>• Bans plastic plates, cups and utensils</li> <li>• Exception for biodegradable items</li> </ul>		2020	<a href="http://www.washingtonpost.com">www.washingtonpost.com</a>

## Voluntary Business Policies

Name	Ordinance	Fines	When it takes effect	Website
Sea World,	<ul style="list-style-type: none"> <li>removed plastic straws and plastic shipping bags from all their park</li> </ul>		In effect	<a href="http://seaworld.com">seaworld.com</a>
Royal Caribbean	<ul style="list-style-type: none"> <li>by 2019 will be free of plastic straws</li> <li>Replace with paper straws</li> </ul>		2019	<a href="http://www.rclcorporate.com">www.rclcorporate.com</a>
Ikea	<ul style="list-style-type: none"> <li>by 2020 will no longer hand out plastic bags/straws</li> <li>Will design products to be repurposed, repaired, reused resold, and recyclable</li> <li>Will introduce low-cost home solar products</li> </ul>		2020	<a href="http://www.theguardian.com">www.theguardian.com</a>
Bon Appétit	<ul style="list-style-type: none"> <li>Will ban plastic straws and stirrers from their 1,000 cafes and restaurants</li> </ul>		September 2019	<a href="http://www.greenpeace.org">www.greenpeace.org</a>
Starbucks	<ul style="list-style-type: none"> <li>Eliminate single-use plastic straws from all of its cafes globally by 2020.</li> <li>Will offer recyclable strawless lids and alternative-material straws, like paper or compostable plastic.</li> <li>Starbucks has partnered with Closed Loop Partners to develop recyclable and compostable cup solutions in an effort for corporate responsibility in protecting the environment.</li> </ul>		2020	<a href="http://news.starbucks.com">news.starbucks.com</a>
McDonald's	<ul style="list-style-type: none"> <li>Will replace plastic straws with paper ones in all UK and Ireland restaurants</li> <li>Uses 1.8 million straws daily in UK</li> <li>Will begin to implement change in US, France, and Norway soon</li> </ul>		September 2018	<a href="http://www.bbc.com">www.bbc.com</a>

## **Failed attempt to ban plastic straws**

**Hawaii** [www.staradvertiser.com](http://www.staradvertiser.com)

- A bill to ban distribution and sale of plastic straws was introduced in January 2018 by state Sen. Mike Gabbard
  - the legislation passed through the Agriculture and Environment Committee
  - It failed to clear the Judiciary and Ways and Means committees
  - Objections came from the Hawaii Food Industry Association, the Hawaii Restaurant Association, the Retail Merchants Association and the American Chemistry Council, all of which presented testimony in hearings about the bill.

## **Banning plastic straws prevents challenges to individuals with disabilities**

Title	Summary	Website
Banning straws won't save the oceans	<ul style="list-style-type: none"> <li>● Disabled people use straws because they are affordable, have tensile strength, and flexibility</li> <li>● Plastic straw alternatives can               <ul style="list-style-type: none"> <li>○ Be dangerous if made of metal, wood, or glass</li> <li>○ Be uncomfortable or ineffective</li> <li>○ Set off food allergies</li> <li>○ Be costly</li> </ul> </li> <li>● Propose to offer plastic straws and plastics only to those who ask for them</li> </ul>	<a href="http://psmag.com">psmag.com</a>
Why people with disabilities want ban on plastic straws to be more flexible	<ul style="list-style-type: none"> <li>● Paper or biodegradable straws can make people choke if they don't have jaw control (will bite through the straw and little bits will fall off)</li> <li>● Silicone is not flexible</li> <li>● Metal straws conduct heat/cold and are hard - can cause safety risks</li> <li>● Many disabled people can't easily clean reusable straws</li> <li>● "Disabled people have to find ways to navigate through the world because they know it was not made for us," says Lei Wiley-Mydske</li> <li>● The key is to break the habit of people using plastic straws because most of the population has gotten used to using them</li> </ul>	<a href="http://www.npr.org">www.npr.org</a>
Disposable plastic straws suck. Try these disability-friendly alternatives	<ul style="list-style-type: none"> <li>● Million of people with disabilities need straws because they are unable to drink due to muscle weakness, paralysis, swallowing problems, or involuntary movements</li> <li>● The author has cerebral palsy which makes it difficult to lift and hold objects plus it impairs her coordination</li> </ul>	<a href="http://themighty.com">themighty.com</a> A comment directed to a website which had a <a href="#">bendy biodegradable plastic straw</a>

