HOUSING COMMITTEE
DATE: November 29, 2017 (Wednesday)
TIME: 5:30 pm – 7:30 pm
LOCATION: City Hall Council Chambers

1. Agenda - November 29th Housing Committee

   Documents:

   00 HC AGENDA - 11.29.17.PDF

2. Review And Accept Minutes Of Previous Meeting Held On November 8, 2017

   Documents:

   01 DRAFT - MINUTES HOUSING COMMITTEE 11.08.2017.PDF

3. Review And Vote To Recommend To The City Council Amendments To Chapter 6 Re: Disorderly House Ordinance

   Documents:

   02 MEMO RE DISORDERLY HOUSE ORDINANCE AMENDMENT - 11-15-2017.PDF

4. Discussion And Possible Recommendation To The Planning Board Of Proposed Amendments To The Inclusionary Zoning Ordinance

   Documents:

   03 INCLUSIONARY ZONING AMENDMENTS.PDF

   4.I. Division 30 Amendments

   Documents:

   DIVISION 30 MAY 2017 AMENDMENTS.PDF

   4.II. Memo From Mayor Re: IZ Amendments

   Documents:

   03.1 MEMO FROM MAYOR RE IZ AMENDMENTS.PDF

   4.III. Public Comment Sent To The Committee

   Documents:

   PUBLIC COMMENT.PDF

5. Review And Recommendation To Forward To The City Council As A Communication Item - 2017 Committee Report

   Documents:

04 2017 HOUSING COMMITTEE REPORT 10.30.2017.PDF

6. Committee Discussion Re: 2018 Work Plan

Documents:

05 2018 WORK PLAN SUGGESTIONS 11.21.2017.PDF

Councilor Jill Duson, Chair
Next Meeting Date: To Be Determined (2018)
The Housing Committee will not meet in December

HOUSING COMMITTEE

DATE: **Wednesday, November 29, 2017**
TIME: **5:30 p.m. – 7:30 p.m.**
LOCATION: **City Hall – COUNCIL CHAMBERS**

A G E N D A

1. Review and accept Minutes of previous meeting held on November 8, 2017

2. Review and Vote to Recommend to the City Council Amendments to Chapter 6 re: Disorderly House Ordinance.

3. Discussion and Possible Recommendation to the Planning Board of Proposed Amendments to the Inclusionary Zoning Ordinance.

4. Review and Recommend to Forward to the City Council as a Communication Item - 2017 Committee Report.

5. Committee Discussion re: 2018 Work Plan
   a. Items to refer to 2018 Housing Committee

Councilor Jill Duson, Chair

Next Meeting Date: TBD, 2018

Housing Committee

Minutes of November 8, 2017 Meeting

A meeting of the Portland City Council's Housing Committee (HC) was held on Wednesday, November 8, 2017 at 5:30 P.M. in Room 209 of Portland's City Hall. Councilors present at the meeting included Committee members Councilor David Brenerman, Councilor Brian Batson, Councilor Jill Duson, Chair of the Committee and Mayor Ethan Strimling. City staff present included Jeff Levine, Planning and Urban Development Department Director, Mary Davis, Division Director Housing and Community Development (left the meeting at 6:00 pm); Victoria Volent, Housing Program Manager; and James Dealaman, Administrative Officer for the Planning & Urban Development Department.

Item 1: Review and accept Minutes of previous meeting held on October 26, 2017

Councilor Brenerman motioned and Councilor Batson seconded to accept the minutes from the October 26, 2017 Housing Committee meeting. Minutes were unanimously approved 3-0.

Item 2: Communication Item: Follow-up information to the 2017 Housing Report

Councilor Duson introduced the feedback survey and informed the public the survey would be available on-line until January of 2018. Staff were requested to solicit additional input through greater public outreach. In order to improve the public's comprehension of the policies, staff indicated they are willing to offer meetings to organizations and groups in a fashion similar to the outreach conducted when the Comprehensive Plan was rolled out. Councilor Duson requested staff to prepare a summary of responses after the survey closes in 2018.

Mary Davis introduced the follow-up memo of questions and answers. Councilor members, Mayor Strimling, and staff discussed various topic items. From the audience, Dana Totman of Avesta Housing was acknowledged by Mayor Strimling, who asked questions regarding housing affordability, demand, data, and specifically about the number of applicants applying for affordable housing that live in Portland, and those living outside Portland seeking affordable residences in Portland. Mr. Totman believed this data should be available.

Item 3: Review and Discussion of Proposed Amendments to the Inclusionary Zoning Ordinance

Staff introduced its Inclusionary Zoning recommendations and an explanation on the calculation of the fee-in-lieu. Staff recommends the Inclusionary Zoning ordinance be amended to include a fractional fee-in-lieu payment when units are provided on-site, and an amendment to remove the sunset clause. Mayor

Strimling explained his proposed amendment to the Inclusionary Zoning ordinance to increase the percentage of mandatory affordable units, and an amendment to lower the affordability income level. Staff was asked to research how other communities calculate their fee-in-lieu, and research why some communities are eliminating their fee-in-lieu requirement.

Item 4: Review and Discussion of Housing Policy Proposals included in the 2017 Housing

Councilor Duson opened the discussion to the public.

Chip Newell of 118 Congress Street- Condominium regulations should be reviewed for a clearer understanding of the difficulty selling units to households in the targeted income bracket. Need to understand the problem before solving it. Getting a lender's support can be inconsistent with IZ requirements. It is very hard to find eligible buyers in between those income requirements.

Josh Benthien of Northland Enterprises- Questions the length of the 99-year affordability restriction required with inclusionary zoning. Believes 20% inclusionary percentage may not be what is needed, but does support inclusionary zoning in general with some tweaking.

Jonathan Culley of Redfern Properties- A 20% inclusionary requirement would make it harder for developers to make a profit which may induce developers not to create needed housing.

Tom Watson of Port Property Management- Cautioned against increasing the inclusionary requirement to 20 percent. Constructions cost have increase by 20 percent and the rents have flat-lined; increasing the requirement may cause developers not to build rental units.

Scott Vonnegut 185 Edwards St- Supports the 20% increase, and the redefinition of affordable as 80% AMI for rental households and 100% AMI for owner households. He supports eliminating the fee-in-lieu to ensure affordable units are created and dispersed throughout the city, but if it cannot be eliminated then the fee-in-lieu should be increased to reflect the actual cost of producing a unit of affordable housing.

Dan Hoffman of Hoffman Properties 251 Danforth St- Cautions against the concentration of affordable housing in one location. Believes the City should not rely solely on inclusionary zoning to build affordable housing units as the market may not support these efforts. The City should generate affordable housing through other means and should consider where units are built and incomes in the city. Suggests the City review the work of Boston's Housing Innovative Lab.

Paul Young of the Cutler Institute, Muskie School of Public Service- Questions the assessment by previous speaker that the rents have flat-lined. Believes the cost of rental s are not going down.

Tom Watson- Offers to provide Port Property Management rental market data to the City for public viewing.

Dana Totman- Believes Inclusionary Zoning is good for Portland. Suggests the City conduct additional research to support increasing the inclusionary percentage to twenty. Requests the City review the

Implementation Guidelines for Developers of Workforce, and Rental Housing to make the document more user friendly.

Erin Cooperrider, Development Director of Community Housing of Maine- Supports Portland looking beyond Inclusionary Zoning to all available tools towards create affordable housing. Support the fee-in-lieu. Suggests Portland review its Inclusionary Zoning language to simplify comprehension of regulations for ease of understanding and easier for developer participation.

Councilor Duson closed the Public feedback session.

Housing Committee members discussed their support that affordable units be built rather than the City receiving the fee-in-lieu. Staff noted Burlington, Vermont, and Cambridge, Massachusetts have eliminated their fee-in-lieu to ensure affordable units are created. Councilor Brenerman asked if staff knew the reason developers have paid the fee-in-lieu rather than build affordable units. Councilor Brenerman also noted his support of the fractional fee-in-lieu amendment, the elimination of the sunset clause, and expressed caution with amending the ordinance to increase the inclusionary zoning percentage to twenty percent. Councilor Duson asked staff if they could get feedback from the eleven developers about the context of their decision making whether they would choose to pay fee-in-lieu or create affordable units. Mayor Strimling does not believe enough affordable housing has been created under the current Inclusionary Zoning provisions. The Mayor would like a review of the impact of Inclusionary Zoning in Portland and other communities regarding the mandatory percentage requirement and the fee in-lieu rate, and whether there has been any slow-down based on the impacts of the policy. Councilor Duson would like staff to create an outreach plan to discuss the proposed housing initiatives to the public, and for staff to provide ideas on how to create a more user friendly Implementation Guidelines for Developer of Homeownership, and Rental Housing.

<u>Report. a. Report on Public Feedback</u>

Staff presented an update to the public feedback responses from October 27 through November 8. A link to the feedback form was posted to the Housing and Community Development webpage to gather public input. Forty-three responses were so far received providing too low of a sample size for statistical significance. Staff will continue to receive feedback until January 2018 at which time an updated summary will be provided.

<u>Item 5: Update on the Short Term Rental Registration Process</u>

Staff presented an update as of November 7, of the Short Term Rental Registration Process which began on October 16. The analysis of the registration indicated 181 registrations have been received. Of the total registrations received, ninety-one represented non-owner registrations; well below the registration cap of three-hundred. Councilor were surprised that the numbers were so low. Councilor Duson commended the work former Housing Planner, Tyler Norod did on the STR policy.

Item 6: Review of Draft 2017 Committee Report

Councilor Brenerman noted the Morrill's Corner discussions should be reviewed by the next Housing Committee. Councilor Duson asked staff how the city could do something more with development, and asked to add this to the priorities list to explore. Mr. Levine replied saying that City-led affordable housing development was a topic that staff had hoped to explore further, but due to limited time this past year was unable. Mr. Levine agreed to add it to the 2018 priorities list. Councilor Duson also requested that Inclusionary Zoning be added as an action item with public comment being taken at the next Housing Committee meeting November 29th at 5 p.m.

