

OFFICIAL NOTICE OF MEETING

A Regular meeting of the Common Council will be held on Wednesday, March 4, 2015, at 6:00 p.m. in the Common Council Chambers at City Hall, 108 East Green Street, Ithaca, New York. Your attendance is requested.

AGENDA

1. **PLEDGE OF ALLEGIANCE:**
2. **ADDITIONS TO OR DELETIONS FROM THE AGENDA:**
3. **PROCLAMATIONS/AWARDS:**
4. **SPECIAL ORDER OF BUSINESS:**
5. **SPECIAL PRESENTATIONS BEFORE COUNCIL:**
 - 5.1 Presentation of Quarterly Employee Recognition Award
6. **PETITIONS AND HEARINGS OF PERSONS BEFORE COUNCIL:**
7. **PRIVILEGE OF THE FLOOR – COMMON COUNCIL AND THE MAYOR:**
8. **CONSENT AGENDA ITEMS:**
 - 8.1 **City Administration Committee:**
 - 8.1.1 Attorney - Request to Change Retirement Tier for PBA Member - Resolution
 - 8.1.2 DPW – Request to Establish Stewart Avenue Bridge Painting Capital Project - Resolution
 - 8.1.3 Chamberlain - Request to Waive Penalty on Taxes – Resolution
 - 8.2 **City Clerk-Department of Public Information & Technology:**
 - 8.2.1 Viva Taqueria & Cantina Alcohol Permit Request - Resolution
 - 8.2.2 Woody's Ladybugs, LLC – d/b/a Red's Place Restaurant Alcohol Permit Request – Resolution
9. **CITY ADMINISTRATION COMMITTEE:**
 - 9.1 Declaration of Freedom from Domestic Violence as a Human Right – Resolution
 - 9.2 DPW - Authorization for additional funding for Ithaca Skate Park Expansion, Capital Project #732 - Resolution
 - 9.3 Mayor – Request for Contract with Tompkins County Soil and Water Conservation District for coordination and implementation of the Cayuga Lake Watershed Hydrilla Project in the Cayuga Inlet, Fall Creek and Southern Cayuga Lake for 2015 - Resolution
 - 9.4 Attorney – Funding for Outreach Worker - Resolution
 - 9.5 An Ordinance to Amend the City of Ithaca Municipal Code Chapter 170 entitled “Use of City Real Property”
 - 9.6 City Controller’s Report
10. **PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE:**
 - 10.1 An Ordinance to Amend Chapter 157 of the City of Ithaca Municipal Code entitled “Commons” to Repeal and Replace the Chapter in its Entirety
 - 10.2 City Watershed Conservation Easements Processes – Resolution

11. **REPORTS OF SPECIAL COMMITTEES:**
12. **NEW BUSINESS:**
 - 12.1 Motion to Enter Into Executive Session to Discuss Collective Negotiations Pursuant to Article Fourteen of the Civil Service Law - Resolution
 - 12.2 Approval and Authorization to Execute CSEA DPW Unit Contract - Resolution
13. **INDIVIDUAL MEMBER – FILED RESOLUTIONS:**
14. **MAYOR’S APPOINTMENTS:**
 - 14.1 Appointments/Reappointments to Various City Boards and Committees – Resolution
15. **REPORTS OF COMMON COUNCIL LIAISONS:**
16. **REPORT OF CITY CLERK:**
17. **REPORT OF CITY ATTORNEY:**
18. **MINUTES FROM PREVIOUS MEETINGS:**
 - 18.1 Approval of the February 4, 2015 Common Council Meeting Minutes – Resolution
19. **ADJOURNMENT:**

If you have a disability that will require special arrangements to be made in order for you to fully participate in the meeting, please contact the City Clerk at 274-6570 at least 48 hours before the meeting.

Julie Conley Holcomb, CMC
City Clerk

Date: February 26, 2015

8. **CONSENT AGENDA ITEMS:**
City Administration Committee:

8.1 **Attorney - Request to Change Retirement Tier for Police Benevolent Association (PBA) Member – Resolution**

WHEREAS, Christopher Cady (“Officer Cady”) has been employed by the City of Ithaca (“City”) Police Department as a police officer since December 4, 2013; and

WHEREAS, when Officer Cady joined the City of Ithaca Police Department, he unintentionally and in error enrolled in the twenty (20) year Section 384-d retirement plan in the Police and Fire Retirement System (“PFRS”) as a Tier 6 member; and

WHEREAS, Officer Cady was eligible for and could have enrolled in the twenty-five (25) year Section 384 retirement plan in the PFRS offered by the City as a Tier 3 member based upon his prior service time in the Employees Retirement System, which time he can transfer to the PFRS; and

WHEREAS, Officer Cady wishes to join the Section 384 Plan, but can do so only if the State of New York enacts special legislation after issuance of a home rule request by the City; and

WHEREAS, the Retirement System has estimated that the fiscal implications of this home rule request and plan change will result in no past service cost contribution and no fiscal impact to the City, and the Retirement System will provide a formal fiscal note once the enabling legislation has been drafted; and

WHEREAS, the Common Council believes that it would be in the best interests of the City and Officer Cady to request that the New York State Legislature adopt such home rule legislation; now therefore be it

RESOLVED, That the Mayor is authorized to request that the New York State Assembly and New York State Senate enact legislation to allow Officer Cady to change his enrollment in the PFRS from a Tier 6 member in the Section 384-d Plan, to a Tier 3 member in the Section 384 Plan; and be it further

RESOLVED, That the Mayor or his designee is authorized to sign and submit any documentation or related paperwork that may be required to secure this home rule legislation and allow Officer Cady to change to the Section 384 plan; and be it further

RESOLVED, That notwithstanding anything in this resolution to the contrary, the Mayor shall bring this matter back to Common Council for further review and approval if the formal fiscal note provided by the Retirement System after the legislation is drafted imposes any costs on the City, unless Officer Cady agrees to reimburse the City for all such costs.

8.2 DPW – Request to Establish Stewart Avenue Bridge Painting Capital Project - Resolution

WHEREAS, a project for the rehabilitation of the Stewart Avenue Bridge over Cascadilla Creek, P.I.N. 375594 (“the Project”) is eligible for funding under Title 23 U.S. Code as administered by the Federal Highway Administration (FHWA), as amended, that calls for the apportionment of the costs of such program to be borne at the ratio of 80% Federal funds and 20% non-Federal funds, and

WHEREAS, the City of Ithaca desires to advance the Project by making a commitment of 100% of the non-Federal share of the costs of Scoping, Preliminary Design and Detailed Design, and

WHEREAS, the Board of Public Works resolved at the January 12, 2015, meeting to recommend that Common Council establish a Capital Project and authorize the City of Ithaca to pay in the first instance 100% of the Federal and Non-Federal share of the costs of Scoping, Preliminary Design and Detailed Design for the Project or portions therefore; and

WHEREAS, this project constitutes a reconstruction of facility in-kind on the same site as well as maintenance or repair involving no substantial change in an existing facility, and is therefore a Type II action under the National Environmental Policy Act (NEPA) Regulation and in accordance with 6 NYCRR Part 617 requiring no environmental review; now, therefore be it

RESOLVED, That Common Council, duly convened, does hereby authorize the City of Ithaca to pay in the first instance 100% of the Federal and non-Federal share of the cost of Scoping, Preliminary Design and Detailed Design thereof; and, be it further

RESOLVED, That the sum of \$80,000 is hereby appropriated from Capital Project #818 and made available to cover the cost of participation in the above phases of the project; and, be it further

RESOLVED, That funds needed for said project shall be derived from the issuance of Serial Bonds with the City’s estimated share of the project cost not to exceed 5% or \$4,000; and, be it further

RESOLVED, That in the event the full Federal and non-Federal share costs of the project exceed the amount appropriated above, the Common Council of the City of Ithaca shall convene as soon as possible to appropriate said excess amount immediately upon the notification by the New York State Department of Transportation thereof; and, be it further

RESOLVED, That the Mayor of the City of Ithaca of the County of Tompkins be and is hereby authorized to sign all necessary Agreements with New York State Department of Transportation to secure Federal Aid and Marchiselli Aid on behalf of the City of Ithaca and the Superintendent of Public Works is authorized to sign all necessary construction documents, contracts, certifications and reimbursement requests; and, be it further

RESOLVED, That the Superintendent of Public Works be and is hereby authorized to administer the above project; and, be it further

RESOLVED, That a certified copy of this resolution be filed with the New York State Commissioner of Transportation by attaching it to any necessary Agreement in connection with the Project; and, be it further

RESOLVED, That this resolution shall take effect immediately.

TIP date 2013 PIN 375594 BIN

Project Name Stewart Ave Bridge Painting

Sponsor City of Ithaca

Description BRIDGE PAINTING

Fund Source: STP-FLEX

Project Element	Funding	Date	Obligated	Date	13/14	14/15	15/16	16/17	17/18	5 YR Total
A-1-Scoping	STP-FLEX	10-14	\$0	10-14	\$0	\$15,000	\$0	\$0	\$0	\$15,000
B-4-Preliminary Design	STP-FLEX	10-14	\$0	10-14	\$0	\$25,000	\$0	\$0	\$0	\$25,000
C-7-Detailed Design	STP-FLEX	10-14	\$0	10-14	\$0	\$40,000	\$0	\$0	\$0	\$40,000
G-18-Construction	STP-FLEX	10-16	\$0	10-16	\$0	\$0	\$0	\$335,185	\$0	\$335,185
H-22-Inspection	STP-FLEX	10-16	\$0	10-16	\$0	\$0	\$0	\$35,465	\$0	\$35,465
Total:										
Federal Funding:			\$0		\$0	\$80,000	\$0	\$370,650	\$0	\$450,650
State Funding:			\$0		\$0	\$64,000	\$0	\$296,520	\$0	\$360,520
Local Funding:			\$0		\$0	\$12,000	\$0	\$55,598	\$0	\$67,598
			\$0		\$0	\$4,000	\$0	\$18,533	\$0	\$22,533

ITHACA-TOMPKINS COUNTY
TRANSPORTATION COUNCIL

DRAFT TRANSPORTATION
IMPROVEMENT PROGRAM
2014-2018

8.3 **Chamberlain - Request to Waive Penalty on Taxes – Resolution**

WHEREAS, due to software and vendor issues, 2015 City First Installment and Tompkins County Tax bills were mailed later than normal, and

WHEREAS, New York State Real Property Tax Law states that the failure to receive the bill does not affect the validity of the tax or the penalty, and

WHEREAS, Real Property Tax Law further gives authority to the governing board of the municipality to waive penalties, and

WHEREAS, three property owners have shown that the delay in mailing, compounded by severe weather, affected their ability to pay the bills on time without penalty; now, therefore, be it

RESOLVED, That the City Chamberlain is authorized to accept payment without penalty on the affected properties - 220 Ridgedale Road, 106 Short Street, 100 Queen Street, 166 Crescent Place and 404 Cascadilla Street.



City of Ithaca
Office of the Chamberlain
108 East Green Street, Ithaca, NY 14850
Ph: 607 274-6580 Fax: 607 272-7348

BACK-UP ITEM 8.3

To: City Administration Committee
From: Debra Parsons, City Chamberlain
Re: Request for Waiver of Penalties on Taxes
Date: February 12, 2015

I have received three requests for waiver of penalties on taxes. All have provided evidence that they were affected not only by the late mailing of the tax bills, but then by the storm that went through on February 1st and 2nd. The addresses affected were 220 Ridgedale Road, 106 Short Street, 110 Queen Street and 404 Cascadilla Street. I would like to recommend waiving the penalty on these bills.

WHEREAS, due to software and vendor issues, 2015 City First Installment and Tompkins County Tax bills were mailed later than normal, and

WHEREAS, New York State Real Property Tax Law states that the failure to receive the bill does not affect the validity of the tax or the penalty, and

WHEREAS, Real Property Tax Law further gives authority to the governing board of the municipality to waive penalties, and

WHEREAS, three property owners have shown that the delay in mailing, compounded by severe weather, affected their ability to pay the bills on time without penalty, now, therefore, be it

RESOLVED, that the City Chamberlain is authorized to accept payment without penalty on the affected properties 220 Ridgedale Road, 106 Short Street, 100 Queen Street and 404 Cascadilla Street.

8. **CONSENT AGENDA ITEMS – CONTINUED:**

City Clerk - Department of Public Information & Technology

8.4 **Viva Taqueria & Cantina Alcohol Permit Request - Resolution**

WHEREAS, in 1998 the City of Ithaca issued a license to the Viva Taqueria & Cantina Restaurant allowing that restaurant to utilize certain areas along Aurora Street for outdoor dining, and

WHEREAS, this use of public property has been deemed proper and successful, and

WHEREAS, the City of Ithaca wishes to promote diverse uses of the Primary and Secondary Commons, including outdoor dining, and

WHEREAS, it is Common Council's responsibility to determine whether or not to allow the serving and consumption of alcohol on the Primary and Secondary Commons, and

WHEREAS, Common Council has determined that the use of this public property for outdoor dining at the Viva Taqueria & Cantina Restaurant, including the responsible sale and consumption of alcohol, is desirable, and

WHEREAS, Common Council has determined that any use of this or similar public property involving the same and consumption of alcohol should be covered by a minimum of \$1,000,000 insurance under the Dram Shop Act; now, therefore be it

RESOLVED, For the year 2015, Common Council hereby approves a revocable Alcoholic Beverage Permit for the outdoor sale and consumption of alcohol for the Viva Taqueria & Cantina Restaurant that includes the sale of alcohol in accord with the terms and conditions set forth in application therefore, including minimum Dram Shop coverage in the amount of \$1,000,000 and the approval of an outdoor dining permit.

