



Staff Memo To:
Mayor Dion & City Councilors

MEETING DATE

July 14, 2025

OVERVIEW

This memo supplements the staff memo submitted to the Sustainability & Transportation Committee (S&T) dated June 16, 2025 (Attachment C).

Based on staff's analysis of current and past policies, regulations, and standards, as well as parking utilization and capacity data, we find that the conditions do not meet the threshold necessary to justify enacting a moratorium on theater and performance hall projects.

Portland's comprehensive policy framework, including *Portland's Plan 2030*, *One Climate Future*, the *Downtown Vision Plan*, and the *Portland Peninsula Transit Study*, works in concert with established regulatory tools such as the Land Use Code, Site Plan Ordinance, Traffic Movement Permit (TMP) requirements, and Impact Fees. Together with supporting data on parking utilization and existing entertainment licensing dispersal requirements, this framework provides the necessary structure to effectively manage and evaluate the transportation and land use impacts of new theater and performance hall development.

BACKGROUND

On April 28, 2025, a moratorium on theater and performance hall venues was introduced in response to a major site plan application submitted by Live Nation in December 2024 proposing a 3,300 capacity music venue in Downtown Portland.

The proposed moratorium expresses concerns that Portland's Downtown Peninsula has experienced growing development, tourism, and commercial activity, resulting in significant parking pressures and traffic congestion that create hardships for members of the public and businesses. The moratorium goes on to state that large events at theaters and performance halls are known to strain parking availability and contribute to unsafe traffic conditions before and after shows. Currently, the City's Land Use Code does not require parking minimums for these venues, regardless of their size, and mandates a 100-foot buffer between venues with entertainment licenses in the B-3 Downtown Business Zone and Waterfront Central Zones (WCZ) with no additional spacing requirements for large theaters. According to the moratorium sponsors, the current regulatory environment may contribute to the clustering of venues and result in a burden on city services, public infrastructure, and road safety. A temporary 180-day pause on approving new large theaters and performance halls is proposed to allow time for a

comprehensive review and potential updates to the City Code to better manage impacts on parking, traffic, and public safety.

ANALYSIS

Over the past several decades, the City of Portland has pursued a coordinated and forward-looking approach to growth, integrating sustainable land use and transportation policies to support dense, infill development in appropriate areas. This vision is reaffirmed in *Portland's Plan 2030*, which serves as the City's comprehensive plan and reflects a strong commitment to downtown development, multimodal accessibility, smart growth, and economic vitality. The Plan outlines several key relevant goals, such as:

- Focusing growth in priority areas, such as downtown and transit corridors, supporting arts and culture, and ensuring that infrastructure investments enable employment and housing growth.
- Promoting walkable neighborhoods, reducing vehicle miles traveled, and aligning land use changes with long-range transportation planning.
- Investing in public transit and multimodal systems, implementing Transportation Demand Management (TDM) policies, and encouraging transit-oriented development to reduce emissions and improve access for all users.
- Reinforcing the Center – Portland's downtown remains at the center of the region's arts and cultural, economic, and civic health, and Portland's Plan embraces the principle that downtown should continue to be a predominant locus of activity for the broader region.

In addition, several adopted policy documents, including the *Downtown Vision Plan* (1991), the *Portland Peninsula Transit Study* (2009), and the City's Climate Action Plan, *One Climate Future* (2021), reinforce a continued shift away from auto-oriented infrastructure and support of dense, infill development in places like downtown. These plans emphasize expanding access to transit, encouraging walking and biking, reducing traffic growth on the peninsula, and managing the existing parking supply rather than expanding it, with an emphasis on reducing the City's greenhouse gas emissions. The City Council also recently adopted the Greater Portland Council of Governments (GPCOG) *Regional Vision Zero Action Plan*, formally endorsing its core objective of eliminating all traffic-related fatalities and serious injuries. The Vision Zero plan emphasizes reducing reliance on single-occupancy vehicles and promoting increased use of public transit and alternative modes of travel as critical steps toward safer, more equitable mobility. Downtown infill development, including theater and entertainment venues, plays a vital role in supporting the density and destinations needed to enhance walkability, bikeability, and public transit use to achieve the broader goal of eliminating traffic fatalities and injuries.