Item 7: Committee discussion re: 2017 and 2018 Work Plan

The Committee agreed to hold the next meeting of the Housing Committee on November 29th.

The meeting was adjourned at 8:15p.m.

Respectfully submitted,

Victoria Volent

MEMORANDUM

TO: Councilor Jill Duson, Chair
Members of the Housing and Community Development Committee

FROM: Richard M. Bianculli Jr., Esq., Neighborhood Prosecutor

DATE: November 15, 2017

SUBJECT: Amendments to Chapter 6 re: Disorderly House Ordinance

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Attached hereto is a proposed amendment to Section 6-202 of the Portland City Code of Ordinances. The amendment was developed by the Neighborhood Prosecutor, Community Policing Coordinators, and Attorney Katherine McGovern from Pine Tree Legal following the unprecedented relief required for the Disorderly House at 31 East Oxford Street in Portland. The drafters of the proposed amendment believe that the edits, once adopted, will provide ample notice and greater transparency to those individuals who live at an address that has been designated as a disorderly house, but were not involved in any of the nuisance incidents or issues that gave rise to said designation.

<u>Amendment Summary</u>

1. Clarifying the preferred method for evictions. The first amendment to the Disorderly House ordinance requires the landlord or owner of the property to proceed with a seven (7) day "for cause" eviction if the parties (City and owner/landlord) determine that an eviction is required to remove a problem tenant that has been creating a nuisance. The amendment also allows an alternate form of eviction that may be "set forth in the lease agreement" between the landlord and the tenant.

This specific provision was recommended after receiving input from Pine Tree Legal staff. In their experience, landlords often move forward with a thirty (30) day "no cause" eviction when tenants have created a nuisance. Unfortunately, tenants are not allowed to present a defense to "no cause" evictions. Requiring a seven (7) day "for cause" eviction for problem tenants will require evidence of an actual nuisance while also decreasing the timeline for the parties to present the eviction matter before a judge. The existence of the nuisance can be established through testimony and evidence documenting the police calls for service and the disturbance to the tenants and neighbors.

2. Service to Tenants in a Condemnation action – In extremely severe Disorderly House cases involving an immediate threat to the health and safety of the tenants, the City may be required to move forward with an action for condemnation. The proposed amendment requires the City to serve all tenants of the building with "written notice of said condemnation at least thirty (30) days in advance of the act of condemnation or the posting against occupancy."

This provision will allow tenants to seek alternate housing or retain counsel if additional relief is required (e.q. a dispute as to whether condemnation is necessary; additional time to vacate the premises; etc).

3. Providing Notice of Suit to Tenants Impacted by a Disorderly House complaint – The third amendment to the disorderly house ordinance requires the City to include the tenants as interested parties once a formal complaint (e.g. typically a Rule 80(k) action) is filed against the landlord/owner. As interested parties, the tenants would receive service of the complaint and would be able to have their interests represented in Court. This provision is critical to those tenants that have not contributed to the incidents that gave rise to the designation of the property as a disorderly house but may be impacted by the relief granted by the Court.

AMENDMENT TO PORTLAND CITY CODE
CHAPTER 6
Re: Disorderly Houses

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

1. That Chapter 6, Article IX., Section 6-202 of the Portland City Code is hereby amended as follows:

ARTICLE IX. DISORDERLY HOUSES.

Sec. 6-202. Enforcement.

(a) Authority to Enforce - If the owner (~~a~~1) refuses to agree to take effective measures to address the disorderly house, (~~b~~2) takes ineffective measures to address the disorderly house as determined by the city, (~~c~~3) fails to implement the agreement reached with the city to address the disorderly house or (~~d~~4) if, in the discretion of the city, the disorderly house requires immediate posting, the city may condemn and post the building against occupancy, and/or may file a legal action against the owner seeking any and all damages and remedies to which it is entitled pursuant to state and local laws.

(b) Eviction – If the city and the owner determine that the eviction of a problem tenant is necessary to address the disorderly house, the owner shall proceed with a seven (7) day eviction for cause pursuant to 14 M.R.S.A. 6002(1) or as set forth in the lease agreement between the parties.

(c) Condemnation – In the event that condemnation is required for [a] disorderly house violation(s), the City shall serve all tenants of the building with written notice of said condemnation at least thirty (30) days in advance of the act of condemnation or the posting against occupancy.

(d) Notice of Suit – In the event of legal action against an owner or landlord for a disorderly house violation, the City shall identify all tenants of the building as interested parties. Said tenants shall receive service of said complaint or petition.

Portland, Maine   Yes. Life's good here.

Planning & Urban Development Department

To: Councilor Duson, Chair Housing Committee
Members of the Housing Committee

From: Victoria Volent, Housing Program Manager
Housing & Community Development Division

Date: November 21, 2017

Subject: Inclusionary Zoning Review

The attached packet of information contains an outline of the four Inclusionary Zoning Housing Policy proposals for the Housing Committee's consideration. The proposals are:

- Amend the Inclusionary Zoning Ordinance to include a fractional fee-in-lieu payment when units are provided on site.
- Amend the Inclusionary Zoning Ordinance to remove the sunset clause.
- Amend the Inclusionary Zoning Ordinance to increase the percentage of mandatory affordable units.
- Amend the Inclusionary Zoning Ordinance to lower the affordability income level.

Also included is a memo titled Inclusionary Zoning Review which assesses Inclusionary Zoning provisions for the Housing Committee's evaluation. The provisions for review are:

- Approach for setting Fees
- Affordability Terms
- Income Targeting
- Inclusionary Set Aside Percentages

To: Councilor Duson, Chair Housing Committee
Members of the Housing Committee

From: Victoria Volent, Housing Program Manager
Housing & Community Development Division

Date: November 21, 2017

Subject: Inclusionary Zoning Review

Introduction

On November 9, the Housing Committee received a memo from staff reviewing the City's fee-in-lieu payment option. The fee-in-lieu is theoretically meant to cover the cost of creating an affordable unit at the target income levels. Portland's fee-in-lieu is set at $100,000 per unit, adjusted annually in the same way as the fee under Division 29 for Housing Replacement. The 2017 fee-in-lieu is $102,500 per unit. In the November 9 memo, staff recommended the fee-in-lieu continue to be related to the cost of providing an affordable housing unit within the development project. Per the request of Mayor Strimling, staff has prepared this memo to review the fee-in-lieu policy in other communities as well as a review as to why some communities are eliminating the fee-in-lieu option from their Inclusionary Zoning requirement.

Approaches for Setting Fees

By the end of 2016, of the 886 municipalities across 25 states and Washington D.C. that have adopted Inclusionary Zoning, generally one of four approaches is chosen when setting the fee-in-lieu option. Those options are as follows:

- *The funding gap or existing production cost method* - The in-lieu fee is based on the average amount that the public has historically invested to actually produce each additional off-site affordable unit. For example, if it generally costs $250,000 to build a new unit and qualified low-income buyers could generally afford $200,000, then the fee would be $50,000

- *The affordability gap or developer's opportunity cost method* - The in-lieu fee is based on the typical difference in price (or rent) between market rate and affordable units. For example, if a typical market rate home sold for $300,000 and the affordable price was $200,000 the fee would be $100,000.

- *Percent of overall development costs* – The in-lieu fee is set as a fixed percentage of estimated development costs calculated on a per square foot basis rather than by unit.

- *Full cost of unit development* – The in-lieu fee equals the most current total development cost.

Portland's Inclusionary Zoning ordinance incorporates the "affordability gap or developer's opportunity cost fee-in-lieu method.

Communities that adopted the "funding gap or existing production cost method" did not successfully attain the goal of creating affordable housing units. This method set fees so low that when they were collected, the total dollar amount was often insufficient to produce the same number of affordable units that would have been produced had developers opted to build the affordable units themselves. Additionally, with a low fee-in-lieu payment, developers were more inclined to select the fee-in-lieu option rather than build the unit as paying the fee was in their financial best interest.

The "affordability gap or developer's opportunity cost method" requires the determination of the developer's opportunity cost (i.e. what the developer gives up by selling or renting for less than market value). Once determined, communities can set the fee-in-lieu at a level that encourages either the creation of affordable on-site units, or encourages payment of the fee-in-lieu depending upon the communities' preference. When all other things being equal, the higher the fee above the developer's opportunity cost, the higher the chance the developer will choose to build units on-site. Developers of luxury units have a higher opportunity cost and thus a strong incentive to pay the fee-in-lieu because they stand to lose more by constructing affordable units on site (Massachusetts Association of Community Development Corporations, 2006)

The "percent of development costs method" equally impact smaller homes and larger, luxury homes. Municipalities set fees as a fixed percentage of estimated development costs based on assumptions of profitability and prices. Subsequently, developers marketing their units at $1 million are proportionally impacted as the developer marketing their units at $250,000.

The "full cost of development method" is determined as a per-unit cost of development as calculated from regional construction and sales reports. The fee-in-lieu is indexed annually for accuracy.

Examples from Other Communities

Communities are moving away from offering a fee-in-lieu option. The report *Inclusionary Housing in the United States: Prevalence, Impact, and Practices* (2017) found of 886 jurisdictions studied, newer (2007 to 2017) Inclusionary Zoning ordinances were "less likely to use in-lieu fees as an option for developers to fulfill the program." Instead communities adopted or amended their ordinance eliminating the in-lieu option thus requiring developers to provide affordable housing on-site. At the same time other communities increased their fee-in-lieu in recognition of their preference for on-site units. And many now use a formula to determine the fee-in-lieu based on factors such as the size of the market rate units, the size of the project, and even the location of the project within the municipality.