8.5 **Woody's Ladybugs, LLC – d/b/a Red's Place Restaurant Alcohol Permit Request - Resolution**

WHEREAS, Woody's Ladybugs , LLC – d/b/a Red's Place Restaurant has requested permission to utilize certain areas along Aurora Street for outdoor dining, and

WHEREAS, this use of public property has been deemed proper and successful, and

WHEREAS, the City of Ithaca wishes to promote diverse uses of the Primary and Secondary Commons, including outdoor dining, and

WHEREAS, it is Common Council's responsibility to determine whether or not to allow the serving and consumption of alcohol on the Primary and Secondary Commons, and

WHEREAS, Common Council has determined that the use of this public property for outdoor dining at Woody's Ladybugs , LLC – d/b/a Red's Place Restaurant, including the responsible sale and consumption of alcohol, is desirable, and

WHEREAS, Common Council has determined that any use of this or similar public property involving the same and consumption of alcohol should be covered by a minimum of \$1,000,000 insurance under the Dram Shop Act; now, therefore be it

RESOLVED, For the year 2015, Common Council hereby approves a revocable Alcoholic Beverage Permit for the outdoor sale and consumption of alcohol for Woody's Ladybugs, LLC – d/b/a Red's Place Restaurant that includes the sale of alcohol in accord with the terms and conditions set forth in application therefore, including minimum Dram Shop coverage in the amount of \$1,000,000 and the approval of an outdoor dining permit.

9. **CITY ADMINISTRATION COMMITTEE:**

9.1 **Declaration of Freedom from Domestic Violence as a Human Right - Resolution**

WHEREAS, the City of Ithaca Common Council seeks to enhance the public welfare by declaring that freedom from domestic violence is a fundamental human right, and

WHEREAS, domestic violence or intimate partner violence is the physical, sexual, or emotional abuse of men, women, and children by their intimate partners or immediate family members, and

WHEREAS, domestic violence is a human rights concern that affects individuals of every gender, sexual orientation, race, age, nationality, religion, and economic status, and

WHEREAS, survivors of domestic violence must deal with the effects of physical injuries, long-term psychological damage, financial instability, and trouble finding safe housing, and

WHEREAS, domestic violence has a deeply negative impact on children who are exposed to it, and

WHEREAS, more than 1 in 3 women and more than 1 in 4 men in the United States will experience rape, physical violence, and/or stalking by an intimate partner during their lifetimes, according to the Centers for Disease Control and Prevention, and

WHEREAS, 87 women and men in New York State died as a result of intimate partner homicide in 2013, and

WHEREAS, in 2013, law enforcement agencies in New York State outside of New York City responded to 189,152 domestic violence incidents and reported 31,106 assaults committed by intimate partners, 80% of which were committed against women, and

WHEREAS, New York State courts issued 300,236 orders of protection in 2013, nearly 210,000 of which were required to be recorded in the Unified Court System's Domestic Violence Registry, and

WHEREAS, in Tompkins County, law enforcement agencies reported an average of 147 victims of domestic violence offenses per year between 2010 and 2013, and

WHEREAS, in 2013, the Advocacy Center of Tompkins County answered 2,055 calls on its domestic violence and sexual assault hotline and served 212 new adult domestic violence clients, including providing shelter for 37 adults and their 25 children and helping 72 individuals obtain final orders of protection from the courts, and

WHEREAS, the United Nations has recognized that freedom from domestic violence is a human right affecting the realization of many other rights and freedoms and that governments have a responsibility to prevent and respond to such violence, and

WHEREAS, the United Nations Special Rapporteur on Violence Against Women has stated that domestic violence is a "pervasive human rights violation;" that responses to violence should recognize human rights as a premise; and that the United States' "lack of substantive protective legislation at federal and state levels, and the inadequate implementation of some laws, policies and programmes, has resulted in the continued prevalence of violence against women and the

discriminatory treatment of victims, with a particularly detrimental impact on poor, minority and immigrant women”, and

WHEREAS, in 2011, the Inter-American Commission on Human Rights found in *Jessica Lenahan (Gonzales) v. United States* that the United States’ failure to protect women from gender-based violence constitutes discrimination and a human rights violation and urged the United States to enact law and policy reforms at all levels to protect survivors of domestic violence and their children; and

WHEREAS, law enforcement, courts, cities, counties, towns, villages, social service agencies, and other local government entities constitute the first line of defense against domestic violence, and

WHEREAS, over the past 25 years, Tompkins County has been a leader in domestic violence response by introducing a number of initiatives, including the establishment of an Integrated Domestic Violence Court, and

WHEREAS, by recognizing that freedom from domestic violence is a human right, the City of Ithaca will raise awareness and enhance domestic violence response and education in communities, the public and private sectors, and within government departments; now, therefore be it

RESOLVED, That Common Council hereby approves the following:

1. That the City of Ithaca joins world leaders and leaders in the United States in recognition of domestic violence as a human rights concern and declares that freedom from domestic violence is a fundamental human right;
2. That state and local governments should continue to secure this human right on behalf of their citizens;
3. That this resolution shall serve as a charge to all City of Ithaca departments and offices to incorporate these principles into their policies and practices and to ensure that those policies and practices are informed by domestic violence survivors’ voices and needs;
4. That the City of Ithaca shall consider undertaking, together with community partners, a study of the causes of local domestic violence incidents and of the gaps and barriers in the City’s service delivery to survivors of domestic violence, with the goals of preventing domestic violence, strengthening the City’s response to domestic violence, and improving the provision of services to survivors; and

That a copy of this resolution shall be sent to Chief of Police John R. Barber, the Village Mayors and Town Supervisors in Tompkins County, the Honorable Chairs and Members of the Tompkins County Council of Governments, the Tompkins County Office of Human Rights, the Tompkins County Sheriff, the Police Chiefs for the Villages of Cayuga Heights, Dryden, Groton, and Trumansburg, the Cornell University Police Chief, the Ithaca College Public Safety Director, the Tompkins Cortland Community College Campus Safety Director, the New York State Police Troop C Station Commander, the Tompkins County District Attorney, the judges in Tompkins County, Governor Andrew Cuomo, Assembly Speaker Carl E. Heastie, Assemblywoman Barbara Lifton, Senate Majority Coalition Leaders Dean Skelos and Jeff Klein, and Senator Thomas O’Mara.

9.2 **DPW - Authorization of Additional Funding for Ithaca Skate Park Expansion, Capital Project #732 - Resolution**

WHEREAS, Common Council has established Capital Project #732 for the purpose of modifying the skate park at Wood Street Park, and

WHEREAS, the Ithaca community of skaters and bikers has fulfilled its commitment to provide resources to fund the modifications to the skate park at Wood Street Park by raising approximately \$216,000, and

WHEREAS, community stake holders, professional design consultants and City staff have successfully collaborated to develop an economical and contemporary expansion of the existing skate park, and

WHEREAS, bids were received for the expansion of the skate park at Wood Street Park on January 20, 2015, and

WHEREAS, award of contract to the lowest qualified bidder will require an additional \$61,000; now, therefore be it

RESOLVED, That Common Council authorizes the addition of an amount not to exceed \$61,000 to Capital Project #732, giving a total project authorization of \$245,000; and, be it further

RESOLVED, That the funds necessary for said amendment shall be derived from the issuance of Serial Bonds.



CITY OF ITHACA
108 East Green Street, Ithaca, New York 14850-5690

OFFICE OF THE CITY ENGINEER
Telephone: 607/274-6530 Fax: 607/274-6587

BACK-UP ITEM 9.2

To: City Administration Committee
From: Tom West, Director of Engineering
Date: February 6, 2015
Re: Request for Additional Funding, CP 732, Ithaca Skate Park Expansion

On January 20, 2015, four bids were opened for the Ithaca Skate Park Expansion, Capital Project #732. In order to award the contract for construction to the lowest qualified bidder the budget requires an additional \$61,000.

This project will provide a more contemporary and exciting feature to an already popular City park.

Beyond the merits of the project, there are strong reasons the City should move forward with this project.

- The bids we received were both competitive and responsive. The designer and the stake holder group all stressed the importance of having a qualified and experienced skate park contractor perform the work. Our bids reflect that requirement.
- The project was bid at a good time of year to maximize the opportunities to have the work scheduled at the most competitive prices; I have no reason to believe that re-bidding the project would get us under budget.
- There isn't anything in the low bid to suggest inflated prices.
- Perhaps most importantly, the stake holders of the community have fulfilled their promise to provide significant financial resources to the project. Approximately \$216,000 was raised by the community which substantially exceeds the City's current \$118,000 commitment.

Attached is the bid tabulation showing the bidder and bid prices, a budget summary showing the current status of the budget and the shortfall and a resolution authorizing additional funding.

If you have any questions, you can reach me at 327-0710 or tomw@cityofithaca.org. Thank you.

BACK-UP ITEM 9.2

BUDGET
skate park

CP #732

tww

2/6/2015

		Pre-Bid	Post-Bid	Committments	Committments	
		Budget	Budget	Expended	Remaining	
PROFESSIONAL SERVICES						
Architect		\$42,300.00	\$42,300.00	\$40,299.95	\$2,000	
Reimbursibles		\$4,700.00	\$4,700.00	\$1,734.72	\$2,965	
Geotech / Survey		\$7,000.00	\$7,000.00	\$4,552.35	\$2,448	
Contingency	10.0%	\$5,400	\$0			
						check
		\$59,400	\$54,000	\$46,587	\$7,413	\$54,000.00
CONSTRUCTION CONTRACTS						
Nelson Streater		\$225,000.00	\$324,650	\$0	\$324,650	
Contract 2		\$2,500.00	\$2,500	\$0	\$2,500	
Contract 3		\$0.00	\$0	\$0	\$0	
DPW - labor		\$0.00	\$0	\$0	\$0	
DPW - materials		\$4,000.00	\$8,000	\$7,788	\$212	
contingency	15.0%	\$34,725	\$0	\$0	\$0	
	0.0%					check
		\$266,225	\$335,150	\$7,788	\$327,362	\$335,150.00
IN-HOUSE						
Inspection		\$2,000	\$2,000	\$0	\$2,000	
Owner's rep.		\$0	\$0	\$0	\$0	
Finance	1.0%	\$3,256	\$3,892	\$418	\$3,473	
Attorney		\$0	\$0	\$0	\$0	
Miscellaneous reimbursibles		\$0	\$500	\$367	\$133	
						check
		\$5,256	\$6,392	\$786	\$5,606	\$6,391.50
TOTAL		\$330,881	\$395,542	\$55,161	\$340,381	\$395,542

SOURCES

Total Funding.....	\$0	\$334,300
Benderson (for seating)		\$2,500
City of Ithaca CP# 732 (remaining)		\$100,000
Add'l authorization 2014		\$18,000
NYS Parks		\$66,000
TC Tourism		\$60,000
Tem Skate Fund		\$47,800
IURA		\$40,000
 Total Funding.....	 \$0	 \$334,300
Total Committments expended and remaining + Proposed.....		<u>\$395,542</u>
Remaining funds.....		(\$61,241.50)

9.3 Mayor – Request for Contract with Tompkins County Soil and Water Conservation District for Coordination and Implementation of the Cayuga Lake Watershed Hydrilla Project in the Cayuga Inlet, Fall Creek and Southern Cayuga Lake for 2015 - Resolution

WHEREAS, The Tompkins County Soil and Water Conservation District (District) is working to eradicate the Invasive Hydrilla plant from the Cayuga Inlet, Fall Creek, adjacent tributaries, and the southeast corner of Cayuga Lake, and

WHEREAS, the Finger Lakes-Lake Ontario Watershed Protection Alliance (FOLLOWPA) has received New York State Department of Environmental Conservation (NYSDEC) administered grant funding (Aid to Localities Contract No. C304750) for hydrilla eradication efforts (including in-field management/treatment, extensive plant community and hydrilla tuber monitoring), and

WHEREAS, NYSDEC requires a “full reimbursement” process for Hydrilla Project activities, including coverage of all up-front Project costs before NYSDEC funds can be accessed and reimbursement requested, and

WHEREAS, the District does not have appropriate funding on hand to cover up-front Project costs, but must continue the coordination and implementation of critical Hydrilla Project activities with the Hydrilla Task Force to ensure Project success, and

WHEREAS, in order to make this a possibility and cover the needed up front \$300,000 project costs, the City of Ithaca has combined with Tompkins County to lend the funds with a later reimbursement; now, therefore be it

RESOLVED, That Common Council authorizes the Mayor, upon review by the City Attorney, to execute the agreement as follows:

- 1.) The City of Ithaca enters into a contract with Tompkins County Soil and Water Conservation District to provide local funding support of \$100,000 for Hydrilla Project activities for the 2015 treatment season. The possibility for additional funding requests from the City of Ithaca for subsequent treatment seasons (2016-2017) will be considered based upon results of contract extension discussions with NYSDEC.
- 2.) The Tompkins County Soil and Water Conservation District (on behalf of the Hydrilla Task Force of the Cayuga Lake Watershed), will secure sub-contracts with Project contractors in order to implement necessary in-field Hydrilla Project activities, including hydrilla management and eradication treatments, and plant community and hydrilla tuber monitoring.
- 3.) Tompkins County Soil and Water Conservation District will submit reimbursement requests to NYSDEC via FOLLOWPA for Project costs incurred during the 2015 treatment season. Reimbursement requests will be submitted on a quarterly basis (per NYSDEC contract terms). Reimbursement funds will be sent to TCSWCD, which will then be sent to the City of Ithaca.



Tompkins County Soil and Water Conservation District

170 Bostwick Road – Ithaca, NY 14850

Telephone: (607) 257-2340 Fax: (607) 257-7896

BACK-UP ITEM 9.3

January 22, 2015

Mayor Myrick,

The Hydrilla Task Force of the Cayuga Lake Watershed would like to thank you and representatives from the City of Ithaca for taking the time to attend the Hydrilla Project funding meeting on Wednesday, January 7, 2015. Your interest and willingness to support the Cayuga Lake Watershed Hydrilla Project is greatly appreciated!

Per your request, the Tompkins County Soil and Water Conservation District wishes to submit a formal funding request proposal for the Hydrilla Project, for the City's approval. This proposal outlines the primary discussion points from the January 7 meeting, including the request for local funding support from the City of Ithaca to cover up-front Project costs in order to access NYS Department of Environmental Conservation (NYSDEC) grant funding.