One way in which these policies and goals are implemented is through development, which is regulated through the City Code. Portland's Site Plan Ordinance is designed to align with the City's Comprehensive Plan and establishes the framework for reviewing new development proposals. Its primary purpose is to support Portland's vision for sustainable growth and ensure that proposed developments meet applicable standards and minimize potential impacts. The ordinance includes several criteria related to transportation, requiring applicants to demonstrate that their projects will not overburden public infrastructure or city services, and will not create

unsafe conditions for pedestrians, bicyclists, or vehicles. Where necessary, mitigation measures must be identified and implemented as conditions of site plan approval.

Furthermore, the Maine Department of Transportation (MDOT) requires that any new development generating significant traffic obtain a Traffic Movement Permit (TMP). The primary purpose of the TMP is to ensure that such developments do not create unreasonable congestion or unsafe conditions for all users, motorists, pedestrians, and bicyclists, and that surrounding infrastructure can safely accommodate the increased traffic, with appropriate mitigation measures implemented by the applicant.

Additionally, the City collects impact fees to ensure that, beyond any required mitigation measures, new development contributes its proportional share toward the cost of new, expanded, or replacement infrastructure needed to support Portland's growth. The City's impact fees support transportation, parks and recreation, and wastewater infrastructure. As of January 2025, the Transportation Impact Fee for Retail/Service uses, under which theaters and performance halls are classified, is \$10,412 per 1,000 square feet of gross floor area.

The 100-foot dispersal requirement for businesses with entertainment licenses in the B-3 and Waterfront Central Zones was originally implemented in response to the impacts of a high concentration of bars in the Old Port, many of which remained open late into the evening. In 2007, the City Council, guided by the Mayor's Old Port Task Force and the Public Safety Committee, established the Downtown Entertainment Overlay Zone, which included several provisions, including a 100-foot buffer between establishments with alcohol service and entertainment licenses. The Task Force concluded that the dispersal concept was effective in preventing the clustering of bars and entertainment venues with music and dance licenses, which had been linked to public safety issues. They also determined that 100 feet provided sufficient separation to mitigate these impacts.

Although larger entertainment and music venues are subject to the same buffering requirement, the legislative intent of the dispersal standard was to address issues specifically associated with bars, particularly those related to alcohol consumption and late-night operations in the Old Port, specifically areas around and near Wharf Street. In contrast, seated, ticketed venues offer a level of oversight, crowd management, and operational control that is not typically present in smaller establishments or bars. As such, applying a buffer greater than 100 feet would be excessive and not supported by evidence.

In addition, zoning changes should be considered in response to evolving market conditions or when ongoing issues are clearly identified. Permitting theaters and performance halls in the downtown aligns with the City's Comprehensive Plan and reinforces the role of downtown Portland as the region's center for arts, culture, and commerce. Downtown venues improve accessibility, attract diverse audiences, and promote economic activity by increasing foot traffic and supporting surrounding businesses. There has been little to no history of complaints or public safety concerns associated with these types of venues, unlike the documented issues linked to bars in the Old Port, which was the intent behind the creation of the 100-foot buffer. Furthermore, potential impacts related to matters such as site access and circulation, and traffic

impacts are matters that are comprehensively reviewed and regulated through the City's existing regulations and development review and approval process, which remain sufficient to address such concerns.

Moreover, the proposed music venue currently under review by the Planning Board meets and exceeds the City's minimum 100-foot dispersal requirement for entertainment businesses. The distance from the main entrance of Merrill Auditorium to the VIP entrance of the proposed music hall is 142 feet, and 232 feet to the music hall's main entrance. Additionally, the proposed venue includes four points of egress: the main entrance, VIP entrance, and two separate exits on Cumberland Avenue. These additional egress points will support even more efficient crowd dispersal throughout the block, reducing potential congestion on Myrtle Street.

MORATORIUM CONSIDERATIONS

Maine law requires that any moratorium adopted by a municipality on the processing or issuance of development permits or licenses must be needed either to prevent a shortage or overburdening of public facilities; or because existing comprehensive plans, land use ordinances and regulations, or other applicable laws are insufficient to prevent serious public harm from residential, commercial, or industrial development within the affected geographic area, 30-A MRS 4356.