New York City, Chicago, and San Diego do not permit a fee-in-lieu option to ensure developers actually create the affordable units rather than paying to get out of the obligation. San Francisco set a high fee designed to make creating the affordable unit on-site more attractive to developers.

Examples of fees-in-lieu from other municipalities are in the table below. As the vast majority of Inclusionary Zoning jurisdictions are located in New Jersey (45%) which has a fixed fee in-lieu of $180,000 per unit, Massachusetts (27%), and California (17%), many of the examples provided do include comparable communities located in Massachusetts.

Municipality	Fee-in-lieu
Boston, MA	$200,000- $380,000 per unit depending on location
Boulder, CO	Complex formula based on rental/ownership, size of the project, and percent of development cost
Brookline, MA	Based on sales price ($175,000 for a typical 8-unit project, $341,250 for a typical 15-unit project)
Burlington, VT	$100,000 in 2007, no longer permitted
Cambridge, MA	No longer permits fee-in-lieu
Chapel Hill, NC	$85,000
Framingham, MA	No longer permits fee-in-lieu
Haverhill, MA	15% of average fair market value of proposed dwelling units
Nashua, NH	Fee equivalent to the cost of constructing the dwelling unit
Newton, MA	12% on sale price for developments of 6 or less units
San Francisco, CA	$148,506-$521,431 per unit depending on the size of the market units ($366,369 for 2 BR)
Somerville, MA	Uses a complex formula based on location and unit types
Watertown, MA	$259,000-$399,000 depending on the size of the market rate
Waltham, MA	10% of the development cost

According to a 2013 study conducted by HUD (*Inclusionary Zoning and its Effect on Affordable Housing: Lessons from Two Counties*), examining the Inclusionary Zoning programs in the two "seasoned" counties of Montgomery County, Maryland and Fairfax County, Virginia, developers "considered clear requirements and consistent administration necessary. Developers who were interviewed stressed the importance of being able to plan, estimate costs, and accurately calculate their profit". The study also found that Inclusionary Zoning ordinances are "dynamic, rather than static, and change markedly over time."

Affordability Term

A recent national study found that more than 80 percent of inclusionary housing programs require units to remain affordable for at least 30 years, and one-third of those require 99-year or perpetual affordability (Hickey, Sturtevant, and Thaden 2014). The

Lincoln Institute of Land Policy noted "the overwhelming trend has been for inclusionary housing programs to adopt very long-term affordability periods, even programs with 30-year affordability restrictions frequently aim to preserve affordability in perpetuity by "resetting the clock" on each transaction and by maintaining the preemptive option to buy back the unit upon transfer. It is not entirely clear who benefits from shorter-term restrictions. For homeownership projects, a developer forced to sell units with 15-year restrictions faces the same economic cost as selling units with 99-year restrictions. For rental properties, the economics are a bit more complex. An investor might pay more for a property with rent restrictions that expire after 15 years than for one with 99-year restrictions, but the difference might be slight. In other words, the length of affordability makes a big difference to the long-term impact of the program but only a small difference on the front end" (Jacobus *Inclusionary Housing* 2015). Portland's affordability term is based on a sliding scale beginning with the longest term permitted under federal, state, local laws, and ordinances for the lowest percentage of workforce units provided, to a ten-year term for the highest percentage (100%) of workforce units provided.

Income Targeting

Income targeting is the term used to identify the population that will be served by Inclusionary Zoning. Inclusionary housing programs often target higher income levels than those targeted by federal housing programs (such as HUD's HOME program). Federal Housing programs are only eligible to fund the creation of low and very low-income housing. HOME funds must benefit rental households with income levels at or below 60% AMI, and homeownership households with income levels at or below 80% AMI. Portland has used its HOME funding to develop approximately 813 units of low-income housing through the allocation of approximately $7.1 million in funds since 2000. Funding aimed exclusively towards the creation of rental and ownership housing above HUD HOME guidelines does not exist. Portland's Inclusionary Zoning Ordinance targets those excluded households.

Successful Inclusionary Zoning policies target income groups that cannot find housing in the local market. To determine housing needs based on income, a comparison of Household Income (as reported by the U.S. Census) in Portland during 2010 and 2015 was conducted to determine which income group population has declined (i.e. a decline indicated an income group that cannot find housing) to which income group population has increased (i.e. an increase indicates an income group that can find housing).

For rental households, the income group with the greatest percentage decrease, at 3.0%, is households earning $5,000 to $9,999 per year. This income range falls within the poverty income level (defined by HUD), as do all but one other income group that experienced a percentage decrease in population. Rental households defined as low-income (80% AMI) to workforce-income (100%) also experienced a population decrease. Portland's Inclusionary Zoning targets rental households earning income levels at or below 100% AMI. The income group with the greatest percentage population increase is rental households earning $100,000 to $149,999 which increased by 2.6% from 2010 to 2015.

Renter Occupied Units

2010	(16,596)	
Income Level	Population	Percentage
Less than $5,000	800	4.9%
$5,000 to $9,999	2,094	12.6%
$10,000 to $14,999	1,887	11.3%
$15,000 to $19,999	1,404	8.5%
$20,000 to $24,999	1,406	8.5%
$25,000 to $34,999	2,217	13.4%
$35,000 to $49,999	2,758	16.6%
$50,000 to $74,999	2,416	14.6%
$75,000 to $99,999	1,074	6.5%
$100,000 to $149,999	400	2.4%
$150,000 or more	140	.8%

2015		(17,050)	Percentage
Income Level	Population	Percentage	Change
Less than $5,000	1,256	7.4%	2.5% increase
$5,000 to $9,999	1,641	9.6%	3.0% decrease
10,000 to $14,999	1,958	11.5%	.2% increase
$15,000 to $19,999	1,245	7.3%	1.2% decrease
$20,000 to $24,999	1,228	7.2%	1.3% decrease
$25,000 to $34,999	2,321	13.6%	.2% increase
$35,000 to $49,999	2,510	14.7%	1.9% decrease
$50,000 to $74,999	2,281	13.4%	1.2% decrease
$75,000 to $99,999	1,378	8.1%	1.6% increase
$100,000 to $149,999	860	5.0%	2.6% increase
$150,000 or more	372	2.2%	1.4% increase

For owner-occupied households, the income group with the greatest percentage decrease, at 2.1% is households earning $75,000 to $99,999 per year. This range falls within the upper end of households earning 100% AMI, and the lower end of households earning 120% AMI. Portland's Inclusionary Zoning targets owner-occupied households earning income levels at or below 120% AMI. The income group with the greatest percentage population growth is owner-occupied households earning $150,000 or more which grew by 4.4% from 2010 to 2015.

Owner Occupied Units

2010	(14,090)	
Income Level	Population	Percentage
Less than $5,000	178	1.3%
$5,000 to $9,999	155	1.1%
$10,000 to $14,999	374	2.7%
$15,000 to $19,999	290	2.1%
$20,000 to $24,999	495	3.5%
14090$25,000 to $34,999	1,049	7.4%
$35,000 to $49,999	1,674	11.9%
$50,000 to $74,999	3,022	21.4%
$75,000 to $99,999	2,813	19.9%
$100,000 to $149,999	2,627	18.7%
$150,000 or more	1,413	10%

2015		(13,069)	Percentage
Income Level	Population	Percentage	Change
Less than $5,000	272	2.1%	2.7% increase
$5,000 to $9,999	130	1.0%	.1% decrease
10,000 to $14,999	344	2.6%	.1% decrease
$15,000 to $19,999	375	2.9%	.8% increase
$20,000 to $24,999	427	3.3%	.2% decrease
$25,000 to $34,999	722	5.5%	1.9% decrease
$35,000 to $49,999	1,585	12.1%	.2% increase
$50,000 to $74,999	2,572	19.7%	.7% decrease
$75,000 to $99,999	2,325	17.8%	2.1% decrease
%100,000 to $149,999	2,439	18.7%	stable
$150,000 or more	1,878	14.4%	4.4% increase

"Ownership units typically cost developers relatively more to produce. While it would be possible to require that developers price ownership units so that they serve the same income group that is being served in rental housing, this would have a greater impact on financial feasibility for ownership projects. Many cities have determined that allowing developers of ownership units to serve a higher-income group can reduce the burden of the program on ownership projects while still serving a real affordable-housing need" (2017 InclusionaryHousing.Org "The Set-Aside Requirement.") "The challenge presented by Homeownership Association dues is one reason many cities allow ownership units to serve a higher income group compared to rental units" (Cambridge Inclusionary Housing Study, 2016). Portland's income target for rental housing is 100% AMI and 120% AMI for ownership households.

Inclusionary Set Aside Percentage

The inclusionary set aside identifies the percentage of units that must meet affordable requirements in new developments. The percentage varies widely by locality but some communities allow developers to build fewer units if they serve a higher need population (i.e. households at the lower end of the income spectrum) conversely, higher set-asides percentages are associated with higher income targets. Aggressive inclusionary zoning has a high set aside percentage with low income level targets. Burlington, VT directs the highest percentage of set asides (up to 25%) on the most expensive developments. Portland's set aside is 10% of all developments of ten units or more.

Conclusion

The integrity of the fee-in-lieu option rests upon the assumption that the value of the fee is at least equal to the value of the subsidy required to build the forgone unit elsewhere. This logic asserts that the subsidy a developer pays for building an affordable unit is the financial loss the developer stands to bear from selling or renting the unit below its natural market rate *(Building Better: Recommendations for Boston's Inclusionary Development Policy*, 2006). Portland's Inclusionary Zoning ordinance incorporates the "affordability gap or developer's opportunity cost fee-in-lieu method which is based upon this assumption.

Staff reiterates the recommendation to the Housing Committee from November 9 that the fee-in-lieu continue to be related to the cost of providing an affordable housing unit within the development project. Additionally, staff recommends consideration be given to requiring that in cases where units are provided on-site – where the developer can round the number of units down – the City consider adopting a best practice that the "fractional" unit be provided in the form of a proportional fee-in-lieu.