In addition, a Draft resolution has been provided for the City of Ithaca's review and approval. Please make any necessary changes you see fit. Once finalized, this document will be presented to NYSDEC by members of the Hydrilla Task Force and Finger Lakes-Lake Ontario Watershed Protection Alliance (FOLLOWPA) for justification of NYSDEC contract extension beyond August 15, 2015.

Please review the enclosed documents. Questions, comments or requests for additional information can be directed to:

James Balyszak (Program Manager, Hydrilla Task Force)
170 Bostwick Road
Ithaca, NY 14850
Phone: 607-254-1715
Email: stophydrilla@gmail.com

OR

Jon Negley (District Manager, Tompkins County Soil & Water Conservation District)
170 Bostwick Road
Ithaca, NY 14850
Phone: 607-254-1718
Email: jonnegley@tcsxcd.org

Again, the Hydrilla Task Force and its stakeholders greatly appreciate the City of Ithaca's willingness to support the ongoing Cayuga Lake Watershed Hydrilla Project. Great results have already been achieved since Project inception in 2011. Local collaborative efforts will further help to secure the long-term viability of the Hydrilla Project in 2015 and beyond, directly benefitting the local community, commerce, and freshwater ecosystems.

Sincerely,
Jonathan Negley

A handwritten signature in black ink, appearing to read "Jonathan Negley".

Tompkins County Soil and Water Conservation District Manager

CC: Kevin Sutherland (Chief of Staff)
Steve Thayer (City Controller)
Mike Thorne (Superintendent of Public Works)



Tompkins County Soil and Water Conservation District

170 Bostwick Road – Ithaca, NY 14850

Telephone: (607) 257-2340 Fax: (607) 257-7896

Mayor Myrick,

The Hydrilla Task Force of the Cayuga Lake Watershed (HTF) has been responsible for coordinating and implementing the Cayuga Lake Watershed Hydrilla Project (Project) since the discovery of the highly invasive aquatic plant species Hydrilla (*Hydrilla verticillata*) in the Cayuga Inlet in August of 2011. Project activities fall into three primary components:

1. Hydrilla management and eradication treatments
2. Plant, tuber and water quality monitoring
3. Public education and outreach

These critical Project initiatives have been funded through multiple grants from state and Federal sources, including:

- Fish and Wildlife Service-Aquatic Nuisance Species Grant (FWS-ANS. Federal)
- National Fish and Wildlife Foundation-Pulling Together Initiative (NFWF-PTI. Federal)
- NYS Department of Environmental Conservation (NYSDEC. State)
- NYS Office of Parks, Recreation and Historic Preservation (NYS Parks. State)

To date, Project activities and initiatives have been covered using FWS-ANS, NYS Parks, and NFWF-PTI grant funding, with a vast majority being derived from the federally allocated funds. NYS Parks has also provided a great deal of financial and in-field support every season since 2011, on the order of \$60,000 per season.

New York State representatives O'Mara, Nozzolio and Seward secured a total of \$775,000 for the Hydrilla Project, with \$662,000 of that being allocated for in-field management, eradication, and monitoring/sampling activities (Aid to Localities Contract No. C304750). The funds are administered by NYSDEC.

Unfortunately, multiple funding stipulations have made accessing the NYSDEC funds for the Project impossible. Through March of 2014, NYSDEC required that all Federal funds for the Project be fully expended before accessing NYSDEC funds. While annual FWS-ANS funding has been an incredible boon to the Project, each subsequent grant contract from FWS made accessing NYSDEC funds no longer possible. This requirement pushed the NYSDEC contract timeframe closer and closer to expiration (August 15, 2015). In March of 2014, the Program Manager for the HTF and representatives from the Finger Lakes-Lake Ontario Watershed Protection Alliance (FOLLOWPA) met with NYSDEC representatives to discuss this stipulation. An agreement was reached where NYSDEC no longer requires that all Federal funding be expended prior to accessing NYSDEC grant funds.

Although this stipulation was withdrawn, the NYSDEC grant remains a "full reimbursement" process, requiring all Project expenses to be covered up-front before funding can be accessed and reimbursement requested. At this time, the Tompkins County Soil and Water Conservation District (TCSWCD), a primary stakeholder and permit/contract holder for the HTF, does not have the available funds on hand to cover up-front Project costs. This continues to create a scenario where the HTF is unable to access the much needed NYSDEC funding to help cover the costs of critical Project activities.

Given the annual funding needs for the Project, and the current constraints put in place by the NYSDEC grant contract, the Tompkins County Soil and Water Conservation District is requesting the City of Ithaca provide

local funding support for the Project in the form of a \$150,000 "bridge loan." These funds will be utilized during the 2015 treatment season (June 2015 – December 2015) to cover the up-front costs of the most critical Project components, namely in-field management/eradication treatments, and extensive monitoring and sampling of hydrilla and plant communities. A similar request has also been made to Tompkins County for local funding support of \$150,000 for the Project.

Following payment of up-front Project costs using local funding, reimbursement requests will be made to NYSDEC at the end of the Third and Fourth Quarters of 2015 (September 30 and December 31, respectively). A full contract already exists between FLOWPA and NYSDEC for the allocated Hydrilla Project funding (Aid to Localities Contract No.: C304750). TCSWCD will submit reimbursement requests to FLOWPA for Project costs incurred. FLOWPA and NYSDEC will process these requests, release funds, and send payment to TCSWCD. TCSWCD will then replenish the local funding provided by the City of Ithaca. Current and anticipated grant funding from FWS-ANS and NYS Parks for 2015 will be used to fill any gaps not covered by NYSDEC funds.

With local funding support secured, the HTF and FLOWPA will meet with NYSDEC to discuss extending the Aid to Localities Contract No. C304750 beyond August 15, 2015. This meeting will occur prior to the start of the 2015 treatment season. All pertinent updates and information will be provided to the City of Ithaca via the HTF. To assist in securing a contract extension, TCSWCD requests that the City of Ithaca provide a formal resolution or letter of support, which the HTF can present to NYSDEC for justification of contract extension. Please see accompanying draft resolution for further information. The possibility of additional funding requests from the City of Ithaca for subsequent treatment seasons (2016-2017) will be considered based upon results of contract extension discussions with NYSDEC.

Questions or requests for additional information can be directed to:

James Balyszak (Program Manager, Hydrilla Task Force)

170 Bostwick Road

Ithaca, NY 14850

Phone: 607-254-1715

Email: stophydrilla@gmail.com

OR

Jon Negley (District Manager, Tompkins County Soil & Water Conservation District)

170 Bostwick Road

Ithaca, NY 14850

Phone: 607-254-1718

Email: jonnegley@tcswcd.org

The Hydrilla Task Force and its stakeholders greatly appreciate the City of Ithaca's interest and willingness support the ongoing Cayuga Lake Watershed Hydrilla Project. We look forward to expanding and strengthening local collaborative efforts, which will greatly help to secure the long-term viability of the Hydrilla Project, including the positive long-term benefits to the local community, commerce and freshwater ecosystems.

Sincerely,

Jonathan Negley



Tompkins County Soil and Water Conservation District Manager

CC: Kevin Sutherland (Chief of Staff)
Steve Thayer (City Controller)
Mike Thorne (Superintendent of Public Works)

9.4 **Attorney – Funding for Outreach Worker - Resolution**

WHEREAS, the Ithaca community boasts a rich and talented social services community, and

WHEREAS, some of those who stand most to benefit from these services are not consistently succeeding in accessing the full range of services relevant to their needs, and

WHEREAS, the Common Council concludes that a Community Outreach Worker with an accessible, on-street presence in downtown Ithaca's central business district can substantially enhance access to these services, and

WHEREAS, the Ithaca Police Department currently engages in numerous interactions and service calls that are best approached based upon a social service—rather than a law enforcement –model, and

WHEREAS, notwithstanding the Ithaca Police Department's talents, even at operating within a social services model, a Community Outreach Worker is better suited to most effectively deliver these non-law-enforcement services, and

WHEREAS, the City of Ithaca and Tompkins County each included in their Fiscal Year 2015 budgets \$20,000 that may be devoted to the initiative detailed in this resolution, and the Downtown Ithaca Alliance ("DIA") \$10,000 for the same, for total available funds of \$50,000 to launch this initiative in 2015, and

WHEREAS, Family and Children's Service of Ithaca ("F&CS") has committed to serve as the employer of the Community Outreach Worker position envisioned by this initiative, and has graciously committed to devote substantial overhead and other resources, in addition to the above-noted funding, in furtherance of the success of this program, and

WHEREAS, a Steering Committee composed of designees of the City, County, DIA, and F&CS ("the Funding Partners") will provide oversight of the program on a quarterly basis, and

WHEREAS, the Funding Partners will have an opportunity to evaluate a sizable portion of the inaugural year of this initiative when considering funding of ensuing years of this initiative, and

WHEREAS, Common Council anticipates that the initiative detailed in this resolution will be implemented in a manner substantially resembling the program detailed in the accompanying Summary Overview, Position Description, Progress Tracking, and Evaluation documentation; now, therefore be it

RESOLVED, That in furtherance of the initiative detailed in this resolution, the Mayor is hereby authorized to execute, on advice of the City Attorney, a funding agreement between the City and F&CS by which the City will provide to F&CS a single lump-sum payment not to exceed \$20,000, said payment to be provided no later than thirty days after commencement of any program year, or portion thereof; and, be it further

RESOLVED, That Common Council hereby transfers an amount not to exceed \$20,000 from Account 1990 Restricted Contingency to Account A1210-5435 Mayor's Contractual to assist in funding said Outreach services to community members in need of additional support.

Community Outreach Worker Program

Summary Overview

BACK-UP ITEM 9.4

February 2015

Background

Several years ago Ithaca City and Downtown Ithaca Alliance (DIA) officials traveled to Burlington, VT to conduct a comparative city tour, focusing on the downtown area. One of Burlington's success stories that most intrigued us was a special community outreach and intervention program that was centered on their Church Street pedestrian mall and downtown district. This program, which started with a single person and has since grown to include multiple staff, is designed to help the community deal with individuals who may be experiencing homelessness and mental health related problems. Utilizing funds from a variety of sources, they employ outreach persons to interact and help individuals problem solve around behavioral needs or to access needed resources. The outreach workers deal with mental health issues, social service issues, homelessness issues, and general behavior issues. This intervention has dramatically reduced police calls (by 80%) and improved behavior in the public realm, as well as assisted many individuals to obtain the type of help and support they need. The program works to provide appropriate service and attention to individuals in a model that protects and ensures their rights.

This document—put forth by a joint working group of City, County, DIA, and Family and Children's Service (F&CS) representatives—serves to recommend the launch of a program in Ithaca modeled upon the Burlington program, proposed as a partnership of the four above-mentioned entities, among others. It is the intent of all participants in this partnership that this program promote a welcoming, inclusive, and tolerant downtown atmosphere in which all are held to the same standard of conduct without regard to disability.

Our Program Goals

1. To promote a safe and caring community by building relationships with all downtown stakeholders, thus enabling the provision of direct, non-punitive assistance to individuals in downtown who are in need of support and resources, identified by self, community members, downtown business owners and employees, and others.
 - Metrics:
 - a. # of individuals served
 - b. # of interventions
 - c. rates of call to Emergency service call centers in the designated area
2. To improve community knowledge of availability and access to human service resources, and to educate, engage, and inform all downtown stakeholders in supporting the diversity of individuals, styles, issues, and needs presented.
 - Metrics:
 - d. # of referrals made to specific programs and agencies
 - e. Success rate in linking individuals to programs

Target Area

The State Street/MLK corridor (the Ithaca Downtown Business Improvement District plus the West State Street corridor of West State/MLK from downtown to Meadow Street). Primary attention will be paid to the Commons, Cayuga Street between the Library and including DeWitt Park, and West State/MLK Street to Meadow Street.

Host Agency

The working group has identified Family and Children's Service (F&CS) as the preferred host agency for the project. The outreach worker will be employed with F&CS and receive their paycheck from F&CS. F&CS will provide space, day to day supervision, a computer/work station, and an overall administrative framework for the program. An MOU will be prepared between F&CS and Steering Committee members. F&CS has agreed to serve in this role.

Funding

Funding for this program is coming from several different sources and the total funding amount may not be equal to the real expense associated with running the program. However, F&CS is prepared to assume the cost of administrative expenses that are in excess of the total funded amount. A fund will be created for this program and F&CS will be reimbursed for payroll or other budgeted expenses from this fund.

Steering Committee

General oversight and policy for the program would be delegated to a steering committee comprised of representatives from the funding entities, including F&CS. This Steering Committee shall meet at least quarterly to review progress and metrics, monitor the budget, and resolve policy related issues or concerns. F&CS shall take the lead in organizing Steering Committee meetings. Membership of the Steering Committee shall consist of the following: representatives from all financial partners to this project plus the host agency. Currently, this would include representatives from the City of Ithaca, Tompkins County, the Downtown Ithaca Alliance, and Family and Children's Services. The Steering Committee will be charged with policy decisions pertaining to the program and fiscal oversight of the program (within the bounds of F&CS procedures).

Advisory Committee

A separate advisory committee would be created from representatives of all affected agencies and organizations. This advisory committee would meet 2-4 times a year and will provide the outreach worker and Steering Committee with advice and input based on the perspectives of each organization. This Advisory Committee will also provide liaison assistance and entry to the numerous programs and projects that may be possible resources. The membership of this Advisory Committee may vary over time but should include membership that can provide: technical assistance and resources on common programmatic areas, mutual referrals to and from the program, and interest in developing the sustainability and positive impact of the program.