- Admits that some people cling to excuses and fears of reusable straws, refusing to switch
- Alternatives should be widely available, affordable, and suitable for those with disabilities
- Ratings of various straws
  - Reusable plastic straw 3 of 5 stars
    - Easy to use and clean (most dishwasher safe), some come at an angle, good quality can last years, non-BPA,
  - Silicone 5 of 5 stars
    - Easy to use and very flexible, ideal for people with sensory issues, soft and safe to bite, no toxic chemicals, safe for hot drinks, dishwasher safe
  - Metal 4 of 5 stars
    - Have a solid feel, difficult for limited hand coordination to put silicone tip on straw, can come with a bend, not flexible but the silicone tip makes for comfort, safety hazards for jaw or getting poked, most durable, dishwasher/boiling safe, metal conducts heat so only good for cold drinks
  - Paper 1 of 5 stars
    - Mostly straight, not flexible, not the most enjoyable to drink from, some have a paper taste, biodegradable, only last a few hours, disintegrate too fast and leave chunks as a choking hazard
  - Pasta 3 of 5 stars
    - Easy to use as long as you don't have a gluten/wheat allergy, straight shape, not great for people with disabilities because it can break under pressure and not bendy, slight pasta taste, sturdy and long lasting

- |  |  |  |
|--|--|--|
|  | <ul style="list-style-type: none"><li>○ Biodegradable plastic 3 of 5 stars<ul style="list-style-type: none"><li>■ Feels the same as regular plastic straw, doesn't bend, if you have corn allergies use caution, no flavor, sturdy like plastic straw, not microwave safe, not mean to be reused but can be, good replacement for non-reusables</li></ul></li><li>● Easy to clean if you have restricted mobility with the help of a straw cleaner</li><li>● If a straw ban is implemented, the exception should be for people with disabilities: <b><u>make flexible plastic straws available only upon request - no questions asked</u></b></li><li>● <i>the comments on the article</i> give good insight and resources for alternatives that work for people with disabilities along with other concerns</li></ul> |  |
|--|--|--|

This graphic created by Twitter user @sarahbrennep has circulated widely on the internet. It visually represents the problems with straw alternatives identified by people with disabilities.

**MANY DISABLED PEOPLE NEED PLASTIC STRAWS TO DRINK, EAT, TAKE MEDICATIONS, ETC. HERE'S HOW CURRENT ALTERNATIVE, REUSABLE OPTIONS ARE A HARM TO US.**

	<b>CHOKING HAZARD</b>	<b>INJURY RISK</b>	<b>NOT POSITIONABLE</b>	<b>COSTLY FOR CONSUMER</b>	<b>NOT HIGH-TEMP SAFE</b>
<b>Metal</b>		✓	✓	✓	
<b>Bamboo</b>		✓	✓	✓	
<b>Glass</b>		✓	✓	✓	✓
<b>Silicone</b>			✓	✓	
<b>Acrylic</b>		✓	✓	✓	✓
<b>Paper</b>	✓		✓		✓
<b>Pasta</b>	✓	✓	✓		✓
<b>Single-use</b>					

by @sarahbrennep

\*Pressure to create bio-degradable straw options that are safe for the environment AND for all disabled people should fall upon manufacturer, NOT marginalized disabled consumers.

\*Once we accept the necessity of plastic straws, we can work together on other environmental initiatives that are effective, inclusive and accessible.