Staff is not recommending any changes at this time to the affordability term sliding scale, the income targeting levels, or the inclusionary set aside percentage. The current scales, levels, and percentages provide developer incentives to increase the creation of affordable housing while striking a balance between aggressive affordable housing parameters and providing developers with flexibility on meeting the Inclusionary Zoning requirements.

To: Councilor Duson, Chair Housing Committee
Members of the Housing Committee

From: Victoria Volent, Housing Program Manager
Housing & Community Development Division

Date: November 3, 2017

Subject: Proposed Amendments to the Inclusionary Zoning Ordinance and Review of Fee-in-lieu Payment

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Summary:

This memo contains two topics for review in regards to the City's Inclusionary Zoning Ordinance. The first topic item outlines two proposed staff amendments to the Inclusionary Zoning Ordinance. The second topic item is a review of the fee-in-lieu payment.

Topic One: Staff Amendments to the Inclusionary Zoning Ordinance

Amend the Inclusionary Zoning Ordinance to include a fractional fee-in-lieu payment when units are provided on-site.

A fractional fee-in-lieu would result when the calculation of a project's inclusionary obligation results in a fractional unit. The fractional unit obligation would be provided in the form of a proportional fee-in-lieu that is related to the cost of providing an affordable housing unit within the development project. The amendment would apply to on-site projects as the current ordinance allows developers to round the number of units down. This would address the concern that the requirement, while listed at 10%, can be as low as 5.25%.

For example, currently a 10-unit project and a 19-unit project may both meet their workforce housing requirements by providing one workforce unit on-site. No change is recommend for the 10-unit project (it would continue to meet the requirement by providing one unit on site;) however, the 19-unit project would have to provide the unit on-site and also pay 90% of the fee-in-lieu (currently $92,250.) This is consistent with how many other communities handle proportional units.

OVERALL ESTIMATED COST/REVENUE: Approximately $10,250 per 10% of each fractional unit obligation.

Amend the Inclusionary Zoning Ordinance to remove the sunset clause.

Removing the sunset clause from the Inclusionary Zoning Ordinance would address the concern that this clause may result in land banking, especially as 2021 approaches. Given the need for housing production, staff recommends that the sunset clause be removed, and that the City Council make any decision to amend or repeal the ordinance as they please without a set timeframe.

The Mayor has two additional recommendations which are outlined in the attached July 18th Council Memo.

Topic Two: Review of the fee-in-lieu payment

Last month, staff presented the 2017 Housing Report to the Housing Committee. Section II. b. of the report presented the accomplishments of current City policies and initiatives in place to address issues of housing affordability and availability. While discussing the accomplishments of the Inclusionary Zoning Ordinance, the Housing Committee requested staff to prepare a separate report regarding how Portland and other municipalities determine an appropriate fee-in-lieu payment.

Background

In October 2015, the City Council approved amendments to the City's zoning ordinance mandating inclusionary zoning within all residential development projects of ten or more units. Section 14-487, Ensure Workforce Housing, requires all projects to make available a minimum of 10% of their units as workforce housing to eligible households. Developers also have the option of building units off-site within the same census block or paying a fee-in-lieu of some or all units into the City's Housing Trust Fund.

The fee for affordable units not provided was set at $100,000 per unit, adjusted annually in the same way as the fee under Division 29 for Housing Replacement. The 2017 fee-in-lieu is $102,500 per unit.

Since adoption of Inclusionary Zoning, eleven qualifying residential or mixed-use projects proposed by private developers have been approved by the Planning Board as of October, 2017. From those eleven projects, 14 units of workforce housing are proposed, and five out of eleven developers chose to pay the fee-in-lieu into the City's Housing Trust Fund for a total of $1,266,250 (the actual funds will be deposited when the certificate of occupancy is requested).

Establishing a Fee-in-lieu Payment Amount

A March 5, 2015 staff memorandum to the Housing and Community Development entitled "*Proposed Inclusionary Zoning Ordinance- Next Steps*" noted:

> It is important to keep in mind that the fee-in-lieu is theoretically supposed to cover the cost of creating an affordable unit at the target income levels. While it is hard to find a specific number that meets that goal, we generally find that the cost of producing an affordable unit is about $125,000.

In Massachusetts the state's Department of Housing and Community Development recommends a fee-in-lieu "be determined as a per-unit cost as calculated from regional construction and sales report".

New Jersey and California also have state-wide inclusionary zoning policies. According to the National Housing Council, these two states and Massachusetts account for nearly 80% of all inclusionary zoning programs in the United States. New Jersey's fee-in-lieu requirement is $180,000 per unit, while California requires an "in-lieu fee that is reasonably related to the cost of providing the affordable unit forgone by the developer's election to pay the fee".

Examples from Other Communities

Some communities are moving away from the option of offering a fee-in-lieu option. Others are increasing their fee-in-lieu in recognition of their preference for on-site units.

Many use a formula to determine the fee-in-lieu based on factors such as the size of the market rate units, the size of the project, and even the location of the project within the municipality.

Some examples of fees-in-lieu from other municipalities are in the table below.

Municipality	Fee-in-Lieu
Boston, MA	$200,000- $380,000 per unit depending on location
Brookline, MA	Based on sales price ($175,000 for a typical 8-unit project, $341,250 for a typical 15-unit project)
Burlington VT	$100,000 in 2007, no longer permitted
Cambridge, MA	No longer permits fee-in-lieu
Chapel Hill, NC	$85,000
San Francisco, CA	$148,506-$521,431 per unit depending on the size of the market units ($366,369 for 2 BR)
Somerville, MA	Uses a complex formula based on location and unit types
Tirburon, CA	$275,000
Watertown, MA	$259,000-$399,000 depending on the size of the market rate

Development Costs Analysis

Housing and Community Development Division Staff analyzed development costs associated with sixteen affordable housing projects in Portland which received some type of subsidy from the City (HOME, CDBG, TIF, etc.) from 2000 to 2013. The analysis revealed the average development cost per unit was $192,664.

Conclusion

Portland, California, and Massachusetts each consider the per unit cost of producing a unit of affordable housing, given unique local circumstances (cost of land, need for infrastructure, current construction costs, etc.), when determining the fee-in-lieu. Staff recommends the fee-in-lieu continue to be related to the cost of providing an affordable housing unit within the development project.

However, staff recommends consideration be given to requiring that in cases where units are provided on-site – where the developer can round the number of units down –

the City consider adopting a best practice that the "fractional" unit be provided in the form of a proportional fee-in-lieu.

MEMORANDUM
City Council Agenda Item

DISTRIBUTE TO: City Manager, Mayor, Anita LaChance, Sonia Bean, Danielle West-Chuhta, Nancy English, Julianne Sullivan

FROM: Ethan Strimling, Mayor

DATE: July 18, 2017

SUBJECT: Amendments to Inclusionary Zoning Ordinance

SPONSOR: Ethan Strimling, Mayor
(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st reading__7/24/17________ Final Action__TBD____

Can action be taken at a later date: _x__ Yes ____ No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. ONE SENTENCE SUMMARY

Amendments are being proposed to Division 30 related to the Inclusionary Zoning ordinance, including proposals to increase the percentage required to 20% and lower the income maximums.

II. AGENDA DESCRIPTION

Submission of proposed changes to the Inclusionary Zoning ordinance in Chapter 14 Division 30, for referral to the Housing Committee. This submission includes changes proposed by the Mayor and other changes proposed by City Staff.

III. BACKGROUND

In October 2015, the City Council passed the City's inclusionary zoning ordinance in section 14-387. That ordinance was part of a package known as "Encourage and Ensure" that included significant density bonuses for housing production, and also the inclusionary requirement for larger developments. In summary, the current ordinance requires that all developments of 10 units or more include 10% of their units as affordable at 100% of Area Median Income (about $80,000 for a family of 4) if they are rentals, or at 120% of Area Median Income (about $96,000 for a family of 4) if they are for sale. The number of units is rounded down, so a development of between 10 and 19 units has to provide 1 affordable unit. Alternatively, a developer can pay a fee-in-lieu to the City's Housing Trust of $100,000 a unit (adjusted annually, currently $102,500.) That amount is not rounded down, so a 19-unit building would have to pay a fee-in-lieu of $194,750.

Since the ordinance went into effect, housing developments proposals have continued at a similar pace as prior to the ordinance. Attached is a list of projects that are subject to the ordinance and their proposed method of meeting its requirements. Developers have generally been cooperative with staff in thinking through how to meet its requirements, and have noted the flexibility of the ordinance as an asset. Note that some projects that opened after October 2015, such as the Hiawatha on Congress Street, were not subject to the ordinance as they applied for site plan approval prior to its effective date.

This item proposes to forward to the Housing Committee two sets of amendments. One set, proposed by the Mayor, would increase the percentage requirement in the ordinance to 20%, and also require that the units be affordable at low-income (80% of Area Median Income, or about $65,000 for a family of 4, if for rent; or 100% of Area Median income if for sale.)

The second set of amendments, proposed by staff, are primarily designed to fine tune the ordinance. They include some clarifications of definitions and corrections of scrivener's errors. Staff is also proposing that when units are provided on-site, a developer will have to pay a fee-in-lieu for a fractional unit as per the size of the project. In the 19-unit example above, if the 1 unit were provided on-site, the developer would also have to pay $90,250 into the Housing Trust. This would address the concern that the requirement, while listed as 10%, can be as low as 5.25%.

Finally, the existing ordinance includes a sunset clause that requires that it automatically expire in 2021. Staff has raised the concern that this clause may result in land banking, especially as 2021 approaches, by land owners hoping to sell their property with an inclusionary zoning requirement. Given the need for housing production, staff recommends that sunset clause be removed, and that the City Council make any decision to amend or repeal the ordinance as they please without a set timeframe.