Staffing

The initial start-up staffing for this program will consist of one full-time person:

- 40 hours per week
- Benefits to be based on F&CS practice
- Hours to be determined based predominantly on IPD incident report data plus input from IPD, City representatives, DIA, County agencies, and F&CS.
- Hours/days may flex based on seasonality, and special circumstances

Qualifications for Outreach Worker

A draft job description is included with this summary document. Candidates should have the following qualifications and expertise:

- Social service background is preferred but not essential;
- Demonstrated knowledge of the client/target population;
- An ability to work with the various ranges of possible clients--- including but not limited to youth and teens, homeless, and persons with substance abuse difficulties;
- Understanding of social service/mental health support and assistance programs;
- Demonstrated ability to work with and relate to the client group(s);
- Excellent interpersonal skills;
- Record keeping and reporting ability;
- Ability to work with multiple groups and organizations

Key job duties will include:

- Outreach to individuals who may be in need of services
- Assessment, referral and linkage of resource needs of individuals who engage in services
- Coordination, consultation and education with area service providers and businesses to foster supportive downtown environment for all, and to meet the needs of individuals engaged in services
- Documentation of all activities to facilitate a baseline assessment of needs of individuals located in the service area, and documentation of complaints, if any, received regarding this program, for review by Steering Committee (See Progress Tracking and Evaluation, below).

Relationships with other Organizations

The outreach worker will be housed within F&CS however he/she will be expected to maintain close working relationships with other organizations, particularly the Ithaca Police Department, the County Departments of Mental Health and Social Services, and the Downtown Ithaca Alliance. It is also important that this position remain independent of the chain of command of the Ithaca Police Department (IPD). IPD has offered to provide the outreach worker with daily briefings on conditions and street issues. It is possible that the outreach worker will likewise make arrangements with County Mental Health and Social Services to both receive and share information, with full consideration of confidentiality laws and best practices concerning informed consent. In addition, the outreach worker would also check in regularly with the Downtown Ithaca Alliance regarding problems or conditions identified by DIA ambassador staff.

Time Line

Proposed start date: 2nd Quarter 2015

Progress Tracking and Evaluation

As this is a pilot program, year one of the pilot will be focused on establishing baseline data while assessing the need and focus of the program in the downtown corridor. The program will begin working with the downtown partners and service providers to implement tracking of additional indicator information. The program will be evaluated via the Results Based Accountability Framework and evaluated by the Steering Committee on an annual basis, also accounting for complaints received regarding the program.

9.5 **An Ordinance to Amend the City of Ithaca Municipal Code Chapter 170 entitled “Use of City Real Property”, Section 170-2 Related to “Definitions”**

WHEREAS, Chapter 170 of the City of Ithaca Municipal Code establishes the City policy for treatment of requests to encroach upon or use City-owned land, structures or air space in an ongoing manner; and

WHEREAS, Section 170-2 defines terms used in the Chapter, and Section 170-4 identifies and describes the types of authorizations by which the City may grant ongoing use of its real property; and

WHEREAS, the said Sections are seemingly inconsistent in describing the maximum period that the City may authorize a license to endure; and

WHEREAS, based upon a review of case law surrounding the distinction between a lease and license, a license may exceed one year in term so long as the license remains revocable on shorter notice; now, therefore

ORDINANCE 2015-

BE IT ORDAINED AND ENACTED by the Common Council of the City of Ithaca as follows:

Section 1. Findings of Fact. The Common Council finds that the definition of “License” contained in Section 170-2 of the City Code should be amended to correct inconsistencies with other provisions of Chapter 170 pertaining to licenses, namely Section 170-4(B), entitled "License (for up to one year, and/or revocable upon less than a year's notice; subject to other conditions)", and to reflect controlling New York State law that permits licenses greatly to exceed one year in length.

Section 2. Amendments to Section 170-2.

The definition of “License” contained in Section 170-2 (“Definitions”) shall be amended to read as follows:

LICENSE

Written proof of permission to use City-owned real property for a temporary period of time, **either for a term** not to exceed one year (absent renewal)~~[-]~~ **or subject to non-arbitrary revocation at will by the City upon less than a year’s notice, and in either event** subject to revocation by the City if such property is subsequently required for public purposes. Permission to encroach upon adjacent City-owned property is granted pursuant to a revocable license.

Section 3. Severability. Severability is intended throughout and within the provisions of this Ordinance. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, then that decision shall not affect the validity of the remaining portions of this Ordinance.

Section 4. Effective Date. This ordinance shall take effect immediately upon publication as provided for in the City Charter.

10. **PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE:**
10.1 **An Ordinance to Amend Chapter 157 of the City of Ithaca Municipal Code entitled “Commons” to Repeal and Replace the Chapter in its Entirety**

ORDINANCE NO. 2015-

BE IT ORDAINED AND ENACTED by the Common Council of the City of Ithaca that Chapter 157 of the City of Ithaca Municipal Code entitled “Commons” be amended as follows:

Section 1. Chapter 157 of the City of Ithaca Municipal Code shall hereby be repealed and replaced with the following:

Article I. General Provisions; Commons Advisory Board

§ 157-1. Title.

This chapter shall be known and may be cited as the "Ithaca Commons Rules."

§ 157-2. Purpose.

The purpose of this chapter is to regulate the use and maintenance of the Ithaca Commons so as to promote the general welfare and public use of said area.

§ 157-3. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

COMMONS ADVISORY BOARD

That board, duly appointed by the Mayor, with approval of the Common Council, charged with various activities and/or powers relating to the Ithaca Commons by the Common Council.

ITHACA COMMONS

A. The following described two areas:

(1) **PRIMARY COMMONS** — That area of public property between the south building lines on the north side and the north building lines on the south side of the former bed and associated sidewalks of East State/**East Martin Luther King, Jr.** Street between the east line of Cayuga Street and the west line of Aurora Street and that area of public property between the west building lines on the east side and the east building lines on the west side of the former bed and associated sidewalks of North Tioga Street between the north line of East State Street/**East Martin Luther King, Jr.** and the south line of Seneca Street.

(2) **SECONDARY COMMONS** — That area of public property between the south building lines on the north side and the north building lines on the south side of the 100 and 200 blocks of East Green Street, the 300 block of East State/**East Martin Luther King, Jr.** Street, the 100 block of West State/**West Martin Luther King, Jr.** Street and the 100 and 200 blocks of East Seneca Street and the public property between the east building lines on the west side and the west building lines on the east side of the 100 and 200 blocks of North Aurora Street, the 100 block of South Aurora Street, the 200 block of North Tioga Street, the 100 block of South Cayuga Street and the 100 block of North Cayuga Street.

B. Unless otherwise stated, "Ithaca Commons" or "Commons" shall mean both the Primary Commons and the Secondary Commons as described above.

~~ITHACA DOWNTOWN PARTNERSHIP~~ **ITHACA DOWNTOWN BUSINESS IMPROVEMENT DISTRICT**

A not-for-profit business improvement league which engages in the following program areas for downtown Ithaca: business retention and development; promotions and marketing; government relations; image marketing. **The Ithaca Downtown Business Improvement District is also known as the Downtown Ithaca Alliance (DIA).**

NEWSRACKS

Any self-service or coin-operated box, container, storage unit or other dispenser installed, used, or maintained for the display, distribution or sale of newspapers, magazines, news periodicals, or other news publications.

SHOPPING CARTS

Any cart, basket, container or other device made of wire, metal, plastic or other material, mounted on wheels, manually operated that is generally provided by merchants/stores for the conveyance of merchandise, foodstuffs and other property to automobiles and other places.

STANDARD AWNING

A nonstructural addition to the facade of any building, which is covered in fabric or other flexible membrane. The fabric or membrane is supported by a rigid frame of tubing or other noncombustible material. A standard awning must be capable of being rolled up or retracted to within one foot of the face of the structure to which it is attached. Such standard awning must not be capable of projecting from the face of the structure upon which it is mounted more than four feet from the face of the structure and must be no taller than four feet. The standard awning must be mounted on the face of the structure to provide for an unobstructed clearance below the rigid frame of the standard awning of seven feet above the sidewalk below. A nonrigid valance may hang no greater than one foot below the rigid frame.

STANDARD CANOPY

A nonstructural addition to the facade of any building, which is covered in fabric or other flexible membrane. The fabric or membrane is supported by a rigid frame of tubing or other noncombustible material. A standard canopy is one that is constructed so that it cannot be retracted. Such standard canopy may only project from the face of the structure upon which it is mounted four feet from the face of the structure and may be no taller than four feet. The standard canopy must be mounted on the face of the structure to provide for an unobstructed clearance below the rigid frame of the standard canopy of eight feet above the sidewalk below. A nonrigid valance may hang no greater than one foot below the rigid frame.

§ 157-4. Creation of Board; responsibilities.

A. There shall be a Commons Advisory Board as follows:

(1) Membership. The membership of the Commons Advisory Board shall consist of [44 members: one representative from the Common Council, one representative from the Board of Public Works, four representatives from the Ithaca Downtown Business Improvement District and five representatives from outside the Ithaca Downtown Business Improvement District (at large)]. **nine total members. Six members will be appointed by the Mayor with the approval of Common Council and membership shall be balanced between members inside and outside of the Downtown Ithaca Business Improvement District.** The Executive Director of the [~~Ithaca Downtown Partnership~~] **Downtown Ithaca Alliance**, the City Clerk, and the Superintendent of Public Works or their designees shall serve as voting members. Board

members will ~~[be appointed by the Mayor with Common Council approval for]~~ **serve** staggered two-year terms.

(2) Officers. The Commons Advisory Board will have two officers a Chair and Vice Chair, to be elected at the first regular meeting of each calendar year at which there is a quorum present. Nominations for these offices will be made from the floor with election by a majority of those members present at the meeting.

(3) Officers' duties. The Chair will preside at meetings and have such other appropriate duties as may be assigned by the Board. The Vice Chair shall assist the Chair and preside at meetings in the Chair's absence. If both the Chair and Vice Chair are absent, an acting Chair will be selected by the Board.

(4) Quorum. A quorum will consist of ~~[eight]~~ **five** members.

(5) Action. Action may be taken by vote with a quorum of ~~[eight]~~ **five** members present at a regular or special meeting. The Chair will be a voting member on all actions. Actions shall pass by vote of a majority of members present.

(6) Meetings. Regular public meetings will be held with the place and time to be determined by the Board. Special meetings may be called at any time by the Chair or a majority of Board members. Members will be notified of scheduled meetings by e-mail at least three days in advance.

(7) Review of Ithaca Commons rules. The provisions of this chapter will be reviewed periodically and a report thereof, including recommendations for modification, submitted to the Mayor and Council.

B. The Commons Advisory Board shall have the following responsibilities:

(1) Direct. The Commons Advisory Board shall have direct responsibility and the ability to delegate and revoke activities relating to the matters listed below:

(a) Use of the Commons; issuance of permits.

[1] Use of the Commons for, and scheduling of, any of the following purposes:

[a] Entertainment.

[b] Cultural, social, civic, religious, and educational events.

[c] Commercial sale of goods or products, solicitation, outdoor dining and use of mobile vending carts.

[2] In circumstances when there is not adequate time to convene the Advisory Board to review a permit request, the Chair may, with the concurrence of five additional Board members **through e-mail correspondence**, authorize the issuance of a permit. The Board may authorize the Chair alone, or the City Clerk, to approve certain types of permits as specified.

(b) Type, size and placement of private advertising and identification signs on the Commons in accordance with Chapter 272, Signs, provided that such review and approval or disapproval

shall not be required when the private advertising and/or identification sign is in connection with a marquee, canopy or sunscreen when the permission for the marquee, canopy or sunscreen has been granted by the Planning and Development Board or the Ithaca Landmarks Preservation Commission pursuant to Chapter 170, Encroachments.

(c) Design and placement of public identification, informational and directional signs and graphics on the Commons.

(d) Design and placement of, and materials used in, street furniture, such as benches, outside dining facilities, trash containers, flags, kiosks, ~~phone booths~~, playground equipment, commemorative plaques, and similar items used on public property on the Commons.

(e) Design, placement and use of decorations on the Commons.

(f) Installation or use of public or private sound amplification and transmission systems or equipment on the Commons.

(g) Other duties and responsibilities as may be assigned by the Mayor or Common Council and to make such other recommendations to the Mayor and Council and other public boards, officials, groups, or individuals as may be appropriate relative to the operation and administration of the Commons.

(2) Indirect. The Commons Advisory Board will review and advise on those matters listed below:

(a) Type, placement and amount of landscaping on the Commons.

(b) Public lighting on the Commons.

(c) Public and private construction, renovation and rehabilitation of building facades and open spaces (parking areas, entries, etc.) except for the installation of a standard awning or a standard canopy and demolition on the Commons. Review shall be in terms of aesthetic character, visual effect and operational impact, provided that such review and advice shall not be required when the construction, renovation and rehabilitation applies to a marquee, canopy or sunscreen where the approval for such marquee, canopy or sunscreen has been granted by the Planning and Development Board or the Ithaca Landmarks Preservation Commission pursuant to Chapter 170, Encroachments.

(d) Public maintenance and repair on the Commons.

(e) Traffic movement, parking and delivery methods around the Primary and Secondary Commons.

(f) General maintenance of order on the Commons.

(g) Placement, size, and type of public artwork, in any form, on and around the Primary and Secondary Commons.

Article II. Use of the Commons

§ 157-5. Commons permits.

A. Permit classes. Commons use permits will be required for all events, activities, displays, exhibits, commercial sales and other uses of the Commons. Such use permits will be issued in accordance with the provisions of this section. General classes of permits that will be referred to the City Clerk or the Commons Advisory Board include:

(1) Commons use permits, including pavilion reservations, ~~[special]~~ event permits, **information table permits**, ~~[merchant requests to display goods,]~~ and driving on the Commons. For information on Commons loading zones, see §157-9H.

(2) Use of amplified sound on the Commons including public address systems, bullhorns, sound amplifiers, and loud-natured acoustical musical instruments, such as horns, drums, and **other percussion instruments**.