As outlined above and in the accompanying materials, theaters and performance halls located in the downtown area do not present a threat to public safety or overburden existing public facilities. The City's adopted Comprehensive Plan, supporting policy documents, and regulatory framework, including the Land Use Code, Site Plan Ordinance, Traffic Movement Permit (TMP), and Impact Fee Ordinance, provide a comprehensive and effective structure for evaluating and mitigating development impacts. These tools specifically address transportation, pedestrian and bicycle safety, parking, and city service capacity. The concerns cited in support of a moratorium, such as traffic congestion, parking demand, and potential impacts from venue concentration, are already considered and managed through these existing standards and review processes. Therefore there is no evidence or justification to suggest that a 180-day moratorium would yield different or improved outcomes beyond what the current regulatory framework already ensures. Therefore, a moratorium is not warranted.

Assessment of Moratorium Justification		
Stated Concern	Staff Analysis	Justification for Moratorium
<i>Land development, tourism and commerce on Portland's Downtown Peninsula have resulted in significant and demonstrable parking pressure, which has in turn created hardships for members of the public and commercial enterprises</i>	Through the 2017 parking study, city analysis, and the applicant's analysis, parking capacity and utilization are found to be sufficient to accommodate both the proposed venue and future development. Furthermore, existing policies support infill development and	No

	efforts to manage parking demand through a multimodal lens, incentivizing alternative modes of travel, an approach well-supported by the accessibility of a downtown location.	
<i>Increased traffic before and after large events at theaters and performance halls are known to cause unsafe road conditions and strain parking resources;</i>	Traffic impacts from new development are reviewed through the City's Site Plan Ordinance and MaineDOT's Traffic Movement Permit (TMP) process, which includes mitigation requirements. Furthermore, the applicant will be implementing Transportation Demand Management measures such as annual financial contributions to METRO to support increased bus service, traffic signal and sidewalk upgrades, off-site parking agreements and employee bus passes among other infrastructure improvements. Additionally, on-street parking regulations will be adjusted to support residents and dissuade event attendees from utilizing on-street parking.	No
<i>As set forth in Table 18-A of the City of Portland Land Use Code, there are no parking minimums for theaters and performance halls, regardless of the anticipated capacity, and this issue requires further study and potential amendments to the Land Use Code in order to protect the public welfare and safety and prevent overburdening of public parking facilities;</i>	<p>ReCode, adopted by City Council in 2024, eliminated parking minimums citywide and introduced parking maximums. Even prior to ReCode, Downtown development did not require on-site parking in alignment with long-standing policy direction away from parking requirements and towards prioritizing multimodal transportation and infill development. Downtown venues provide multiple transportation options and support efficient crowd dispersal.</p> <p>2017 analysis, as well as more recent analysis conducted by the applicant, shows that there is currently excess parking capacity in Downtown and the Old Port.</p>	No

<p><i>Section 14.6.8.14 of the City's Land Use Code only requires a 100-foot buffer in the B-3 and WCZ zones between businesses with entertainment licenses;</i></p>	<p>The 100-foot dispersal requirement was originally implemented in response to the public safety impacts of a high concentration of bars in the Old Port, many of which closed late in the evening. In 2007, the City Council, guided by the Mayor's Old Port Task Force and the Public Safety Committee, established the Downtown Entertainment Overlay Zone, which included a 100-foot buffer between businesses with alcohol service and entertainment licenses. The task force found that the dispersal concept is one that works to prevent the concentration of bars and entertainment facilities with music, or dance or music and dance licenses that caused public safety problems in the Old Port and that 100 feet is a sufficient dispersal to create the result.</p>	<p>No</p>
<p><i>An immediate temporary 180-day prohibition on approvals of new large theaters and performance halls is necessary in order to allow the City time to review and amend the City Code as necessary to prevent an overburdening of city services and public parking and other facilities, and to ensure safe traffic patterns for pedestrians, bicyclists and vehicles;</i></p>	<p>Existing City Code and regulatory tools, including the Land Use Code, Site Plan Ordinance, TMP, and impact fees, already address city service capacity, parking, and transportation impacts. There is no evidence that a moratorium is necessary to preserve public safety or welfare or that it would result in any additional benefits to the regulatory process.</p>	<p>No</p>

PRIOR COMMITTEE REVIEW

On June 16, 2025, the Sustainability & Transportation (S&T) Committee heard a staff presentation and received public comment regarding the proposed moratorium. Following the presentation, Q&A, and public input, the Committee voted 2–1 (Councilor Phillips opposed) to recommend that the City Council consider implementing a moratorium.

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ATTACHMENTS

Attachment C - ST Committee_Performance Hall Moratorium Staff Memo