IV. INTENDED RESULT AND OR COUNCIL GOAL ADDRESSED

The goal is to increase production of low-income affordable housing and to implement the Council goal to: "Implement policies to capitalize the Housing Fund."

V. FINANCIAL IMPACT

None currently anticipated, but would be studied as part of the Housing Committee and Planning Board processes.

VI. STAFF ANALYSIS AND BACKGROUND THAT WILL NOT APPEAR IN THE AGENDA DESCRIPTION

Staff has been monitoring the Inclusionary Zoning ordinance to determine its effectiveness to date. Generally, it has been working very well for what it was intended to accomplish. However, there are some relatively minor changes staff is recommending at this time to fine tune the ordinance. The Mayor's recommended changes would make the ordinance similar to those in Cambridge and Somerville, Massachusetts, which both recently increased their inclusionary requirement to 20%. The income levels recommended in the Mayor's changes are not unusual for Inclusionary Zoning ordinances nationally. At this point, staff recommends forwarding these proposed changes to the Housing Committee for further discussion.

VII. RECOMMENDATION

Referral to the Housing Committee and potentially Planning Board for recommendations to the full Council.

VIII. LIST ATTACHMENTS

Draft text amendments to Division 30
Income limits for 2017
Projects subject to Inclusionary Zoning to date

Prepared by: Jeff Levine
Date: July 18, 2017

Bean/agendarequestmemo/rev 1/23/2017

Order 14-17/18

Passage: 6-3 (Batson, Duson, and Ray) on 7/24/2017 Effective 8/3/2017

CITY OF PORTLAND

IN THE CITY COUNCIL

**ORDER REFERRING
THE INCLUSIONARY ZONING AMENDMENTS
TO THE HOUSING COMMITTEE**

ORDERED, that the City Council hereby refers the proposed inclusionary zoning amendments, attached hereto, to the Housing Committee; and

BE IT FURTHER ORDERED, that the Housing Committee review the proposed ordinance and provide its final recommendation on this issue to the City Council.

...

Sec. 14-485. Definitions.

Affordable means that the percentage of income a household is charged in rent and other housing expenses, or must pay in monthly mortgage payments (including condominium/HOA fees, mortgage insurance, other insurance and real estate taxes), does not exceed 30% of a household's income, or other amount established in city regulations that does not vary significantly from this amount.

Low-income housing unit for rent means a dwelling unit for which:

(a) The rent is affordable to a household earning 80% or less of Area Median Income (AMI) as defined by the United States Department of Housing and Urban Development (HUD); and

(b) Annual rent increases for that unit are limited ~~in perpetuity~~ by deed restriction or other legally binding agreement to the percentage increase in the U.S. Department of Housing and Urban Development moderate-income figure for metropolitan Cumberland county Maine for a household of that size.

Low-income housing unit for sale means a dwelling unit for which:

(a) The sale price is affordable to a household earning ~~80~~100% or less of the HUD AMI; and

(b) The resale price is limited by deed restriction or other legally binding agreement for ~~all~~ future sales of the unit to an amount that is affordable to a household earning ~~120~~100 80% of the U.S. Department of Housing and Urban Development moderate-income figure for metropolitan Cumberland county Maine for a household of that size, as calculated for the year in which the sale takes place.

Development fees means:

(a) The following fees, as described in this chapter: site plan review and inspection fees; subdivision review and inspection fees; and administrative fees; and

(b) Construction and permit fees as described in chapter 6. "Development fees" does not include any fees charged for reviews conducted by a party other than the city.

Dwelling unit has the same meaning as that term is defined in section 14-47.

Eligible project means a development project:

(a) That is permissible under the provisions of this chapter in the zone in which it is proposed;

(b) That will be a multi-family dwelling ,as defined in section 14-47, and will not be located in an R-1 or R-2 zone;

(c) That creates new dwelling units, among which is at least one low-income or workforce housing unit for rent or ~~workforce housing for~~ sale, through new construction, substantial rehabilitation of existing structures, adaptive reuse or conversion of a non-residential use to residential use, or any combination of these elements. Affordable housing units for sale or rent may not differ in exterior design from other units within an eligible project; and

(d) Projects shall not be considered "eligible projects" solely because they are subject to Section 14-487 ("Ensuring Workforce Housing").

Workforce housing unit for rent means a dwelling unit which:

(a) Is affordable to a household earning 100% or less ~~than 100%~~ of HUD AMI; and

(b) Annual rent increases for that unit are limited by deed restriction or other legally binding agreement to the percentage increase in the HUD Greater Portland Metropolitan Statistical Area median income figures for a household of that size.

Workforce housing unit for sale means a dwelling unit for which:

(a) The purchase price is affordable to a household earning ~~at~~ 120% or less of HUD AMI; and

(b) The resale price is limited by deed restriction or other legally binding agreement for ~~all~~ future sales of the unit, or a lesser term as permitted in regulations, to the percentage increase in the HUD Greater Portland Metropolitan Statistical Area median income figures for a household of that size.

...

Sec. 14-487. Ensuring Workforce Housing.

a) *Purpose.* Based on the city's Comprehensive Plan and the housing study completed in 2015, it is in the public interest to promote an adequate supply of housing that is affordable to a range of households at different income levels. The purpose of this section is to ensure that housing developments over a certain size provide a portion of workforce housing units and, by doing so, promote the health, safety, and welfare of Portland citizens.

b) *Applicability~~/Conditional Use Requirement/Sunset~~*. This division shall apply to development projects that create ten or more new dwelling units for rent or for sale through new construction, substantial rehabilitation of existing structures, adaptive reuse or conversion of a non-residential use to residential use, or any combination of these elements. This division shall not apply to projects that have submitted complete Master Development Plan, Level III Site Plan, or comparable applications to move forward prior to its effective date.

c) *All Developments of Ten Units or More Conditional Uses*. Notwithstanding any language to the contrary in Chapter

14, all developments of ten units or more are conditional uses subject to Planning Board review on the condition that they comply with the requirements of this section, 14-487 unless they are within the India Street Form Based Code district, in which case staff shall determine compliance with this section.

~~This section 14-487 shall be in effect for six years following its passage, at which time the overall effectiveness of this section shall be assessed by city planning staff or their agent and either this expiration date shall be deleted or the entire section shall be removed from the Code of Ordinances.~~

~~d) Workforce~~Low-Income Housing Minimum. At least ~~ten~~ twenty percent (~~1~~20%) of the units in the project shall meet the definition of ~~workforce~~ low-income housing unit for sale or for rent. ~~The number of units required is rounded down to a whole number if providing units as per (c)2. below, or shall include a fractional value in cases where a project prefers to pay a fee-in-lieu as per (c)3. below.~~The project shall have the option of paying a partial fee-in-lieu as per (c)3 below for the fractional value, or providing an additional unit on site.

e) Standards.

1. Projects shall not be segmented or phased to avoid compliance with these provisions. In cases where projects are completed in phases, affordable units shall be provided in proportion to the development of market rate units unless otherwise permitted through regulations.

~~2.~~ ~~Workforce~~ Low-income housing units are encouraged to be integrated with the rest of the development, should use a common entrance and should provide no indications from common areas that these units are workforce housing units.

~~3.~~ ~~Workforce~~ Low-income units need not be the same size as other units in the development but the number of bedrooms in such units, either on- or off-site, shall be ~~1~~20 percent of the total number of bedrooms in the development. For the purposes of calculating the number of bedrooms in a development~~this section~~, ~~for~~ every 400 square feet in each~~a~~ market rate unit will count as a bedroom if the Planning Authority determines this method is appropriate in lieu of counting actual bedrooms.~~ if the actual number of~~

~~bedrooms in the unit is lower.~~

4. As an alternative to providing ~~workforce~~ low-income housing units, projects may pay a fee in lieu of some or all of the units. In-lieu fees shall be paid into the Housing Trust Fund as defined in Sec. 14-489. The fee for affordable units not provided shall be $~~100,000~~ 102,500 per unit, adjusted annually in the same way as the fee under Division 29 for Housing Replacement.

~~5.~~ ~~Workforce~~ Low-income housing units for sale, if converted to ~~workforce~~ low-income housing units for rent, shall become subject to the income limits and other requirements of such units.

6. If at least 33 percent of the units in a development are workforce or low-income housing units, the development is eligible for subsidy through an Affordable Housing TIF, subject to City Council approval.

7. The term of affordability for the required ~~1~~20 percent ~~workforce~~ low-income housing units provided shall be defined as follows:

Percentage of Workforce Units Provided	Minimum Term of Affordability for Required Workforce Units
10%	Longest term permitted under federal, state and local laws and ordinances
25%	30 years
50%	20 years
100%	10 ears

...

DIVISION 30. AFFORDABLE HOUSING

Sec.14-484. Purpose.

It is in the public interest to promote an adequate supply of affordable housing for the city's residents. The purpose of this division therefore is to offer incentives to developers to include units of affordable housing within development projects, thereby mitigating the impact of market rate housing construction on the limited supply of available land for suitable housing, and helping to meet the housing needs of all economic groups within the city. The city believes that this division will assist in meeting the city's comprehensive goals for affordable housing, in the prevention of overcrowding and deterioration of the limited supply of affordable housing, and by doing so promote the health, safety and welfare of its citizens.
(Ord. No. 98-06/07, 12-4-06; Ord. 82-15/16, 10-19-2015)

Sec. 14-485. Definitions.

Affordable means that the percentage of income a household is charged in rent and other housing expenses, or must pay in monthly mortgage payments (including condominium/HOA fees, mortgage insurance, other insurance and real estate taxes), does not exceed 30% of a household's income, or other amount established in city regulations that does not vary significantly from this amount.

Low-income housing unit for rent means a dwelling unit for which:

(a) The rent is affordable to a household earning 80% or less of Area Median Income (AMI) as defined by the United States Department of Housing and Urban Development (HUD); and

(b) Annual rent increases for that unit are limited ~~in perpetuity~~ by deed restriction or other legally binding agreement to the percentage increase in the U.S. Department of Housing and Urban Development moderate-income figure for metropolitan Cumberland county Maine for a household of that size.