~~[(3) Animals **Licensed dogs are allowed** on the Commons by permit[s,] only [including permits] for residents and businesses on the Commons, **with written permission from the property owner. The permit allows the dog to be brought onto the Commons by the shortest and most direct path to and from the business or residence. It does not allow the dog to be on the Commons in any other way. The permit is valid for one year from the time of issuance, and must be carried with the dog's owner at all times.**]~~

(4) External speaker permits for businesses on the Commons which utilize external sound systems that project onto the Commons.

(5) Outdoor dining permits, including storefront dining permits for restaurants, and Commons space permits for use by the ~~[Ithaca Downtown Partnership]~~ **Downtown Ithaca Alliance**.

~~(6) Mobile vending agreements. [including monthly, seasonal, and annual vending agreements.]~~

B. Permit issuance.

(1) All requests for permits must be submitted to the City Clerk's office. The City Clerk may ask for additional information, **and/** or request a personal appearance before the Commons Advisory Board to present the details of a permit application.

(2) Review of permit requests shall include scheduling of **specific time, [and] duration, and** location of the proposed use or activity ~~[, length of time that the permit is to be valid, and].~~ **It may also include any special conditions or restrictions** that should be placed on the permit. Permits will be approved by the City Clerk or his/her designee for a specific activity, specific date, specific time period, and specific location on the Commons.

(3) The Commons Advisory Board shall serve as an appeals board for people whose permit applications have been denied or who feel that unreasonable restrictions have been placed upon their permit.

(4) When a request is approved or conditionally approved by the Board, the issuance of a permit will be authorized subject to any conditions which have been imposed by the Board or which may be required by the City. Permits will be issued by the City Clerk or his/her designee. The applicant will be notified of the Board's decision within five business days after a decision has been rendered.

(5) Any permit which has been reviewed and approved by either the City Clerk or the Commons Advisory Board may be revoked or amended if it is determined that the activity for which the permit was issued is not being carried out in a manner that meets the terms of the permit.

(6) If a request for a permit is denied by the Board, the applicant will be informed of the reasons therefor in writing within five business days of the decision.

(7) The City Clerk will be responsible for notifying appropriate City staff of permit issuance.

(8) A record of all Board actions will be maintained pursuant to applicable laws.

C. Report of permit activity. A report on requests for permits and approved activities scheduled will be made at the regular meeting of the Commons Advisory Board.

§ 157-6. Responsibilities of permit holder.

A. The responsibilities of the permit holder shall be:

(1) To supervise **all materials**, displays, products, equipment, **and volunteers**. [~~and any other material at all times.~~]

(2) To entirely remove or properly dispose of all material and equipment used in any activity at the end of the use time **and to leave the Commons in the same or better condition than when the event began.** **See also § 157-18A. Maintenance Guidelines**

(3) To remove [~~or~~] **and** properly dispose of all litter **and trash** created by the [~~permit holder's~~] activity, use, or event.

(4) To hold the City of Ithaca free and clear of any responsibility for any materials, products or equipment used in any activity or event on the Commons and for any damages, accidents or incidents which may occur in conjunction therewith.

(5) To show proof, when required by the City Clerk, that liability insurance in an amount to be determined based on the nature of the event has been obtained, **naming the City of Ithaca as an "Additional Insured" on the certificate.**

(6) To comply with all of the applicable conditions and guidelines as set forth by the Commons Advisory Board and the City of Ithaca, ~~in issuing a permit~~

(7) To provide a security deposit, when required by the Superintendent of Public Works, **the Commons Advisory Board** or the City Clerk, to cover anticipated cleaning and repair costs.

(8) To show proof, when required, of various documents including a New York State sales tax certificate or Health Department certificate.

B. A permit holder or vendor shall not discriminate against the people attending his or her event or patronizing his or her business because of actual or perceived: age, creed, color, disability, ethnicity, familial status, gender, height, immigration or citizenship status, marital status, national origin, race, religion, sexual orientation, socioeconomic status, or weight.

§ 157-7. General Commons rules; signs, displays and temporary planters.

[Amended 4-5-2006 by Ord. No. 2006-10]

A. The following rules apply to all uses and activities on the Commons:

(1) ~~The fire lane[s are]~~ **is** to be kept open **and free of any obstructions** at all times. No exhibit or item will be permitted to locate in ~~a] the~~ fire lane.

(2) Permits for use will be valid for the assigned space between the hours of 8:00 a.m. and 10:00 p.m. ~~, and].~~ In scheduling events and activities on the Commons, consideration will be given to the people living and doing business on and around the Commons. **Amplified sound, is allowed on the Commons by permit only. On weekdays, amplified sound is allowed from 11:00 a.m. to 2:00 p.m.; and 5:00 p.m. to 10:00 p.m. On Saturday and Sunday, amplified sound is allowed from 10:00 a.m. to 10:00 p.m. Performers will be required to schedule 20 minutes of quiet time for every hour of amplified sound.** ~~[before 10:00 a.m. and may not extend beyond 10:00 p.m.]~~ **Requests to extend the hours of amplified sound may be made to the Commons Advisory Board.** ~~[without special permission by the Commons Advisory Board.]~~

These regulations do not pertain to Special Events that are regulated under §132-7 of the City of Ithaca Municipal Code.

(3) ~~[No user will be permitted to reserve a location on the Commons for more than five events in any calendar year with the exception of the [Ithaca Downtown Partnership] Downtown Ithaca Alliance. A single event is defined as being limited to three consecutive days in duration. Applicants requesting events of a longer duration may be temporarily placed in mobile vending sites as available.]~~ **Requests for multiple permitted events (3 or more) in a calendar year, by a single user requires approval by the Commons Advisory Board. Requests for weekly recurring events will be considered by the Commons Advisory Board for Mondays, Tuesdays, and Wednesdays.**

(4) Rain dates will not be scheduled at the time the original permit is issued but, in case of rain, every effort will be made to reschedule the event at the earliest appropriate time **upon written request from the event organizer.** Reapplication for a permit will not be required.

(5) Disrupting the natural flow of pedestrian traffic or the ingress to or egress from storefronts **and businesses** ~~[shall be]~~ **is** prohibited.

(6) No person shall litter, ~~or] throw,~~ or scatter material of any kind on the Commons.

(7) Sale of merchandise on the sidewalks or public thoroughfares on the Primary/Secondary Commons shall not be permitted without a ~~[vending agreement]~~ **valid permit**, except that the sale of event-specific items and items related to, and being sold by, a not-for-profit organization, or a business located on the Primary/Secondary Commons shall be allowed pursuant to approval and permit by the City Clerk and/or Commons Advisory Board.

(8) Promotional, advertising, banners or other materials are not to be placed across the Commons or affixed to any pavilion[s] or other infrastructure, except in cases where a ~~Commons use~~ permit has been approved.

(9) No person shall climb upon or permit minors in his/her custody to climb upon ~~[the fountain structure,] any~~ **structure**, public art piece, light poles, ~~or trees,~~ or into planters on the Commons.

(10) No items or animals shall be leashed, affixed or bound to any light poles, trees, planters, pavilions or other infrastructure on the Commons, except in cases where approval by the Department of Public Works or the City Clerk has been granted.

(11) The Commons can be reserved for "Sidewalk Sale Days," at which time Commons merchants would be allowed to display and sell merchandise on the Ithaca Commons. ~~[with a Commons use permit approved by the Commons Advisory Board.]~~

(12) Aggressive solicitation is prohibited pursuant to Chapter 250 of the City of Ithaca Municipal Code.

(13) Overnight sleeping on the Commons is prohibited except upon approval of a permit by the Commons Advisory Board.

(14) Shopping Carts as defined in §157-3 above are not allowed on the Commons.

B. Signs; merchandise displays; temporary planters. A business, organization, or establishment may have a sign~~s~~ and/or displays, to advertise the business in that location. **Outdoor display of goods and merchandise are limited to the items sold within the retail establishment,** subject to the following restrictions or privileges:

(1) There may be ~~[only one]~~ **a total of two** freestanding sign~~s~~ or display~~s~~ ~~(not both)~~ per business entrance, regardless of the number of businesses or organizations within the building. Where the word "sign" is used alone hereinafter, it refers to a sign or display.

(2) For the Primary Commons, freestanding signs may be up to 48 inches tall. ~~[and must abut the building, extending only 24 inches into the sidewalk area or to the fire lane, whichever is less.]~~ Signs may not extend **beyond 7 feet from the building front,** ~~[into the fire lane].~~ For the Secondary Commons, signs may be up to 48 inches tall by 24 inches wide and must be placed by the curb of the street **in front of their building face,** not blocking the opening of car doors or access to parking meters, and must allow at least 60 inches (five feet) for a pedestrian right-of-way between the sign and the buildings.

(3) All signs must be made of durable material and be heavy enough to remain in place in all weather and must present a professional appearance.

(4) Signs must be maintained in good condition, with no rust, peeling paint, peeling laminate or broken sections. ~~[, and]~~ **Outdoor signs and displays must not include any objects with sharp edges, protrusions or other features which may be hazardous to the public.**

(5) Merchandise displays may be 60 inches tall. ~~[and extend 24 inches into the sidewalk area or to the fire lane, whichever is less.]~~ Displays may not extend ~~[into the fire lane]~~ **beyond 7 feet from the building front.** The display base shall be of a size no greater than 24 inches square and shall be made of a durable material and shall be heavy enough to remain standing in all weather. Displays must be maintained in good condition. ~~[as are the signs].~~ The owner of sign~~s~~ or display~~s~~ must keep the area around the sign~~s~~ clear of snow and debris on and around the sign~~s~~ at all times. **See also § 157-18A. Maintenance Guidelines**

(6) Temporary planters for flowers and plant display shall abut the building and extend no more than ~~[48]~~ **24** inches into the pedestrian walkway or the fire lane, whichever is less. A planter

must be at least ~~[18]~~ 24 inches tall at the lip of the planter. Planters may extend the length of the business. Planters must be maintained in good condition, filled with plants or flowers, and must be kept free of snow and debris in and around the planters. **See also § 157-18A. Maintenance Guidelines**

(7) No sign, merchandise display or planter may **block or obstruct a fire suppression system affixed to a building or** impede traffic flow in or out of building entrances.

(8) Businesses with outdoor dining permits must keep their signs, merchandise displays and planters within their designated outdoor dining area.

(9) All signs and merchandise displays must be taken in at the close of the business day **and inclement weather conditions**. **See also § 157-18A. Maintenance Guidelines**

(10) **Downtown Ithaca Alliance** ~~[The Ithaca Downtown Partnership]~~ shall be allowed to place signs ~~[for community events and concerts]~~ at or near the **Bernie Milton Pavilion** ~~[four Commons pavilions and/or]~~ **and** the ~~[three]~~ **four** entrances to the Commons (Aurora Street, Cayuga Street, and Seneca Street **and Home Dairy Alley**). These signs shall not impede pedestrian traffic or block fire lanes.

(11) ~~[Signs,]~~ **Outdoor food sales** ~~[and merchandise displays and planters]~~ are not permitted during **Special Events on the Commons**. **Outdoor dining establishments with an agreement with the City are exempt from this provision.** ~~[listed as food vendor blackout dates, as per the Ithaca City Clerk's office.]~~

(12) The building owner shall be liable for any violations under this Section. ~~[and §157-32.]~~ The building owner is responsible for **following the requirements of the City of Ithaca Sign Ordinance (Chapter 272) in** determining the rights of building tenants to place signs, merchandise displays or planters on the Commons. The building owner may not charge any fees for the use of a sign in public space.

§ 157-8. Amplified sound, lights and other electrical equipment.

A. Except by special permit issued by the Commons Advisory Board or its designee, no person shall operate or cause to be operated on the Ithaca Commons any boom box, tape recorder, radio or other device for electronic sound amplification in a loud, annoying or offensive manner such that noise from the device interferes with conversation or with the comfort, repose, health or safety of others. ~~[within any building or at a distance of 25 feet or greater.]~~ **Refer to City of Ithaca Municipal Code Chapter 240 entitled "Noise" for further information.**

B. Except by special permit issued by the Commons Advisory Board or its designee, no person shall operate or cause to be operated any boom box, stereo system, tape recorder, radio or other device from on or inside any building on the Ithaca Commons, the sound from which is directed outside towards the pedestrian mall.

C. The provisions of Subsections A and B above shall not apply to emergency warning devices, sirens, alarms or other devices being used solely for public safety purposes.

D. Amplified sound may be used between 11:00 a.m. and 2:00 p.m., and between 5:00 p.m. and 10:00 p.m., Monday through Friday, and between 10:00 a.m. and 10:00 p.m., Saturday and Sunday, upon approval of a noise permit by the Commons Advisory Board or its designee. Sound levels should be kept low and subject to immediate volume reduction **upon** ~~[when]~~

request~~ed~~ by any City official, staff member of the **Downtown Ithaca Alliance** [~~Ithaca Downtown Partnership~~], or member of the Commons Advisory Board.

E. The use of supplemental lighting, movie and slide projectors and any other type of electrical equipment or display will be carefully reviewed by the City Clerk, City Electrician, and the Commons Advisory Board so as to minimize nuisance or hazard conditions.

§ 157-9. Vehicles on the Commons.

A. **Only service and business delivery v**ehicles are allowed on the Commons [pursuant to the approval of a Commons use permit. Permits shall be issued for use] **between the hours of 6:00 am and 9:00 a.m.** [~~and between 9:30 p.m. and 12:00 am~~] **each day of the week except on days when major festivals are planned. A valid pay and display ticket shall be visible on the dash of each vehicle. All vehicles shall enter the Commons on the West end (Cayuga Street) and exit on the East end (Aurora Street). All vehicles shall remain on the edge of the Fire Lane. Businesses with rear access should continue to use that space for deliveries and service work. Vehicles may not be unattended for more than 5 minutes. No parking of vehicles is allowed.** Any vehicles remaining on the Commons after 9:00 a.m. shall be subject to towing at the owner's expense.