Low-income housing unit for sale means a dwelling unit for which:

(a) The sale price is affordable to a household earning ~~80~~100% or less of the HUD AMI; and

(b) The resale price is limited by deed restriction or other legally binding agreement for ~~all~~ future sales of the unit to an amount that is affordable to a household earning ~~120~~100 80% of the U.S. Department of Housing and Urban Development moderate-income figure for metropolitan Cumberland county Maine for a household of that size, as calculated for the year in which the sale takes place.

Development fees means:

(a) The following fees, as described in this chapter: site plan review and inspection fees; subdivision review and inspection fees; and administrative fees; and

(b) Construction and permit fees as described in chapter 6. "Development fees" does not include any fees charged for reviews conducted by a party other than the city.

Dwelling unit has the same meaning as that term is defined in section 14-47.

Eligible project means a development project:

(a) That is permissible under the provisions of this chapter in the zone in which it is proposed;

(b) That will be a multi-family dwelling ,as defined in section 14-47, and will not be located in an R-1 or R-2 zone;

(c) That creates new dwelling units, among which is at least one low-income or workforce housing unit for rent or ~~workforce housing for~~ sale, through new construction, substantial rehabilitation of existing structures, adaptive reuse or conversion of a non-residential use to residential use, or any combination of these elements. Affordable housing units for sale or rent may not differ in exterior design from other units within an eligible project; and

(d) Projects shall not be considered "eligible projects" solely because they are subject to Section 14-487

(“Ensuring Workforce Housing”).

Workforce housing unit for rent means a dwelling unit which:

(a) Is affordable to a household earning 100% or less ~~than 100%~~ of HUD AMI; and

(b) Annual rent increases for that unit are limited by deed restriction or other legally binding agreement to the percentage increase in the HUD Greater Portland Metropolitan Statistical Area median income figures for a household of that size.

Workforce housing unit for sale means a dwelling unit for which:

(a) The purchase price is affordable to a household earning ~~at~~ 120% or less of HUD AMI; and

(b) The resale price is limited by deed restriction or other legally binding agreement for ~~all~~ future sales of the unit, or a lesser term as permitted in regulations, to the percentage increase in the HUD Greater Portland Metropolitan Statistical Area median income figures for a household of that size.

(Ord. No. 98-06/07, 12-4-06; Ord. No. 84-08/09, 10-20-08; Ord. 82-15/16, 10- 19-2015; Ord. No. 196-15/16, 3-21-2016)

Sec. 14-486. Reduction of fees.

…

Sec. 14-487. Ensuring Workforce Housing.

a) *Purpose.* Based on the city’s Comprehensive Plan and the housing study completed in 2015, it is in the public interest to promote an adequate supply of housing that is affordable to a range of households at different income levels. The purpose of this section is to ensure that housing developments over a certain size provide a portion of workforce housing units and, by doing so, promote the health, safety, and welfare of Portland citizens.

b) *Applicability~~/Conditional Use Requirement/Sunset~~*. This division shall apply to development projects that create ten or more new dwelling units for rent or for sale through new

Formatted: List Paragraph, Right: 0.28", Tab stops: 0.97", Left construction, substantial rehabilitation of existing structures, adaptive reuse or conversion of a non-residential use to residential use, or any combination of these elements. This division shall not apply to projects that have submitted complete Master Development Plan, Level III Site Plan, or comparable applications to move forward prior to its effective date.

c) *All Developments of Ten Units or More Conditional Uses*. Notwithstanding any language to the contrary in Chapter 14, all developments of ten units or more are conditional uses subject to Planning Board review on the condition that they comply with the requirements of this section, 14-487 unless they are within the India Street Form Based Code district, in which case staff shall determine compliance with this section.

~~This section 14-487 shall be in effect for six years following its passage, at which time the overall effectiveness of this section shall be assessed by city planning staff or their agent and either this expiration date shall be deleted or the entire section shall be removed from the Code of Ordinances.~~

d) ~~Workforce~~Low-Income Housing Minimum. At least ~~ten~~ twenty percent (~~1~~20%) of the units in the project shall meet the definition of ~~workforce~~ low-income housing unit for sale or for rent. ~~The number of units required is rounded down to a whole number if providing units as per (e)2. below, or shall include a fractional value in cases where a project prefers to pay a fee-in-lieu as per (e)3. below.~~The project shall have the option of paying a partial fee-in-lieu as per (c)3 below for the fractional value, or providing an additional unit on site.

e) Standards.

a. Projects shall not be segmented or phased to avoid compliance with these provisions. In cases where projects are completed in phases, affordable units shall be provided in proportion to the development of market rate units unless otherwise permitted through regulations.

b. ~~Workforce~~ Low-income housing units are encouraged to be integrated with the rest of the development, should use a common entrance and should provide no indications from common areas that these units are workforce housing units.

c. ~~Workforce~~ Low-income units need not be the same size as other units in the development but the number of bedrooms in such units, either on- or off-site, shall be ~~1~~20 percent of the total number of bedrooms in the development. For the purposes of calculating the number of bedrooms in a development~~this section~~, ~~for~~ every 400 square feet in each~~a~~ market rate unit will count as a bedroom if the Planning Authority determines this method is appropriate in lieu of counting actual bedrooms.~~ if the actual number of bedrooms in the unit is lower.~~

d. As an alternative to providing ~~workforce~~ low-income housing units, projects may pay a fee in lieu of some or all of the units. In-lieu fees shall be paid into the Housing Trust Fund as defined in Sec. 14-489. The fee for affordable units not provided shall be $~~100,000~~ 102,500 per unit, adjusted annually in the same way as the fee under Division 29 for Housing Replacement.

e. ~~Workforce~~ Low-income housing units for sale, if converted to ~~workforce~~ low-income housing units for rent, shall become subject to the income limits and other requirements of such units.

f. If at least 33 percent of the units in a development are workforce or low-income housing units, the development is eligible for subsidy through an Affordable Housing TIF, subject to City Council approval.

g. The term of affordability for the required ~~1~~20 percent ~~workforce~~ low-income housing units provided shall be defined as follows:

Percentage of Workforce Units Provided	Minimum Term of Affordability for Required Workforce Units
10%	Longest term permitted under federal, state and local laws and ordinances
25%	30 years
50%	20 years
100%	10 ears

f) Implementing Regulations. Regulations to further specify the details of this section shall be developed, including, but not limited to:

h. Specific methodology for income verification;

i. Situations where less than permanent affordability might be considered; and

j. Guidelines for meeting the requirement that off-site units be “in the same neighborhood”.

g) Reporting to City Council. In conjunction with the annual report on the Housing Trust, city planning staff shall annually report on developments subject to this section, the number of units produced, the amount of fee-in-lieu collected, and the overall effectiveness of this section in achieving its stated purpose.

Portland, Maine Yes. Life's good here.

Office of the Mayor, Ethan K. Strimling

TO: Housing Committee, Councilor, Jill Duson, Chair; Councilors David Brenerman and Brian Batson
FROM: Ethan Strimling, Mayor
DATE: November 29, 2017

Inclusionary Zoning Changes

- Increase the percentage of units required from 10% to 20%
- Drop income eligibility levels from 120 to 100% AMI for home ownership and from 100 to 80% for rental
- Change AMI to Portland Median Income

The Lincoln Institute described the need for inclusionary zoning well: "skyrocketing housing prices push middle class and low-income residents far away from well-paying jobs, reliable transportation, good schools, and safe neighborhoods. Inclusionary housing alone will not solve our housing crisis, but it is one of the few bulwarks we have against the effects of gentrification." Indeed, more than 500 communities nationwide have adopted such ordinances.

And despite strong concerns expressed when this passed the council 7-2 in 2015, - "You're going to get less housing" and "Small developers will say, 'if the limit is 10, I'll do nine" - nothing could be further from the truth of what actually happened. In reality, Housing construction has continued at a solid pace with 195 units permitted in 2016 and 296 in 2017. Both years after the IZ was put in place, compared to 136 in 2014 (2015 is an odd year as it has a few huge projects permitted, like Federated, that have yet to be built).

However, despite the adoption of our own IZ ordinance two years ago, there is, as this committee is well aware, still an affordable housing crisis in Portland. And while the IZ ordinance has certainly not had a detrimental impact on housing development, it also has not seen the impact it could. Raising the percentage of low-income units required from the current 10% to 20% will better utilize this existing tool, and aggressively targeting lower-income percentages for homeownership and rentals will follow "best practices" from other communities, according to staff, to target those who benefit most.

A few quick facts on how our IZ compares to other communities:

- In a 2014 study of communities around the country with inclusionary zoning ordinances, about 77% used greater than 10% as the required set-aside, with 73% of municipalities at 15% or higher. Over half are at 20% or higher, the level I am requesting the committee consider today.
- Additionally, according to our planning staff, 80% and 100% affordability are considered "best practice."

A few quick facts on the affordability crisis:

- As we heard two weeks ago, 1200 people in Portland have applied to Avesta for housing, and they have only been able to help 100. Additionally, this morning I went to the new Avesta Project on Carleton Street, where they have brand new affordable units ranging from $500-$1000 a month. They already have 65 applications for the 37 units, and they aren't even open. They have closed the process.
- A third of all Portland owner-occupied households pay 30% or more of their income on housing and about half of rental households pay 30% or more.
- 74% of households are unable to afford the median home price in the city and 62% of renter households cannot afford the average two-bedroom apartment.
- For a house to be affordable at the median household income, the cost would need to be about $143,479. However, the median home price in Portland last year was $262,250, which requires an annual income of $80,110.
- Of the 976 homes sold in Portland in 2016, only 34 were considered affordable.
- About 43% of Portland renters and 29% of homeowners are considered to be living in poverty.
- The median renter household earns $31,028, meaning that affordable median rent is $776 a month. Unfortunately, the median rent for a two bedroom is almost $300 higher ($1,052). Nearly 62% of renter households cannot afford this.
- Median rents citywide averaged an increase of 7.2% from last year to this year, with vast differences between neighborhoods.

Portland Maine Yes. Google's good here.

Mary Davis <mpd@portlandmaine.gov>

Comments re Inclusionary Zoning

1 message

Jonathan Culley <jonathan@redfernproperties.com> Wed, Nov 29, 2017 at 1:12 PM
To: Brian Batson <bbatson@portlandmaine.gov>, "District 5: David Brenerman" <dbrenerman@portlandmaine.gov>, jduson@portlandmaine.gov
Cc: jlevine@portlandmaine.gov, mpd@portlandmaine.gov, Vvolent@portlandmaine.gov

Dear Councilors,

Unfortunately, I am unable to attend tonight's Housing Committee Meeting, so I offer my comments in writing regarding potential changes to the Inclusionary Zoning ordinance. Because Redfern Properties' focus is on developing rental housing in Portland, I speak only about the provisions related to rental housing and not those pertaining to condominiums. It is important to note the significant differences between these two markets and how the ordinance impacts them differently.

Since the current Inclusionary Zoning ordinance took effect roughly two years ago, there have been ZERO new construction apartment buildings started that were impacted by the ordinance. Unfortunately, we are not getting the rental housing that our city desperately needs. The reason is simple – the economics of market rate rental housing development are not currently feasible. Since Redfern built our three larger apartment buildings in Portland (183 Brackett St., 89 Anderson St., 667 Congress St.), the cost to develop has increased by nearly 20%. At the same time rents have plateaued. Right now, there is not an adequate return on investment to build without tax credits or subsidies.

So the Mayor's proposal to increase the affordable unit percentage (from 10-20%) and decrease the affordability level (from 100% AMI to 80%) is not sensible given the reality of our market. The logic seems to be that we are not getting enough, so let's try to get more by making it more expensive for those who create the housing that we need. It is nothing more than wishful thinking.

Inclusionary Zoning works essentially as a tax on "windfall profits" on Developers. And when there are "windfall profits" it is a reasonable way for Developers to support those who are less fortunate. But the lack of recent apartment development is absolute proof that in Portland's current market there are no "windfall profits" – there are not even "ample profits". If they were, Developers would be building. While when looking at some policies, benchmarking other cities makes sense. But in this case, we need not look past what has happened in the last two years in Portland, to know that a more aggressive Inclusionary Zoning Policy would be foolish.

Portland's Inclusionary Zoning ordinance is still brand new. It is far too soon to be tweaking the major provisions of the policy. While the modest adjustments recommended by Staff are thoughtful and reasonable, the Mayor's proposals to increase the unit percentage to 20% or decrease the affordability level to 80% will ensure that we don't see any new apartments built in Portland for the foreseeable future.

Thank you for your consideration.

Jonathan Culley

Redfern Properties LLC

cell: 207.776.9715

jonathan@redfernproperties.com

www.redfernproperties.com

Portland Maine Yes. Google's good here.

Mary Davis <mpd@portlandmaine.gov>

Fwd: Thoughts on the Inclusionary Zoning regulations

1 message

Victoria Volent <vvolent@portlandmaine.gov> Mon, Nov 27, 2017 at 4:26 PM
To: Jeff Levine <jlevine@portlandmaine.gov>, Mary Davis <mpd@portlandmaine.gov>, James Dealaman <jdealaman@portlandmaine.gov>

Attached are comments from Josh Benthein regarding the IZ Ordinance.

(I thanked Josh for his feedback and mentioned I was forwarding his e-mail on to you)

Victoria

Victoria Volent
Housing Program Manager
Housing and Community Development
Phone: 207-482-5028
Fax: 207-874-8949
www.portlandmaine.gov

---------- Forwarded message ----------
From: **Josh Benthien** <josh@northlandus.com>
Date: Mon, Nov 27, 2017 at 1:56 PM
Subject: Thoughts on the Inclusionary Zoning regulations
To: "jduson@portlandmaine.gov" <jduson@portlandmaine.gov>, "bbatson@portlandmaine.gov" <bbatson@portlandmaine.gov>, "dbrenerman@portlandmaine.gov" <dbrenerman@portlandmaine.gov>
Cc: Victoria Volent <vvolent@portlandmaine.gov>

Councilors,

Thank you for the opportunity to provide developer feedback on the current Inclusionary Zoning ('IZ') regulations. I was at the housing committee earlier this month, and spoke to my experience in working through the IZ regulations for the project my partners and I are developing at 443 Congress Street (retrofitting 4 floors of former office space into 28 units of apartments). Our project was the first rental project to obtain planning board approval after the council approved the IZ ordinance, but prior to the planning board's approving of the final regulations. In the last 90 days we have worked out a short term master lease with a local college to take all 28 apartment units. This change in direction required us to go back to Planning Board to request to pay the "fee in lieu" because college students who are claimed as dependents by their parents for tax purposes are not allowed to occupy IZ units; Planning Board approved this request on November 14th.

Without the master lease with the college, we had been prepared to move ahead with the IZ units in place and deed restricted for 99 years. We agree with the goal to increase moderate income/affordable housing options, although after going through the process of negotiating a workforce housing agreement with the city, we have concerns that the current IZ regulations will prevent housing development of rental housing resulting in further constraint on supply and increasing housing costs.

Before increasing the required IZ unit percentage , or reducing the AMI targets, we think that the city should consider adjusting the regulations to encourage more units to be placed in service. Attached is a letter with some areas of the IZ regulations that believe are preventing market rate housing developers of rental housing from moving forward with projects with IZ units in place, rather than paying the 'fee".

I hope to make it to the meeting on Wednesday to answer any questions you may have. Thank you all for your service to our city and thoughtful attention to this complex issue.

Josh

Josh Benthien

Partner

Northland Enterprises, LLC

207.780.0223 (ext 203)

Northland IZ Commentary- 1.27.17.pdf
566K

<u>Northland Enterprises Comments on how to improve the Inclusionary Zoning ordinance in Portland:</u>

We are writing to voice our concerns about the current Inclusionary Zoning ("IZ") ordinance and the Mayor's proposed changes to the ordinance. We recognize that Portland needs a variety of housing types to thrive as a city, and we know that the best way to create a range of housing options is for the City to foster a regulatory climate that is conducive to development.

The Inclusionary Zoning ordinance in its current form is a strong ***disincentive*** for developers to build multi-family housing projects that have more than nine units. We are unaware of any onsite rental IZ units created in the City to date. The program is failing at creating affordable units in Portland because it poses many impractical restrictions on developers.

We present the following observations and recommendations regarding the IZ, in hopes of improving the existing policy and fostering the development of badly-needed modern rental housing stock:

Tenant Selection

The most glaring shortcoming of the current IZ policy is the City's involvement with tenant screening. The Agreement requires that prospective IZ tenants be approved by the City. That means a property owner cannot lease a unit to an IZ tenant without City staff reviewing the application and retaining the right apply their own screening methods to verify the prospective tenant's income. Practically speaking, this provision is unworkable for the property owner, as few prospective tenants will be willing to wait for the City to approve their application. After much back-and-forth with the City planning staff, we negotiated a 5-day turnaround time for City approval of tenants, and we believe that timeframe would still lead to tenants finding housing elsewhere before signing a lease with us.

Further, the City staff are not equipped to screen tenants or determine income eligibility. That is a specialized task best left to experienced property managers. Additionally, the IZ has no provision that would eliminate the IZ requirements in the event that the City reorganizes its operations, experiences staff layoffs, or simply chooses to not direct adequate attention to the IZ tenant screening.

Also, the IZ provides no legal protection or indemnification to the property owner should the City's screening method be discriminatory or otherwise impermissible by law.

We recommend that property owners should have the option to be solely responsible for screening tenants in compliance with the IZ guidelines, with the income eligibility portions of tenant files being available to the City for review with reasonable notice. This would be consistent with the Maine Housing regulations that owners would adhere to under a Low-Income Housing Tax Credit ('LIHTC') project. Those projects are not subject to the IZ, so it seems that the LIHTC screening methods are deemed to be appropriate (i.e. the city doesn't want to double check the AVESTA or Szanton Company screening). This would allow larger, more sophisticated developers and landlords to utilize the screening software that we already have paid for , while still allowing smaller landlords to have the City do the screening if they would rather not take the risk or invest in the income screening protocols.

Duration of Affordability Requirements

The current regulations require IZ units to remain affordable for terms ranging from 10 years, if 100% of a project's units meet IZ affordability, to 99 years if 10% of a project's units meet IZ affordability. As a practical matter, 10% is the most IZ units that most projects can afford to have, so the IZ units are required to remain affordable for 99 years. There is no telling what the City's housing needs will be 10 years from now, let alone a century into the future, and the City is under no obligation to fund the employment of staff to actually oversee the IZ program now or in the future.

We recommend that the IZ affordability term be capped at 10 years, with the provision that property owners be required to allow IZ tenants to remain in their units at the IZ rent levels until such time as that tenant vacates. Thus, no tenant would lose their housing as a result of their unit coming out of the IZ compliance period.

In the case of LIHTC development, the developers do agree to 99-year deed restrictions, but that is because a large portion of the development costs are being funded by the tax credit investor. They're willing to give up the ability to raise rents beyond AMI increases for 99 years, because MSHA is providing the majority of the funding for the project. In the case of the IZ, the city is providing no such funding or benefit to the development in exchange for the 99-year deed restriction. It is important to also note that in the case of LIHTC deals, the permanent debt is required to be non-recourse to the developer. Meaning the developer is not signing their life's work away to secure the debt. The situation is often quite different in market rate development, where developers are personally guaranteeing the loans; therefore, the risk is much higher for market rate development. The prospect of agreeing to a multigenerational deed restriction becomes a very real risk to the long- term viability of the project.