Requests to drive a vehicle on the Commons during [~~daytime~~] other hours, **vehicles with a gross weight over 10,000 pounds, and vehicles with trailers,** require additional consideration **and** [~~permission granted~~] a permit issued by the City Clerk. [~~and/or the Mayor. before a Commons Use Permit may be issued.~~] Permits will only be issued for a two hour time period.

B. No vehicle shall operate at a speed greater than five miles per hour., The use of a flagger and/or hazard flashing lights is required for any permit granted by the City Clerk .

C. If it is necessary for vehicles to operate in reverse gear while on the Commons, a flagger is required. This provision shall not apply to emergency vehicles when operating during an emergency situation.

D. Any vehicle which must remain on the Commons as an integral part of a display or exhibit or if extended service is necessary must be able to be moved immediately.

~~[E. Except for businesses without rear access, delivery vehicles will not be permitted to drive on the Commons for front door delivery. Permits for delivery vehicles will only be issued for after 9:00 p.m. and before 9:00 a.m.]~~

~~[F].~~ Municipal and utility vehicles will be permitted on the Commons for the minimum time necessary to complete their task. **Notification of such shall be made to the City Clerk's office prior to beginning the work, when possible.**

~~[G].~~ Precautionary measures must be taken to prevent dripping of oil, transmission fluid and other fluids on the concrete when a vehicle is stopped. In the event that drippings of oil or other fluids occur, the set guidelines for removal of stains on concrete pavers, listed in this ordinance must be followed. **See also § 157-18A. Maintenance Guidelines**

[H]. Ithaca Commons loading zones. Use of the loading zones at the entrances to the Commons is strictly reserved for vehicles making deliveries or loading and unloading

passengers. No other use of the loading zones shall be made without the express written permission of the Chief of the Police Department.

§ 157-10. Bicycles and other wheeled devices.

A. Riding of bicycles, roller skates, skateboards and similar wheeled devices is prohibited on the Primary and Secondary Commons. Standing or sitting astride a bicycle with one leg on either side of the bicycle is also prohibited. Wheelchairs, baby **strollers** [~~carriages~~] and similar devices intended for the convenience and comfort of infants or people with disabling conditions are permitted on the Commons. Nothing herein shall prohibit a pedestrian from walking a bicycle on the Primary Commons or having a bicycle or skateboard in the pedestrian's possession while on the Commons.

B. No person shall park any bicycle against windows, trees, light poles, planters or other infrastructure [~~on the main traveled portion of the sidewalk~~] in any such manner as to constitute a hazard to pedestrians, traffic or property. **Bicycle racks are provided at different locations on the Commons for the storage of bicycles on a short-term and/or daily basis only.**

C. Bicycles may be impounded for the following reasons:

- (1) There is reasonable cause to believe the bicycle has been stolen;
- (2) There is reasonable cause to believe the bicycle has been used in the commission of a crime;
- (3) The bicycle has been parked in violation of Subsection B above, and the owner or person authorized to possess the bicycle has refused to remove it or has not been identified after a reasonable inquiry; or
- (4) The bicycle has been abandoned. Before a bicycle may be considered abandoned, it must remain unmoved for at least 24 hours after a notice has been affixed to the bicycle **by the Ithaca Police Department** warning that it may be impounded unless moved within 24 hours.

D. A violation of this section shall be punishable by a fine of not more than \$50. A second violation within three years is punishable by a fine of not more than \$150 or a conditional discharge requiring not more than 40 hours of community service and not less than \$50 or a conditional discharge requiring not less than 15 hours of community service. A third violation within three years is punishable by a fine of not more than \$250 or a conditional discharge requiring not more than 60 hours of community service and not less than \$100 or a conditional discharge requiring not less than 25 hours of community service.

§ 157-11. Alcoholic beverages.

No alcoholic beverages may be **sold or** consumed on the Ithaca Commons except by **special** permit approved by the Common Council **for a specific date, location and duration. Liquor and general liability insurance may be required in an amount to be determined based upon the nature of the event; but, in no case, shall it be less than \$1,000,000.00. The liability insurance certificate must name the City of Ithaca as an "Additional Insured" on it for the duration of the event.**

§ 157-12. [~~Animals~~] Dogs and Other Animals.

Licensed dogs, restrained by an adequate collar and leash and under the control of its owner are allowed on the Commons. Dogs may not engage in unreasonable howling

and/or barking so that it disturbs or annoys any person of reasonable sensitivities other than the person owning or harboring such dog.

Unreasonable howling or barking or other noise shall include, but not be limited to, the following:

(a) Howling, barking or other noise made by a dog and continuing for more than three cumulative minutes in any sixty-minute period; or

(b) The existence of complaints concerning the noise from persons living or working in the vicinity of the noise and who are affected by it.

Dogs shall not cause damage or destruction to public or private property. The owner or other person responsible for the dog shall promptly pick up and remove any solid waste related to the dog defecating or vomiting. See also § 157-18A. Maintenance Guidelines

Dogs shall not chase, leap on, or otherwise harass any person or other animal in such manner as reasonably to cause intimidation or to put such person or animal in reasonable apprehension of bodily harm or injury.

Dogs shall not be leashed, tied or bound to any light poles, trees, planters, pavilions, bicycle racks or other infrastructure on the Commons.

[F.] Animals that are included in a venue during a special event scheduled on the Commons are allowed subject to the approval of a permit by the City Clerk and/or Superintendent of Public Works.

A. No animals are allowed on the Primary Commons except by special permit. This provision does not apply to ~~[Seeing Eye] Service~~ **Service** ~~[Dogs, service]~~ animals providing assistance to people with disabling conditions special needs and police working dogs.

B. Owners or tenants of residential or commercial premises on the Primary Commons, whose only access to their premises is from the Primary Commons, may apply to the City Clerk for a special permit. Such permit shall be conditional ~~[on]~~ upon compliance with all City laws and ordinances pertaining to animals, and as outlined above in §157-5(3).

C. A permit shall allow tenants and owners of premises on the Primary Commons, or the customers of businesses that require the presence of animals to perform the function of the business, to transport their animals to and from their premises in the shortest and most direct route possible. Animals shall be leashed or transported in carriers.

D. The permit shall not be transferable and is revocable at any time should the permit holder fail to comply fully with the terms of the permit. The permit shall be valid for the duration of the owner's lease or ownership of premises on the Commons or for a period of one year, whichever is shorter. The permit shall be renewable annually upon application to the City Clerk. The permit fee shall be set by the Commons Advisory Board. No more than two permits shall be issued for each residential or commercial unit. In the case of a business that requires the presence of animals to perform the function of the business, one permit shall cover the business and all of its customers.

In addition, a valid New York State dog license is required, and must be presented at the time of application for the permit.

E. The Commons Advisory Board shall review each application for a business permit and shall grant such permit upon the following conditions:

(1) That animals shall be limited to an area between the premises and the closest of the three primary Commons entrances (Aurora Street, Seneca Street or Cayuga Street);

(2) That the permit shall be for the movement of animals to and from the business and shall not allow for the loitering of animals in the permitted area;

(3) That the dog owners or other persons responsible for the dog are responsible for promptly removing any animal waste pursuant to § 164-9 of the City of Ithaca Municipal Code which is not preempted by this section; and

(4) That the permittee, should the dog owner fail to fulfill this responsibility, shall be responsible for the cleaning of any animal urine or feces that is deposited in the permit area.

§ 157-13. Posting of bills and notices.

A. Posting of bills or notices or the attachment of any unauthorized devices to any **public** structures of the Commons is prohibited. Exceptions to this regulation shall be the display panels located in the [three] [towers of] the Commons. Bulletins shall be placed in such display panels by the **Downtown Ithaca Alliance** [Ithaca Downtown Partnership] and shall be removed by the [Ithaca Downtown Partnership] **Downtown Ithaca Alliance** after a reasonable period of time, to be determined by the [Ithaca Downtown Partnership] **Downtown Ithaca Alliance**.

B. The **directories** [display panels] shall provide [three types of] display space **for the following**:

(1) Official Commons activity announcements. This space is reserved for the use of the **Downtown Ithaca Alliance** [Ithaca Downtown Partnership] to announce activities and dates of events on the Commons and in the community.

(2) Public announcements. This space is available for general community public use. Material posted should be of reasonable size and limited to the announcement of public events such as local civic, artistic and cultural activities; it may not include personal messages, profit-motivated events or political promotional material. Posters and notices to be displayed shall be received, posted and removed by the **Downtown Ithaca Alliance** [Ithaca Downtown Partnership]. They should be dated and will not be left on display for more than two weeks.

(3) Directory. This space is reserved for a directory of all business space located on the Commons and [should] **will** be updated periodically by the **Downtown Ithaca Alliance** [Ithaca Downtown Partnership].

C. If a request for posting a public announcement as defined in this section is not honored or is denied by the **Downtown Ithaca Alliance** [Ithaca Downtown Partnership], a letter of appeal may be forwarded to the Mayor for consideration.

§ 157-14. Newsracks.

~~[The Commons Advisory Board]~~ **The Downtown Ithaca Alliance** shall **administer** ~~[regulate, place, and monitor]~~ the placement of newsracks on the Commons ~~[on a routine basis in order to preserve the atmosphere and appearance of the Commons]~~. **Requests to use the newsracks will be considered in accordance with the policy approved by the Commons Advisory Board.** ~~[in an attractive and inviting manner. Newsracks shall be placed so that they are easily accessible to the public, but are not located within a pedestrian walkway, or areas dedicated for public art, events, outdoor dining or vending, or other uses.]~~

§ 157-15. Refuse.

Commons businesses and residents will be allowed 24/7 access to a secure disposal facility. Private trash and recycling will not be collected on the Commons.

Only authorized users with key access will be permitted to use the disposal facility. Users will need to place trash in authorized bags. In the event that the transport of trash results in drippings or leaking fluids on the Commons, the guidelines for cleaning stains established by this ordinance are to be followed. See also §157-18A. Maintenance Guidelines

Fines will be imposed for users who abandon unaccepted items or who dispose of trash without using an authorized bag.

~~A. All refuse, rubbish and litter generated by public use of the Commons must be placed in receptacles provided for that purpose.~~

~~B. Recessed store entrances, foyers or other areas within the building lines shall at all times remain the responsibility of the tenants or owners, who shall keep them in a clean and sanitary condition. The sweeping or depositing of refuse or other litter onto the Commons is not permitted.~~

§ 157-16. Storage.

No storage of items, material or stock, etc., will be allowed anywhere on the Commons, except by permit issued by the Superintendent of Public Works.

§ 157-17. Property damage.

Unauthorized cutting, mutilating, removing or taking away of any trees, shrubs or flowers or the defacing or damaging of property is prohibited unless expressly authorized by the Superintendent of Public Works.

§ 157-18. Cleaning and repairing.

All users involved with activities on the Commons shall be responsible for cleaning and repairing to assure that the Commons will be returned to its prior condition previous to its use. Failure to comply with this provision shall result in the City's taking necessary action to clean and repair the Commons and to restore it to its prior condition. In such case, the City shall bill the user for the cost of such repairing or cleaning, both on the ~~[Ithaca]~~ Commons and on the surrounding business improvement district. It is expected that the same level of maintenance will be extended to the entire business improvement district as prevails for the ~~[Ithaca]~~ Commons. This provision shall not relieve the City from performing normal, routine cleaning and maintenance activities.

A. Maintenance Guidelines

1. Stain Removal Guidelines

- i. The City recognizes that during the regular use of the Commons, spills, drippings, and other stains may occur on occasion. In order to maintain the integrity of the pavers , the following are guidelines for removal of common stains and should be observed whenever possible:

<u>Treatment for Common Stains</u>	
<u>Stains</u>	<u>Treatments</u>
<u>1. Oil and grease</u>	<u>Soak up excess oil with rags. Then cover with an oil absorbent material, like kitty litter. Leave on stain for 24-48 hours, and then sweep dry. Another option would be to apply a 100% pure citrus degreaser, directly to stain, and then blot up with a rag and hose area down.</u>
<u>2. Chewing Gum</u>	<u>Apply small amount of dry ice and then scrape off with a putty knife or apply 100% pure citrus degreaser, apply directly to gum marks and scrape off.</u>
<u>3. Paint</u>	<u>Use rags to remove excess paint by blotting, do not wipe, it will spread the paint around. If the paint is a latex, water based, soak with hot water and scrub by using detergent with a stiff bristled brush. Rinse periodically, repeat as necessary. Oil, paint and sealer remover is a specialized cleaner that can be applied after oil-based paint has dried. Follow manufactures instructions.</u>
<u>4. Leaf and Wood Rot</u>	<u>Apply household bleach and scrub with a stiff bristled brush.</u>
<u>5. Mortar</u>	<u>Try to remove immediately with a garden hose. If that is not possible, let it harden and remove with a scraper or putty knife.</u>
<u>6. Tobacco</u>	<u>Apply household bleach and scrub with a stiff bristled brush.</u>
<u>7. Rust Stains</u>	<u>Directly apply Rust Stain remover to the effected spots to lift these types of stains. Contact Hanover® for specific material.</u>
<u>8. Grease drippings from food, ketchup, mustard</u>	<u>Apply general concrete paver cleaner to these types of stains.</u>
<u>9. Clay Soils</u>	<u>Scrap off the dry built-up material with putty knife, scrub and rinse off with hot water. A detergent may be necessary to release the stain.</u>

<u>10. Tar</u>	<u>Apply 100% pure citrus degreaser. Apply directly to stain, blot up with a rag and then hose area down.</u>
<u>11. Tree Sap</u>	<u>Apply 100% pure citrus degreaser. Apply directly to stain, blot up with a rag and then hose area down.</u>
<u>12. Concrete dust from cutting</u>	<u>Rinse immediately with water and/or use a cleaner designed for cleaning concrete pavers</u>
<u>Please Note: If the stains are severe and cannot be removed, pavers can be replaced with new materials. Unlike other paving materials, concrete pavers will not have the extreme unsightly patch marks.</u>	

2. Snow Removal Guidelines

i. Snow Removal

- 1. For removal of snow on the Commons surfaces, only rubber or nylon tipped shovels or snow blowers may be used. Snow blowers should not contain chains on the tires, as they could damage the face of the pavers.**

ii. De-icing

- 1. Rock salt should never be used on the Commons Surfaces**
- 2. For ice melting, Magnesium Chloride may be used, but should be swept off of the surface once the ice is melted.**

§157-19. Fees.

Permit and use fees will be established by the Commons Advisory Board in consultation with the Board of Public Works. Fees may be waived or reduced by the Commons Advisory Board if deemed in the best interest of the community. All fees shall be paid at the time the permit is issued.

§157-20. Street Performers

Street performers and acoustical musicians may perform on the Ithaca Commons between 10:00 a.m. and 9:00 p.m. Sunday through Thursday; and 10:00 a.m. and 10:00 p.m. on Friday and Saturday. All street performers shall locate along the edge of the fire lane and must remain mobile at all times in case emergency vehicles require access to the area. Performance equipment and materials may not be left unattended. Street performers must move to a different location every 45 minutes. The Commons Advisory Board reserves the right to designate specific areas for street performers.

The use of amplified sound or fire during a performance is only allowed by permit from the Commons Advisory Board. Loud natured acoustical instruments such as horns, drums and other percussion instruments require a permit from the Commons Advisory Board. Performers are responsible for monitoring and controlling the volume of sound they make and must reduce the volume upon the request of the Ithaca Police Department, City Clerk staff, Downtown Ithaca Alliance staff, or a member of the Commons Advisory Board.

Performers may accept voluntary donations but shall not base their performance upon payment or aggressively solicit contributions.

Performers must not be under the influence of alcoholic beverages or controlled substances while performing. Ithaca Police Officers may require performers to relocate or leave the Commons area if they are creating a disturbance that negatively impacts the businesses or residents in the area.

At the conclusion of a performance, the performer is responsible for removing any debris, trash, or litter associated with the performance or audience.

Article III. Outdoor Dining

§ 157-21. Applications; rules of operation; permits; appeals.

A. The City Clerk shall review and consider outdoor dining applications for food establishments on the Primary and Secondary Commons. No establishment shall be permitted to use City property for outdoor dining purposes without an approved permit in place. Applications shall include the following documentation:

(1) Certificate of general liability insurance **in an amount to be determined based upon the nature of the event, but in no case shall it be less than \$1,000,000.00; it must also name the City of Ithaca as an "Additional Insured"**.

(2) Proof of worker's compensation insurance.

(3) **If alcohol is to be served, additional liquor liability insurance is required in an amount to be determined, but in no case shall it be less than \$1,000,000.00. It must name the City of Ithaca as an "Additional Insured"**.

(4) Sketch of area, with dimensions. Show storefront, curb, dining area and other important items (e.g., trees, fire hydrants, etc.).

(5) A use fee shall be submitted with the completed outdoor dining application and required paperwork.

B. Rules of operation.

(1) The dining area shall be adjacent to the business holding the agreement. On the Primary Commons, the area may not extend out from the building more than **7 feet**. ~~[The area may extend out from the building, but not more than five feet.]~~ The dining area shall not block the fire lane[s] or impede pedestrian traffic flow, and shall not extend beyond the agreement holder's storefront.

(2) ~~[If alcohol is served]~~ The dining area shall be contiguous to the establishment, and physically defined. ~~[, and]~~ Establishments serving alcohol require approval from Common Council ~~[is required]~~ through the City Clerk's office.

(3) The merchant shall be completely responsible for all aspects of the area, including cleanliness, trash, and stain removal.

(4) The outdoor dining season shall be from **April** ~~[January]~~ 1 until **March** ~~[December]~~ 31. Outdoor dining furniture may not impede the City's efforts to remove **debris**, or snow and ice accumulations from the Commons.

(5) Applications must be submitted and approved annually.

(6) Furniture and fixtures, signs, and means used to define the dining area, will be allowed only during the approved dining hours and within the sidewalk markings provided by the City. Permittees shall be held responsible for the actions of their staff and customers.

(7) The area used is subject to periodic review by City staff.

(8) Any permittee who violates **§157-21 B (6) regarding the placement of outdoor dining furniture and fixtures shall receive a written warning for the first violation. The permittee shall be liable for a civil penalty of \$250 for the second violation in a twelve-month period, \$500 for the third violation in a twelve-month period, and \$1,000 for the fourth and subsequent violations in a twelve-month period. In lieu of a \$1,000 fine, the permittee may agree to a temporary permit revocation of seven consecutive days within the month the violation is served.**

(9) The City reserves the right to require a security deposit if the site is not maintained free of trash, litter, grease and stains. Merchant is responsible for removal of stains or drippings in accordance with the guidelines for stain removal established by this ordinance. **See also § 157-18A. Maintenance Guidelines**

(10) The City may terminate this agreement at any time without cause, in which case the applicant shall be reimbursed for the period of time which would be remaining on the agreement if the agreement were not terminated before expiration.

(11) The City may terminate this agreement for the following causes, including but not limited to:

(a) Violation of the guidelines and requirements listed above.

(b) Fraud, misrepresentation or false statements in the agreement application.

(c) Violation of any ordinances, regulations or laws applicable to the holder of such agreement.

(12) If the agreement is terminated for cause, the agreement period shall end immediately, and no refunds will be issued. Notice of proposed suspension or revocation of an agreement for outdoor dining shall be given in writing, setting forth specifically the grounds of the complaint. The applicant shall have a right to a hearing in front of the Commons Advisory Board on the proposed revocation or suspension.

(13) The Commons Advisory Board shall have the right to terminate or re-instate the agreement. Such decision shall become effective immediately.

(14) Any applicant whose agreement is revoked under this regulation may not reapply for another agreement until the expiration of one year from the date of revocation.

(15) The applicant shall not discriminate against any employee, applicant for employment, subcontractor, supplier of materials or services, or program participant because of actual or perceived: age, creed, color, disability, ethnicity, familial status, gender, height, immigration or citizenship status, marital status, national origin, race, religion, sexual orientation, socioeconomic status, or weight.

C. The City Clerk shall be authorized to issue permits to the **Downtown Ithaca Alliance** [~~Ithaca Downtown Partnership~~] for placement of tables and chairs for dining and leisure purposes on the primary **and secondary** Commons during the warm weather season.

D. Appeals for denied agreements. Any person or group that has been denied an agreement for outdoor dining on the Ithaca Commons may appeal such decision to the Commons Advisory Board. Such appeal shall be submitted in writing to the City Clerk's office within 10 days from the date of denial. The Commons Advisory Board may act to sustain the original decision or to revise it, with or without conditions.

Article IV. Mobile Vending [~~Cart Regulations~~]:

§157-22 Mobile Vending Cart Regulations:

A. Types of vendors on the Commons:

(1) Food/beverage (non-alcohol only)/merchandise. Vendors selling food/beverages need to check with the Health Department regarding their regulations.

(2) Non food/merchandise for sale/services.

(3) See §157-28. Exceptions

B. Definition of Mobile Vending: selling food/beverage/merchandise/services from a wheeled carrier that can move easily without the use of a vehicle or power source. Carts must be battery-operated and completely self-contained as the City does not provide water or electric to the vendors. The use of generators is prohibited.

C. Cart Construction Requirements: Vending carts must be constructed in a professional manner and using methods and techniques associated with good craftsmanship.

(1) Awnings, canopies, or umbrellas. Lowest edge six and one-half feet from the ground; flame resistant or fire retardant canvas or simulated canvas with a peaked roof that may extend 18 inches beyond the side of the cart. Canopies and awnings must be fastened to all corners. Umbrellas must be "windproof" using a standard metal umbrella holder with a locking devise permanently attached to the cart.

(2) Box carts: box carts – carts that are shaped like a square or rectangular box, having a permanent roof, four permanent sides and limited see-through ability- are not permitted.

(3) Coolers (for food/beverage vendors only): Maximum of two coolers per cart vendor. Both coolers are required to be stored on the same dolly. Each food vendor is required to have one dolly. Coolers must be pressed up against cart or no more than 6" away from cart. All coolers must be kept in a clean and sanitary condition free of dirt, grime, grease.

(4) Display Cases: Must be sturdy, in good repair, and attached to the cart (preferred). If not attached, they must be heavy enough to withstand considerable winds or other natural elements.

(5) Fixtures: Good quality hinges, clasps, and other hardware must be secured firmly to the cart.

(6) Height: Maximum of eight feet (from pavement to highest point of the cart).

(7) Lighting: Lighting can be used for preparing and serving food and illuminating a menu. Decorative lighting is not permitted unless approved by the Commons Advisory Board. Lighting not approved by the Commons Advisory Board must be removed immediately.

(8) Making carts stationary: Mobile carts must be stationary in their locations. Locking wheels are preferred. Wheel chocks may be used.

(9) Mats: Required for food/beverage vendors only. Clean solid mat, minimum 12 square feet, in front of each food cart to capture spilled food/beverage and waste. No exception. Staff may require additional mats as needed (under grill area for example). Mats should be rolled up, removed from the Commons, and cleaned before reuse. Vendor is responsible for removal of any drippings or stains that occur at their location. Vendors must use the guidelines for stain removal established by this ordinance. See also § 157-18A. Maintenance Guidelines

(10) Maximum Cart Size: No larger than 32 square feet and of reasonable proportions.

~~(11) [Measuring the square footage of the cart: Take a bird's eye view of the cart, and draw a square or rectangle around the cart. All protuberances, such as wheels, wheel hubs, handles, bumpers, etc. must be included inside the square or rectangle. A canvas awning, canopy or overhang does not affect the maximum size of the cart.]~~

(11) One structure only: Cannot use more than one structure per vendor location.

(12) See-through ability: Must be able to see through at least two sides of the cart at all times.

(13) Signage: Product brand names, related to products being sold, are permitted on umbrellas. All signs are subject to rules as outlined in City of Ithaca Municipal Code Chapter 272 entitled "Signs".

(14) Tables: No free-standing tables. Built in, folding-down tables attached to the actual vendor cart are acceptable, provided they have been approved by the Commons Advisory Board.

(15) Trash/Recycling receptacles: Each vendor must have a trash container with a lid and trash bags must always be used. Vendor must also have a recycling container. The vendor must follow the strict "carry in/carry out" policy of the City of Ithaca. Vendors may not use Commons trash receptacles. Vendor may use the secure trash facility used by Commons businesses through the purchase of an access key and authorized trash bags.

(16) Wheels: Minimum six inch diameter. Two large wheels and one small wheel are acceptable. seem to provide the best maneuverability. [Bicycle type wheels are ruined with winter salt.]

(17) Shopping carts are not allowed as part of the mobile vending space.

§ 157-23 . Location.

The Commons Advisory Board is authorized to determine appropriate locations where vending shall take place. The City Clerk's office shall maintain and make available to the public a map of approved vending locations.

§ 157-24. Hours of operation.

Operating hours for mobile vending carts are between 10:00 a.m. and 10:00 p.m. Carts~~, and tents~~ must be removed from the Commons between the hours of 10:00 p.m. and 9:00 a.m. Vendors who wish to operate outside regular hours must obtain permission from the Commons Advisory Board.

§ 157-25]. Agreements.

A. The City Clerk may issue agreements for mobile vending on the Commons pursuant to the Mobile Vending Map, which is approved by the Commons Advisory Board annually. The City Clerk may refuse to issue an agreement:

- (1) If there are no eligible vending sites available ~~[for that season]~~.
- (2) To any applicant who fails to satisfy the application requirements.
- (3) To any applicant who violated the terms of a mobile vending agreement the previous vending season.

B. Application requirements.

(1) Completed applications for vending agreements with corresponding fees shall be received and considered by the City Clerk. **Fees include, but may not be limited to application fee, security deposit, and use fee. The fees have been established in accordance with Chapter 170 of the City of Ithaca Municipal Code entitled "Use of Real City Property"**

~~[(2) Rates for mobile vending shall be set by the Commons Advisory Board in consultation with the Board of Public Works.]~~

~~(2)~~⁽³⁾ A description of the type of merchandise, **service, food or beverage menu** to be offered for sale.

~~(3)~~⁽⁴⁾ Price list of **each** item~~[s]~~ being sold.

(4) A description **and photograph** of the cart ~~[or table layout]~~ to be used.

~~(5)~~⁽⁶⁾ Proof that the applicant has complied with the established regulations of the Tompkins County Health Department, Ithaca Fire Department and other appropriate state, federal and local laws and regulations applicable to the vending business.

~~(6)~~⁽⁷⁾ A certificate of liability insurance **in an amount to be determined based upon the nature of the permit, but in no case shall it be less than \$1,000,000.00. It must also name the City of Ithaca as an "Additional Insured"**. ~~[naming the City of Ithaca as additional insured].~~

~~(7)~~⁽⁸⁾ Proof of **New York State W**~~[w]~~orker's compensation **insurance**; or New York State Worker's compensation **exemption certificate** ~~[waiver form]~~ completed.

~~(8)~~⁽⁹⁾ Applicant~~[s]~~ shall demonstrate that they have a New York State sales tax certificate at all times while they are vending.

~~(9)~~~~(10)~~ A written description of waste disposal plans for trash, water, grease, and other materials.

~~(10)~~~~(11)~~ Proof of 501(C)(3) designation, if applicable.

~~(12)~~ Copy of IFD propane permit for solid, liquid or gas-fired cooking/heating appliances.

~~(11)~~~~(13)~~ The City Clerk may require additional information from the applicant if deemed necessary.

~~(12)~~~~(14)~~ Whenever a name or address provided by the vendor on his or her agreement or application changes, he or she shall notify the City Clerk within 10 days of the change.