The current IZ deed restriction structure feels like a penalty on the developer, rather than a partnership to provide the affordable units. When a developer considers a 99 years of having the city screen the IZ tenants every year and the resulting increase in vacancy and headache, it is often enough to justify payment of the fee in lieu.

Future Payment-In-Lieu

Given the long affordability terms mentioned above, IZ would potentially be more palatable to developers if it included the option of removing IZ units via the fee-in-lieu at a future date. For example, say a 10-unit apartment building has 1 IZ unit that must remain affordable for 99 years. The developer should have the option to operate the IZ unit and pay the fee-in-lieu at any time in the future, removing the affordability restrictions on that unit once the current tenant terminated their lease; the owner would not be able to suddenly charge market rate for the existing tenant, but would have to wait until they leave before paying the fee and repositioning the unit as a market rate unit. The flexibility to buy out of the IZ requirement in the future will help alleviate the risk that a property will be less valuable to prospective purchasers in the future.

Interior Standards for Workforce Units

The current Workforce Rental Housing Agreement includes many specific requirements for IZ units, right down to bathroom fixtures and linear feet of kitchen counter space. These requirements are too specific, particularly given that the affordability requirements will be in place for many decades. We don't know what design standards and technology will hold in the future. A better approach would be to simply require that the IZ units feature a level of fit and finish comparable to the building's market rate units.

Thank you for your time and consideration,

Josh Benthien
Northland Enterprises, LLC
207-780-0223

TO:	Councilor Duson, Chair Members of the Housing Committee
FROM:	Jeff Levine, Planning & Urban Development Director Mary Davis, HCD Division Director Victoria Volent, Housing Program Manager
DATED:	November 1, 2017
RE:	2017 Housing Committee Report Goals, Work Plan, and Accomplishments

I. Housing Committee Priorities

The City Council held a meeting on January 23, 2017 to develop key priorities and goals for the Council and its Committees. Listed below is the goal for the Housing Committee and it's priorities for 2017.

Goal: Increase access to safe, location-efficient rental and ownership housing that is affordable for working and low-income families.

Safe, affordable and accessible housing remains a core element of the American Dream. The Housing Committee should focus on land use policies that help residents match their housing needs with appropriate options over a lifetime. Success is when we have a broad array of housing choices to serve evolving individual and family housing needs.

Priorities:

- Complete work on Short Term Rental Regulations;
- Assure timely implementation of the 2016 Landlord/Tenant policies;
- Pull together a Current Situation Report on Housing Policy, Availability and Affordability. This would include an update on the implementation of policies e.g. inclusionary zoning. Establish a dashboard for annual or semi-annual evaluation;
- Implement Policies to Capitalize the Housing Trust Fund;
- Identify a unique opportunity to demonstrate engagement of the city in partnership (policy, expertise, funding, zoning, public land, etc.) to leverage development of a unique mixed use project that includes work force and low income housing; and
- Housing Safety – Serve as the sponsorship committee for the city's housing inspection programs. Support program evaluation, identify enforcement challenges, the advocate for the budget resources.

II. Addressing Committee Priorities

The Housing Committee met eleven times throughout 2017, including the meeting on November 8th. Outlined below is a brief overview of how the Committee addressed each of the goal and priorities highlighted by the City Council.

GOAL: Increase access to safe, location-efficient rental and ownership housing that is affordable for working and low-income families.

At the Housing Committee meeting on February 8, 2017 the Committee approved application criteria for staff to identify and recommend eligible development projects that were interested in applying for federal HOME Funding. The application went out to the public on August 1 and closed on September 8th. Two proposals were reviewed by the Committee at the September 26th meeting where the Committee voted to recommend to the City Council the award of HOME funds and Affordable Housing Tax Increment Financing. The City Council is expected to act on the funding requests at its November 20th meeting. The Committee allocated $200,000 towards the Portland Housing Authority's 58 Boyd Street Project and $300,000 to an Avesta Housing Development Corporation project called Deering Place which is located at 61 Deering Street and 510 Cumberland Avenue.

PRIORITY: Complete work on Short Term Rental Regulations

After a robust community process in 2016, the Committee finalized its short term rental regulation recommendations in the first three meetings in 2017. At the February 8, 2017 meeting the Committee voted 3-0 to forward recommendations to the City Council. The City Council voted 8-1 on March 27, 2017 to adopt the Short Term Rental Registration ordinance amendments.

PRIORITY: Assure timely implementation of the 2016 Landlord/Tenant policies

The Housing Committee reviewed the implementation of the 2016 Landlord/Tenant policies during its June 14 meeting. The Committee reviewed the revised Tenant Housing Rights Form and Brochure and suggested several edits. The Committee discussed the advisory committee and raised concerns regarding the role of the advisory committee. The Housing Committee Chair requested that staff come back to the committee with suggestions to address the concerns raised by the Committee; this request was placed on hold pending the outcome of the Rent Stabilization Referendum and possible overlap of duties with the Rent Board outlined in the referendum.

PRIORITY: Pull together a Current Situation Report on Housing Policy, Availability and Affordability. This would include an update on the implementation of policies e.g. inclusionary zoning. Establish a dashboard for annual or semi-annual evaluation

The Housing and Community Development Division of the Planning and Urban Development Department prepared the 2017 Housing Report which was submitted to the Committee at the October 26th meeting. The report was designed to give an overview of the current housing market and report out on the many policies and initiatives that the City has adopted to address the issues of housing availability and affordability.

PRIORITY: Implement Policies to Capitalize the Housing Trust Fund

During the September 26th meeting, staff outlined several housing policy proposals for the Committee's consideration. The proposals included several items that would contribute funding to the Housing Trust Fund. Additional options are being presented at this November meeting.

PRIORITY: Identify a unique opportunity to demonstrate engagement of the city in partnership (policy, expertise, funding, zoning, public land, etc.) to leverage development of a unique mixed use project that includes work force and low income housing

The concept of a City-initiated Land Trust may help implement this priority, and will be explored further. In addition, staff is exploring parcels of public land as possible locations at which to implement this priority, and will present identified and feasible options at a future Housing Committee meeting.

PRIORITY: Housing Safety – Serve as the sponsorship committee for the city's housing inspection programs. Support program evaluation, identify enforcement challenges, the advocate for the budget resources

At the May 10th meeting the Committee received an update and overview of the Housing Safety Office from Michael Russell, Department Director of the Permitting and Inspections Department.

At the July 12th meeting the Committee received an update and overview of the Fire Department's Inspection Program from Keith Gautreau, Assistant Fire Chief.

The Committee will continue to receive annual reports on these programs.

III. ***2017 Activities with Status***

Housing Program Budget

In February, the Housing Committee reviewed and approved the Housing Program Budget for HUD's annual HOME allocation for Portland and Cumberland County. The budget divided the funds into four categories including administration, housing rehabilitation, Tenant Based Rental Assistance (TBRA), and affordable housing development.

Short Term Rentals (Airbnb)

The Housing Committee voted on February 8th to forward to the City Council a set of policy recommendations regarding short term rentals. At the May 10th and July 12th meetings, the Committee reviewed, and ultimately made a recommendation to the City Council, an amendment to the short term rental registration ordinance as it pertains to a disorderly housing designation. On September 18, the City Council voted 9-0 to adopt the amendments.

Additionally, at the June 14th meeting, the Committee reviewed the Short Term Rental Registration

Implementation Guidelines created by the Permitting and Inspections Department

Division 30 Amendments

At the March 8th the Committee discussed amendments to Division 30 to support the creation of affordable housing. The Committee continued discussion on this item during the March 30th meeting and ultimately voted 3-0 to refer the amendments to the Planning Board for review. The City Council voted on September 6th to adopt the changes with amendments.

Additional Items

Additional items on the Committee's schedule in 2017 included:

- Recommendation to the City Council to approve the 2017 Housing Trust Fund Annual Plan;
- Recommendation to the City Council to approve changes to the Housing Code re: Habitation of Recreational Shelters.
- Recommendation to continue participation in the Cumberland County HOME Consortium;
- Received an update on the Lead Safe Housing Program funded through a 2016 grant from HUD's Office of Lead Hazard Control and Healthy Homes.
- Reviewed the FY 17 end of year report to HUD

IV. Future Work

The Committee made great strides this year to frame the most important issues while taking steps to help achieve the Councils goals for the Housing Committee. Listed below are a few items for the next Housing Committee to consider as part of their work plan for 2018.

- Housing First Incentives;
- Capitalizing Housing Trust Fund;
- Possible revisions to and the implementation of Section 6-225 (Rental Housing Advisory Committee) of the Tenant Housing Rights Ordinance.

TO: Councilor Duson, Chair
Members of the Housing Committee

FROM: Mary Davis, HCD Division Director

DATED: November 22, 2017

RE: Work Plan Discussion – Items to Refer to 2018 Housing Committee

As noted in the 2017 Committee Report, the Committee made great strides this year to frame the most important issues while taking steps to help achieve the Councils goals for the 2017 Housing Committee. Listed below are a few items for the next Housing Committee to consider as part of their work plan for 2018.

- Housing policy proposals included in the 2017 Housing Report;
- Housing First Incentives;
- Capitalizing Housing Trust Fund;
- Possible revisions to and the implementation of Section 6-225 (Rental Housing Advisory Committee) of the Tenant Housing Rights Ordinance.
- City-led affordable housing development

DRAFT
2018 Housing Committee Work Plan
November 21, 2017

Items to refer to the 2018 Housing Committee

- Housing policy proposals included in the 2017 Housing Report;
- Housing First Incentives;
- Capitalizing Housing Trust Fund;
- Possible revisions to and the implementation of Section 6-225 (Rental Housing Advisory Committee) of the Tenant Housing Rights Ordinance.
- City-led affordable housing development