C. Mobile vending agreements. Upon receipt of a completed application **and appropriate fees**, the City Clerk will ~~draft~~ **prepare** a mobile vending agreement **between the vendor and the City of Ithaca. The City Clerk's office will maintain the original agreement on file in their office.**~~[to be signed by the applicant. The signed agreement shall be reviewed by City staff, and once approved will be forwarded to the applicant.]~~

D. Security deposit. A refundable security deposit is required for all vendors. All sites are subject to periodic review, and the deposit will be refunded upon final site inspection by the Department of Public Works at the end of the agreement period. Vendors must comply with guidelines for stain removal established by this ordinance. **See also § 157-18A. Maintenance Guidelines**. If grease or other stains are found at the vending site, the Department of Public Works shall make arrangements with the vendor for clean up within a specified time period. If the site is not cleaned up within that time period, the Department of Public Works will clean the site and will subtract the fee from the security deposit. If additional costs are incurred, the vendor will be billed accordingly.

E. All fees are nonrefundable. ~~[unless the site is reassigned to another vendor. In that case, the fees will be proportionately refunded.]~~

F. Requested site location. Sites are listed on the Mobile Vending Map. Site preference consideration will first be given to ~~[seasonal applicants, second to]~~ returning vendors, and then on a first-come basis. If two returning ~~[seasonal]~~ vendors request the same site, the site will be awarded on a first-come, first-serve basis.

§ 157-26]. Vendor responsibility.

A. Vendors receiving agreements shall:

(1) Comply with all laws, ordinances and regulations applicable to their business.

(2) Refrain from operating carts after agreements expire and when the agreements are suspended or revoked.

(3) Surrender their agreements promptly upon their revocation or suspension.

~~(4) Display a copy of their New York State sales tax certificate on their cart~~ **at all times.**

~~4[(5)]~~ Defend, indemnify, save and hold harmless the City of Ithaca from any and all acts of negligence arising from the vendor's use of the ~~[Ithaca]~~ Commons and shall be so duly insured. **in an amount to be determined based upon the nature of the permit, but in no case shall it be less than \$1,000,000.00. It must also name the City of Ithaca as an "Additional Insured"**. ~~[by the City of Ithaca, but must be in the minimum amount of \$1,000,000.]~~

B. The vendor will not discriminate against any employee, applicant for employment, subcontractor, supplier of materials or services, or program participant because of actual or perceived: age, creed, color, disability, ethnicity, familial status, gender, height, immigration or citizenship status, marital status, national origin, race, religion, sexual orientation, socioeconomic status, or weight.

§ 157-27]. Rules of operation.

The following are the mobile vending rules of operation:

A. Vending sites are 10 feet by 10 feet in size, and vendors are required to keep all of their equipment within their assigned site. ~~[On specially marked "expansion" sites, the site may expand to 20 feet by 20 feet in size for an increased fee.]~~

B. Vendors shall not block or inhibit pedestrian traffic or allow emergency vehicular traffic to be impeded because of vending operations.

~~[C. All sites are open to retail and food/beverage vending except for the sites specifically marked NF (No food vendors)-~~

~~C[D].~~ Vending hours are from 10:00 a.m. to 10:00 p.m. unless special permission is granted by the Commons Advisory Board.

~~D[E].~~ Vending carts must be attended at all times.

~~[E. Tents with one or two sides and canopies are allowed during the summer season only and must be removed daily. Off-season, monthly vendors require special permission from the Commons Advisory Board for the use of tents.]~~

E[F]. All carts[,] and equipment ~~[tents and canopies]~~ must be removed from the vending site at the close of business each day.

F[H]. All vendors must maintain the submitted list of items for sale and prices ~~[Food vendors must maintain the submitted food menu]~~ throughout the agreement period unless special permission is granted by **the City Clerk or** the Commons Advisory Board.

G[I]. Smoke and/or odors produced by the cooking of foods on a mobile vending cart must be vented, filtered or disposed of in a comparable manner so as to reasonably prevent the release of odor or particulate matter into the surrounding environment.

H[J]. Vendors are responsible for trash and waste disposal. Vendors shall provide a container for trash and litter, **and** ~~[attached to their carts Vendors shall]~~ be responsible for the **appropriate removal and disposal thereof.** ~~[of litter or trash placed in their containers.]~~ No dumping is allowed in City trash cans, grates, storm sewers, or other areas.

~~[K]~~. Vendors shall keep public spaces within a ten-foot radius of their cart clean and free from paper, peelings, oil and grease spills and refuse of any kind generated from the operation of their cart. If spills do occur, the vendor is responsible for using the guidelines for proper removal of stains established by this ordinance. **See also § 157-18A. Maintenance Guidelines**

~~[L]~~. No music, amplified sound, or repetitive noise that can be heard outside of the vending site may be played by the vendor.

~~[M]~~. If a vending site remains vacant for three consecutive weeks without notification to the City Clerk's office, it will be considered abandoned and re-assigned, **with no refunds issued.**

~~[N]. An additional permit for driving on the Commons is required for the purposes of loading and unloading before 9:00 a.m. and after 9:00 p.m., and is available from the City Clerk's office upon request.]~~

~~[O]~~. The City reserves the right to move vendors for necessary maintenance and repairs on the Commons.

~~[P]~~. The City does not provide water or electric service to mobile vendors.

~~[Q]~~. All vendors shall cooperate **with staff members** of City of Ithaca and **the Downtown Ithaca Alliance** [~~Ithaca Downtown Partnership employees~~].

§ 157-28]. Suspension or revocation of agreement.

A. The City may terminate a mobile vending agreement at any time without cause, in which case the [~~contractor~~] **vendor** shall be reimbursed for the period of time that would be remaining on the agreement if the agreement were not terminated before expiration.

B. If the agreement is terminated for cause, the agreement period shall end immediately, and no refunds will be issued. Notice of proposed suspension or revocation of an agreement for mobile vending shall be given in writing, setting forth specifically the grounds of the complaint. The vendor shall have a right to a hearing on the proposed revocation or suspension before the [~~CAB~~] **Commons Advisory Board** no sooner than **ten (10)** days after requesting such a hearing, **in writing**. Grounds for termination include, but are not limited to:

(1) Violation of the rules of operation.

(2) Fraud, misrepresentation or false statements on the application.

(3) Fraud, misrepresentation or false statements made in connection with the selling of merchandise.

(4) Violation of any ordinances, regulations or laws applicable to the holder of such an agreement.

(5) Conduct of the business permitted in an unlawful manner or in such a way as to constitute a menace to the health and safety of the public.

C. The **Commons Advisory Board** [~~CAB~~] shall have the right to terminate or reinstate the agreement. Such decision shall become effective immediately.

D. Any applicant whose agreement is revoked under this regulation may not reapply for another agreement until the expiration of one year from the date of revocation.

§ 157-29]. Ithaca Festival and other events.

Notwithstanding the above, permits to sell on the Commons or to operate mobile vending carts granted pursuant to this chapter shall **include** ~~exclude~~ days on which it is expected that the Ithaca Festival or other events sponsored by the **Downtown Ithaca Alliance** ~~Ithaca Downtown Partnership~~ will take place on the ~~Ithaca~~ Commons. A listing of these events and dates shall be maintained by the City Clerk. **The vendor will be required to make application to the event coordinator and pay any additional fees as required. Vendors may be relocated from their assigned spot during the event, at the discretion of the event coordinator. Vendors must follow the rules of each event.** Vendors interested in vending during special events ~~for an additional fee~~ should contact the **Downtown Ithaca Alliance** ~~Ithaca Downtown Partnership~~ or Ithaca Festival offices for information regarding vending requirements **for those special events.**

§ 157-30. Exceptions.

Persons holding a license issued by the Tompkins County Clerk to vend under the status of a United States Armed Forces Veteran pursuant to §32 of the General Business Law, to the extent legally permitted, shall be required to abide by all regulations except those concerning fees.

§ 157-31. Appeals for denied agreements.

Any person or group that has been denied an agreement to vend on the ~~Ithaca~~ Commons may appeal such decision to the Commons Advisory Board. Such appeal shall be submitted in writing to the City Clerk's office within **ten (10)** days from the date of denial. The Commons Advisory Board may act to sustain the original decision or to revise it, with or without conditions.

Article V. Exceptions; Penalties

§ 157-32. Limited waivers and exceptions.

The Commons Advisory Board is authorized to grant limited waivers and exceptions to the provisions of this chapter, as appropriate and for temporary periods not to exceed one week in duration. Such waivers and exceptions shall be subject to any appropriate review by the City Clerk's office, Department of Public Works, the Fire Department or the Police Department.

§ 157-33]. Applicability of other ordinances.

Except as otherwise provided in this chapter, all existing ordinances of the City of Ithaca shall apply to the Ithaca Commons.

§ 157-34. Penalties for offenses.

[Amended 4-5-2006 by Ord. No. 2006-10] Except as otherwise provided, any violation of the provisions of this law shall be punishable as a civil offense in accordance with §~~§~~1-1, of the City of Ithaca Municipal Code.

Section 2. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, then that decision shall not affect the validity of the remaining portions of this ordinance.

Section 3. Effective date. This ordinance shall take effect immediately and in accordance with law upon publication of notices as provided in the Ithaca City Charter.

10.2 **City Watershed Conservation Easements Processes – Resolution**

WHEREAS, a conservation easement is a set of legal restrictions that a property owner can voluntarily place on her or his own land, limiting use and development of the land forevermore; and

WHEREAS, the City is currently constructing at substantial expense a new water filtration plant which is fed by a creek; and

WHEREAS, the quality of the water fed by said creek is substantially dependent on the quality of water provided upstream of the plant by the creek's watershed, predominantly outside City limits; and

WHEREAS, overdevelopment of the watershed in the long term would increase the risk of water quality issues that could prove costly to remedy at the plant itself; and

WHEREAS, the Common Council included in the Fiscal Year 2015 budget \$20,000 in support of the initiative detailed in this resolution; and

WHEREAS, the Common Council desires to establish via this resolution more specific procedures and guidelines for the disbursement of these funds and any future funds similarly budgeted for the purpose of watershed conservation easements; now, therefore be it

RESOLVED, That as part of the annual budget proposal of the Department of Public Works for the Water and Sewer Division, the Superintendent of Public Works, on consultation with the Director of Planning, Building, Zoning and Economic Development, make a recommendation as to what amount, if any, is recommended for inclusion in their annual budget for purposes of this program; and be it further

RESOLVED, That any funds so budgeted be evaluated for expenditure on transaction costs necessary to the creation of conservation easements according to the procedures and requirements set out in this resolution, and such other procedures and requirements not in conflict with this resolution established by the Director of Planning, Building, Zoning and Economic Development and the Superintendent of Public Works; and, be it further

RESOLVED, That applications for expenditure of these funds on particular conservation easement projects may be submitted by any member of the public, though most commonly by the Finger Lakes Land Trust, to the Director of Planning, Building, Zoning and Economic Development or her/his designee; and, be it further

RESOLVED, That the Director of Planning, Building, Zoning and Economic Development or her/his designee shall evaluate each application according to the minimum criteria specified in this resolution, among others, and if said minimum criteria are satisfied, shall circulate the application to the Superintendent of Public Works or his/her designee (expected generally to include either or both of the City Watershed Coordinator and the City Environmental Engineer), who in turn shall:

- add the application to an upcoming agenda of the Board of Public Works occurring not sooner than 30 days in the future, and

- email or mail notice of the application to all members of the City's Common Council and to the Clerk of the Town or Village in which the contemplated conservation easement would be created;

and, be it further

RESOLVED, That the Director of Planning, Building, Zoning and Economic Development, the Superintendent of Public Works, and/or each of their designees make a recommendation to the Board of Public Works as to their recommended action on the application under consideration; and, be it further

RESOLVED, That the Board of Public Works deliberate upon, and thereafter approve or deny, each application for funding of transaction costs of a conservation easement, and if approved specify the dollar amount, not to exceed \$15,000 per application, authorized for use on the application-specific project to be drawn from the Council-budgeted funds available to this program at that time, abiding the following minimum criteria, all of which must be satisfied in support of any approved application:

1. The property owner(s) of the property impacted by the pending application is/are willing participant(s) in the project;
2. An outside funding match to City's contribution to the application-specific project is preferred, but not required;
3. Another party will be responsible for property management and stewardship of any conservation easement created under this program;
4. The project is located in the watershed of Six Mile Creek upstream of the current location of the sixty-foot dam, and the conservation of the project is deemed by the Board of Public Works, on the advice of relevant City staff, to be beneficial to long-term water quality for the City's water supply;

And, be it further

RESOLVED, That applications may be submitted seeking funding support of this program for fee-title purchases (rather than easements) in support of conservation of the City watershed, but that such applications shall, after being considered by the Board of Public Works as specified in this resolution, require a vote of Common Council before any approval of the application shall be effective.

12. **NEW BUSINESS:**

12.1 **Motion to Enter Into Executive Session to Discuss Collective Negotiations Pursuant to Article Fourteen of the Civil Service Law - Resolution**

RESOLVED, That Common Council Enter Into Executive Session to Discuss Collective Negotiations Pursuant to Article Fourteen of the Civil Service Law - Resolution

12.2 **Approval and Authorization to Execute CSEA DPW Unit Contract - Resolution**

RESOLVED, That Common Council approves the agreement between the City of Ithaca and the CSEA DPW Unit for a three-year term commencing January 1, 2012 and expiring December 31, 2014; and, be it further

RESOLVED, That the Mayor is authorized to fully execute the agreement on behalf of the City.

14. **MAYOR'S APPOINTMENTS:**

14.1 **Reappointment to the Bicycle Pedestrian Advisory Council – Resolution**

RESOLVED, That Daniel Keough be reappointed to the Bicycle Pedestrian Advisory Council with a term to expire December 31, 2017; and, be it further

RESOLVED, That Steven Williams be reappointed to the Bicycle Pedestrian Advisory Council with a term to expire on December 31, 2017.

14.2 **Reappointment to Building Code Board of Appeals – Resolution**

RESOLVED, That Lou Vogel be reappointed to the Building Code Board of Appeals with a term to expire December 31, 2017.

14.3 **Appointment to Community Police Board – Resolution**

RESOLVED, That Madeline Hause be appointed to the Community Police Board, as the Youth Member, with a term to expire December 31, 2017.